

OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD APRIL 26, 2011

---

Agenda

**TACO BELL – FRONT SETBACK VARIANCE FOR PROPOSED DEMOLITION AND REBUILDING – 5013 WEST MAIN STREET - (PARCEL NO. 3905-13-430-041)**

**TACO BELL – SIGN DEVIATION - 5013 WEST MAIN STREET - (PARCEL NO. 3905-13-430-041)**

---

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, April 26, 2011, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Roger Taylor, Chairman  
Cheri Bell, Vice Chair  
Grace Borgfjord (arrived at 3:06 p.m.)  
Robert Anderson  
L. Michael Smith  
Neil Sikora, First Alternate  
James Sterenberg, Second Alternate

MEMBERS ABSENT: None

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

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.

Election of Officers

The Chairman indicated the next item on the Agenda was the election of officers. Mr. Smith moved to appoint Roger Taylor as the Chairman of the Zoning Board of Appeals. The motion was seconded by Mr. Sterenberg. The Chairman asked if there were any nominations for Vice Chair. Mr. Anderson nominated Cheri Bell as Vice Chair. Mr. Taylor seconded the motion. The Chairman asked if there were any other positions to be filled. Ms. Stefforia said no. The Chairman then asked if there were any further nominations. Hearing none, he called for a vote on the nominations. The nominations were approved unanimously.

## Minutes

The Chairman said the next item on the Agenda was approval of the minutes of December 14, 2010. Mr. Smith made a motion to approve the minutes, as submitted, and the motion was seconded by Mr. Sikora. The Chairman called for a vote on the motion, and the motion passed unanimously. Ms. Borgfjord arrived at approximately 3:06 p.m.

### **TACO BELL – FRONT SETBACK VARIANCE FOR PROPOSED DEMOLITION AND REBUILDING – 5013 WEST MAIN STREET - (PARCEL NO. 3905-13-430-041)**

The Chairman stated that the next item on the Agenda was a front setback variance request from Taco Bell. The request was for a variance from the setback requirements of Section 64.100 which would result from the proposed demolition and rebuilding of the Taco Bell restaurant at 5013 West Main Street, Parcel No. 3905-13-430-041. The Chairman asked to hear from Ms. Stefforia. Ms. Stefforia submitted her report to the Board dated April 26, 2011, and the same is incorporated herein by reference.

Ms. Stefforia reported that the applicant was requesting a 17.8-foot variance in order to build with a front setback of 152.2 feet, rather than the 170-foot setback from the center line of West Main Street, as required by the Zoning Ordinance. She explained the applicant was requesting this in order to allow for a reconfiguration of the drive-up lane to allow the stacking of up to eight vehicles.

Ms. Stefforia then took the Board through a review of the properties in the vicinity, as well as a review of the recent similar variances which were granted to McDonald's in 1998 and to Walgreens in 2002. She then proceeded to take the Board through the standards of approval for nonuse variances as more fully set forth in her report.

The Chairman asked if there were any comments from adjoining property owners. Ms. Stefforia said that Plaza Corp had submitted a letter of support.

Mr. Smith asked how the original setbacks were determined. Ms. Stefforia said that the West Main setbacks were already established at the time she began working for the Township. She said she thought the setbacks were likely due to the fact that M-43 had a 200-foot right-of-way. Taking 100 feet from the middle of the street and adding 70 feet would result in a 70-foot setback. She said that would make the setback consistent with commercial properties on streets other than West Main Street.

Ms. Borgfjord asked if there was a loss of seven spaces and whether the loss would affect the larger development. Ms. Stefforia said she did not believe it would have a negative impact since there is shared parking among all of the businesses on site, and they did not look at individual parking allocated just for Taco Bell.

Mr. Sterenberg asked about the square footage of the new building versus the old building and why they would be losing seating space. Ms. Stefforia suggested that Mr. Sterenberg ask that question of the applicant.

Mr. Sterenberg asked, if there were so many variances or pre-existing buildings which could not comply with the existing setback, why the Zoning Ordinance was not changed. Ms. Stefforia said she was not sure why that had not been considered. She stated that new provisions had been adopted for pre-existing signs in this stretch of West Main Street but not for buildings.

The Chairman asked to hear from the applicant. Mr. Bill Beckett introduced himself to the Planning Board. He said he represented the developer and noted that the popularity of drive-throughs since this Taco Bell was originally constructed had increased dramatically. He said drive-throughs now accounted for 60%-70% of their business. He stated, because of that statistic and the growth of food choices offered, the kitchens now had to be larger and that they needed more area for handling drive-up customers. He pointed out that the overall building was larger, but it actually had less indoor seating due to the fact that the kitchens were larger and there were other requirements such as barrier free which took up additional space in the dining room.

Mr. Beckett explained that they had proposed a total redevelopment of the site within the island area they were currently operating within. He stated they had met with the Township Planning Department, and some of their primary goals were to reduce the traffic congestion and provide additional area for the stacking of vehicles at the drive-through window. He said they were proposing the latest design currently being used by Taco Bell, which he believes would significantly improve the overall visual appearance of the structure.

Ms. Bell asked what year the building was originally built. Mr. Beckett said 1991. Ms. Bell asked how much seating they would lose if they stayed within the 170-foot setback. Mr. Beckett replied that with that type of reduction, they would only have about 20 seats left in the restaurant. Ms. Bell said it looked like they could still install the drive-through as proposed without moving the building forward. Mr. Beckett said that was true, but they still needed to expand the kitchen to keep up with the demands of the drive-through customers. In addition, he said they would lose 15-20 seats, and at that point, the building would not be economically viable. Mr. Beckett explained that they had talked about turning the building 180 degrees, but that would place the drive-through facing M-43. He also noted that it would interfere with the current traffic pattern in place for the development. He thought that reconfiguration would present a very poor image for the restaurant and community.

Mr. Sterenberg asked why, if the patio area was shrinking, it appeared that there would be more seating. Mr. Beckett said that presently there are only two picnic tables on the patio area, and they would be installing additional, smaller tables, which would accommodate more patrons.

The Chairman said he would like to go back to what Ms. Bell has asked about, which was the overall design. He asked why the building could not be wider like the original one and accommodate the proposed building in size. Mr. Beckett pointed out that the pictures were deceiving. He said that the photographs showed the existing building with a mansard roof, which made it look larger than the new building. He said the new building was actually as wide if not wider than the old building and that if they went with the next smallest building, it would only be six feet shorter than what is currently proposed.

The Chairman thanked the applicant for his input and called for Board deliberations.

Mr. Anderson said he thought the proposal would not have any negative impacts on the neighbors. He said it also appeared to him that they have granted similar exceptions on both the north side and south side of the road. He said given that, he thought the proposal was reasonable and thought the Board should grant the variance.

Mr. Smith said he agreed with Mr. Anderson. He said that the amount of the variance requested would not have a negative impact on the area. He also said he thought the design and the way it was laid out would have a positive impact versus some of the other alternatives.

The Chairman said he was not in support of the accommodation for additional cars since the entire intersection had been redesigned to minimize traffic congestion. However, he said he was not sure that was an issue for the Zoning Board of Appeals.

Mr. Sterenberg again suggested that if there was a problem with granting the variance that perhaps the Township should consider changing its Ordinance. He did note, however, if others in the area were closer to the road, he did not see any problem in granting some relief to the applicant.

Mr. Sikora said he was not sure why they would grant the variance if the property could be reconfigured to increase the stacking for the drive-through without moving the building further to the north. Mr. Sikora expressed concern about granting this variance asking, if the building next to it were to ask for a similar variance in the future, how would the Township respond? He was not sure where these variances would stop.

Ms. Bell pointed out that she was not inclined to grant a variance just because of Taco Bell's new standards. She said she thought the standards of the Township should apply. The Chairman said he agreed with that comment, and that national standards should not dictate to the Township what should or should not be done in the way of variances.

Mr. Beckett pointed out that the national standards were created, not to try to impose restrictions on the Township, but they were based upon the optimum design for the restaurant which would serve the citizens of this Township. He said that Taco Bell

had 6,000-7,000 restaurants and had created this design criteria based upon maximum efficiency to minimize time spent in line and to better serve its customers.

Mr. Sterenberg asked about averaging the setbacks in the area. Ms. Stefforia said that provision of the Ordinance would not be entirely applicable in this case. Mr. Sterenberg pointed out, in his view, just looking at the properties to the north and the west, that there were numerous examples where there were lesser setbacks, and he thought that should be a factor in the Board's deliberations.

Ms. Borgfjord said she thought what the applicant was trying to do was stay within its existing footprint and yet modernize its facility, while at the same time reducing traffic congestion. She thought that should be considered as well.

Ms. Bell said the real question should be consideration of the factors, and the primary one is whether the Board would be doing substantial justice. Attorney Porter said he agreed with Ms. Bell and pointed out the fact that McDonald's had been allowed to be demolished and rebuilt with a setback of only 135 feet, the Montgomery Ward building was allowed to be torn down and Walgreens rebuilt with a setback of only 142 feet, and he thought the issue of substantial justice to the applicant in a manner consistent with other property owners in the area was significant.

Mr. Sikora did not see why granting variances for others would bind a Board.

The applicant said he did not believe that the Board was bound, but he thought the substantial justice factor was significant in light of what was done for Walgreens and McDonald's.

Ms. Bell asked why the McDonald's and Walgreens' variances were granted. Ms. Stefforia said, in part, because they stayed within their existing footprint and minimized any negative effect on the existing driving aisles on site. She said that was also true for McDonald's. Ms. Bell said, if the variances granted to McDonald's and Walgreens were given to not negatively interfere with existing drive aisles, then it would be appropriate to do so for the Taco Bell restaurant as well. Ms. Bell then made a motion to grant the variance as requested. She said her motion was based on the fact that it would provide substantial justice to this applicant when compared with Walgreens and McDonald's and that the drive aisles were unique physical factors weighing in favor of granting the variance. Mr. Anderson seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously. Mr. Sikora said as an alternate he was not allowed to vote, but he said if he had not been an alternate, he would have voted against the motion.

**TACO BELL – SIGN DEVIATION - 5013 WEST MAIN STREET - (PARCEL NO. 3905-13-430-041)**

The Chairman indicated that the next item on the Agenda was a sign deviation from Taco Bell. He said the applicant was seeking a deviation from Section 76.430 to allow four wall signs which project more than 15 inches from the wall and a sign

package with eight wall signs instead of four. He said the property is located at 5013 West Main Street, Parcel No. 3905-13-430-041. The Chairman asked to hear from Ms. Stefforia. Ms. Stefforia submitted her report dated April 26, 2011, and the same is incorporated herein by reference.

Ms. Stefforia explained that the applicant was seeking to have what the Township Ordinance would define as eight signs where four signs are permitted and to allow wall signs which projected more than 15 inches from the wall. Ms. Stefforia then presented a visual of what the signs would look like. She did note that the projections of the signs were on the canopies and that the letters themselves would be approximately nine inches tall. She stressed the fact that, even with the additional signs, the applicant would only be using 113 square feet of signage when, under the Ordinance, they would be allowed 230 square feet of signage.

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

Mr. Bill Beckett introduced himself again. He said he thought Ms. Stefforia's summary was excellent. He noted that the prototype signs which were being used in this case were the new signs for Taco Bell. He stressed the fact that when viewed from a distance, they appear to be a single sign, even though the letters were on the canopy and the bell is attached to the façade of the building behind it. He also noted that they had not extended the bell above the façade because that would require an additional variance, and they were doing their best to comply with the Ordinance. He also asked that the Board take into consideration the fact that their signage would be less than half of what they were permitted, albeit in a different configuration.

The Chairman asked if there were any questions of the applicant.

Mr. Anderson asked if all of the signs would be the same size. Mr. Beckett said that they would.

Mr. Sikora asked about the attachments to the building. Mr. Beckett said they are architectural accents on each of the tower facades.

The Chairman asked if there were any further questions of the applicant. Hearing none, he called for Board deliberations. The Chairman said normally he does not give great weight to national standards, however, when it comes to a trademark and identification, he did understand the need to maintain a brand identity for the facility.

Mr. Smith said he thought reducing the total signage and the way the signs were designed made the signs look very nice. He said he thought the fact that the letters and the logo itself were not together was more of a technicality. Ms. Stefforia agreed and said if they were on the same wall instead of the name Taco Bell being on a canopy, there would not be any question as to the signs meeting the Ordinance requirements.

Mr. Sterenberg said he thought the new signs were a 3-D version of the same sign that they had on their existing building.

Ms. Borgfjord asked if the signs would be illuminated. Mr. Beckett said that they would.

The Chairman asked if they would be setting some type of precedent if they granted this request. Attorney Porter noted that there would be some degree of precedence set in that the Board was determining that the letters could be placed away from the façade of the building or the rest of the sign. However, he noted, because of the limited amount of signage being requested by Taco Bell and the small nature of the letters themselves, that he did not think it would be a serious issue in the future.

Ms. Borgfjord asked, if Taco Bell came back later and asked for their total signage allowed, whether the Township would have to permit it. Attorney Porter emphatically said no. He said, if the deviation was granted to allow the additional signs and the separation of the lettering from the logo, that granting would not justify Taco Bell coming back at a later date and asking for increased signage. Ms. Borgfjord commented that she thought the signs had a very clean look, and she thought with less square footage, they were actually an improvement from what the applicant could have.

Mr. Sikora said he did not have a problem with the proposal. He said he did not see any negative effect upon the community and thought given the limited amount of signage which was being put up, it was being done appropriately.

The Chairman said he would entertain a motion. Mr. Smith made a motion to approve the signage deviation as requested, and the motion was seconded by Mr. Anderson. The Chairman called for a vote on the motion, and the motion passed unanimously.

#### 2010 Annual Report

The Zoning Board of Appeals accepted the 2010 Annual Report for information.

#### Public Comment on Non-Agenda Items

None.

#### Any Other Business

Ms. Bell asked that the Board have a moment of silence in honor of fallen Police Officer Zapata, and the Board held a moment of silence.

Mr. Sikora thanked the Planning Department for the electronic packet.

Mr. Sterenberg raised a concern regarding the amount of paper that they were receiving and asked that the Planning Department be judicious in how much information is provided in the future.

Mr. Smith suggested that the Board consider moving to an electronic format.

### Adjournment

There being no further business to come before the Board, the Chairman adjourned the meeting at approximately 4:40 p.m.

Minutes Prepared:  
May 3, 2011

Minutes Approved:  
June 28, 2011