

OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD JANUARY 23, 2007

**Agenda**

**THE ROCK - SITE PLAN AMENDMENT - 2901 NORTH 10<sup>TH</sup> STREET - (PARCEL NO. 3905-11-230-038) - FROM TABLE OF NOVEMBER 28 AND DECEMBER 19, 2006**

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, January 23, 2007, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Duane McClung, Acting Chairman  
Mike Smith  
Roger Taylor  
Grace Borgfjord

MEMBERS ABSENT: Millard Loy  
Dave Bushouse  
Cheri Bell

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Senior Planner; Brian VanDenBrand, Associate Planner; James W. Porter, Township Attorney; and approximately 12 other interested persons.

**Call to Order**

The Acting Chairman, Duane McClung, called the meeting to order at approximately 3:00 p.m. The Acting Chairman welcomed to the new Board member, Grace Borgfjord.

**Election of Officers**

The Acting Chairman opened the floor for nominations. Mr. Smith nominated Millard Loy as Chairman and Duane McClung as Vice Chairman. The nominations

were seconded by Mr. Taylor. The Acting Chairman called for a vote, and the nominations were confirmed unanimously.

## **Minutes**

The Acting Chairman said the fourth item on the Agenda was consideration of the minutes of December 19, 2006. The Acting Chairman asked if there were any additions or corrections. Hearing none, he said he would entertain a motion. Mr. Smith made a motion to approve the minutes as submitted. The motion was seconded by Ms. Borgfjord. The Chairman called for a vote on the motion, and the motion passed unanimously.

## **THE ROCK - SITE PLAN AMENDMENT - 2901 NORTH 10<sup>TH</sup> STREET - (PARCEL NO. 3905-11-230-038) - FROM TABLE OF NOVEMBER 28 AND DECEMBER 19, 2006**

The Acting Chairman said the next item was consideration of the site plan amendment to allow a temporary use of a tent for a gathering space for a property located at 2901 North 10<sup>th</sup> Street, known as The Rock. The Acting Chairman asked for a report from the Planning Department. Ms. Bugge submitted her report dated January 23, 2007, to the Board, and the same is incorporated herein by reference.

Ms. Bugge reminded the Board that the applicant had appeared at a meeting of November 28, 2006. At that meeting, a question came up as to whether the proposed use was permissible within the "R-2" District. Ms. Bugge then drew the Board's attention to the Township Attorney's memo dated December 14, 2006.

Attorney Porter reviewed his memo of December 14<sup>th</sup> with the Board, explaining that it was his position that a temporary structure like this tent was not a permitted use within the "R-2" zone, and therefore, the Board did not have the authority to permit the tent as part of its site plan review. He recommended that the issue of temporary structures be referred back to the Planning Commission, but in the meantime, that the tent be removed from the property as an impermissible use of the property.

The Acting Chairman asked if there were any questions. Hearing none, he asked to hear from the applicant's representative.

Pastor Neil Kelly introduced himself to the Board. He explained how their church was an extension of a church located in California. He said he realized there were many technical issues which needed to be addressed regarding the tent. However, he asked that the Board consider the fact that they were a small church, and they needed extra space for a hospitality room. He said they were currently planning to submit a revised site plan, but that it would take time for them to build an addition onto the

church. He said he thought they had done everything properly to accommodate the use of the tent, and it was unfortunate that it had been erected prior to receiving final site plan approval. He said that there certainly was nothing intentional on the church's behalf and said, since they met the building code for temporary structures, he asked that the Board give them an additional 90 days for the use of the tent.

The Acting Chairman asked if there were any questions of Pastor Kelly. Hearing none, he called for Board deliberations.

The Acting Chairman began by saying that it is unfortunate that the tent was erected without site plan approval. He asked Ms. Bugge how that had taken place. Ms. Bugge explained, while they had had conversations regarding the use of the tent from a building compliance standpoint and Fire Department standpoint, that the Planning Department had asked that the applicant wait until site plan approval was given before erecting the tent. However, she said, given Building and Fire Departments' indications that the tent would meet "code requirements," the tent was inadvertently erected prior to review by the present Board. Pastor Kelly again reiterated that it was unintentional. Mr. McClung said that he understood that it was not intentional, but it certainly placed the Township in a difficult position.

The Acting Chairman said he thought their hands were tied in that it did not appear to be a permitted use under the Township Zoning Ordinance. Mr. Smith said that he was concerned that they not set an adverse precedent allowing such large temporary structures without the structures being a permitted use under the Zoning Ordinance. He said it was an unfortunate set of circumstances, but he said he would agree with counsel's recommendation to deny the request. Mr. Taylor said he would go along with legal counsel's recommendation, but suggested that the matter go to the Planning Commission to see if tents of this type could be accommodated in some fashion but that it was not within the Zoning Board of Appeals' ability to address this issue.

Ms. Borgfjord said that she agreed with the other Board members that the request for site plan approval should be denied.

Ms. Bugge stated, based upon the Township Attorney's recommendation, she thought temporary structures of this type should be addressed, but the Planning Department certainly did not envision anyone allowing temporary structures to be used for such a long duration as requested by the applicant.

The Acting Chairman announced that he would entertain a motion. Mr. Smith made a motion to deny approval of site plan and to refer the issue of temporary structures to the Planning Commission for review. Mr. Taylor seconded the motion. The Acting Chairman called for a vote on the motion, and the motion passed unanimously.

Ms. Stefforia asked if the ZBA should provide a time line for removal of the tent. Attorney Porter said he believed it would be best to leave that matter up to the Ordinance Enforcement Department.

### **2006 Annual Report**

The Acting Chairman stated that the next item was review of the 2006 Annual Report. The ZBA discussed the Report with the Township Planning Director and received it for information.

### **Other Business**

Mr. Taylor said that he was still concerned about the accessory building issue. He said he thought that the issue of maximum accessory building size still needed to be addressed by the Planning Department. The Acting Chairman stated that he thought that issue was being worked on by the Planning Department. Ms. Stefforia said the Township Zoning Ordinance had been amended to allow administrative review for large accessory buildings, but that if the accessory building were extremely large, the Planning Department would still be referring those matters over to the ZBA. Mr. Taylor said that was actually what he was concerned about and thought that the issue needed to be addressed as to what the maximum size of accessory buildings should be for residential property.

### **Adjournment**

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 3:40 p.m.

#### OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

By: Duane McClung, Acting Chairman

By: Roger Taylor

By: Mike Smith

By: Grace Borgfjord

Minutes Prepared:

January 29, 2007

Minutes Approved:

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