

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD MARCH 23, 2010

Agenda

**HANSEN – SITE PLAN REVIEW – PROPOSED MEDICAL OFFICE BUILDING – 7110
STADIUM DRIVE - (PARCEL NO. 3905-34-235-002)**

**THE HINMAN COMPANY – SETBACK VARIANCE – 5474 WEST MAIN STREET –
(PARCEL NO. 3905-13-255-040)**

**THE HINMAN COMPANY – SITE PLAN REVIEW – 5474 WEST MAIN STREET –
(PARCEL NO. 3905-13-255-040)**

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, March 23, 2010, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Roger Taylor, Chairman
Cheri Bell, Vice Chair
Dave Bushouse
Robert Anderson
L. Michael Smith
Neil Sikora, First Alternate
James Sterenberg, Second Alternate

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Chris West, Associate Planner; James W. Porter, Township Attorney, and six other interested persons.

Call to Order/Pledge of Allegiance

The meeting was called to order by the Chairman at approximately 3:00 p.m., and the "Pledge of Allegiance" was recited.

Certificate of Appreciation – Duane McClung

The Chairman announced to those in attendance that the Board wished to present a Certificate of Appreciation to Duane McClung and asked that he approach the dais. The Chairman presented Mr. McClung with a Certificate of Appreciation for the many years of service and dedication, which he gave to the Oshtemo Charter Township Zoning Board of Appeals. The Board then concluded with a round of applause and shook Mr. McClung's hand, each thanking him individually for his years of service.

Minutes

The Chairman said the first item on the Agenda for approval was the minutes of January 26, 2010. The Chairman asked if the members had a chance to review the same, and he said he would entertain a motion. A motion was made by Ms. Bell, seconded by Mr. Sterenberg to approve the minutes, as submitted. The Chairman called for a vote on the motion, and the motion passed unanimously.

HANSEN – SITE PLAN REVIEW – PROPOSED MEDICAL OFFICE BUILDING – 7110 STADIUM DRIVE - (PARCEL NO. 3905-34-235-002)

The Chairman stated that the next item on the Agenda was the site plan review of a medical office building proposed to be constructed at 7110 Stadium Drive, Parcel No. 3905-34-235-002. The Chairman asked to hear from the Planning Department. Mr. West submitted his report dated March 23, 2010, to the Board, and the same is incorporated herein by reference.

Mr. West pointed out that the applicant was proposing to construct a 7,200 square foot professional office building on a parcel of approximately 0.87 acres in size located on unit one of Stadium Park Condominium. Mr. West proceeded to take the Board through a review of the site plan review criteria as set forth in Section 82.800 of the Township's Zoning Ordinance.

At the conclusion of Mr. West's report, the Chairman asked if there were any questions of Mr. West. Mr. Bushouse asked if the leaching pond provided for on site would take care of all the stormwater discharge from the proposed building. Mr. West said that it would, since it was designed in compliance with the current drainage requirements of the Township.

The Chairman asked if the applicant wished to address the Board. Mr. Walter Hansen introduced himself on behalf of Roger D. Beyer, M.D. He explained to the Board that he had addressed all of the concerns raised by the Fire Department, as well as the Township Engineer. He explained to the Board that Dr. Beyer was consolidating two practices and bringing them to this location. He said he would comply with all sign provisions of the Ordinance. He noted that they would do everything they could to preserve the existing trees on site, and given the green buffers provided for within the subdivision condominium, thought that a small deviation along the street frontage would be appropriate. The Chairman told the applicant he appreciated them attempting to preserve the natural vegetation on site. Hearing no further questions, the Chairman called for deliberation.

Mr. Anderson asked about access through the existing drives and across unit two of the subdivision condominium. Mr. Hansen said he believed there was more than adequate access both to his client's site, as well as unit two, given the limited nature of the dental and medical practices.

Mr. Anderson asked who would be responsible for maintaining the drives. Mr. Hansen said there was a maintenance agreement which called on the parties to jointly maintain both the drives and the parking areas.

The Chairman asked if there were any other questions. Ms. Bell asked whether they would be entitled to extra signage given the location of unit one in relationship to the drive. Ms. Stefforia said they could, as a condominium, put up a development sign as well as a sign for each of the individual buildings.

The Chairman confirmed with Mr. West that no variances were requested.

Ms. Bell said the applicant wanted a deviation from the canopy trees in the parking lot landscaping area and inquired as to the reason. Mr. West said, in looking at the 10-foot greenspaces already in place and their proximity to the parking lots, he thought that a deviation in this case was warranted. The Chairman asked if that would require action by the Board. Mr. West indicated that it would, and it was in the proposed recommendations from the Planning Department.

The Chairman asked if there was further discussion, and hearing none, said he would entertain a motion. Mr. Smith made a motion to approve the site plan subject to the following recommendations provided by Staff:

- (1) A recorded copy of the access easement for this property from the City of Kalamazoo and from unit two of Stadium Park Condominium shall be provided to the Township for review.
- (2) Parking and drive aisles will be provided in conformance with Section 68.000.
- (3) Bike path construction plans shall be provided for Township review and approval.
- (4) The bike path shall be constructed prior to the issuance of a Certificate of Occupancy unless an escrow agreement is executed between the applicant, or other responsible party, and the Township.
- (5) Building shall satisfy the setback requirements of Section 64.000.
- (6) Lighting is subject to Staff approval and shall be in accordance with Section 78.700 of the Zoning Ordinance.
- (7) Pursuant to Section 76.000, a Sign Permit will be required before any signs can be placed upon the property.
- (8) A deviation shall be granted allowing two canopy trees instead of three for parking lot landscaping.

- (9) All required landscaping shall be installed pursuant to the approved site plan before occupancy is permitted or a Performance Guarantee, consistent with Section 82.950, shall be provided.
- (10) Site plan approval shall be subject to the applicant satisfying the requirements of the Fire Department, pursuant to the adopted codes.
- (11) Site plan approval shall be subject to the applicant satisfying the requirements of the Township Engineer.

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

THE HINMAN COMPANY – SETBACK VARIANCE – 5474 WEST MAIN STREET – (PARCEL NO. 3905-13-255-040)

The Chairman indicated that the next item on the Agenda was a request for a setback variance to allow the addition to the former Frank's Nursery store building in-line with the existing building which is less than the required 70 feet from the Maple Hill Drive right-of-way. He said the subject property was located at 5474 West Main Street, Parcel No. 3905-13-255-040. The Chairman asked for a report from the Planning Department. Mr. West submitted his report dated March 23, 2010, and the same is incorporated herein by reference.

Mr. West explained that the subject property was developed by Frank's in 1972 and then later remodeled in 1993. He said the property has been vacant for the last four years. He noted that when the property was developed along Maple Hill Drive, it was built in accordance with the existing zoning standards. However, the applicant would need a variance from 70 feet to 38 feet in order to construct a building expansion in-line with the existing building.

Mr. West then proceeded to take the Board through a review of the standards of approval of a nonuse variance as is more fully set forth in his report.

The Chairman asked if there were any questions. Mr. Sikora inquired about the angle of Maple Hill Drive as it is related to the subject building. Mr. West said that Maple Hill Drive is not parallel to the subject building, and in fact, the angle of the road from south to north was moving to the east. He said because of that fact, the variance would be the greatest at the northern end of the proposed addition and then decrease from there.

Mr. Sikora asked if there were any plans to widen the road. Mr. West and Ms. Stefforia indicated that they did not believe so.

Mr. Bushouse said that the Board had to keep in context that these buildings along Maple Hill Drive and M-43 were the outbuildings built around the Mall. He said they were probably set close to the road in order to provide additional interior parking.

Mr. Sterenberg asked if the setbacks were different at the time the buildings were constructed. Mr. West indicated that they were. Attorney Porter noted that they were likely in compliance at the time they were built. Ms. Stefforia said that Maple Hill Drive may not even have been a road but may have been just a driveway at the time the Mall originally developed.

Ms. Bell noted that it was always a problem dealing with redevelopment of nonconforming properties and thought that needed to be taken into account, but that it was quite difficult.

The Chairman asked to hear from the applicant. Mr. Wenzel introduced himself and Mr. McDonald on behalf of The Hinman Company. Mr. Wenzel noted that there were challenges to the site, but that he believed they could be addressed, and the property could be redeveloped, provided the Board granted some relief because of the restrictions which were put in place due to parking agreements over which they had no control. He said, while there was a certain degree of self-created difficulty here, most of the problems were a result of the restrictions being placed on the parking and drive areas which would not allow them to expand the building further to the east. With that in mind, he wanted the Board to be aware that they were increasing greenspace from 4% to 12.34% on the site.

Mr. McDonald noted that every retailer at the Maple Hill Mall had to be unique and that the limitations placed on the subject building greatly reduced the number of possible tenants because of possible conflicts with other tenants within the overall development. He said, given that, it was really imperative that they be able to accommodate the proposed occupant. The Board members asked who the tenant would be. The applicant indicated the tenant would be Dunham Sports.

The Chairman called for Board deliberations. Mr. Smith said he was delighted to see that someone wanted to come in and redevelop the building. The Chairman noted that, based on Staff's report, they had established a precedent of allowing additions in-line with existing structures.

Mr. Anderson said he agreed with Mr. Smith and thought the development would be an enhancement to the area. With that, the Chairman said he would entertain a motion. Mr. Smith made a motion to approve the variance as requested. Ms. Bell asked if the motion was based upon the fact that the subject addition would be developed in line with the existing building and the limitations and restrictions imposed by the parking and interior roads. Mr. Smith said that was correct. Mr. Anderson said he would agree with those findings and seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

THE HINMAN COMPANY – SITE PLAN REVIEW – 5474 WEST MAIN STREET – (PARCEL NO. 3905-13-255-040)

The Chairman indicated that the next item on the Agenda was site plan review for a proposed addition to the existing building at 5474 West Main Street, Parcel No.

3905-13-255-040. Mr. West then proceeded to take the Board through a review of his report dated March 23, 2010, and the same is incorporated herein by reference. Mr. West again reminded the Board that this was an addition to the building and that the applicant was proposing to add a 10,271 square foot expansion to the existing 20,554 square building, formerly known as Frank's Nursery. Mr. West proceeded to take the Board through a review of the criteria of Section 82.800 of the Zoning Ordinance as is more fully set forth in his report.

The Chairman asked why there is greenspace to the south of the proposed building, but none to the north. Mr. West indicated that was due to the existing property line between their property and Target's property already being paved and used as parking.

There being no further questions, the Chairman asked to hear from the applicant. Mr. Wenzel again introduced himself and Mr. McDonald to the Board. He said much of what they were doing was based upon the challenge of the development within the Mall itself. He said given the interior driving lanes and parking restrictions, their options were somewhat limited. However, he thought they had come up with a creative solution which would benefit all parties. Mr. Wenzel said they would comply with all the requirements of the Fire Department and the Township Engineer and believed they could address the Planning Department's concern. He also noted they would be installing the sidewalk, rather than providing escrow funds.

The Chairman asked if there were any questions of the applicant. Mr. Sterenberg asked why they were reducing the number of loading docks from two to one in order to install a dumpster. He said he thought it might cause traffic problems on Maple Hill Drive. He asked where they would park their trucks if a semi was already unloading at the loading dock. Mr. Wenzel said they usually never have more than one delivery truck at a time because everything is delivered to a central location and then repackaged for each individual store.

Mr. Sterenberg said he was also concerned about people parking on Maple Hill Drive. Mr. Sikora asked whether that was an appropriate question for them to ask. Attorney Porter said he thought the question was appropriate as it related to the overall site and whether it could adequately served, but that the issue of impeding traffic on Maple Hill Drive would more easily be addressed by the local Sheriff's Department rather than focusing solely on the site plan at issue.

Mr. Bushouse pointed out that even if there were two semis, one could park on the west side of the loading ramp in front of the dumpster while the other truck unloaded, so he did not think it would be a significant problem.

Mr. Bushouse said he was more concerned about the people going to and from the store crossing the interior drive lanes than anything else on site and encouraged the applicant to do whatever possible to bring those people to the motoring public's attention as they traveled through, what will be the future, Dunham's parking lot.

Mr. Wenzel offered to place stop signs at the pedestrian crossing of the interior drive in front of the store.

A discussion ensued with regard to the applicant's request to be allowed a deviation from the landscape requirements. After a thorough discussion, the Board understood that the applicant was asking for a reduction in the canopy trees along Maple Hill Drive because of the existing trees which were in place, relief from some of the interior greenspace within the parking lot due to the existing parking restrictions and that the islands at the south end of the parking lot would meet the provisions of Section 75. In addition, the applicant wanted a reduction in the plantings south of the subject building. It was the consensus of the Board to allow the deviation on the west side of the subject property and to allow the parking lot landscaping as represented by the proposed improvements of the islands on the south end of the parking lot but that the plantings on the south property line near the proposed building addition should, as much as possible, remain in compliance with the Township Ordinances. The Chairman said if the applicant was uncomfortable, they could always table the matter until it could be given further review. With that, Mr. Wenzel said they would be happy to work with Staff to plant the appropriate number of trees on the south side of the property. Mr. Sterenberg said he thought it would be preferable to leave the type of tree up to Staff if the others would concur.

The Chairman called for a motion. Mr. Smith made a motion to approve the site plan subject to the following:

- (1) Approval is subject to Township being provided for review, a copy of the access easement for this property.
- (2) Parking and drive aisles must be in conformance with Section 68.
- (3) Sidewalk construction plans shall be provided for Township review and approval.
- (4) The sidewalk shall be constructed prior to the issuance of a Certificate of Occupancy.
- (5) Building shall satisfy the setback requirements of Section 64.000 including relief granted by the ZBA from the front setback on Maple Hill Drive.
- (6) Lighting is subject to Township Staff approval and shall be in accordance with Section 78.700 of the Zoning Ordinance.
- (7) Pursuant to Section 76.000, a Sign Permit will be required before any signs can be installed or replaced upon the property.
- (8) A deviation shall be granted on the west line of the property to use the existing trees and any additional plantings, but the plantings to the south to the extent possible shall be brought into compliance with the

Landscaping Ordinance, with the final determination to be made by Township Staff.

- (9) A deviation shall be granted for the parking area landscaping to consist of the landscaped islands shown on the site plan at the southern end of the parking lot.
- (10) A deviation shall be granted to allow ten understory trees along Maple Hill Drive to satisfy the landscaping requirements within the Maple Hill Drive greenspace.
- (11) All required landscaping shall be installed pursuant to the approved site plan before occupancy is permitted or a Performance Guarantee, consistent with Section 82.950, shall be provided.
- (12) Site plan approval shall be subject to the applicant satisfying the requirements of the Fire Department, pursuant to the adopted codes.
- (13) Site plan approval shall be subject to the applicant satisfying the requirements of the Township Engineer.
- (14) In lieu of installing a sidewalk along the West Main Street right-of-way, the applicant shall consent to the establishment of a sidewalk special assessment district and assessment.

Public Comment on Non-Agenda Items

None.

Any Other Business

Mr. Sterenberg thanked the Township for letting him attend the ZBA workshop.

Adjournment

There being no further business to come before the Board, the Chairman adjourned the meeting at approximately 4:30 p.m.

Minutes Prepared:
April 8, 2010

Minutes Approved:
_____, 2010