

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD JUNE 13, 2006

Agenda

VISSER ACCESSORY BUILDING REVIEW - 8477 WEST G AVENUE - (PARCEL NO. 3905-04-205-012)

DELOOF DEPTH-TO-WIDTH VARIANCE - NORTHWEST CORNER OF WEST H AVENUE AND DRAKE ROAD - (PARCEL NO. 3905-01-480-020)

OSHTEMO TOWNSHIP FIRE DEPARTMENT SETBACK VARIANCE - 7275 WEST MAIN STREET - (PARCEL NO. 3905-15-405-020)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, June 13, 2006, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Millard Loy, Chairman
Dave Bushouse
Duane McClung
Roger Taylor

MEMBERS ABSENT: Mike Smith

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Township Planner; Brian VanDenBrand, Planning Intern; James W. Porter, Township Attorney; and approximately seven other interested persons.

Call to Order

The Chairman, Millard Loy, called the meeting to order at approximately 3:00 p.m.

Minutes

The Chairman indicated the first item on the Agenda was the approval of the minutes of May 23, 2006. Mr. McClung made a motion to approve the minutes as submitted. The motion was seconded by Mr. Taylor. The Chairman called for a vote on the motion, and the motion passed unanimously.

VISSER ACCESSORY BUILDING REVIEW - 8477 WEST G AVENUE - (PARCEL NO. 3905-04-205-012)

The Chairman said the third item on the Agenda was the review of a proposed accessory building to be placed between the dwelling and the road. He said the subject property was located at 8477 West G Avenue, Parcel No. 3905-04-205-012. The Chairman asked to hear from the Planning Department. Mr. Brian VanDenBrand submitted his report to the Board, and the same is incorporated herein by reference.

The Chairman asked the Planning Intern to introduce himself. Mr. Brian VanDenBrand introduced himself to the Zoning Board of Appeals. He told the Board that the applicant was requesting a review of a proposed accessory building, pursuant to Section 78.820 of the Zoning Ordinance.

Mr. VanDenBrand said the applicant wanted to construct an accessory building and place it forward of the existing house. He told the Board that the subject property was approximately 5.6 acres in size, located on the south side of West G Avenue, and was heavily wooded. Mr. VanDenBrand said that the applicant could not put the accessory building even with or behind the house because of the steep grade behind the residence and the location of an underground propane tank and well east of the residence. He said the applicant had presented site plans showing that the accessory building was proposed to be located approximately 185 feet from the road right-of-way.

Mr. VanDenBrand took the Board through a review of Section 78.820, as more fully set forth in his report.

The Chairman asked if there were any questions of Mr. VanDenBrand. Hearing none, he asked to hear from the applicant. Mr. Chad Visser introduced himself to the Board. He said he thought the Planning Department representative had said it all and asked the Board if it had any questions. The Chairman asked for clarification on the size of the structure and whether it was, in fact, 40' x 26'. Mr. Visser confirmed that the subject building was, in fact, going to be 40' x 26'.

The Chairman then asked the applicant if he would verify that the building was going to be used entirely for his personal use. Mr. Visser indicated that was correct.

Mr. Bushouse asked if the Township Attorney could provide a standardized form which people could sign indicating that residential accessory buildings would only be used for their personal use. Attorney Porter indicated that was eminently reasonable.

Ms. Bugge asked if the subject building was set back 15 feet from the property line to the leading edge of the building. Mr. Visser indicated that was correct.

Mr. Bushouse said that he had viewed the property, and asked the applicant if he would be willing to plant a couple of pine trees in front of the building as it faced the road to create additional screening, particularly in the winter months. Mr. Visser indicated he would be willing to plant the requested evergreens.

The Chairman asked if there were any comments from the audience. Hearing no comments from the audience, the Chairman said that he thought the request was reasonable and in keeping with the Ordinance, but he would like to see some screening in front of the accessory building, particularly due to the fact that it was located in front of the residence.

Mr. McClung then made a motion to grant the request, subject to the condition that evergreen trees be planted in front of the accessory building as it faces the road. Mr. Taylor seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

DELOOF DEPTH-TO-WIDTH VARIANCE - NORTHWEST CORNER OF WEST H AVENUE AND DRAKE ROAD - (PARCEL NO. 3905-01-480-020)

The Chairman told the Board the next item up for consideration was a variance request for five of the building sites within a 54-unit residential site condominium which would not satisfy the depth-to-width provisions. He said the subject property was located on 42 acres at the northwest corner of West H Avenue and Drake Road, Parcel No. 3905-01-480-020. The Chairman asked to hear from the Planning Department. Ms. Stefforia submitted her report dated June 13, 2006, and the same is incorporated herein by reference.

Ms. Stefforia told the Board that a 54-unit site condominium was being proposed for the 42-acre parcel. She said it would be served by water and sewer and that it met all minimum dimensional requirements, with the exception of the five building sites that have a depth greater than four times their width. She said the applicant was seeking a variance from Section 66.201 for units 2 and 8 through 11. Ms. Stefforia then proceeded to take the Board through the standards of approval for a nonuse variance, as more fully set forth in her report.

The Chairman asked the Board if they had any questions of Ms. Stefforia, and hearing none, he asked to hear from the applicant.

Mr. Dave DeLoof introduced himself to the Board. He said that they were making the request due to the engineering limitations placed on the layout of the site condominium. He said given their entrance and exit points and the limitations on the radius of the street curves, they felt they had made the best use of the property and done it in a way that most closely conformed to Township Ordinances. He said, however, there were five parcels in the rear portion of the property abutting the Kal-Haven Trail, for which they were asking some relief.

Mr. Bushouse asked if the builder was going to put in a trail connecting the site condominiums to the Kal-Haven Trail. Mr. DeLoof said that they were. Mr. Bushouse asked if it was not true that there was really no way to run a dead-end into the northwest portion of the property, or further develop a road to meet the depth-to-width ratio for that portion of the property. Mr. DeLoof said that was correct.

The Chairman asked to hear comments from the audience, and hearing none, he called for Board deliberations. The Chairman said he thought it was appropriate to grant the relief. He specifically pointed to the Staff report and the incidences where other applicants were given relief from the 4 to 1 ratio. Mr. Bushouse said he also thought there were other factors, including topography and the location of the Kal-Haven Trail, which weighed in favor of granting the variance.

Mr. McClung made a motion to approve the variance request for the reasons set forth in the Staff report, as well as those stated by Board members. Mr. Bushouse seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

OSHTEMO TOWNSHIP FIRE DEPARTMENT SETBACK VARIANCE - 7275 WEST MAIN STREET (PARCEL NO. 3905-15-405-020)

The Chairman said the next item was a request for a variance from Section 64.100 to allow an addition to a nonconforming building where the addition will be located within the required front setback area. He said the subject property is located at 7275 West Main Street, Parcel No. 3905-15-405-020. The Chairman called for a report from the Planning Department. Ms. Stefforia submitted her report to the Planning Department dated June 13, 2006, and the same is incorporated herein by reference.

Ms. Stefforia then proceeded to take the Board through a review of the request. She noted that the request was for a 633 square foot addition to Fire House No. 1, just east of the building. She said the existing building was 120 feet from the centerline of West Main Street, when a setback of 170 feet was required. She said the building was constructed in the 1960's, was expanded in the 1990's, and reminded the Board it had granted a setback variance to allow the most recent addition of the administrative offices just to the west. Ms. Stefforia then took the Board through a review of Section 64.100, as more fully set forth in her report.

The Chairman asked if there were any questions, and hearing none, asked to hear from the Oshtemo Charter Township Fire Chief, Ken Howe. Mr. Howe said he thought Ms. Stefforia had covered all of the issues in her report and asked if there were any questions. Mr. Bushouse asked if there were existing utilities to the south which would interfere with the location of the addition farther from the road. Mr. Howe indicated that was correct.

The Chairman asked for comments from the audience, and hearing none, closed the public portion of the meeting, and called for Board deliberation. The Chairman said, based upon the Planning Department's report, that the granting of the application would be consistent with similar variances granted over the past six years. Mr. Bushouse said he thought it was important that the Fire Department apply for a variance so that the Township would not be treated differently than a private citizen.

Mr. Bushouse made a motion to approve the variance for the reasons set forth in the Staff report. Mr. Taylor seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Discussion Item - Niewoonder Request - 10147 West Main Street

The Chairman told the Board that the sixth item was a discussion with Mr. Niewoonder for an accessory building on the property located at 10147 West Main Street. The Chairman asked for a report from the Planning Department. Ms. Stefforia submitted her report dated June 5, 2006, and the same is incorporated herein by reference. The Chairman asked if there were any questions of the Planning Department, and hearing none, he asked to hear from the applicant.

Mr. Niewoonder told the Board that he simply wanted to discuss his options. He said he would be willing to enlarge the existing accessory building, reduce the second proposed outbuilding, or simply leave his items outdoors. He said he felt he had no options at this point, and was asking for direction from the Board.

Mr. Bushouse said that while it appeared the Township was being somewhat harsh, he had a hard time understanding why someone who had an existing 4800 square foot accessory building needed an additional 4800 square foot accessory building, as well as an attached garage. He said while there were hangars in the area which were quite large, there was not anyone else in the area asking for this type of relief. He said he thought it was inconsistent with the neighborhood and that it would set a dangerous precedent if the applicant were allowed two such extremely large buildings. He asked how the Township could justify denying any of the other property owners in the area, particularly east of the airport, if they made similar requests. Mr. Niewoonder said that most of the other parcels were 1.85 acres in size. Mr. Bushouse again pointed out that was not the case for the properties east of the airport.

Mr. Bushouse noted that the ongoing problem with these types of requests is that once the initial applicant is done using it for the lawful purpose for which they constructed it, prospective purchasers wanted to put these buildings to business use, which would be in violation of the Township Ordinances.

The applicant asked how the Board would feel if he cut the size of the proposed building in half, or added on to the existing building with no runway use. The Chairman said he had voted no previously and thought if there was a compromise, it would be best to add on to the house or to the existing building. He said he had a difficult time looking at this as a normal accessory use to a residential property.

The applicant asked how this would be different than if he created a new building site and built a large house and a building on that property.

Mr. McClung said he would also be more receptive to an addition to the existing building, and while he might not personally object to two large structures, he understood the Board's reasoning in maintaining limitations in a manner consistent with the Ordinance and normal residential development. Mr. Taylor said he shared the concerns expressed by Mr. Bushouse and that what might initially appear straight forward could create difficulties both in the future, as well as setting an improper precedent.

Mr. Taylor said he thought it would be best if the applicant added on to the attached garage or to the existing building.

Mr. Niewoonder asked if he could get an opinion from the Board as to what it would approve. The Township Attorney cautioned the Board against making any commitment, given that the meeting was not noticed for public hearing. Attorney Porter said he thought the Board had given Mr. Niewoonder an indication of what it might be willing to consider without prejudicing itself or the neighbors, since they could not make a final determination until it had been noticed for public hearing.

Mr. Bushouse asked the Planning Department to determine whether any accessory building, three times the size of the square footage of the house, had ever been approved. The Planning Department indicated they would look at that if and when this came back for further review.

OTHER BUSINESS

The Chairman asked if there were any other business, and hearing none called for adjournment.

ADJOURNMENT

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 3:50 p.m.

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

By: Millard Loy, Chairman

By: Mike Smith

By: Roger Taylor

By: Duane McClung

By: Dave Bushouse

Minutes Prepared:
June 21, 2006

Minutes Approved:
_____, 2006