

OXFORD PLANNING COMMISSION

MINUTES

MARCH 9, 2009

A special meeting of the Oxford Planning Commission was called to order by the chairperson, Pamela Baker, on Monday, March 9, 2009 at 5:00 p.m., in the meeting room of the Oxford Community Services Building.

Other commission members in attendance were Donald Silliman, Anthony Passarella, and Bernard Witter. Also in attendance was the town attorney, David Thompson.

The purpose of the special meeting was to discuss building permit #09-13, for Mr. and Mrs. Harry Rhodes, property owners of 206 Bonfield Ave., for a 12' x 16' accessory building. Questions had arisen with regards to the setbacks of accessory structures and how they relate to corner lots, such as the Rhodes' lot. The main area of concern being Section 21.03.2a and 21.03.2b and how they relate to one another. Section 21.03.2a states that accessory structures shall be located only in a rear yard or side yard. According to the definition in the Oxford Zoning Ordinance corner lots are considered as having two front yards and two side yards. Section 21.03.2b states, in part, that no accessory structure or part thereof shall be located less than two feet from any side or rear lot line, except that on corner lots no such structure shall be located less than 15 feet from the street side property line. Depending on how one read the ordinance, the question raised was whether or not accessory structures on corner lots could be located in a front yard or not.

Attorney Thompson stated that his conclusion was that with the "principals of statutory construction, you try to give affect to everything that is in the statute and not read anything out, to the extent you can read them together to be consistent." When this standard is applied, Attorney Thompson continued, this would mean that "we have got a general rule that accessories should only be in the rear or side and then we drop down into consideration of an exception, where on corner lots, which by definition have two streets associated with them, no such structure shall be located less than 15 feet from the street side property line, but there are two fronts." Attorney Thompson stated that his recollection was that in the past it was recognized that because corner lots are more restricted that this was an effort to give somebody the ability that if they could not use a two, three, or four foot setback, they could pick a street side and have a 15 foot setback. With regards to this permit, Attorney Thompson stated that he would read it that with a corner lot one could have something in a front yard since one has two fronts, but they would have to have a 15 foot setback for the accessory structure which would also be governed by the 16 foot height requirement so that it would never become the dominate structure. Mr. Passarella stated that there is a side yard setback of 4, 6, and 8 ft. for accessory structures that are 16', 17', or 18' in height. That being the case, he asked that if someone had an accessory structure they wanted to build at 18' in height, would their setback be more than 15'? Attorney Thompson replied that would be correct. Attorney Thompson added that he was a firm believer in, that unless there is a really strong municipal policy that the town needs to hold firm to, to give the individual property owner some room because that is really who we (as a

town) serve. His conclusion was, that in this instance, that if one has an exception for a corner lot that recognizes two street, and here we have 15' as opposed to a 25' foot setback for an accessory structure on one of those streets, it is similar to what the town does with through lots in terms of saying one can have an accessory structure in one of the two yards. However, Attorney Thompson stated that he had not looked at the building plans. Mrs. Baker stated that she personally thought the plans looked fine. Mr. Silliman added that the Planning Commission has tried to be consistent with Mrs. Baker adding that in the past they have sent people to appeals for just this same issue but with a positive recommendation. Attorney Thompson stated that he and the commission should strive for consistency, but, in his view, he would want to consistently articulate a reason based on the ordinance for something that he did, to the extent that he could have a seamless policy that makes it easier to navigate and keep things consistent. Each property should be thought of as being unique. Attorney Thompson stated that he would read the ordinance to say "that this recognizes that there can be a 15' setback in one of two front yards on a corner lot, therefore, it is an exception to the provision of no accessory structures in a front yard." From that, he stated, he would take solace in the fact that there is a specific provision for that with the through lot issues. Mrs. Baker added that the unfortunate thing about how this is written is that it really would allow a 15' setback for accessory structures on both sides of a corner lot.

Attorney Thompson suggested that the Planning Commission address the inconsistencies in the zoning ordinance as they find them and not save them up to pass on all at one time. He suggested that they advise the Commissioners what should be in the ordinance and to pass on their thoughts with regards to accessory structures, but added that a owner should not be allowed to put accessory structures in both their street side yards and that as far as corner lots are concerned, accessory structures should be allowed in only one of the street side yards.

Mr. Silliman made a motion that the application of Mr. and Mrs. Rhodes for the construction of a workshop office on his property at 206 Bonfield Avenue as submitted on February 13, 2009 be approved. The motion was seconded by Mr. Passarella and unanimously carried with all in favor.

In closing the meeting, Attorney Thompson stated he would put together some language for the commission that addresses the concerns of this night's meeting. Mrs. Baker stated she would begin sending Mr. Thompson other sections of the zoning ordinance that are a problem as the commission finds them.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby
Assistant Clerk