

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD MAY 26, 2009

Agenda

**ENDRIUKAITIS – ACCESSORY BUILDING REVIEW – 9707 WEST H AVENUE -
(PARCEL NO. 3905-08-130-040)**

**CORNING – VARIANCE – RECONFIGURATION OF NONCONFORMING PARCELS
– 7536 WEST KL AVENUE AND 7518 WEST KL AVENUE– (PARCEL NOS. 3905-22-
185-030 AND 3905-22-185-040)**

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, May 26, 2009, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Duane McClung
Dave Bushouse
Robert Anderson
Cheri Bell
Mike Smith, First Alternate
Neil Sikora, Second Alternate

MEMBER ABSENT: Roger Taylor

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

Call to Order/Pledge of Allegiance

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

Minutes

The Chairman stated that the next item on the Agenda was the approval of the March 17, 2009 special meeting minutes and the March 24, 2009 regular meeting minutes. There being no changes, Mr. Anderson made a motion to approve both sets of minutes, as submitted. The motion was seconded by Ms. Bell. The Chairman called for a vote on the motion, and the motion passed unanimously.

**ENDRIUKAITIS – ACCESSORY BUILDING REVIEW – 9707 WEST H AVENUE -
(PARCEL NO. 3905-08-130-040)**

The Chairman indicated the fourth item on the Agenda was the review and consideration of a proposed accessory building to be established prior to the dwelling on property located at 9707 West H Avenue, Parcel No. 3905-08-130-040. The Chairman called for a staff report. Ms. Bugge submitted her report to the Zoning Board of Appeals dated May 26, 2009, and the same is incorporated herein by reference.

Ms. Bugge explained to the Board that the applicant wished to construct a 36' x 48' accessory building, 1,728 square feet, prior to the establishment of a residence. She said the applicant planned to complete the dwelling within approximately nine months from the completion of the accessory building.

Ms. Bugge went through a review of the property itself, as well as the surrounding properties. She suggested that, if approval was granted, it should be subject to the owner completing an Acknowledgment of Zoning Restriction, indicating that the building could only be used for personal use, not commercial use or human habitation. She also suggested a reasonable timeline be established for constructing the dwelling. Ms. Bugge then proceeding to take the Board through a review of Section 78.820, as more fully set forth in her report.

The Chairman asked if there were any questions. Mr. Anderson asked if the size of the accessory building met zoning requirements. Ms. Bugge indicated that it did. The Chairman then clarified that the building met all Township zoning requirements, except that it is being constructed prior to the dwelling. Ms. Bugge indicated that was correct.

The Chairman asked to hear from the applicant. Donna Endriukaitis introduced herself to the Board. She said that the report presented was correct with the exception of the size of the parcel. She said the parcel was actually 283 feet wide rather than 203 feet wide. She said she and her partner wanted to construct the accessory building as soon as possible.

The Chairman asked if there were any questions. Mr. Anderson asked if there would be any water supplied to the building. Ms. Endriukaitis said that there would be electricity to the building, but no water.

Ms. Endriukaitis also noted that the building would only be 34 feet not 36 feet wide so the accessory building would be smaller than the size listed in the staff report. She also noted that the accessory building siding was going to match that of the future house as they wanted it to look as much like the house as possible and not like a pole barn.

Ms. Bell asked when the dwelling would be started. Ms. Endriukaitis said it would be no later than nine months from completion of the accessory building.

Ms. Bell then asked Ms. Stefforia about the size of the residence in relationship to the accessory building and asked if the variance would be affected by that. Ms. Stefforia clarified that no variance was being requested for the size of the accessory building, only approval to construct it under Section 78.820.

Ms. Bell expressed concern about putting too tight a limitation on the property owner, given the economic condition, and did not want to see the applicant have to return to the Zoning Board of Appeals if she could not complete the house within nine months after completion of the accessory building. Mr. Anderson said he thought that was the reason why the Planning Department was asking for an appropriate time limit. Attorney Porter said the Board could set what they felt was a reasonable timeline, perhaps one year, and if the applicant was having difficulties meeting that deadline, she could always return to the Board.

The Chairman asked if there was any public comment. Hearing no public comment, he called for Board deliberations.

Mr. Bushouse asked if this accessory building was similar to other accessory buildings for which they had required screening. Ms. Bugge said the subject accessory building was not similar to those which the Board had required screening for in the past. She noted that only those buildings which were located in front of the residence were required to have additional screening. Ms. Bugge noted the subject accessory building would not be any different than any other accessory building meeting Township requirements except for the fact that it would be built prior to construction of the residence.

The Chairman again noted that it met all requirements of the Zoning Ordinance with the exception of the timing of construction. Ms. Bugge indicated that was correct, and that the proposed building met all requirements concerning size and placement provided for in the Zoning Ordinance.

Hearing no further discussion, the Chairman stated he would entertain a motion. Mr. Smith made a motion to approve construction of the accessory building prior to the residence, provided that the home is constructed within one year of the completion of the accessory building and subject to the owner completing an Acknowledgment of Zoning Restrictions which states that the accessory building may only be used for personal purposes and may not be used for commercial purposes or human habitation. The motion was seconded by Mr. Anderson. The Chairman called for a vote on the motion, and the motion passed unanimously.

**CORNING – VARIANCE – RECONFIGURATION OF NONCONFORMING PARCELS
– 7536 WEST KL AVENUE AND 7518 WEST KL AVENUE– (PARCEL NOS. 3905-22-
185-030 AND 3905-22-185-040)**

The Chairman indicated that the next item on the Agenda was a request for a variance to allow the reconfiguration of a nonconforming grandfathered parcel which does not satisfy the 200-foot frontage requirement, as well as the enlargement of an

adjacent, nonconforming grandfathered parcel which does not satisfy the 200-foot frontage requirement or the 50,000 square foot area requirements of Section 66.201. The Chairman stated that the properties are located at 7536 West KL Avenue and 7518 West KL Avenue, Parcel Nos. 3905-22-185-030 and 3905-22-185-040. The Chairman called for a report from the Planning Department. Ms. Stefforia submitted a Planning Department report dated May 26, 2009, and the same is incorporated herein by reference.

Ms. Stefforia explained that the applicant was seeking to reconfigure the subject properties by detaching 42 acres from the existing 48-acre parcel that has only 66 feet of frontage, and attaching the 42 acres to a parcel further to the west, which is under a variance due to the fact that it has only 66 feet of frontage. In addition, there would be an additional 40 feet in depth added to the property southwest of the larger parcel, bringing it into greater compliance with the Zoning Ordinance. No new parcels would be created. Ms. Stefforia then proceeded to take the Board through a review of the standards for approval for a nonuse variance. She did note that it would be necessary for the applicant to provide detailed drawings before the land division reconfiguration was approved to ensure that no setback problems were created with the new property lines and that the property detached from the parent parcel was reattached to what was referred to in the Planning Department report as Parcel C, that the property detached from Parcel B was added to Parcel A, and that the legal descriptions and proper deeds were drawn.

Ms. Stefforia then proceeded to go through the standards for approval of a nonuse variance as more fully set forth in her report.

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

Mr. Dave Corning introduced himself to the Board. He said he thought that the Planning Department had done an excellent job of covering the facts and asked the Board members if they had any questions.

Mr. Anderson asked if the parcel labeled as Parcel C in the drawing would be the parcel receiving the remainder of the property described as Parcel B. Mr. Corning indicated that was correct, which would leave Parcel B with five acres after adding a small portion of land to Parcel A.

The Chairman asked if there was anyone in the audience who wished to comment. Hearing nothing further, he asked for Board deliberations.

Mr. Smith said he thought it was a reasonable request in light of the fact that there would not be any additional nonconformance as a result of granting the variance.

Ms. Bell asked why they wanted to make the changes since it did not seem they were improving compliance. Ms. Stefforia said that Parcel A, which is under separate ownership, would be coming closer to compliance by increasing its size. She also noted that Parcel B at the present time would be difficult to sell with 48 acres and the

farm buildings. Mr. Corning said taking the rear portion of Parcel B and adding it to Parcel C would likely facilitate the continuing development of the Autumn View subdivision to the west. He noted he was the owner of Autumn View and was hoping to tie into the roads in the Autumn View subdivision and bring them through Parcel C to KL Avenue. Ms. Bell noted that Mr. Corning's explanation helped her understand the proposal.

The Chairman asked if there was any further discussion. Hearing none, he called for a motion. Mr. Anderson made a motion to approve the variance request and reconfiguration of the subject parcels provided that detailed drawings are provided to the Township before any land division or reconfiguration was approved and that all the deeds dividing or combining the properties, as proposed, be recorded with the Kalamazoo County Register of Deeds. The motion was seconded by Mr. Smith. The Chairman called for additional discussion, and hearing none, called for a vote on them motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

None.

Any Other Business

Ms. Stefforia indicated that she would see the Board members in June.

Ms. Bell congratulated the public officials on their presentation to the Kalamazoo County Road Commission. In spite of the result, she said she was very impressed with the Township Officials and staff.

Adjournment

There being no further business to come before the Board, the meeting was adjourned at approximately 3:40 p.m.

Minutes Prepared:

June 1, 2009

Minutes Approved:

_____, 2009