

June 7, 2007

The regular monthly meeting of the Oxford Board of Port Wardens was called to order by the acting chairperson, Larry Murray, on Thursday, June 7, 2007 at 7:00 p.m., in the meeting room of the Oxford Community Services Building.

Other board members in attendance were Harwood "Woody" Martin and Richard Johnson.

The minutes of the meeting of May 3, 2007 were approved and accepted as distributed.

The board members revisited permit #07-01 of Mr. and Mrs. Gerald Fay, property owners of 211 N. Morris Street, and their request to construct a 115' x 6' timber pier to include a 10' x 15' "L", two mooring piles and a boat lift. The port wardens had sent a letter to the Fays on May 7 asking that the Fays resubmit their drawing showing the relocation of the pilings on the south side of their proposed pier. Mr. Mark Hill, from Bailey Marine, was present at this night's meeting representing the Fays. He presented to the board members a new drawing. Mr. Murray noted that the board was looking for a drawing showing the physical locations of the two pilings and pointed out that the new plan Mr. Hill was presenting showed the dimension off of the pier but no lateral dimension showing the placement of the pilings. Mr. Murray added that the board thought that one piling would have a 25' setback and the other 15'. Mr. Hill stated that both pilings would be setback 15'. Mr. Hill also stated that there were two purposes for those pilings – one for a slip and one for a future boat lift. The board reminded Mr. Hill that the owner would have to obtain a permit for a boat lift if he decided to do that at a later date. Mr. Johnson asked Mr. Hill about the mooring buoy that the Fays had thought about installing. Mr. Hill stated that Mr. Fay, at this time, has no intention of putting in a mooring buoy. He added that he was aware the board had asked Mr. Fay to light the mooring buoy if Mr. Fay decided to install it (which the board strongly encouraged the owner not to do). Mr. Hill pointed out that it was not up to him to write on the permit that the mooring buoy be lighted and that the permit was approved by the State without a light. He also noted that he did not think it was a requirement of the State that it be lit. Mr. Johnson suggested the board should state in the permit that though they have no authorization over the matter, they do not agree that a mooring buoy should be placed in the area where Mr. Fay has indicated on his plat, and that the board strongly advises against it because of the water traffic of the restaurant out at Pier Street. Mr. Martin added that if the board approved the permit they would probably state in their approval that it is their understanding that Mr. Fay is not intending to put in the mooring piling. Mr. Hill reiterated that at this time Mr. Fay has no intention of putting in the mooring buoy but what he does in six months or a year from now, Mr. Hill had no idea since the permit from the State was good for 3 years.

Mr. Hill then discussed with the board a letter he had written to the board concerning the intentions of Amy Freeman, property owner of 216 S. Morris Street, to replace two existing pilings and install a boat lift. The board had written to Mr. Hill on May 7, 2007 informing him he would need to apply for a permit for the boat lift. Mr. Hill stated that Ms. Freeman was no longer interested in putting up a boat lift and asked if he would need a permit to replace the two pilings. Mr. Murray stated that no permit would be required for replacing the existing pilings in the same location as that would fall under maintenance and repair.

On a final note, Mr. Hill reported that he would be doing some maintenance work down around the yacht club and questioned what procedure he should take. Mr. Murray replied that Mr. Hill should submit a letter to the board just so they have a record of what is taking place.

Mr. Chuck Mangold next met with the board on behalf of the Bachelors Point Homeowners Association to request permission to repair the bulkhead along the inlet to their harbor and at the corner of the seawall that borders the homeowners side of the marina. Pictures were shown of sand and gravel coming through breaks in the bulkhead and running along the seawall and building up under their floating concrete piers. Mr. Mangold informed the board that at low tides the floating pier, at the north corner, is coming to rest on the sand and gravel build up and at extreme winter low tides it is elevated three feet above the remainder of the dock. Mr. Martin pointed out that anything the Port Wardens did would be subject to getting proper State approval for dredging, if the homeowners association felt that was appropriate. Mr. Mangold stated he thought that was unnecessary because Tom Campbell (Bachelor Point Marina) has a perpetual dredging permit in that inlet. The board members agreed that they did not have a problem with the homeowners association request to make repairs and thanked Mr. Mangold for keeping them informed.

The board then met with their final applicant Jennifer Stanley, property owner of 221 South Street, who came before the board to talk about her plans for a living shoreline.

Mrs. Stanley brought with her Mary Owens from the Critical Area Commission, Nick Kelly (also from the Critical Area Commission), and Dave Wilson from MD Eastern Shore RC&D. New plans were presented drawn to scale with Mrs. Stanley pointing out that no changes had been made from what was previously shown with the exception of one corner at the bulkhead. Mr. Murray was of the opinion that the new drawing was not in agreement with the previous drawing. Differences included the cross-section drawing of the "T". One plan showed it to be 8' at the top and the other 10' at the top. Mr. Wilson stated that the "T" might be 8' at the base but it would not be 8' wide at the top. He added that typically they are made 1' to 2' wider at the top. Another difference pointed out by Mr. Murray concerned that of the groin

which was originally shown to come out about 18'. On the new drawing it showed the groin to come out about 27' to 28' feet. Mr. Murray thought the plans ought to agree. Mr. Wilson agreed and said he would get back to the Port Wardens the following week with plans that matched.

Questions were raised about the amount of sand to be used in between the groins. Mr. Wilson responded it usually averaged 1 cubic yard for foot, so if you had something 215' long it would be around 215 cubic yards. Mr. Murray asked what the effect would be if the project were to be brought back in further. Mr. Wilson replied that the more wetlands one has in length, and particularly in width, the more buffering one has that keeps in sediments and nutrients yet filters nitrogen and phosphorus creating an overall better job. Mr. Wilson added that this technique is being used more than any other technique for shore erosion control.

Mary Owens from the Critical Area Commission next addressed the board. She stated that the reason for her presence on behalf of the Critical Area Commission was because the commission is very interested in non-structural shore erosion control projects. In light of what has been happening over the past 20 years, the commission is realizing that "business as usual" is probably not going to work. The commission has become more aggressive about pursuing every opportunity they have to restore habitat and improve water quality, and one of the ways that can happen is by working on even small projects to help property owners that want to do things like save shorelines. Ms. Owen pointed out that though this is not a huge project, it would result in 3,000 sq. ft. of marsh which was significant. Important reasons why these types of projects are very beneficial include:

- providing inter-tidal habitat and transition habitat that one does not have with traditional wall type structures or revetments.
- enhancing water quality and providing filtering but using natural and renewable resources.
- allowing the natural coastal process to continue and allowing wave action to be disrupted.

Ms. Owen stated that the commission is interested in working with local governments to make sure these types of projects can be approved and to help homeowners get through the local review process. She added that the Stanleys have worked with a reliable engineering consultant, that they have gotten approval from the Board of Public Works, and that their proposal is fully consistent with Oxford's Zoning Ordinance and Critical Area Program.

Mr. Martin expressed concerns of wanting to protect the depth of the water and navigability of a fairly small body of water. He asked if this project was an optimal size in terms of encroachment into the harbor for achieving the goals everyone has

in mind, or if less could be done? Was there a critical point in which these designs fail to really effectively protect the waterline? Is it self defeating to make the project smaller or could the project be reduced and still get 90% of benefit? Mr. Wilson responded that the only time they back off is when the water gets too deep as the grasses will not grow in deep water. He added that his company has 3 more plans for Oxford. One involves the Town Park whereby there are plans and a grant for a break water system, another is for The Strand, and the last one is for the other side of The Strand for a groin project.

Mr. Johnson stated his concerns regarding the rocks. Mrs. Stanley responded that the reason for the rocks being so high was so that they would be made to be visible and not create a navigational problem.

Mr. John Proctor, adjoining neighbor to the Stanleys, spoke to the board indicating that he and his wife show their support of the project. Mr. Proctor mentioned that he had practiced environmental law and that during that period he did about 30 wetland projects, one of which involved a power plant project in New Jersey. He and his group were able to demonstrate to the regulatory authorities that using half of the site for the power plant and the other half for wetlands development would make the whole site more biologically productive than before the project began. They found that virtually in every case where they were doing principally mitigation projects that they were getting biological productivity that was much greater than what they were using to begin with. Mr. Proctor added that though this project was small, it fit within those confines that the Board of Port Wardens were to address. Those being marine life, wildlife, conservation, and water pollution/erosion. Based on his experience, Mr. Proctor stated he could not imagine this project not doing each and everyone of those things. Mr. Martin asked Mr. Proctor if he were dealing with erosion problems, would he use this as a solution. Mr. Proctor responded "absolutely," adding that he had used wetlands to clean the discharges from electric powers plans that helped to filter such pollutants as aluminum, selenium, and exotic metals.

Mel Mraz, property owner at 106 Jack's Point Road, also spoke in favor of the Stanleys project. He stated that knowing Jennifer he felt confident that she wanted to make improvements to the water and environment.

Mrs. Stanley was of the opinion that the board was having problems with the concept of her plans. Mr. Murray responded that the board's concern was that this is the first project of this type being done on the creek and it would set a precedent for things in the future. Mr. Martin added that there was 100% enthusiasm for Mrs. Stanley's

goals but the board has to balance things. More people may want to do the same thing and if more people do the same thing, what will the consequences be? Could something like this take an unintended direction or does the town need to do more things of this magnitude?

Mrs. Owen was of the opinion that the Maryland Department of the Environment was cognizant of concerns such as those and that when they authorize these things they are careful there is not excessive encroachment in the waterway. She noted that adjustments can be made down the road as other property owners come in wanting to do the same thing. They might not be able to extend out 28' or 30'. MDE would make those modifications. Mrs. Owen also stated that with what the Critical Area Commission has in place she was not aware of any adverse effects, at least environmentally.

Mr. Johnson questioned what issues could arise with the future dredging of the harbor line and its relationship to the Stanley's groin. Ms. Owen responded that as long as the groin is stable on what it is sitting on, what happens on the other side of the groin will not really matter. Vegetation does not jump over the groin and does not work itself out further.

In looking through the Board of Port Wardens Harbor Management Plan, Mr. Johnson thought that the scope of this project seemed to go beyond the bounds of the board's mandate. The plan talked about maintaining water quality in and around Oxford and that the board should accomplish that by pump-out facilities, channeling runoff, and diverting agriculture. It goes on to say bulkheading may not be constructed in the waterway and defines bulkheading as any structure put in the water to contain erosion. Mr. Johnson stated that it seemed to him like this request should go before the Commissioners because it seemed to be beyond the scope of the board's mandate. Mrs. Stanley replied that she had read the Harbor Management Ordinance and booklet noting that it had been written 25 years ago. She reminded the board that things change and the bay is continuing to deteriorate. Different projects, attitudes, and State attempts to do the best things are being seen. She thought maybe it was time for the Board of Port Wardens to update or change the ordinance too.

Mr. Johnson asked how this project could be called non-structural when hundreds of tons of stone are going to be placed in the water. Ms. Owen responded that non-structural is basically where the primary way something functions is through a vegetative function. In this case, the primary function of the stone is to hold in the sand in place so the grasses will grow.

Mr. Murray asked the board members if they would be more comfortable passing this request on to the Commissioners. Mr. Martin responded that he would but with a recommendation from the board. Mr. Johnson agreed with Mr. Martin and questioned whether there shouldn't be an amendment to the board's plan to deal with living shorelines, especially concerning living shorelines and their proximity to the harbor line. Mr. Johnson added that he liked the idea of the plan but wished that it was on a larger body of water and was not reducing the navigable mouth of Town Creek.

After a brief discussion, Mr. Murray announced that the Board of Port Wardens would be passing this on to the Commissioners with a recommendation that the plan be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby
Assistant Clerk