

OXFORD PLANNING COMMISSION

MINUTES

SEPTEMBER 6, 2022

The regular monthly meeting of the Oxford Planning Commission was called to order by the Chairman, Norman Bell, on Tuesday, September 6, 2022.

Other commission members in attendance were Stephen Mroczek, Edwin Miller, David Baker, and Bruce Beglin. Also in attendance was Oxford Planner Maria Brophy.

The minutes of the meeting of August 2, 2022 were accepted and approved as written with Mr. Miller commenting, for the record, at what a fine job Assistant Clerk Lisa Willoughby did in putting together the minutes on what he felt was a rather complicated meeting.

The following Requests for Appeal Reviews were presented:

1. John Litschert and Barbara Litschert, 212 South Street, request for an appeal from the side yard setback for heat pump (violation) and lattice screening install, as it pertains to building permit #22-60. Neither the owners nor a representative was present to discuss the request. Planner Brophy explained that this was an "after the fact" permit that the Litscherts had taken out after having their heat pump installed on their property without first obtaining an approved building permit. She noted that the owners had been sent a letter from the town informing them that they were in violation of installing a heat pump without a building permit to which they responded by promptly applying for one. The office requested that the owners provide a site plan showing an accurate location of where the heat pump had been placed. Based on the site plan provided, the heat pump is shown as encroaching over the side yard setback. As such, the owners are requesting a variance in order to keep the heat pump in its current location. Mr. Mroczek asked about the possibility of moving the unit to the other side (south side) of the house. Chairman Bell responded that the Litschert family had stated on their appeal application that they have applied for a driveway on the south side to free up parking on South Street and that the unit being moved to that side would interfere with the driveway. In looking over the site plan, several of the commission members believed the unit could still be tucked in on the south side of the house. Mr. Miller asked Planner Brophy if the owners had any conversation with the office in which it was asked about relocating the unit on the side where the driveway would be. Planner Brophy responded that they were asked if there was another location on the property in which the unit could be moved. The Litscherts explained that they wanted a driveway on the south side that would be wide enough to fit two (2) cars and that by placing the unit the rear of the property, behind the house, the unit would be too far to work correctly. Mr. Baker asked if anyone had made a complaint about the noise of the unit. Planner Brophy responded that no one had complained about the noise, but she believed the installation of the heat pump was reported to the town office by someone. She added that the Litscherts were made aware that they would have to screen the unit so that it would not be visible from the street, as it is now, and that they have since proposed to do lattice screening all the way to the top of the unit. Chairman Bell pointed out that in doing so, this may create a further encroachment over their property line.

Planner Brophy noted that the permit itself had been before the Historic District Commission and that a discussion regarding the screening had taken place. In discussing the request further, Chairman Bell commented that it seemed like the members were all thinking the same thing as to why the unit couldn't be placed on the south side. He also pointed out that this was second or third time this year that something like this has been installed without first obtaining a building permit. Mr. Mroczek asked if anyone knew who the contractor was that was doing this. Planner Brophy responded that no one knew yet. Chairman Bell stated that the building permit itself would need to be denied because the unit does not meet the setbacks. Mr. Miller moved that the commission deny the application because the Planning Commission could not approve it. The motion was seconded by Mr. Beglin and unanimously carried with all in favor. Mr. Miller made a second motion that the commission send a negative recommendation to the Board of Appeals. The motion was seconded by Mr. Mroczek. Prior to a final vote, Chairman Bell asked for comments. Mr. Baker stated that he would abstain from voting because he did not know about the costs involved. Mr. Mroczek stated that the application had mentioned where the owners couldn't place the unit because of the distance and that they didn't want it on the other side of the property because of parking but that he (Mr. Mroczek) felt the applicants were asserting that they couldn't put it there (on the opposite side). Mr. Beglin added that because of the shape of the driveway, he felt there was still a place to put the unit on the south side. Mr. Baker noted that there are regulations that if you have two parking spaces, you need to be able to back out onto the street. Chairman Bell responded that if that be the case, he wondered how wide the parking area would be and if the property owners could do it. Mr. Baker responded that each space had to be 8' x 21'. Mr. Beglin responded that eyeballing it, he felt the owners would probably have plenty of room. Chairman Bell added that he agreed that there was room on the south side. Mr. Mroczek added that he didn't feel the applicants were met with any hardships. The motion was carried to send a negative request to the Board of Appeals by a vote of 4 to 1, with Mr. Baker abstaining from the vote.

2. David Ober and Sheilah Goodman, 104 Tred Avon Avenue, request for an appeal from the side yard setback in order to construct a new one-story attached garage on the south side of the house, as it pertains to building permit #22-16. Mr. Ober and Ms. Goodman were both present to discuss their application. Mr. Ober explained that his property was actually two lots that, at one time, contained a separate house on each lot. At some point the house on the lot located on the south side was removed and moved elsewhere. Some years later there was an addition added onto the house that remained which crossed over the property line and that was how the house stood in 1960. Since then, a variety of additions have been added to the house. Mr. Ober noted that in an attempt to correct several deficiencies within the house, both he and Ms. Goodman looked into redoing the backside of their home as well as adding on a garage which they wanted to make the same width as the original gable on the north side of the house. The problem that this has created is that the garage addition would encroach on the side yard setback. Mr. Ober stated that in his review of the town code he found that there is an exception for lots with a street width of less than 50' where a 5' side yard setback applies. He was of the opinion that because he has two (2) lots, which his deed breaks down as parcel 1 and parcel 2, that the exception should apply. Mr. Baker responded by pointing out that the property has been treated as one (1) parcel and that the one parcel is over 50' so the 8' setback would apply, especially since the property has been used as one lot for a long time. Chairman Bell added that the Ober/Goodman house is

straddling the two property lines already. Mr. Ober countered it all came down to “lots vs. parcels” and that because the town code said “parcel” instead of “lot”, he didn’t think this would be a problem. Mr. Baker responded that there have been other cases of this nature that have come up in the past and his thought was that if you were to ask a lawyer about this, Mr. Ober would find he would have to count this as one parcel and that it would need an 8’ side yard setback. Planner Brophy spoke stating that the town did receive a legal opinion and found that the property is comprised of two (2) lots in common deed and that this was one parcel treated as one property when the structure was built. Therefore, it is treated as one property/one parcel, but the deed has two lots on it, and the town should treat it as one lot, 57’ in width, with both sides combined and having the setbacks provided for a parcel 57’ wide. Mr. Ober stated that Planner Brophy had made him aware of this information and that his thought was the speedier approach would be not to fight that but to go for a variance. He added that he just wanted the Planning Commission to know how he and Ms. Goodman had arrived at what they believed to be the setbacks in the first place and that he was looking for a favorable recommendation. Mr. Baker responded the Planning Commission couldn’t approve the permit anyway. Planner Brophy spoke stating that the couple were already planning on going for a variance and they were only looking for a recommendation from the Planning Commission. Chairman Bell stated that he was looking at the property as being a through lot and that was the reason he thought the 8’ setbacks were needed, also adding that the Planning Commission couldn’t approve the permit. Mr. Mroczek made a motion to reject the permit as it requires a variance. All were in favor. Chairman Bell called for a motion on a recommendation to the Board of Appeals. Mr. Miller asked if the proposed addition was for a single car garage. Mr. Ober responded it was but that it wouldn’t be used for that. However, it would have the appearance of a garage door in the front and back and would be used to house garden tools. Mr. Miller responded that it sounded like this addition would be used more like a storage shed. Mr. Ober replied that a car would be able to fit in it so that, in the future, should someone want to use it to house a car they could. Mr. Miller stated this begs the question as to whether the garage could be smaller. Chairman Bell reminded the commission that they were talking about a structure that would be a garage and could be used as a garage even though it might not be used as a garage. Mr. Miller made a motion that the commission not send a recommendation to the Board of Appeals. Mr. Baker seconded the motion. Mr. Beglin questioned the request for a 5’ setback when normally something of this nature would require an 8’ setback. Mr. Baker pointed out that if the garage were not attached, and would not exceed a height of 16’, it would only require a 2’ setback. Mr. Beglin stated that part of the job of the Planning Commission was to protect the setbacks and that though he was willing to go along with a neutral vote, he was more inclined to give a negative recommendation. Mr. Miller’s motion that the commission not send a recommendation to the Board of Appeals was carried by a vote 3 to 2 with Mr. Beglin and Mr. Mroczek voting against it. Planner Brophy reminded the members that that the appeal would be taking place on September 12th.

Prior to adjourning, Chairman Bell announced that a letter needed to be sent to the Office of the Secretary of the MD Department of Planning. Planner Brophy noted that this was her first time in putting together the Annual Report that needed to be done yearly and that she was seeking approval by the Oxford Planning Commission for the report she was planning on sending to the Department of Planning. Chairman Bell noted that the report asks if all planning members had completed their educational training course as required under a section of the Land Use Article. Everyone verified that they had. Mr. Mroczek

made a motion to approve the letter as drafted. The motion was seconded by both Mr. Baker and Mr. Miller and unanimously carried with all in favor.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby

Assistant Clerk