

OXFORD PLANNING COMMISSION

MINUTES

JANUARY 4, 2011

The regular meeting of the Oxford Planning Commission was called to order by the chairman, Donald Silliman, on Tuesday, January 4, 2011, at 7:00 p.m., in the meeting room of the Oxford Community Services Building.

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

The following building permits were approved in the town office:

- #10-60 R-2 Mr. and Mrs. John Kimberly, 200 S. Morris Street, revisions to previously approved permit (#10-36) to maintain gable dormer/shed on south elevation of garage addition and shed dormer on north elevation; move outside stair closer to building. Sections 23.03.1a, 23.03.2a, and 21.04.2b. To HDC.

- #10-77 R-2 Mr. and Mrs. Edwin Miller, 205 Tred Avon Ave., addition of window on southside wall of house and install one wood shutter. Section 23.01.1. To HDC.

There were no new building permits for review by the Planning Commission

REQUEST FOR RECOMMENDATION

The commission met with Raymond "Trey" Porter to discuss his application to the Board of Appeals with the request for a sideyard variance with regards to his property located at 219 S. Morris Street. Mr. Porter stated that he understood the Planning Commission did not grant variances and that he was coming before them to ask for a recommendation that could be sent on to the Appeals Board. He explained that he was simply asking for a sideyard variance at this time that would not be involving a building permit or plans. The Porter's house, as it currently exists, has anywhere from an 18 to 22 inch range from the property line. Mr. Porter stated that he would like to build an addition onto the side of the house keeping within that same existing range of 18 to 22 inches from the current lot line. Mr. Silliman asked if Mr. Porter was just asking for a variance utilizing the same sideyard as he currently has. Mr. Porter responded that he was, extending an addition towards the back of the property.

Mr. Baker began the discussion by stating that he had a problem with the request. He quoted from the Oxford Zoning Ordinance Sections 11.04.4a and 11.04.4b which state, in the part, the reasons for granting a variance whereby, "Special conditions and circumstances exist which are not caused by actions of the applicant but which are peculiar to the land, structure, or building involved, and which are not generally applicable to other land, structures, or buildings in the same district," and "literal interpretation of the provisions of this ordinance would deprive the applicant of right commonly enjoyed by other property owners in the same district under the

terms of this ordinance.” Mr. Baker pointed out that there are other houses in town which appear to run into the same problem and that instead of continuing back along the same non-conforming setbacks, they have created a little “L” shape so that they don’t continue along the same setback. He added that the setbacks are there for two purposes: 1) for privacy so that one is not leaning over one’s neighbor’s lot line, and 2) for safety. Mr. Baker noted that while the fire company would have access to put out a fire in case of an emergency, the fact that Mr. Porter may want to come so far back might present a problem to the guesthouse on his neighbor’s property to the north. Mr. Baker also referred to Section 9 of the Oxford Zoning Ordinance which deals with non-conformities. Section 9.00.2 states, in part, that “it is the intent of this ordinance to permit non-conformities to continue until they are removed, but not to encourage their survival.....,” and “...that non-conformities shall not be enlarged, expanded, or extended except as hereinafter provided, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.” Mr. Baker thought that the idea that this would be a definite expansion of a non-conformity was not a good one and thought Mr. Porter would be better off to look at it some other way in order to increase his sideyard setback. Mr. Porter responded that he had looked into that and that he wanted to build his addition in a non-conforming area because he did not want to fracture his yard. He explained that his yard was less than 56 ¼’ across so making an “L” would destroy his sideyard and create a tiny backyard. Also by building an “L” addition out into the middle of the property it would create an 8’ area on the north side of the building that would be wasted space lost in moss, mold, and shade. Mr. Baker responded that he could understand Mr. Porter wanting to keep as much open as possible but he should also try to make his home as useable as possible by staying within the guidelines and ordinances as other people have done. Mr. Porter countered that the ordinance talks about hardships. Mr. Porter felt his lot was a particularly narrow lot and the “L” shape would mess the yard up a lot. Another thing that should be considered is the house itself. Mr. Porter explained his house as a folk Victorian house and that if one were to build an “L” shape and have a gable going in a different direction, it would not be consistent with how one would historically add on to this type of home. The Victorians would have gone on a linear tract. Mr. Porter stated that he realized that this would not be something the Planning Commission would consider but that it was something he had considered and wanted to discuss with the Historic District Commission. Mr. Porter added that he realized this was an extension of a non-conformity but believed the language in the ordinance only says that one would have to go and apply for a variance – that it was not something that was not allowed and that his thoughts were that the ordinance says that extending a non-conformity requires one to go and seek a variance. Mr. Baker responded that while that was true, the intent of the ordinance is to keep extensions of a non-conformity to a minimum. Mr. Porter countered that he did not read the ordinance as stating that an extension of a non-conformity is any worse than not conforming to anything and did not think it was on a separate level.

Mr. Silliman noted that while Mr. Porter was saying he was only a couple feet off his property line on the north, he asked about the neighbor and how far was his distance from the same property line. Mr. Porter responded that both he and his neighbor have their houses located along the north property lines of their respective lots so that actually there was a lot of room between each of their houses and that fire access was not really a problem. Mr. Baker stated

that as he looked at the house it appeared as though the last existing section of the rear of Mr. Porter's house was almost like a shed roof and that as far as variances go, if Mr. Porter were planning to build that section up to a second story that too would require a variance in that he would be increasing the encroachment on that side. Mr. Porter responded that "non-conformity is two dimensional" in Oxford so that did not come into play. A side yard is a side yard so that if one builds vertically one is not affecting the yard at all. Mr. Baker responded that one would be adding a second story and a second story would now be in the setback so one would be increasing the non-conformity. Again, Mr. Porter made reference to things being two dimensional in Oxford and that adding a second story on a first floor did not affect one's side yard. Mr. Silliman stated that he thought Mr. Porter was correct. Mr. Porter added that the addition of a second story would not encroach out into his yard any further.

Mr. Reed expressed his feeling that properties in Oxford are all so unusual and that he would rather see the historic significance of the house and that the side yards are fairly consistent in Mr. Porter's block. Mrs. Abruzzese agreed that the historical element is very important and that Mr. Porter had mentioned continuance of style which she thought would be important to bring up to the Board of Appeals. Mr. Silliman added that there would be adequate space between Mr. Porter's house and his neighbor's house to the north and that because of that he thought he would not have any objection to the continuation of the non-conforming setback. Mr. Baker pointed out that there are ways to get more livable space in Mr. Porter's house without increasing a non-conforming.

Mr. Silliman then asked for all in favor of recommending to the Board of Appeals that they approve the requested variance. The vote was as follows:

James Reed	Aye
Carol Abruzzese	Aye
Patricia Campen	Aye
David Baker	Nay

With regards to another issue, Mr. Silliman asked Mr. Porter about the sign placed out in front of Mr. Porter's property by the contractor Gene Mazzatenta. Mr. Silliman noted that the sign looked overly large to him and asked that Mr. Porter ask Mr. Mazzatenta to erect one of his other smaller contractor signs.

Mr. Baker added that he noticed that on the plat Mr. Porter presented to the commission that it references 2/130E, which is actually the plat number of the neighbor's property and not Mr. Porter's property at 219 S. Morris Street. Mr. Porter noted that he would check with his surveyor about that matter.

Prior to adjourning, a motion was made to approve and accept the minutes of the meeting of December 7, 2010.

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There begin no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby
Assistant Clerk