

October 14, 2021

The regular monthly meeting of the Oxford Board of Port Wardens was called to order by the Chairman, Thomas Campbell, on Thursday, October 14, 2021, at 6:00 p.m., via "Zoom" due to the on-going pandemic of a virus known as Covid-19.

Other members virtually present included Robert Hyberg and Robert Trevorrow, along with Town Attorney, Lyndsey Ryan, and Town Planner/Planning Officer, Maria Brophy.

The approval of the minutes of August 12 and September 9, 2021 were accepted and approved as distributed.

The following application was reviewed by the board:

Permit #21-03, Gail Steckler, 106 Benoni Avenue, request to construct a new pier that starts at 4' wide and tapers to 3', 69 linear feet from MHW, for a total of 80 linear feet. Sean Callahan and Cheryl Tomey, both from Lane Engineering, were virtually present to discuss the application, along with the owner, Gail Steckler. Mr. Callahan explained that Lane Engineering had Ms. Steckler's property surveyed, including the water frontage, in the summer when it was owed by Carol Hammond and that they had applied to MDE for a permit that was issued. The design presented at this evening's meeting is different from the permit approval that was issued by MDE. Mr. Callahan noted that Ms. Steckler had asked that a pier be designed that would meet the zoning setbacks on the land and comply with the lateral line setback in the water without having to ask for any waivers or variances from the neighbors. The revised pier would be 4' wide where it leaves the land over top of the riprap and would taper down to 3' at the end of the pier. He further noted that Ms. Steckler was simply wanting a pier to hang crab pots from and for a boat to pull up to so that she could get on it and go out with her friends. With regards to the size, Mr. Callahan pointed out that it was unique, but it did comply with the rules. He also confirmed that Ms. Steckler was aware that it would have to go back to MDE for approval before it could be built. Chairman Campbell stated that he had received a letter from Ms. Steckler's neighbor, Michael Klein, who was also virtually present, and turned the floor over to the public for comments. Mr. Klein spoke stating that his concerns were still the same as when the previous owner Carol Hammond presented her application for a pier at 106 Benoni Avenue. He stated that he was convinced that it was never intended that a pier should be built in this location having looked at a deed and survey done at the time of the conveyance. He added that it appears the lateral lines are 19 feet apart and a pier, even a 4' pier tapering down to 3', was more likely to be 4' to 5' wide because there are pilings, and the structure extends beyond the platform. Chairman Campbell clarified that the permit that was applied for by Ms. Hammond that was approved by the MDE, was subject to approval by the town which MDE leaves to the board to clarify as to what is correct or not. He added that he did agree with what Mr. Klein was saying, in that the intent of the deed from 1974 was probably not to have a dock put there but it does not address the waterside. As such, this does not give the Board of Port Wardens the latitude of saying that Ms. Steckler does not have the right to a wharf and access to the water. He felt the question had more to do with the actual width of this property which by deed shows it at 19.85'. It appears to measure across (not parallel or square to the property lines) the waterfront and that he was not sure that was totally accurate as that would basically allow one to build a structure to meet the setbacks and that is with the pilings beneath the surface, not protruding outside the dock deck. He felt the structure, in its entirety, would have to be limited somewhere around 3 ½'.

Ms. Steckler spoke stating there was an additional plat, referenced as 77/27 made in 1987, that added to the waterfront area. Mr. Trevorrow asked what the actual property width was at the waterline. Mr. Klein responded that the width of the water line was shown as 19.85 but that this was not the 90 degrees to the lateral line and that his guess was that it was less, as he suggested in his letter, and more like 19', plus or minus. Mr. Trevorrow commented the drawings he had were small and that it was hard to make out the measurements, but it looked to him that the 8' setback would fall along the center of the proposed dock. Ms. Tomey responded that the 8' setback would come to the edge of the dock to comply with the side yard setbacks. Chairman Campbell asked about the history to the addition to the lot. Ms. Tomey responded that the plat states that the new division line was made between the land of William J. Holt, Jr., the owner of the property now owned by Elizabeth Candler, and Thomas C. Williams who had owned the Steckler property and that it looked like a land trade. Mr. Klein spoke stated that the two men didn't trade land that they didn't speak to one another. Mr. Trevorrow asked if the plat was filed with the county. Ms. Tomey responded that was correct. Chairman Campbell noted that the Port Wardens did not have the 1987 information and that the request boiled down to the lot width and ultimately the setbacks of the pier and therefore the board may need more information. No other comments were received from the public. Mr. Callahan stated Lane Engineering would be happy to provide additional information with details about the water frontage under the sea and construction details as the pier goes out to the water for clarity purposes. Chairman Campbell thanked Mr. Callahan as determining the width and the setbacks was what was creating some concern. He added that if this could be addressed, the application could be tabled until the next meeting in November at which time a continuance of the permit could take place. Ms. Steckler agreed with Mr. Callahan and Chairman Campbell that would be best. Chairman Campbell reminded everyone that state and federal permits pending would need to be modified as well but that would not need to be modified prior to the next meeting. It was unanimously agreed by all to table the permit until the November 18 meeting and reconvene then.

MAINTENANCE APPLICATION

A maintenance and repair application was received from Lucas deBeaufort, property owner at 100 Myrtle Avenue. Chairman Campbell stated he had received a letter from Mr. deBeaufort's father-in-law, Andy Beck, explaining in great details why they want to do a few repairs on the existing bulkhead until they get permits to do a real bulkhead replacement. Chairman Campbell read the email dated October 12 in which Mr. Beck explains that he is the contractor of the work being done on the deBeaufort property. Chairman Campbell stated he did not have a problem with the request for repairs but that the owner would need to file for a permit when he gets ready to submit an actual application. No state or federal permits would be needed for repairs. Mr. Trevorrow made a motion to approve the application as submitted but amended to read "repair" only instead of "repair and replace". The motion was seconded by Mr. Hyberg and unanimously carried with all in favor.

Prior to adjourning, Mr. Hyberg asked if there were any safety issues or if the town would be liable since Ms. Steckler was asking for a 3' pier with pilings underneath. Chairman Campbell responded that he had tried to find a minimum standard from the state or county but couldn't find anything. Mr. Hyberg addressed Attorney Ryan and asked her if the town would be held liable if there was nothing near the pier to hold on to. Attorney Ryan responded "no" because it is Ms. Steckler's request and desire. Mr. Trevorrow spoke stating that he thought it was not up to the Port Wardens to decide the dock structure as long as it meets the setbacks nor did he feel it was up to the Port Wardens to decide if it encroaches on whichever deed restriction. Attorney Ryan responded that was correct and that the deed is for the

courts to decide. She added that the Port Wardens need only to make sure it meets the setbacks and does not adversely affect the neighbors. Additionally, it would have to have the letter of No Objection, which Ms. Steckler does not have. As to the width of the property, the applicant has the burden of proof that she has the 20' wide property and Mr. Klein can appeal if he wants and then would have the burden of proof that she doesn't. Mr. Hyberg asked how the Port Wardens can make sure such a finite measurement is adhered to. Attorney Ryan responded that they need only follow the survey. She added that there is enough doubt in this property that the owner should get a new survey, or the neighbor pay the fee and prove it is not as wide as the applicant believes it is. Chairman Campbell pointed out that when this first started the lot was only 16' wide, that it keeps growing, and that the board can't argue what plat takes precedence. Attorney Ryan agreed.

There being no further business, a motion was made by Mr. Hyberg to close the meeting which was seconded by Mr. Trevororow and unanimously carried with all in favor.

Respectfully submitted,

Lisa Willoughby

Assistant Clerk