

OXFORD PLANNING COMMISSION

MINUTES

APRIL 5TH, 2022

The regular monthly meeting of the Oxford Planning Commission was called to order by the Chairman, Norman Bell, on Tuesday, April 5th, 2022 in the meeting room of the Oxford Community Services building at 6:00 p.m.

Other commission members in attendance were David Baker, Steve Mroczek, and Edwin Miller. Also in attendance were Town Manager, Cheryl Lewis, and Town Planner, Maria Brophy.

The minutes of the meeting of March 1, 2022 had not yet been distributed and will be voted on in the next upcoming meeting.

Prior to the start of the meeting, member David Baker mentioned the passing of Dale Benson, a memorable fan of all town meetings, stating that the Planning Commission enjoyed having him in attendance at their meetings over the years. Town Manager Lewis added that Mr. Benson had attended every meeting the town had and that the Commissioners had honored his memory with a Resolution.

The following building permit was then reviewed by the commission:

- Permit #22-06, Lucas deBeaufort, 100 Myrtle Avenue, 250 gallon buried oil tank. Mr. deBeaufort explained to the commission that he was building a new house out in Jack's Point on a piece of land that he had subdivided. His permit application is to bury a 250 gallon tank underground but due to the layout of the house on the property, the only place to bury the tank would be between his property with the house on it and his vacant lot behind it. The tank would be away from the neighboring properties and 15' away from the street. He added that there were no other alternatives for the placement of the tank which was confirmed by Town Planner Maria Brophy, who noted that she had taken the time to look at other alternatives as to where the tank could be placed and that this was the only place she could find that would work given the placement of the house and it's relationship to the water. Mr. Mroczek pointed out that eventually the tank was going to impede on someone else's property should Mr. deBeaufort sell his vacant lot. Mr. Baker pointed out that under Section 32.11 of the Oxford Zoning Ordinance, only tanks with a capacity of 300 gallons or greater used for the storage of flammable liquid shall be underground in a leak proof containment structure and that no underground fuel tank installations may be permitted in the Chesapeake Bay Critical Buffer except after a variance has been granted by the Board of Appeals, after notice given to the Chesapeake Bay Critical Area. Mr. Mroczek read aloud the section that Mr. Baker was referring to. Manager Lewis responded that the installation of fuel tanks varies and that in this case, the town could notify the Critical Area Commission but it was something the commission shouldn't worry about. Chairman Bell spoke stating that the issue goes back to the setback request, which the commission could not approve and thus would need to go before the Board of Appeals for approval. Chairman Bell asked the members for their opinion on the matter. Mr. Baker responded he had no problem with it. Mr. Miller asked if other places on the property had been explored and if this was the only place it could be put. Planner

Brophy responded that this was correct and that it also had to be at least 10' from a wall. She again reiterated what she had mentioned earlier that she had tried to find other locations, but this was the only area where it would work and that to put it on the right side of the deBeaufort house would be closing in on the neighbor and also present the problem of hitting the town's sewer line. A motion was made by Mr. Baker to deny the application based on the setback and that a letter be sent to the Board of Appeals with a favorable recommendation. The motion was seconded by Mr. Miller and carried with Mr. Mroczek voting against the recommendation stating, in part, that because a variance travels with a property, this would involve the vacant lot having a tank already on it should the property be sold to another. He added that if Mr. deBeaufort were to abandon the property line, this would no longer be an issue. Mr. deBeaufort argued that the vacant lot is still part of the property he owns at this time. Mr. Mroczek countered that though that may be the case now, if it were sold, it would be a problem for the next person owning the lot and thus would become a created problem.

This concluded the review of building permits.

CONSULTATION

A consultation was held with Brett Ewing of Lane Engineering, representing Elizabeth Candler, property owner at 100 Sullivan's Alley, to discuss the possibility of installing a swimming pool on the Candler property. A plat was presented showing an existing fishpond and patio on the property along with the configuration of a proposed swimming pool. The plan for the swimming pool would not extend any closer to the river than that of the existing fishpond and will be a reuse of the existing coverage. The swimming pool would be 10' x 20'. Mr. Baker stated that the owner would need to make sure that the proper setbacks were available for the swimming pool's utilities, which require the same setbacks as the principal structure. Overall, the members were agreeable to what had been presented.

NEW BUSINESS

Manager Lewis went over with the members a text amendment to the town zoning ordinance entitled **Ordinance No. 2201 "AN ORDINANCE OF THE TOWN OF OXFORD TO AMEND SECTIONS 19 AND 32 OF THE OXFORD ZONING ORDINANCE TO PROVIDE A PROCESS FOR CONSTRUCTION OF AN ACCESSORY BUILDING ON A LOT WITHOUT A PRINCIPAL USE WHEN NONCONTIGUOUS LOTS ARE IN COMMON OWNERSHIP AND ARE DIVIDED BY A PAPER STREET OR PUBLIC RIGHT OF WAY."** Manager Lewis explained that this ordinance would apply to a specific piece of property in town that she has been trying to resolve since she first started working for the Town of Oxford. One way to resolve a paper street on a lot is to absorb it into the lot but in this case, it is not possible because the court restricted a walking path below the paper street. This was ruled by a judge so that the public has access to the walking path to walk to the paper street. By removing the paper street from the property in question, the public cannot continue their walk, which is why this property presents a problem. The property had been in the same family's ownership for a very long time prior to being sold to the new owners. The property is large enough to be subdivided but the town's preference and the owner's preference, is to be able to use the property, which is divided by the paper street, as a whole and to be able to build on both sides of the property, even on the other side of the paper street, which is vacant, where the property owners are wanting to place a garage. The only other paper streets in town are over by the Strand and Riverview. In this situation, there is no other way to solve this request, especially because of the existing pedestrian path. However, the new ordinance would be a

way to solve the problem. The language in the ordinance is written in such a way that the owner would be responsible for maintaining the paper street, thus creating some restrictions. A way to manage this situation that was the result of the town's doing, not the property owner's doing, was to write this ordinance, allowing for the property owners to do what they want to do and still maintain the pedestrian ability to walk the walking path. Manager Lewis added that the town attorney, Lyndsey Ryan, was on board with the ordinance and that it was her suggestion. Mr. Baker asked how many active cases Manager Lewis thought would come out of this. Lewis responded that because it was written in a very limited way, it could only apply to something similar to this that was pre-existing. Mr. Baker likened the ordinance as being similar to a variance in that the property owner did not create the problem. Planner Brophy responded that she did not believe this could be handled as a variance because at the county level one cannot have an accessory building on a property without a primary structure on it as well. Mr. Baker countered that the town has accessory structures on vacant lots and used fences as an example. Manager Lewis responded by stating that though that may be the case, there were many things done a long time ago, some before any ordinance was written and at a time when things were built that were vaguely enforced. She added this ordinance would allow the property owner to build a small garage on the property that is divided by the paper street. Mr. Mroczek noted that the way they all had been reading the ordinance was as if there were two separate lots involved but that it is actually one lot divided by a paper street that is non-contiguous because of the paper street. Manager Lewis pointed out that the new owners want to work with the public by maintaining the paper street whereas the previous owner simply wanted it to all go away. All the new owners are looking to do is to build a garage and this would be the perfect way to use the property in a logical way. By allowing the garage, this property could not be subdivided without having the garage removed because an accessory structure cannot be on a property without a house. Mr. Baker asked what would happen if the owner wanted to fence in his lot. Manager Lewis responded that by law, he would have to provide public access and that the reason for the extra language is for a specific reason. Both Mr. Miller and Mr. Mroczek agreed the ordinance has been written in such a way that it wouldn't be able to apply to many cases. There was some confusion concerning the copy of Ordinance 2201 that was originally sent to the members a week prior to this night's meeting that had been replaced with another, more up-to-date copy, that contained a definition of paper street along with some additional verbiage (a copy of which is attached to these minutes and labeled as "Attachment A"). A motion was made by Mr. Miller that a favorable recommendation be sent to the Commissioners of Oxford to adopt Ordinance 2201 that was included in an email to the Planning Commission members dated April 5, 2022 at 3:12 p.m. from Cheryl Lewis to the members of the Planning Commission. The motion was approved by a vote of 3 to 1 with Mr. Baker abstaining from the vote who stated he had not seen exactly what the commission members were voting on. Manager Lewis ended the discussion by stating she would create an email with the documents and language as discussed at this night's meeting and copy the members on it.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby

Assistant Clerk