

## OXFORD PLANNING COMMISSION

### MINUTES

**MAY 3, 2011**

The regular monthly meeting of the Oxford Planning Commission was called to order by the chairman, Donald Silliman, on Monday, May 3, 2011, at 7:00 p.m. in the meeting room of the Oxford Community Services Building.

Other commission members in attendance were David Baker, James Reed, Patricia Campen, and Carole Abruzzese.

The minutes of the meeting of April 5, 2011 were approved and accepted as distributed.

Mr. Silliman requested that the following be read into the record: At the Planning Commission's last meeting on April 5, 2011, the commission had tabled the discussion of the appeal of a sideyard setback for Mr. and Mrs. Raymond Porter, property owners of 219 N. Morris Street, because the documentation was confusing and no one appeared to answer any questions. The Planning Commission was supposed to make a recommendation to the Board of Appeals even though the applicant's had not come to the Planning Commission for the commission to turn them down so that they could appeal anything. The recommendation that Mr. Silliman sent out by e-mail to the other commission members, which everyone agreed to, was that the Planning Commission was unable to make a recommendation on the matter due to the confusing documentation which was addressed to Susan Delean-Botkin, chairperson of the Board of Appeals, and Lillian Lord, Town Administrator.

The following building permits were approved in the town office:

- #11-19 M Louise Thorndike, 318 Tilghman St., single story garage. Sections 29.03 and 29.05.
- #11-23 R-1 Mr. and Mrs. Ed Graff, 101 Richardson St., installation of new brick patio. Section 21.05.

The following building permits were reviewed by the Planning Commission:

#11-20 Philip Logan, 101 W. Strand, request for wood deck with open ¼ wide gaps on a drainage bed to allow access and use by wheelchair bound occupant. Mr. Silliman asked Mr. Logan if he was aware that the State no longer required a drainage bed under decks. Mr. Logan replied that they were putting in a drainage bed because it will be better and weeds would not grow through it. Mr. Baker noted that he went on the DNR website which still mentions the use of gravel. Mr. Logan added that it was just good practice to do it and that was why it was being put in. Mr. Silliman stated, the way he understood the permit, was that the applicant wanted to put in a walkway that would go from the front of the house to the back of the house and

attached to that walkway, at the same level, would be a deck. Mr. Logan confirmed that was correct. Mr. Silliman went on to say that a walkway is not a deck and that a walkway is an item that does not need as much of a setback as a deck. He then asked Mr. Logan what the distance was between the proposed walkway and the property line. Mr. Logan responded that the deck would be 40" wide and would be about 1'8" from the property line. Mr. Silliman stated that in his opinion, a deck is treated as a structure but a walkway would qualify as an accessory structure and, as such, would require a 2' setback. Mr. Baker pointed out that the zoning ordinance, under the definition for deck, reads that a deck is a flat floored structure and that he did not know what the difference between a deck and a walkway would be. Mr. Silliman retorted that a walkway was different because its use would be getting from the front of the property to the back. Mr. Baker responded that a deck is supposed to be within the building envelope. Mr. Logan noted that what was being proposed was a walkway going by a deck and the deck would be adjacent to the house. He added that if the commission thought it encroached on the 2' setback than he understood it would require an appeal. Mr. Silliman made a motion to deny the application due to it not meeting the setback requirements but to recommend to appeals that they approve the permit. The motion was seconded by Mrs. Campen and unanimously carried with all in favor.

#11-17 and #11-25 Simon Arnstein and Joan Levy, 218 South Street, details regarding materials of alteration of existing house and addition of two story extension, basement, and larger accessory work studio at rear of yard. Mr. Arnstein and Ms. Levy were represented by their architect, Philip Logan. Mr. Logan explained to the commission that they had resubmitted their drawings showing an 8' setback and a 5' setback. He explained that they have two options in place: 1) to leave the house where it is and restore the sills, and 2) to raise the house and move it back to the end of the property which would then result in a further encroachment into the 5' setback. Mr. Logan stated that the owners and he would be going before the Board of Appeals with both of these options on the 19<sup>th</sup> of the month. They would also be seeking a separate sideyard variance as well. Mr. Silliman asked if anything had changed from last month's meeting when the commission had gone over this application. Mr. Logan responded that he had added onto the plans the information about the 8' setback and the house itself had now changed in dimensions. He also noted that he now had a separate permit for the proposed accessory studio building. In the first submission that he presented to the commission, Mr. Logan had presented a 16' structure which had a 2' setback. The plans have now been revised to show a 17' tall structure with a 4' setback. Mr. Silliman informed Mr. Logan that the permit for the accessory building could be handled through the town office and not the Planning Commission unless the office felt uncomfortable with what was being planned.

#11-22 John Kendall, 307 S. Morris Street, demolition of existing shed. Mr. Kendall was represented by Mary Crabb from the building firm Crabb and Co., LLC. Mrs. Crabb informed the commission that the building Mr. Kendall wished to take down was in poor condition and had flood damage back from Hurricane Isabel. She noted that the Historic District Commission had given their approval for the building to be demolished. Mr. Baker made a motion to approve

the demolishing of the shed. The motion was seconded by Mr. Reed and unanimously carried without further discussion.

11-21 John Kendall, 307 S. Morris Street, raise home as required for flood zone regulation and construction of new foundation. Mrs. Crabb explained that the existing house was in flood zone A-6. The owner is proposing to jack up his house, put in a real foundation, then set the house back down again. The house would not be moved from its current position. It would be raised essentially 2' higher from its present height so that the first floor would be at 8'. Mr. Reed made a motion to approve the raising of the house with a new foundation. The motion was seconded by Mr. Silliman and unanimously carried with all in favor.

11-24 Oxford Community Center, 200 Oxford Road, place a capital campaign sign between existing sign and driveway to be 3' x 7'5" (3' height will gradually go up to 4'). Mr. Reed recused himself from the group in order to present the community center application. He explained to the members that this request is for a campaign sign regarding a major renovation project that will be taking place at the community center. The center would like to have this campaign sign on the property during construction to show their financial progress. Mr. Reed thought it would be on the site for about 7 months to a year. He noted that he was planning on asking Police Chief Patrick Maxwell where he thought the sign should be placed which would cause the least problem with traffic. Mr. Baker pointed out that this would be the 4<sup>th</sup> sign on the lot. Mr. Silliman retorted that this would be a temporary sign which would come down when the project is over. Mrs. Abruzzese made a motion to approve the sign. The motion was seconded by Mr. Baker and carried with one abstaining vote from Mr. Reed.

This concluded the review of building permit.

Attorney David Thompson met with the commission to discuss generally the duties of the Planning Commission. These include the following:

1. Commission members can visit a property they are involved with. If the members want to talk to people about a property and plans they can do that, with or without the owner's permission, as long as they have a matter before them about that property. The members are not constrained by the hearing and evidence standards that apply to the Board of Appeals. The Planning Commission is involved with planning and policy to a large degree, not quasi-judicial hearings like appeals.
2. Whenever there is a quorum together (3 or more) and business is being discussed in any substantive fashion, there should be notice in the newspaper or something posted downstairs. The open meeting rules apply.
3. E-mails may be used if used as a circumvention of the public meeting requirements. Follow up from meetings is ok, like "Is this what we agreed about sending out?" All e-mails are public records. People tend to think of e-mails as private, but they are not. If you are embarrassed about anyone reading it, don't write it. All deliberations that relate to zoning matters need to be right out in public. Legal advice is something that is

- privileged and that can be done privately. The Planning Commission can table an issue so that they can talk to legal counsel.
4. Years ago all building permits were issued by the Planning Commission and that became a bottle neck. The solution was that building permits would be issued by the town office staff and more complex issues go to Planning, which, so far, has worked out pretty well.
  5. The primary role of the Planning Commission is to formulate plans required by state law, put them together, and give them to the Commissioners for their ultimate approval. The next plan will be to review the Critical Area Plan. Mr. Thompson noted that he has asked the Commissioners to put in the budget money to hire a planner/consultant to help with the Critical Area Plan.
  6. Mr. Thompson stated he has been dealing with an attorney and representative for a foundation that is involved with the property at the entrance to town formerly known as the Combastet property with is a large, 84 acre parcel. They say that their goal is to preserve the entrance into Oxford. They are open to the ideas of the Planning Commission and have indicated a preference to deal with a small number of people in this phase as opposed to a streetscape committee. They are talking about passive use for the property such as trails, demonstration meadows, water features, etc. Mr. Thompson noted he has not yet seen a conceptual plan. He also mentioned that this group is talking about eventually conveying title to the town.
  7. When someone comes before the Planning Commission with a building permit, the commission can either accept or turn it down. Sometimes people are going to come to the commission without building plans and just a site plan because they have already applied for a variance or special exception and they don't want to invest in building plans until they know that they are going to get their setbacks or whatever. In those cases, the commission is just being asked for a recommendation. Whatever is decided, make sure it is consistent with the comprehensive plan. A variance should be limited to the minimal incursion necessary to relieve hardship. When complicated questions arise, don't hesitate to ask for legal help.
  8. Copies of the Open Meetings Act were distributed to the members. Attorney Thompson told the group if they had any questions to feel free to ask him.

Mr. Thompson next talked with the commission about a 14 acre parcel on Bachelor Point Road owned by Rodney Spring and Mr. Spring's plans for that property. What is relevant with this property is that it is the only unimproved, unencumbered property in the town's growth area. Mr. Spring has wanted to develop this property for a long time. He and his team are now proceeding in the county to do that but based on their communications with Mr. Thompson's law firm and most recent letters to Mr. Thompson, they would consider developing in the Town with annexation. They have the LDA classification they need. If they get approval by the county, they will have to have their own sewage system on their property and will discharge into Boone Creek. Mr. Thompson stated that a lot of people, including him, think the best way to treat the sewage is in a larger plant, like the Town's, rather than a new discharge into Boone Creek. They have followed up and confirmed their interest that if the Town has an interest in developing this property in connection to the town sewage system, they would like to do that and do annexation covenants which would be consistent with the comprehensive plan. The

town's policy is that if there are covenants and restrictions imposed on the lands that would allow the Town to bring it in at the town's choice (which was what was done with Bachelors Point), with annexation covenants, then the Town may make its sewer system available, provided the property becomes a part of the Town. The Spring team want to know do we want them in town or not? If the commission decides that they believe growth is appropriate at this location and it should be developed, then the commission ought to tell them that. They have asked the commission to listen to them. The county is going to ask what the Town's preference is. Whatever the outcome, annexation and public infrastructure should be done at the expense of the developer, not the Town. The Planning Commission would participate in entrance road planning, etc. Some questions were raised by the Planning Commission members regarding the proposed new treatment plant and who would be maintaining it if it developed in the County. Mr. Thompson advised that MDE has shared facility rules. In response to the question, Mr. Thompson stated that the engineers have assured that the Town's system, if the development is in Town, has ample capacity to deal with the effluent waste created by 20 +/- homes on the Spring property.

Mr. Thompson advised that annexation is totally discretionary. The Planning Commission had previously recommended that this parcel be annexed. The Spring property has been a part of the town's growth plan and a part of the town's growth area for 30 years. Because of its location, it's the kind of area that is not going to get too highly priced too early. It does not really impose on town utilities. Mr. Thompson knew it would be coming up and that the Planning Commission will have to make a recommendation to the Commissioners. Mr. Thompson handed out a letter from Mr. Rich (Mr. Spring's attorney) to the commission members dated April 20, 2011.

In a separate matter, Mr. Baker noted that the commission has been told the Commissioners are the enforcers yet there is one thing the Planning Commission is supposed to be enforcing and that is signs. He addressed Mr. Thompson and asked how the commission could get rid of that. Mr. Thompson responded that the Planning Commission need only recommend to the Commissioners that they would like to change that.

Mrs. Abruzzese asked about the upcoming appeal for the Arnstein/Levy property noting that architect had mentioned keeping the house where it is currently located, on town property. Mr. Silliman responded that the owners would not be keeping it as it is and that the plan is to move the house back so that it would no longer be going over the line. Mr. Thompson noted that someone having something on town property does not allow them to acquire any rights. He added that there are many situations around town, mostly landscaping situations, whereby people have improved right up to the travelling surfaces of the road and that generally the Commissioners have tried to avoid problems with people's landscaping. Mr. Thompson further stated that he would generally advise that if someone was going to move something to do renovations that they get whatever they have on town property off at that time.

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Mr. Baker also raised a question with regards to the Arnstein/Levy house at 218 South Street concerning the removal of part of their house so as to construct a new section and thereby losing the grandfathered, non-conforming part of the home. Mr. Silliman thought that was only a matter of concern if what they were planning to construct would be over 50% of the existing square footage already on the property. Mr. Baker thought it was not clear in the zoning. Mr. Silliman responded that was how he interpreted it.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby  
Assistant Clerk