

October 8, 2020

The regular monthly meeting of the Oxford Board of Port Wardens was called to order by the Chairman, Thomas Campbell, on Thursday, October 8, 2020, at 6:00 p.m., via "Zoom" due to the on-going pandemic of a virus known as Covid-19.

Other members participating in the virtual meeting included board members Robert Hyberg and Robert Trevorrow, along with Town Manager, Cheryl Lewis.

The minutes of the meeting of February 13, 2020 were approved and accepted as distributed. The minutes for the meeting of September 10, 2020 were not yet ready for review.

The following application was reviewed by the board:

- Permit #20-05, Penny Klotz, 207 South St., request to replace two existing piers and 90' (+/-) of existing bulkhead in-kind. Ms. Klotz, along with Cheryl Tomey from Lane Engineering, was virtually present to discuss the application. Ms. Tomey explained that the owner wanted to replace 90' of her existing bulkhead in-kind and also wanted to replace 2 existing piers, in-kind, on her property. One of the piers is 50' long and the other 63' long with a 9' x 10' L at the end. The plan also proposes to replace the existing bulkhead, a little of which involves the adjoining property to the north, in order that the owner can wrap the bulkhead work around. Ms. Klotz spoke stating that she had received a letter of support from her neighbor, Patricia Ingram, regarding the bulkhead work that would affect a small portion of the Ingram property. Chairman Campbell read aloud a copy of Owner Certification whereby Mrs. Ingram accepted the terms and conditions of the minor buffer management plan as they pertained to Ms. Klotz's plans to replace her existing bulkhead but he pointed out that Mrs. Ingram had included a statement whereby she wrote "the current bulkhead belonging to Penny Klotz is over the property line," and that there was an iron yellow marker indicating where the property marker is located. Mrs. Ingram also wrote that "the new bulkhead should not encroach onto her property and that Environmental Concern is working on a plan for a living shoreline" on Mrs. Ingram's property and that they are aware of this issue. Ms. Klotz responded that she was aware of this and will walk the property with Mrs. Ingram when the work is done to make sure she is good with it. Chairman Campbell asked about an existing boat ramp on the south side of Ms. Klotz's property and asked if that would remain. Ms. Klotz responded that the Schroeders had owned both 207 and 209 South Street and had sold her 207. The boat ramp, as described by Ms. Klotz as a modest little concrete walk for a kayak or canoe, had been shared by the 2 properties. The plan is to leave it as it is and that it would continue to be shared. Chairman Campbell stated that the biggest question concerning this application was more of a zoning issue in that this was a residential property with 2 piers. His guess was that at one time there were two individual lots that were joined together at some point in which the existing piers remained in place when a house was built in the center of the property. Chairman Campbell pointed out that the State of Maryland's COMAR code, under 26.24.04.02, states that only one pier is allowed per property. Historically the Port Wardens would grandfather in a single pier but the question, in this case, is if they could grandfather two (2) non-conforming structures on this property. He also noted that one of the existing piers was extending over the harborline by a couple of feet and that there was a boatlift on the site. Ms. Klotz stated she wanted to put the boatlift back when the pier was replaced. Chairman Campbell responded that that created another non-conforming structure on Town Creek. Ms. Klotz spoke stating that when she purchased the property she was told everything existing on the property

was grandfathered and that was relied on in the purchase of the property. Chairman Campbell noted that the application needed to indicate the boat lift if the owner wanted to put it back in the existing spot. He then opened up the discussion for others to join. Mr. Trevorrow asked when the lot was divided. Town Manager Lewis responded it was around 1989 adding that a house was extended from one lot to the other around 1990-1991 and that she could not locate a permit for the boat/kayak ramp. Mr. Trevorrow mentioned that he thought the Harbor Line Ordinance was adopted in 1982, and with the subdivision being done around 1989, he wondered why the non-conformity wasn't caught at that time. Chairman Campbell responded it probably should have been. He added that this application is complicated in that there are 3 non-conformities attached to it, including one pier over the harbor line, a second pier too close to the southern property, a non-conforming boatlift, and the problem of two (2) piers are one property. It was his feeling that the board should see what the State's opinion on it would be as he could not see them approving 2 piers on one parcel and that, in general, everything the Board of Port Wardens approves hinges on the State's approval. Ms. Klotz countered that the request was for a pier replacement and bulkhead replacement in-kind so there was no need to submit the application to the State, as she understood it, and that just a buffer management plan was needed to show that the waterfront was being returned to the existing conditions after being replaced. Chairman Campbell held steadfast in stating that his thought was, with this particular application, that the board ask that the applicant get a permit from the State before they would approve it. Mr. Hyberg expressed his curiosity as to how and which parcels were put together. Ms. Klotz responded that parcel 472 was 2 parcels that were put together and, as she understood it, they originally housed two watermen's cottages. She added that on a personal note, she in good faith bought the property that was highly advertised as 2 lots with 2 docks. Town Manager Lewis spoke stating that this was just one parcel and meets the criteria for 1 parcel adding that this was a single lot no matter how you looked at it. She pointed out that two lots in single ownership over a period of time become a single lot anyhow but with the lot line revision it was a single lot. Lewis also clearly stated that she had not had any conversations with anyone regarding there being 2 piers on Ms. Klotz's property and whether or not it would be grandfathered. Mr. Trevorrow asked Ms. Klotz who gave her a consultation. Ms. Klotz responded that the listing agent showed it as 2 lots combined and that she assumed everything she saw was accurate. Town Manager Lewis explained the reason it could not be 2 lots was because anytime a dwelling straddles a lot line, it is a single lot. Chairman Campbell again stated that he felt he needed more information in order to come to a decision and that in this case, a discussion with the State would be worthwhile. Both board members Trevorrow and Hyberg agreed. Chairman Campbell made a motion to do a continuance of this application at their next meeting. The motion with seconded by Mr. Trevorrow and was carried, with all in favor. Mr. Trevorrow added that at a minimum, the drawings needed to be resubmitted and the application corrected to include the boatlift. Both Ms. Klotz and Ms. Tomey agreed to do so.

CONSULTATIONS

A virtual consultation was held with Carol Hammond, property owner of 106 Benoni Ave., and her representative, Cheryl Tomey from Lane Engineering. Mrs. Hammond spoke stating that she had shared with her neighbors 3 design concepts she had for building a pier but had not heard back from them so she decided to move forward with the one plan that didn't require any signatures from the neighbors. This would involve a straight out dock, as shown in "Option A" as part of a packet provided to the board members. The pier would come out at a total of 120'. Chairman Campbell pointed out that the piers in this area were close together and that the board would need to know where the existing pilings in the area are located as it would be helpful in the decision process. He added that his reaction to the proposal to put in a straight pier without an "L" was feasible. Mr. Trevorrow agreed stating that it looked to be a cut and dry request to him. Chairman Campbell also added that he believed the

proposed pier would work but did express some concern as to the length and that it not impede access to other docks in the area. He suggested that more information be shown on the plans and suggested just sharing the one concept that Mrs. Hammond wants to construct with her neighbors so as not to overwhelm them, should she choose to share the information with them.

A second virtual consultation was held with Mike Mueller, and his representative, Sean Callahan, also from Lane Engineering, to go over some revisions to Mr. Mueller's proposed pier plans that he discussed with the board in their last meeting. Mr. Mueller turned over the discussion to Mr. Callahan. Mr. Callahan spoke stating that they had slid the proposed pier over to the west a little bit and that the mooring piles would now meet the lateral line setback from the marina property to the east. They also added one more mooring pile for a total of 3 mooring piles for a more substantial slip. The dock would be 44' channelward from MHW for an overall total of 47'. Mr. Callahan added that he thought they should add an extension to the boardwalk of the pier up on the land of about 5 or 6 feet because the area there was so marshy. Chairman Campbell responded that that change should be indicated on the drawings. He added that all the adjustments the board had suggested at the last meeting had been made in order to create a good application along with doing away with the proposed mooring piles on the west side. The discussion ended with Mr. Callahan stating they would submit the information to the MDE of Army Corps in order to get things going.

This concluded the consultation requests.

Mr. Hyberg revisited the application for Penny Klotz stating that the town office had sent an email to the board members with an attachment of a note from Susan Devlin addressing 5 items of concern she had with regards to the Klotz application. Most items had been addressed in the board's conversation with Ms. Klotz but one item, concerning the rental of dock space on the property, was not discussed. Mr. Hyberg stated he felt it was beyond the board's scope but did look up in the Oxford Zoning Ordinance information under "R-2" zoning and found that there is a clause under Section 23.03.6 that states, in part, "pier and slips for the wet storage of boats for use by the property owner only." Chairman Campbell reported that when he went out to look at that property, the neighbors came out and he had spoken with them and tried to address the questions Mrs. Devlin raised. He noted that the biggest concern was that this property has a short-term rental situation and the residents in that area were concerned that the owner was going to try and rent all the slips on the property. Town Manager Lewis responded confirming it was a short-term rental property that the owner had purchased for that reason. Chairman Campbell noted that there were some major parking problems which had the neighbors concerned, especially since the property at 207 South Street only had 2 parking spaces. Town Manager Lewis responded that the zoning does state that piers and docks are for owners only and that she had brought this up to Chairman Campbell recently. Their discussion had her questioning how many people in town are really only using their own docks, how many people are allowing others to use their docks, and how many are renting them out for money. She felt this was an issue that they all were going to need to address at some point. She also questioned how renting a house with a pier would work as that was a gray area with a whole different set of problem. Chairman Campbell stated he would have to step back from any discussion along those lines because of his own boatyard businesses and the business end of things. Lewis noted that in the case of the Klotz application, this involves a house on South Street that is being limited to how many short-term rental vehicles it can have on a street that has zero parking left on it, so how would a boat get there? She added that the board should be cautious, especially in the case of a boatlift and what that lift could possibly be used for. Mr. Hyberg asked if the 2 docks would be reflected in the deed. Lewis responded that she had not had time to look into that but it would not matter. She agreed that the State should be involved to see if they approve the application

and that it was important the Board of Port Wardens not approve a permit that may be against State law. In looking into the possibility of this property being subdivided, it would need to be at least 20,000 sq. ft., and even if it were, the existing house would need to be torn down. She also noted that everything has been done in a hurry on this property and that the board members have reason to be cautious.

A discussion of the harborline next took place in which Town Manager Lewis presented a view of the harborline so that the board members could see just how many non-conforming of piers they have. Her question to the board members was if the town should keep the harborline as it is now or should the harborline be fixed so that everything is made legal by adjusting the harborline. She felt that for the town purposes the non-conforming piers should be made legal so as not to set the town up for failure. Mr Hyberg agreed that something should be done but did not know how the board members would meet as a panel due to the pandemic. Lewis suggested that each of the men look it over, redraw the line, and make suggestions to give to the Commissioners. She stated that she had concerns in that one never knows what tomorrow's climate might be and that the way the line had been drawn was meant to make it hard on the commercial properties. Mr. Hyberg asked that if a pier was non-conforming and exceeded the harborline, should the board have the power to make it conform once the board felt they had a reasonable harborline... especially in cases whereby one is going to replace their pier and/or repair it. Lewis responded the board could not do that now and could only do it if they were in legislation. She added that she would advise against that until they get the harborline cleaned up. Mr. Hyberg then asked if the Port Wardens were at liberty to meet and go over this without a public audience. Lewis responded they could look at it individually but they should do it in a public meeting as they are discussing it and that they could only share their ideas in a public meeting. She offered the members to give her their suggestions so that they could put them together ahead of time for review at a public meeting.

Prior to the close of the meeting, Lewis again stated that she thought they needed to check with the State as to what they allowed regarding maximum pier lengths and if they allowed only 1 residential pier on a property.

There being no further business, a motion was made and unanimously approved to close the meeting.

Respectfully submitted,

Lisa Willoughby
Assistant Clerk