

OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD APRIL 18, 2006

**Agenda**

**JACOBS - ACCESSORY BUILDING REVIEW- 4179 NORTH 6<sup>TH</sup> STREET (PARCEL NO. 3905-04-280-040)**

**HOWARD - VARIANCE REQUEST OF FRONT AND SIDE SETBACK - 25 WOODLANE DRIVE (PARCEL NO. 3905-24-101-060)**

**PARMLEY - VARIANCE REQUEST LEGAL NONCONFORMING GRANDFATHERED PARCEL - 10895 ARMENA DRIVE (PARCEL NO. 3905-19-355-020)**

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, April 18, 2006, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Millard Loy  
Mike Smith  
Dave Bushouse  
Grace Borgfjord  
Duane McClung

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; James W. Porter, Township Attorney; and eight other interested persons.

**Call to Order**

The Vice Chairperson, Grace Borgfjord, called the meeting to order at approximately 3:00 p.m., and indicated that Chairman Loy would be arriving shortly.

Ms. Borgfjord welcomed new Zoning Board of Appeals member Mike Smith as the new representative from the Planning Commission.

Chairman Loy arrived at the meeting.

**JACOBS - ACCESSORY BUILDING REVIEW- 4179 NORTH 6<sup>TH</sup> STREET (PARCEL NO. 3905-04-280-040)**

The Chairman indicated the third item on the agenda was consideration of site plan review for a proposed accessory building which exceeds the ground floor of the dwelling and which will be located between the residence and the road. He said the subject property was located at 4179 North 6<sup>th</sup> Street, Parcel No. 3905-04-280-040. The Chairman asked for a report from the Planning Department. Ms. Stefforia submitted her report dated April 18, 2006, and the same is incorporated herein by reference.

Ms. Stefforia explained to the Board that the applicant wanted to construct an accessory building forward of the existing house. In addition, she said the proposed building was 2240 square feet which exceeded the ground floor area of the dwelling which was 1,456 square feet. She said pursuant to Section 78.800, such a request required Zoning Board of Appeals' approval.

Ms. Stefforia put up an overhead showing the subject property and the proposed location of the accessory building. She then proceeded to take the Board through a review of Section 78.820.

The Chairman asked if there were any questions of Ms. Stefforia and hearing none he asked to hear from the applicant, Ron Jacobs. Mr. Jacobs thanked the staff for their report and asked if there were any questions.

The Chairman asked if the roof was going to be metal or shingle. Mr. Jacobs said he was leaning toward shingle and that the price being relatively even he would like to put shingles which would match the house.

The Chairman asked what he was planning to use the accessory building for. Mr. Jacobs said it would be solely for his own person use. He said he owned a number of antique cars and car parts in his basement and garage which he wanted to store. In addition, he said he would like to store a lawn mower, motorcycle and trailer in the proposed accessory building.

Ms. Borgfjord asked what the pink ribbons were on the property. Mr. Jacobs said that the area which was enclosed with pink ribbon was the proposed building site. He said there were some ribbons on certain trees that he might log off but that the logging, if any, would be very selective.

The Chairman asked if there were any comments from the audience and hearing none called for Board deliberations.

Mr. McClung began the discussion by noting the property was a very heavily wooded area and construction of the accessory building would have minimum impact upon the neighbors. Mr. Bushouse said it was very heavily wooded. However, he noted that without evergreens, the building might be visible in the winter months and he thought to be consistent with past decisions the applicant should be asked to put some evergreens along that portion of the accessory building facing the road. Mr. Jacobs said that would not be a problem.

After further brief discussion, Mr. McClung made a motion to approve the accessory building as requested, provided that it be used solely for personal use and that additional evergreens be planted along the east side of the building. The motion was seconded by Ms. Borgfjord. The Chairman called for a vote on the motion and the motion passed unanimously.

#### **HOWARD - VARIANCE REQUEST OF FRONT AND SIDE SETBACK - 25 WOODLANE DRIVE (PARCEL NO. 3905-24-101-060)**

The Chairman indicated that the next item on the agenda was consideration of a variance request from Section 64.200 to allow a reduced front and side yard setback for an accessory building. He said the subject property was located at 25 Woodlane, Parcel No. 3905-24-101-060. The Chairman called for a report from the Planning Commission. Ms. Stefforia submitted a report dated April 18, 2006, and the same is incorporated herein by reference.

Ms. Stefforia said that the applicant was requesting relief from the front and side yard setbacks for an accessory building pursuant to Section 64.200. She said the required setback for the subject site is 40 feet from the street right of way and the setback from side and rear yard was a minimum of 10 feet or the height of the building at its highest point, whichever is greater.

Ms. Stefforia explained that Mr. Howard had requested a building permit in August 2005. However, when the planning staff reviewed the permit for conformance to setback requirements, it was noted that the site plan was in error and Mr. Howard was contacted by phone and asked to address the discrepancy. When Mr. Howard did not respond, he was contacted on August 24, at which time he advised the Township that he was going to have a survey done and no building permit was issued.

During a drive through the neighborhood in 2006, the staff noticed an accessory building had been placed on the subject property and a letter was sent to Mr. Howard dated January 26, 2006, informing him that the building was constructed in violation of

the Building Code and the Zoning Ordinance. The January 26<sup>th</sup> letter prompted a request for a variance, which was not submitted until a site survey was completed, along with supporting documents. A complete application packet was not received until March 21, 2006.

Ms. Stefforia noted that the dwelling constructed on the lot is legally nonconforming with respect to the setbacks as it was built before 1997. She said the house is setback 34.5 feet from Woodlane Drive right of way. The accessory building is placed 26.8 feet back and is 8.4 feet from the north property line. Given that, the applicant was requesting a variance to allow a 26.8 foot setback from the Woodlane Drive property line and 8.4 feet from the north property line when 40 feet and 10 feet, respectively, are required. She noted the height of the accessory building at its highest point still needed to be confirmed.

Ms. Stefforia then took the Board through a review of the standards for approval of a nonuse variance as set forth in greater detail in her report.

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

Mr. James Geary, an attorney with Howard & Howard introduced himself on behalf of Mr. and Mrs. Howard. Mr. Geary said that the subject building had arrived the same day that Mr. Howard was told he would need a variance. He said given that the building was parallel with the front of the house, he thought it met sufficient setback at the time. Mr. Geary then took the Board through a series of photographs to show the relationship of the accessory building on the subject parcel to the primary residence located thereon. Mr. Geary said that the applicant wanted to redo the exterior of the accessory building and make it appear more like an attached garage but did not want to do anything until he received approval from the Board. Mr. Geary said that the Howard's neighbor to the north had no problem with the proposed accessory building and that it was not unlike the accessory building currently located on that parcel. Mr. Geary explained that in his opinion there was no good location to relocate this shed on the property because the applicants wanted to have driveway access to the building and did not want to disturb the landscaping on the property. He also noted that in certain areas of the property there were difficulties with topography.

The Chairman asked if there were any members in the audience who wished to comment. Mr. Stefforia said that she did receive two calls. One was from Mr. And Mrs. Brennan who opposed the proposed variance. She also received a call from Dr. Talanda who opposed the variance. The Chairman noted that there were no public comments and called for Board deliberations.

The Chairman began by saying that it appeared to him that there was space available elsewhere on the property where the accessory building could be located but asked for further comments of the other Board members.

Mr. Smith said that it appeared it was a self-inflicted wound and was a self-created hardship. Mr. Bushouse said there had been similar requests, one in this very neighborhood, which had been denied by the Board. He said he thought there were other alternatives and that there were no facts in support of granting the variance. He said he thought one of the alternatives would have been to simply extend the attached garage, which would be very similar in size and capacity as the proposed accessory building. He said he thought this was totally incompatible with the neighborhood in not only location but in size. He explained that the Township tried to be as uniform as possible and he did not believe that the much smaller accessory building to the north was in any way comparable to what the Howards had placed on their property.

Mr. Geary said that there was mechanical equipment that would make it difficult to build an attached garage and that a single car attached garage would still need a variance. Mr. Bushouse said that might be true but that it would be much easier for the Howards to obtain a variance for an extension to the attached garage than it would be to locate a 14 x 36 foot building only 8 feet from the north property line. He said it was totally out of place with the other yard barns or sheds in the area given its size and location.

Mr. Bushouse said if an extension of the attached garage was setback 3 or 4 feet from the existing front of the house, he did not think there would be any problem but that was in no way similar to the present request. Ms. Stefforia did point out that the Zoning Board of Appeals was much more likely to grant a variance for an attached garage than it would for an accessory structure such as the one currently existing on the Howard's property.

Ms. Borgfjord said she had to totally agree with Mr. Bushouse. The Chairman said he also had to agree and thought it was unfortunate that the Howards obtained the building ahead of receiving the building permit. He said given that they had not granted a similar request and that there was no support for granting such a request, he thought it had to be denied.

Mr. Smith then made a motion to deny the request based upon the fact that there were no facts to support the granting of such a permit. Ms. Borgfjord seconded the motion. The Chairman called for a vote on the motion and the motion passed unanimously.

**PARMLEY - VARIANCE REQUEST LEGAL NONCONFORMING GRANDFATHERED PARCEL - 10895 ARMENA DRIVE (PARCEL NO. 3905-19-355-020)**

The Chairman said that the next item up for consideration was a request for a variance from Section 66.200 to allow an expansion of a grandfathered nonconforming parcel where the resulting parcel would not satisfy the minimum frontage requirement of 200 feet. He said the subject property was located at 10895 Almerna Drive, Parcel No. 3905-19-355-020. The Chairman called for a report from the Planning Department. Ms.

Stefforia submitted a report dated April 18, 2006, and the same is incorporated herein by reference.

Ms. Stefforia explained that the parcel was a legally nonconforming grandfathered parcel. She said that Section 66.201 required 200 feet of road frontage and an area of 1.5 acres. The property, being pre-existing, only had 135.8 feet of frontage and an area of 1.3 acres. She explained that when the Heritage Pines property was surveyed a discrepancy between that property and what the Parmleys considered their property was discovered. In order to resolve the issue, the owners of Heritage Pines were proposing to add 5 feet to the Parmley's property. However, while the addition would bring the property closer into conformance, a variance was required in order to permit the re-description of the property while maintaining the legal nonconforming status of the parcel. Ms. Stefforia suggested that if a variance was found appropriate and granted that it be conditioned upon a re-description of the property evidenced by a recorded document. Ms. Stefforia then took the Board through review of the standards for nonuse variance as set forth in her report.

The Chairman asked if there were any questions of Ms. Stefforia and hearing none asked to hear from the applicant. Mr. Gary Castle introduced himself to the Zoning Board of Appeals. He explained the property was his mother's and asked if there were any questions which he could answer to shed light on the issue. There being no questions, the Chairman asked to hear from the audience.

Mr. Robert Anderson introduced himself to the Zoning Board of Appeals. He said he owned contiguous property and was simply curious about what the nature of the request was. He said he had no objections to what Ms. Parmley was proposing.

The Chairman closed the public portion of the meeting and called for Board deliberations. The Chairman began by saying that this would certainly bring the property into greater compliance and did not want to see the property lose its nonconforming status in doing so. Mr. Bushouse pointed out that it did bring the property into greater compliance and that they had done this for other property in the past and he saw no reason to deny the request.

Mr. McClung made a motion to approve the requested variance subject to the condition that the property be re-described in recordable form and that it be done so within the next 90 days. Ms. Borgfjord seconded the motion. The Chairman called for a vote on the motion and the motion passed unanimously.

## **OTHER BUSINESS**

The Chairman asked if there was other business. Ms. Stefforia explained that Consumers Credit Union at the corner of West Main and Drake was requesting a special hearing on their sign. She explained that MDOT was obtaining property to expand the

left turn lane which was likely to result in a land swap with Consumers Credit Union necessitating that Consumers Credit Union's sign be moved. In order to do that, they needed consideration for a deviation. It was the consensus of the Board to consider Consumers Credit Union's request for sign deviation at a special meeting on April 27, 2006, at 3:00 p.m.

**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: Mike Smith

By: Grace Borgfjord

By: Duane McClung

By: Dave Bushouse

Minutes Prepared:  
April 20, 2006

Minutes Approved:  
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