

OXFORD PLANNING COMMISSION

MINUTES

DECEMBER 4, 2007

The regular monthly meeting of the Oxford Planning Commission was called to order by the chairperson, Pamela Baker, on Tuesday, December 4, 2007 at 7:00 p.m., in the meeting room of the Oxford Community Services Building.

Other commission members in attendance were Theodore Lutkus, Donald Silliman, and Anthony Passarella.

The minutes of the meeting of November 6, 2007 were approved and accepted as distributed with the following correction: Page 3, 3rd paragraph, 11th line, change the words "to allow" to "to consider."

The following building permits were approved in the town office:

- #07-55 R-2 Madge Henning, 201 Banks Street, existing wood deck removed and replaced with an addition including an attached screen porch; add a second floor over the existing mechanical room. Section 23.01.1. To Historic District Commission.

- #07-58 R-1 William Pelanne, 109 Third Street, rear deck and patio. Section 21.05, and 32.19.

- #07-59 R-2 Samuel DeCamp, 216 South Street, new accessory shed behind existing wood garage/workshop. Section 23.01.a,b. To Historic District Commission.

- #07-61 R-2 Dara Kraitchman, 105 West Division Street, renewal of building permit to add front porch with door; enclose rear porch; add rear dormer matching front dormer on second floor; replace siding and roof; replace second floor windows in front; remove ramp and install a/c unit. Section 10.03.

- #07-68 R-2 Al Smith, 100 West Street, replace rotting sliding doors of existing porch with a triple sliding door flanked by triple casement windows to match ongoing renovation with clapboard below sills. Section 23.01. To Historic District Commission.

- #07-69 R-2 James Turrell, 308 Tilghman Street, new brick chimney, doors and windows. Sections 23.01. To Historic District Commission.

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- #07-70 R-2 Susan Farmer, 301 N. Morris St., small attached shed to existing house for easy access storage. Section 23.01, 23.05. To Historic District Commission.
- #07-72 R-2 Sandy Orem, 101 Benoni Street, repairs to existing front porch. Section 23.01. To Historic District Commission.
- #07-73 R-2 Suzanne Litty and James Foster, 107 Tilghman St., raise house and add new foundation. Sections 23.01.1 and 32.10. To Historic District Commission.
- #07-74 R-2 Richard Schramm, 208 S. Morris St., raise brick landing; restore brick walk and driveway; change roof to shed style and install muntins in door. Section 23.01.1. To Historic District Commission.
- #07-75 R-1 Thomas Egan, 111 First St., new siding; replace shingles; add rear dormer and balcony; new gable roof on existing front porch and add screen porch over existing brick patio. Section 21.01.

The following building permits were reviewed by the Planning Commission:

1. Permit #07-40 R-2 Mr. and Mrs. Simon Cooper, 319 N. Morris Street, renovation to existing kitchen area and demolition of existing roof area which covers patio area and convert to living space. Mrs. Cooper and her builder, Rob Masone, from Ilex Construction, were present to discuss the permit. Mr. Masone explained that they had been before the Historic District Commission and that they had approved the Cooper's permit. He further stated that he understood that there was a setback issue with the permit request. Mrs. Baker explained this request falls under Section 9.00 of the Oxford Zoning Ordinance which deals with non-conformities, as well as facing setback issues regarding the 25' setback from the street. She explained that if one has an existing non-conformity and decides to expand it, the addition needs to be conforming. Mrs. Cooper stated that her house was built in the late 18th century and that Lover's Lane, in which part of the house faces and is the cause of the setback issue, was added after the home was in place which has caused the house to sit almost on the street. Mr. Passarella asked if the applicants would be increasing new impervious surface area or would they just be enclosing area that is already impervious. Mr. Masone responded that they would be enclosing areas that were already impervious. Mr. Masone further stated that the owners are trying to use existing impervious surface so

as not to create a “big deal” from a curb appeal aspect. Mr. Silliman noted that this permit would have to be turned down because of setback issues but that the commission could put in a recommendation to the Board of Appeals.

Mr. Passarella stated that he was having a problem with the request being viewed as a non-conforming structure issue as he saw this as a non-enlargement of a non-conforming structure already on the site. Mrs. Baker explained that the issue was gross square floor area and that if one is increasing gross floor area, that increase would have to be conforming. Mrs. Baker asked that the site plans be amended to show the driveway and to include in it the impervious surface calculations. Mr. Silliman made a motion to deny the application because the applicants would be impinging on the 25' setback from the Strand side of the house. In discussing their recommendations to the Board of Appeals, Mr. Silliman thought that the Coopers had an extraordinary situation because of the age of their house and that Lover's Lane was added at a later date from when the house was built. Mr. Passarella added that another consideration would be that part of the house is 8/10ths of a foot from the property line so that it mitigated, in his mind, the requirements of the 25' setback of that particular street. Mrs. Baker was of the opinion that the applicants had adequate land to place an addition on to the south side of the house and that there were no constraints forcing the applicants to put their addition where they were proposing it. Mr. Lutkus disagreed, stating that since the area in which the applicants want the addition is already covered, this was going to look better than what is currently there. Mr. Passarella agreed with Mr. Lutkus stating that what the applicants want to do could not be easily seen from Morris Street and would do the least harm. An addition coming out from the back of their lot would change the streetscape from Morris Street. The motion was revised by Mr. Silliman to read that the Planning Commission deny the permit with a recommendation to the Board of Appeals that they grant the application because of the very unique nature of the house and its position on the piece of the property and the age of the building. The motion was seconded by Mr. Lutkus and carried by a vote of 3 to 1 with one opposing vote from Mrs. Baker because she felt that other options were available.

2. Permit #07-78 RR Mr. and Mrs. Ken Joy, 4517 Bachelors Point Ct., remove and relocate existing garage. Mr. and Mrs. Joy were represented at this night's meeting by their architect, Tim Kearns. Mr. Kearns explained that the owners would like to demolish their existing garage in order to relocate and rebuild it so that the new garage would have an enclosed connection to the house. Mr. Lutkus, a nearby neighbor to the

applicants, saw no problem with the request. When asked about the impervious surface calculations, Mr. Kearns responded that the calculations he was showing was for the new elements being added to the property. Mr. Silliman made a motion that the commission grant the demolition permit and that the site plan be approved as shown. The motion as seconded and unanimously carried without further discussion.

3. Permit #07-80 R-2 Philip Logan and Barbara Paca, 101 W. Strand, demolition of existing screened-in porch and addition/replacement with new open carport with screened-in porch above at second floor. Mrs. Baker explained that though the commission had already reviewed and approved the main house and a garage under permit #07-47, the owners had modified their plans because someone in the Historic District Commission did not like the idea of a garage facing the Strand. The owners therefore revised their plans asking that the historic commission consider, under a separate permit, a carport instead of a garage, which the historic commission went ahead and approved. In order to keep things straight, the town office asked that the Planning Commission look at this application again and approve the revised plans as submitted. Mrs. Baker also noted that the applicants had made the changes that the Planning Commission had requested of them several months ago such as moving the accessory structure further back from the rear yard setback along with the other items requested of them. Mr. Silliman asked to go on record as stating that this was absurd and that he liked the garage as originally proposed. Mr. Silliman made a motion to approve the plans that accompany permit #07-80 dated 11/27/07 as shown. The motion was seconded by Mr. Passarella and unanimously carried with all in favor.

This concluded the review of building permits.

Old Business

Mrs. Baker stated that since the commission's last meeting with Michael Klein regarding the property at 208 E. Strand, she had subsequent reservations about it in that she was seeing impervious coverage and stormwater management as being two separate issues, partially because the impervious surface issue came first and had nothing to do with stormwater. Added to that was Section 9.00, which addresses non-conformities, and basically states that if something is non-conforming it can stay that way but if one starts changing things one must conform. Mrs. Baker stated that she saw this project as being extremely significant with regards to Section 9.00 especially since the garage and

slab are to be torn down entirely and replaced. Also the house itself has changed more than 50%. Mrs. Baker added that she also started to think about stormwater and how it is related to impervious surface coverage such as in a case whereby the commission could require a best management practice of a cistern even with applicants who are under the 40% allowable coverage. Mrs. Baker added that she had talked to the town attorney about this and he said the commission could reconsider the resolution that they had made and that they would have to give notice to the applicant but that the applicant has already filed for an appeal. As a result, Mrs. Baker talked with the town attorney David Thompson again and came up with two things. Either she could include a caveat into the resolution that the commission passed or write a separate notice to appeals outlining her concerns as chairman of the commission. Mr. Silliman noted that he had endorsed what was proposed in thinking that the Critical Area Commission had changed its tune and was allowing equivalencies for impervious surface coverage. He questioned whether this was an erroneous error on his part. Mrs. Baker responded that she believed it was, in this case, since Critical Area does not control coverage in IDA areas. Mr. Passarella asked why did the State come out and suggest that communities use a 40% impervious surface coverage? Mr. Silliman responded that it was his understanding that it came from some calculation and research whereby they looked not just at the bay watershed but watersheds throughout the country and asked themselves what is the critical point. The higher the impervious surface, the faster one's waterways deteriorate and stay there. Mr. Passarella responded that his understanding was that towns like Oxford were exempt from following this rule but the Town Commissioners adopted it because they wanted to help improve the bay. Mrs. Baker noted that Mr. Thompson told her that Critical Areas would absolutely not deviate from impervious surface allowances in LDA's (Limited Development Areas) and RDA's (Rural Development Areas) and that Roby Hurley stated they encourage Best Management Practices but not in IDAs. Mrs. Baker then added that what she was proposing was to write a separate note to the Board of Appeals stating that she had second thoughts, herself, and list her concerns and that the members can either agree or not agree with her. Mr. Silliman added that he was surprised the Critical Area Commission was accepting equivalencies and that a statement was made that the ground out there was acceptable. How was that known? Mr. Passarella added that no one really knows if the cistern is going to work. The Board of Appeals may approve this permit subject to the cistern working, but it may not. At the last meeting when Mr. Passarella discussed Habitat for Humanity and its work with cisterns, he noted that he was incorrect about what he had discussed and had found out, only recently, that the cisterns being used by Habitat are strictly holding tanks that act as an underground detention system that stop a big rush of water going into the storm sewer. It is not an equivalency to impervious surface, at least in this situation. Mr. Silliman made a motion to authorize the chairperson to draft a memo explaining the misinformation that the commission had on equivalencies. Mrs. Baker noted that the commission had only one misunderstanding which was regarding the Habitat system. She added that her other concern was the proposed big concrete landing slab and if water would run off that into the cistern, but that mainly her reservation was about okaying an equivalency. Mr. Silliman reminded the commission there was a motion on the floor to authorize the chairperson to write a letter expressing the commission's reservations or concerns. Mr. Passarella thought it should be

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limited to impervious surface issues since the commission was not sure there was an equivalency. He also noted that he was uncomfortable with what Mrs. Baker was proposing. Mrs. Baker responded that if he was uncomfortable with it, she would probably write one anyway, just as the chairperson of the Planning Commission, adding that the members discussed this at one of their meetings. Mr. Silliman asked about not making a motion and that if Mrs. Baker wants to write something the members can read it and either agree or not to put their names on it. In closing, Mrs. Baker stated that she just wanted to focus on the 40%, that there is not a rationale for approving a variance over 40%, and while the commission would encourage best management practices in Oxford, that is stormwater management and this is dealing with 40% coverage matters.

It was agreed that the next Planning Commission meeting would be held on Tuesday, January 15, 2008.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby
Assistant Clerk