

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD MARCH 28, 2006

Agenda

JONES VARIANCE - EXPANSION OF NONCONFORMING USE - 5879 WEST KL AVENUE (PARCEL 3905-24-305-021)

MULLER - ACCESSORY BUILDING REVIEW - 2775 SOUTH 4TH STREET (PARCEL NO. 3905-28-355-017)

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

MEMBERS PRESENT: Millard Loy
James Turcott
Dave Bushouse
Grace Borgfjord
Duane McClung

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Township Planner; James W. Porter, Township Attorney; and three 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 28, 2006. Mr. Turcott made a motion to approve the minutes as submitted. Ms.

Borgfjord seconded the motion. The Chairman called for a vote, and the motion passed unanimously.

JONES VARIANCE - EXPANSION OF NONCONFORMING USE - 5879 WEST KL AVENUE (PARCEL 3905-24-305-021)

The Chairman indicated that the next item was the request for a variance from Section 62.000 for an expansion of the nonconforming use to allow conversion of an attached garage into a bedroom on property zoned I-1. The Chairman said that the property was used for multi-family purposes and was located at 5879 West KL Avenue (Parcel No. 3905-24-305-021). The Chairman asked to hear from the Planning Department.

Ms. Bugge submitted her report to the Planning Department and the same is incorporated herein by reference.

Ms. Bugge explained that the subject parcel is located on the south side of West KL Avenue and was zoned "I-1" Industrial. She said the property contained 8 dwelling units developed from a three-plex in 1964 to a four-plex in 1968 and then a garage apartment was constructed in 1985. She said the property was rezoned "I-1" Industrial in 1990 from "R-4" Residential.

Ms. Bugge said the applicants were proposing to expand the lower unit and include a second bedroom by converting an attached garage for that use. She said there was no increase in the number of dwelling units or the building area.

Ms. Bugge then took the Board through the review standards for approval of a nonconforming use expansion as set forth more fully in her report.

The Chairman asked if there were any questions of Ms. Bugge. Mr. Bushouse asked if the Building Department would require that the conversion meet applicable building codes, including appropriate residential footings along the garage door opening. Ms. Bugge said the applicant would certainly have to have the building change reviewed and approved by the Building Department. The applicant said that he would comply with whatever requirements were determined necessary by the Building Department.

The Chairman asked to hear from the applicant. Mr. Tom Jones introduced himself to the Board. He said they simply wanted to add an additional bedroom to improve the particular unit at issue. The Chairman asked if the top portion of the structure over the garage was part of the original house. Mr. Bushouse said that his

uncle had owned that house and he was not sure whether or not his uncle had obtained the necessary permits or whether or not it was built to code.

Ms. Bugge asked how they would access the bedroom once it was constructed. Mr. Jones said that they would be installing a new door and then walling off the current access door to the utility room.

The Chairman asked if there were any further questions of the applicant. Hearing none, he asked to hear from the audience.

Mr. Brian Penning introduced himself to the Board. Mr. Penning said he owned property just east of the property in question. He said that he had previously owned the subject property and that he had received the appropriate permit for the upper addition to the building, which was constructed to code. He said he was in favor of the expansion because he thought it would allow the unit more flexibility for the renters in that it would allow for a more remote, quieter bedroom.

The Chairman asked if there was any further public comment and hearing none, closed the public portion of the meeting.

The Chairman said he did not have a problem with what was being proposed, provided it met code, including the installation of any additional footings, if necessary.

Mr. Turcott asked what would happen if there were additional building items that the Building Department felt needed to be brought into compliance when they inspected the property. Mr. Bushouse said that was a question best addressed by counsel. Attorney Porter noted that under the Property Maintenance Code, if certain issues were brought to the attention of the Building Department, the applicant could be asked to comply with those new code provisions.

Attorney Porter asked that the Board also take note of the Township Ordinance as it relates to the Township Zoning Act. Attorney Porter noted that the nonconformance provisions in the Township Ordinance specifically prohibit any extension, addition or alteration unless such extension, addition or alteration brought it into conformance with the ordinance. Attorney Porter stated that he did not believe that was in total compliance with state law. Attorney Porter pointed out that under MCL 125.286 of the Township Zoning statute, the Township Board was required to provide for the completion, restoration, reconstruction, extension or substitution of a nonconforming use upon reasonable terms as set forth in the zoning ordinance. He said given that he thought that the granting of this type of variance would be more consistent with the requirements of state law.

After a brief discussion, Mr. Turcott made a motion to allow the variance to convert the garage into an additional bedroom. He said he was basing that upon the fact that the conversion of the garage into a bedroom did not extend the footprint of the

nonconforming structure, nor did it expand the nonconforming use. He said he was also basing his decision upon the opinion of counsel that there had to be some allowance for the expansion of nonconforming uses. In addition, he said that the approval was subject to the Building Department's review and approval of the reconstruction by the Building Department if necessary. Mr. McClung seconded the motion. The Chairman called for a vote on the motion and the motion passed unanimously.

MULLER ACCESSORY BUILDING REVIEW - 2775 SOUTH 4TH STREET (PARCEL NO. 3905-28-355-017).

The Chairman said the next item up for consideration was a site plan review for a proposed 2400 square foot accessory building that exceeds the ground floor area of the dwelling. He stated the subject property was located at 2775 South 4th Street, Parcel No. 3905-28-355-017. The Chairman called for a report from the Planning Department. Ms. Stefforia submitted her report dated March 28, 2006, and the same is incorporated herein by reference.

Ms. Stefforia explained that the applicant wanted to construct a 2400 square foot accessory building on approximately 10 acres. She said that the review by the Zoning Board of Appeals was necessary pursuant to Section 78.820. Ms. Stefforia provided an overhead showing the subject building would be set back more than 200 feet from South 4th Street and more than 75 feet from the south property line and several hundred feet from the rear property line. Ms. Stefforia then proceeded to take the Board through a review of Section 78.820 as applied to the subject property and the proposed structure, as more fully set forth in her report.

The Chairman asked if there were any questions for Ms. Stefforia and hearing none asked to hear from the applicant.

Mr. Curtis Muller introduced himself to the Zoning Board. He said he would be happy to answer any questions.

The Chairman asked what the height of the roof would be. Mr. Muller said that the sidewalls would be approximately 14 feet with a 7 foot peak resulting in a 22 to 23 foot building height. The Chairman asked what type of roof would be installed. Mr. Muller said it would be a shingled roof.

Mr. Muller said he might go with siding to match the house rather than steel siding as shown in the building elevation.

Mr. Muller then told the Board that he would like some flexibility on setback because he wanted to try and preserve as many of the mature trees on the site as possible. He said he would make sure that the building was not visible from the neighbor's property to the south. However, given the limited setback of his neighbor's

pole barn, he hoped that the Board would allow him to reduce the setback to as little as 50 feet if necessary.

Mr. Turcott asked if the structure would be restricted to storage of personal items only. Mr. Muller assured the Board that it would be there just to “store his toys.” He said there would be no business activity in the proposed structure.

Ms. Borgfjord asked if the small shed which was discussed by the Planning Department would remain. Mr. Muller said that he hoped so because he used it to house his lawn mowing equipment. He said the pole barn would be used to house larger items but he wanted to maintain the small shed if possible.

Ms. Borgfjord asked if the drive would be paved. Mr. Muller pointed out an old gravel driveway on the aerial map which was pre-existing. He said the gravel drive would likely remain and he would use that to access the proposed building.

Mr. Bushouse pointed out to Mr. Muller that many of the neighbors in his area have installed vinyl siding on their pole barns in order to match their homes. He said he thought that was much more pleasing aesthetically and encouraged him to do that if at all possible. He said that while the building likely was not visible during the summer months it might be visible in the winter and that vinyl siding would be much more appealing from a visibility standpoint.

The Chairman asked if there were any comments from the public and hearing none closed the public portion of the meeting and called for Board deliberation.

Ms. Borgfjord made a motion to approve the request to construct the accessory building pursuant to Section 78.820 in accordance with the plans submitted and the representations made at the meeting. Mr. Turcott seconded the motion. The Chairman called for a vote on the motion and the motion passed unanimously.

Discussion Item

The Chairman said the next item up for discussion was the Niewoonder request from February.

Ms. Stefforia said she thought Mr. Niewoonder would be present to discuss this but that even though he was not available she still wanted to discuss this item with the Board. She said Mr. Niewoonder was wondering if there were any other options to expand the existing building, expand the attached garage, propose a smaller detached accessory building, or possibly store items outside.

Mr. Bushouse, again noting that the applicant had asked for a second 4800 square foot building, said he was very concerned about setting a precedent which would allow that much storage on a residential parcel.

Ms. Borgfjord said she did not believe that Mr. Niewoonder would have received approval for the first 4800 square foot storage building had it not been for the location of his property near the airport and the special exception use which permitted that development. She said granting a second building of that size would, in her mind, be untenable.

The Chairman said he thought that if Mr. Niewoonder wanted to return for a small addition to the present accessory building that he might consider it but nothing near what he was proposing in the way of square footage.

Mr. Turcott said that he wanted the minutes to refer to his comments at the previous meeting and as far as he was concerned, his position remained unchanged and his comments would stand.

Other Business

None.

Adjournment

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 3:45 p.m.

OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

By: Millard Loy, Chairman

By: James Turcott

By: Grace Borgfjord

By: Duane McClung

Minutes Prepared:
April 13, 2006

Minutes Approved:
_____, 2006