

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A SPECIAL MEETING HELD FEBRUARY 28, 2006

Agenda

**BRAYBROOKS - ACCESSORY BUILDING REVIEW - 9548 WEST L AVENUE -
(PARCEL NO. 3905-20-385-060)**

**BAYWATER TOWNHOMES - VARIANCE AND SITE PLAN REVIEW - NORTH SIDE
OF KL AVENUE, WEST OF 11TH STREET - (PARCEL NO. 3905-24-155-022)**

**AHREN'S CONSTRUCTION - SITE PLAN REVIEW - 7430 STADIUM DRIVE -
(PARCEL NO. 3905-34-205-010)**

A regular meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Tuesday, February 28, 2006, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Millard Loy
James Turcott
Dave Bushouse
Duane McClung

MEMBER ABSENT: Grace Borgfjord

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Township Planner; James W. Porter, Township Attorney; and seven other interested persons.

Call to Order

The Chairman called the meeting to order at approximately 3:00 p.m.

Minutes

The Chairman said that the first item on the Agenda was the minutes of February 14, 2006. Mr. Turcott made a motion to approve the minutes as submitted. Mr. McClung seconded the motion. The Chairman called for a vote, and the motion passed unanimously.

**BRAYBROOKS - ACCESSORY BUILDING REVIEW - 9548 WEST L AVENUE -
(PARCEL NO. 3905-20-385-060)**

The Chairman announced that Item No. 3 was a site plan review of a proposed 1,200 square foot accessory building on property where the aggregate area of the accessory buildings would exceed the ground floor area of the dwelling. He said the subject property was located at 9548 West L Avenue, Parcel No. 3905-20-385-060. The Chairman asked to hear from the Planning Department. Ms. Stefforia submitted a report to the Zoning Board of Appeals dated February 28, 2006, and the same is incorporated herein by reference.

Ms. Stefforia told the Board the applicant wished to construct a 2,400 square foot accessory building on approximately 1.5 acres. She said the property had a 1,200 square foot detached garage and a 2,460 square foot house with 1,230 square feet on the ground floor. She said, because the combined area of the proposed accessory building and the detached garage exceed the ground floor area of the dwelling required review of the Zoning Board of Appeals pursuant to Section 78.820. Ms. Stefforia proceeded to take the Zoning Board of Appeals through a review of Section 78.820 as it applied to the proposed accessory building.

The Chairman asked if there were any questions of Ms. Stefforia. Mr. McClung asked if the square footage of the proposed building included both the lower and the upper level. Ms. Stefforia said that it did. Mr. McClung questioned whether they should count the upper portion of the accessory building, since the upper portion of the house did not count toward the overall square footage. Ms. Stefforia said she did not think that was what was envisioned in the Ordinance. After reviewing the Ordinance, she noted that the Ordinance referred to the "aggregate" square footage of the proposed accessory building, which would include both lower and upper floors of the structure.

Ms. Bugge pointed out that the use of the ground floor area of a residential structure is the standard which triggers review by the Zoning Board of Appeals. She said there was not any attempt to set a limitation on the area of the accessory building based upon the ground floor area of the residence, but that was simply the threshold for determining the need for review by the Zoning Board of Appeals.

Mr. McClung questioned the computation on the existing accessory building and whether it was actually 1,200 square feet. After a brief discussion, it was determined that the accessory building was not as large as originally thought, but the second building still triggered the need for review since the aggregate square footage of the existing and proposed accessory buildings would exceed the ground floor area of the existing residence.

The Chairman asked to hear from the applicant.

Mr. William Braybrooks introduced himself to the Zoning Board of Appeals. He said he was proposing to build a barn with a loft and assured the Zoning Board of

Appeals that it would be set back further from the road than the existing residence. He said the structure would not be viewable from L Avenue because of the dense growth of trees. He said the first floor was going to 30 feet x 40 feet, with an upstairs loft of 30 feet x 40 feet, which would be used by his son for a rec room.

Mr. Bushouse asked how high the knee walls would be. Mr. Braybrooks said eight feet.

The Chairman asked that Mr. Braybrooks confirm that the building would only be used for his personal use. Mr. Braybrooks said the first floor would be used for personal storage of a motorhome and other vehicles, and the upstairs would be a game room for his son and his friends.

The Chairman asked if there was anyone from the audience who wished to comment. Hearing no comments, he called for Board deliberations. The Chairman said he had similar questions as those raised by Mr. McClung, but thought they could be addressed at a later time. He said overall he did not have a problem with the proposed project.

Mr. McClung said he did not have a problem with the proposal, especially given that the barn would be located further back from the road than the house. He said that the applicant needed to make sure that the side yard setbacks were met as pointed out in the Staff report.

Mr. Turcott asked if the Board had not had a similar request recently which the Board denied. Ms. Stefforia said the request they denied was more than four times the square footage of the home, and the current request is only twice the square footage of the ground floor of the dwelling. Therefore, she did not believe that the requests were similar in nature.

Mr. Bushouse said he had been with the Township for quite awhile, and his only concern about the upper floor loft was the proposed use. He said, in the past, there had been apartments installed in second floor lofts, which would be a violation of the Township Ordinance. Mr. Braybrooks assured the Board that the second floor loft would not be used for residential purposes.

The Chairman asked for further discussion. Hearing none, he called for a motion. Mr. McClung made a motion to approve the request as submitted, provided that the applicant makes sure that the side line setbacks are met, and there was no commercial use of the subject accessory building, and that the upper loft was not used as a dwelling. Mr. Turcott seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

BAYWATER TOWNHOMES - VARIANCE AND SITE PLAN REVIEW - NORTH SIDE OF KL AVENUE, WEST OF 11TH STREET - (PARCEL NO. 3905-24-155-022)

The Chairman said the next item was a request for site plan review of a proposed multi-family development containing 372 dwelling units on 52 acres. He said, in addition, there were three variance requests to allow: only one drive to the development, sidewalk on one side of the access drive, and residential-style lighting that is not full cut-off. He said the property was located on the north side of KL Avenue, west of 11th Street, Parcel No. 3905-24-155-022. The Chairman asked to hear from the Planning Department. Ms. Stefforia submitted her report to the Zoning Board of Appeals dated February 28, 2006, and the same is incorporated herein by reference.

Ms. Stefforia said the applicant was proposing to develop a 372-unit, 1,132 bedroom student housing project, within the "R-4" Residence District. She said the development would be accomplished in two phases, but that site plan approval for both phases was requested. Therefore, she said it was necessary that a start date for Phase 2 to be established.

Ms. Stefforia indicated that the multi-family development allows a density up to eight dwelling units per acre within the "R-4" zone, subject to the provisions outlined in Section 24.205 of the Zoning Ordinance. She said given that, subsection (a) reduces the permitted density to six dwelling units per acre for the first 200 feet of a site which abuts a higher zoning classification. She said, in the present case, there are approximately 12 acres along the west property line which are subject to the reduced density limitations of six dwellings per acre. She stated that the north end of the site, which is zoned "R-2," would also be restricted but for the fact that no buildings were proposed in this area. She said the balance of the site is "R-4", and the site plan complies with the density limitations of the Ordinance.

Ms. Stefforia proceeded to take the Board through Section 24.205, dealing with the criteria for multi-family developments, as well as Section 82.800 for site plan review.

Ms. Stefforia then took the Board through the variance request for a single drive, as well as the standards for approval for a nonuse variance involving sidewalks and lighting, as set forth in her report.

The Chairman opened the discussions to any questions of Ms. Stefforia. The Chairman began by asking if the applicant was only asking for a variance for the building-mounted fixtures, and if all the other lights would then comply with the lighting provisions of the Zoning Ordinance. Ms. Stefforia indicated that was correct.

Mr. Bushouse asked where the building height was measured, to the peak or to the eaves. Ms. Stefforia said it was measured at the peak.

The Chairman asked to hear from the applicant. Mr. Pete Lorenz introduced himself to the Zoning Board of Appeals on behalf of Copper Beach Townhomes, which is the corporation developing Baywater Townhomes. Mr. Lorenz provided a sketch of the two types of buildings which were planned for construction. He said the one

building would have one and two-bedroom units, would be two and a half stories in height in the rear, and would be three stories in height at the entrance level. He said the second building would have three and four-bedroom units, and both the front and the rear of the buildings would be two and a half stories.

Mr. Lorenz said that the lights for which they were asking for a variance were lantern-style in the front and a jelly jar style in the back. All the other lights would comply with the Township Ordinance.

Mr. Lorenz then provided the site plan to the Board, showing the boulevard entrance off of KL Avenue. He said that the Road Commission had viewed their plans and chose the preferred location due to limited sight distances. He also said there was no other good location for a second entrance due to the land elevations. He said the Kalamazoo County Road Commission proposed a single drive, and that is why they developed the boulevard style of entrance.

Mr. Bushouse asked if the development would continue to take the water run-off from the southern portion of Country Club Village. Mr. Lorenz said that they would, and noted that there was a storm water easement across portions of the site. He said their water would be collected into several retention basins with a secondary overflow basin further to the south. He said, in addition, there would be a third basin near KL Avenue where most of the water for the site would be deposited.

Mr. Bushouse asked if the pond near KL would be aerated to make it more attractive. Mr. Lorenz said they did not anticipate aerating due to the fact that they thought the leaching basins would allow the water to infiltrate and therefore would be dry.

Mr. Turcott asked if they were open to considering a cross-access with the housing development immediately to the east. Mr. Lorenz said he did not believe it would be a problem, provided that the neighboring property owners would agree to that. Ms. Stefforia said that the Point had indicated at this time they were only open to emergency cross-access but did not want to pay any of the cost.

Mr. Bushouse asked if the Township felt it was in its interest of safety, they could force the issue. Attorney Porter noted that he would review their Ordinances and make every attempt to require the Point to allow the cross access for traffic flow and emergency traffic flow purposes. Mr. Bushouse said, based on his experience with the fire department, he thought it was best to have two entrances, and the only way he could see it being achieved was with a cross-access agreement.

Mr. Turcott asked if the density provisions of the Ordinance would be met. He specifically asked if the Baywater Townhomes restricted the number of residents per bedroom. Mr. LaVine said that the four bedroom units are limited to four residents per the lease. Ms. Stefforia said that would be consistent with the limitations provided for in the Township Ordinance.

The Chairman asked what type of security would be provided at the subject property. Mr. LaVine said that, based on his experience working with 20 different developments of this kind, they only had one with any serious security problems for which they provided on-site security.

Mr. Bushouse said, given the number of housing units for college students, he thought they should take a serious look at providing security for this facility. Mr. LaVine said they would get feedback from the property manager, and if there were problems, they would deal with them immediately. Mr. Bushouse asked what type of response they would envision. Mr. LaVine said, if necessary, they would add private security. Mr. Bushouse asked if they would be removing troublemakers from the facility. Mr. LaVine said if there was an ongoing issue, and they were in violation of their lease agreement, they would be evicted.

Mr. Bushouse asked if they would supply a copy of the lease to the Township Attorney to allow him to review it to make sure there were adequate provisions to deal with problem tenants. Mr. LaVine said they would be happy to provide that document to the Township.

The Chairman said that people around the complex were concerned, given some of the problems they had had with the Croyden Avenue project and the Point. Mr. Turcott told the applicant that he thought it was necessary to set the appropriate tone at the time the development opened and not wait until there were problems later on. Mr. LaVine gave the Board his assurances that there would not be a problem. He said that the lease was very strict and that they monitor their properties closely.

Ms. Bugge asked if there was a property manager on site 24 hours. Mr. LaVine said they had a professional property manager who was on site 24 hours a day.

The Chairman asked to hear from the audience.

Mr. Bob Noblett introduced himself to the Board. He said he lived within view of the Point and was in earshot of that development. He said he had encountered numerous problems with noise from midnight to 6 a.m., including fireworks, loud voices, partying, etc. He said, given that this property was closer to his property would only exacerbate the problem. He suggested perhaps that a barrier be installed, given the difficulties in the past. He described a past incident involving gun shots. He said he felt like the Country Club Village was under assault from all directions.

The Chairman read a letter faxed to the Township from Gerald Pahl of Country Club Estates, raising concerns regarding noise, possible increase in crime and negative environmental impact. He said he had called the Sheriff's Department in the past only to be told that they had no manpower to address such issues. Mr. Pahl said that current residents of the Township should be given as much consideration as those proposing to build in new developments within the Township.

Mr. Brad Solarek said he owned property on KL Avenue and was concerned about the broadening of the road, since it might affect his property and a septic facility he had on the edge of the road right-of-way. The Chairman said he thought that would be up to the Road Commission, and Attorney Porter concurred.

Mr. Lorenz explained the proposed expansion of the road to accommodate a left-turn lane and said he did not think it would negatively impact the neighbors to the south. Mr. Lorenz said they were trying to widen the road as little as possible and leave as many trees as possible within the road right-of-way. Mr. Lorenz stated that, if any trees were removed, it would likely be at the request of the Road Commission, not the developer. Attorney Porter noted that they had to comply with Road Commission requirements.

Mr. Tom Jones introduced himself to the Board. He said he owned property across the street and was concerned about water run-off and drainage. The Chairman commented that the applicant had to keep their storm water on site, and what happened within the road right-of-way again was primarily up to the Road Commission.

The Chairman asked if there were any other comments, and hearing none, he called for Board deliberation.

The Chairman began by asking when Phase 2 of the project would likely begin. Mr. Lorenz said perhaps in 2007, but no later than mid-year 2008.

Mr. Turcott asked about the Township Noise Ordinance and its ability to be applied to the subject property. Ms. Stefforia pointed out that the Township did have a Noise Ordinance. Attorney Porter noted that the Noise Ordinance would be applicable, and he was very dismayed by the lack of response by the Sheriff's Department, given the fact that the Township contracts for Sheriff's Deputies. Attorney Porter thought that issue should be addressed and also noted that he should address a letter to the owners of the property since they could be cited under the Noise Ordinance for failure to be in compliance.

Mr. Bushouse said he thought the property should be added to the special assessment district for police protection, because it was property, such as this, which has a greater demand for police response.

Mr. Bushouse pointed out to the citizens in attendance that this property had been planned for this type of residential development approximately 13 years ago, and that the plan was not done in a vacuum. He said it was done with a lot of input from many, many residents within the Township, and there was a great deal of citizen input in developing that plan. He said the Township, at this point in time, is simply following that plan, and that the Board members must follow their Ordinances, which have been drawn up in conformance with the Master Land Use Plan.

The Chairman asked about interior landscaping within the property. Mr. Lorenz said landscaping would be primarily grass and shrubs around the buildings. Mr. Lorenz assured the Board that there would be no stones of any kind used in the landscaping process.

Mr. Turcott made a motion to approve the site plan, pursuant to the following conditions:

- (1) A driveway permit from the Kalamazoo County Road Commission is necessary before earth-moving activities commence.
- (2) A 4-foot wide bike lane along KL Avenue must be established and is subject to Kalamazoo County Road Commission approval before a Certificate of Occupancy may be granted or an escrow provided to the Township, pursuant to Section 82.950.
- (3) Landscaping shall be installed consistent with the approved landscaping plan prior to a Certificate of Occupancy being issued or a Performance Guarantee provided to the Township consistent with Section 82.950.
- (4) Site lighting must comply with the requirements of Section 78.700 unless a variance is granted by the Zoning Board of Appeals.
- (5) Dumpster enclosures shall comply with Section 75.160 and must be provided for Township review and approval before a Building Permit may be issued.
- (6) Site plan review is subject to review and approval of the Fire Department.
- (7) Site plan review is subject to review and approval of the Township Engineer.
- (8) An Earth-Change Permit from the Kalamazoo County Drain Commissioner's Office is required before any earth work begins on the property.
- (9) The applicant will provide security, if needed, and supply a copy of the lease to the Township Attorney.
- (10) Phase 2 shall commence no later than mid-year 2008.

Mr. McClung seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Mr. McClung next made a motion to allow a single drive for access to the development, provided that the applicant accommodate cross-access if the Township

was successful in getting the Point to allow such a cross-access. Mr. Turcott seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Mr. McClung then made a motion to approve the variance for the sidewalk along the access drive and the lighting as requested, based upon the Board's acceptance of the facts and reasoning set forth in the Staff report. Mr. Turcott seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Mr. Lorenz asked that it be noted in the record that they were only responsible for providing the cross-access point to the property line. Attorney Porter said he would make sure that it was so noted in the record.

AHREN'S CONSTRUCTION - SITE PLAN REVIEW - 7430 STADIUM DRIVE - (PARCEL NO. 3905-34-205-010)

The Chairman indicated that the next item on the Agenda was consideration of a site plan for a proposed development containing two buildings at 7430 Stadium Drive, Parcel No. 3905-34-205-010). Ms. Stefforia presented her report to the Zoning Board of Appeals, and the same is incorporated herein by reference.

Ms. Stefforia indicated that the applicant was requesting site plan approval for two multi-tenant industrial buildings. She said each tenant would be subject to review and approval by the Township to make sure each tenant was a permitted use in the "I-1" Industrial District. Ms. Stefforia provided an overhead drawing for the Board's consideration and indicated that the home currently shown on the overhead had been demolished. She said that the well would have to be capped, and the septic system crushed and filled, if necessary.

Ms. Stefforia then proceeded to take the Board through the review provisions of Section 82.800 as set forth in her report.

The Chairman asked if there were any questions of Ms. Stefforia.

Mr. Turcott asked if the applicant was looking at any special species for planting in the front area, given the site plan and the likelihood that the southwest corner of the property would remain quite wet. Ms. Stefforia said the applicant was addressing that issue.

Mr. Mike Ahrens introduced himself to the Board on behalf of Maria and Ted Corakis. Mr. Ahrens said they had met with a landscape architect, and he was working on appropriate plantings to address the need for water tolerant plants. He said they were also working on a lighting plan, but that the landscape and lighting plans were not yet available but would be provided to the Township shortly. Mr. Ahrens said they also

had met with Prein & Newhof, which had done the design, to discuss the overall drainage issues of the site.

Mr. Ahrens informed the Board that there was never a well on site, since the home had city water. He also said that the septic had been removed by A & B Sewer and a letter indicating that would be provided to the Township. Mr. Turcott asked if they could make the remaining issues subject to Staff review. The Chairman indicated that was typical, and Attorney Porter concurred.

The Chairman asked whether all the parking was necessary. Mr. Ahrens said they were not sure who the tenants would be and so they wanted to provide adequate parking, depending upon the type of tenants that would occupy the property. Mr. Ahrens said they had calculated it based upon the maximum number of parking spaces, but if they were not all needed, they would not necessarily have to be installed.

Mr. Turcott made a motion to approve the site plan as submitted, subject to the following conditions:

- (1) A driveway permit(s) from the Kalamazoo County Road Commission must be secured before the Building Permit may be issued.
- (2) An 8-foot bike path, meeting MDOT standards, must be installed or an escrow provided to the Township equivalent to 150% of the cost of constructing the path, before a Certificate of Occupancy may be issued.
- (3) Details of all proposed pole and wall fixtures must be provided before a Building Permit may be issued.
- (4) All exterior lighting shall comply with the provisions of Section 78.700.
- (5) All signs shall comply with Section 76.000 and be reviewed/approved through the permit process prior to being placed on the property.
- (6) Verification that the well has been properly capped and the septic system filled and crushed must be provided before earth-change activities commence.
- (7) Each tenant is subject to prior review and approval by the Township to ensure that their use is allowed in the "I-1" Industrial District.
- (8) A detailed landscaping plan must be submitted to Staff review and approval before a Building Permit may be issued.
- (9) All landscaping shall be installed before a Certificate of Occupancy may be issued or a Performance Guarantee, pursuant to Section 82.950, provided to the Township.

- (10) Site plan approval is subject to review and approval of the Fire Department.
- (11) Site plan approval is subject to review and acceptance by the Township Engineer as adequate.
- (12) A Hazardous Substance Reporting Form must be provided to the Township for each tenant before occupancy of a suite.

Mr. McClung seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Other Business

Ms. Bugge asked that the minutes of June 24, 2006, be amended to reflect that she was present at the meeting. Mr. McClung made such a motion. Mr. Turcott seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Adjournment

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 4:55 p.m.

OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

By: Millard Loy, Chairman

By: James Turcott

By: Dave Bushouse

By: Duane McClung

Minutes Prepared:
March 10, 2006

Minutes Approved:
_____, 2006