

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD JUNE 24, 2008

Agenda

MALEY - FRONTAGE VARIANCE - 5856 WINDINGWOOD DRIVE - (PARCEL NO. 3905-13-360-032)

OMNI COMMUNITY CREDIT UNION - SIGN HEIGHT DEVIATION - 6622 WEST MAIN STREET - (PARCEL NO. 3905-14-185-031)

GOLF RIDGE - SITE PLAN REVIEW AND BUILDING SEPARATION VARIANCE - 5349 WEST MAIN STREET - (PARCEL NO. 3905-13-405-029)

HATFIELD - DEPTH-TO-WIDTH VARIANCE - 8752 WENDALYN WAY AND 8544 WEST ML AVENUE - (PARCEL NOS. 3905-28-180-021 AND 3905-28-180-071)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, June 24, 2008, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Duane McClung, Acting Chairperson
Dave Bushouse
Robert Anderson
Roger Taylor
Cheri Bell, Alternate
Mike Smith, Alternate

MEMBER ABSENT: Grace Borgfjord

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

Call to Order/Pledge of Allegiance

The Acting Chairman, Duane McClung, called the meeting to order.

The Acting Chairman called for the Board members to cite the Pledge of Allegiance, which they did.

Minutes

The Acting Chairman asked if the Board had had a chance to review the minutes of May 27, 2008. Ms. Bell then made a motion to approve the minutes as submitted. The motion was seconded by Mr. Anderson. The Acting Chairman called for a vote on the motion, and the motion passed unanimously.

MALEY - FRONTAGE VARIANCE - 5856 WINDINGWOOD DRIVE - (PARCEL NO. 3905-13-360-032)

The Acting Chairman said that the next item on the Agenda was consideration of a minimum frontage requirement under Section 66.201 to allow a land division which would result in the creation of a parcel with less than 200 feet of frontage on a public street. He said the subject property was located at 5856 Windingwood Drive, Parcel No. 3905-13-360-032. The Acting Chairman called for a report from the Planning Department. Mr. VanDenBrand submitted his report dated June 24, 2008, and the same is incorporated herein by reference.

Mr. VanDenBrand explained that the applicant wanted to divide a ten-acre parcel into two smaller parcels. He said one parcel, "E-1", would contain the existing home, 3.5 acres and 275 feet of frontage on Windingwood Drive. He said the other parcel, "E-2", would have 66 feet of frontage on Club View Drive and be vacant. Mr. VanDenBrand then took the Board through the standards for approval of a nonuse variance, as more fully set forth in his report. The Acting Chairman asked if there were any questions of the planner.

Mr. Smith asked if the applicant would have to extend Shadywood Drive to make Parcel "E-2" buildable. Mr. VanDenBrand said that the road would not necessarily have to be a public road in order to make the property buildable. He said the road could be a private road under certain circumstances. The Acting Chairman asked if they could just extend the driveway to make the property buildable. Mr. VanDenBrand said that would not bring the parcel into compliance with the Zoning Ordinance.

Mr. Anderson asked about the location for the division and whether Parcel "E-2" could take access from Windingwood Drive. Mr. VanDenBrand said, as the division was proposed, there would be no access point off of Windingwood Drive.

There being no further questions for the Planning Department, the Acting Chairman asked to hear from the applicant. Mr. Maley introduced himself to the Board. He said that he had owned the property for about ten years, that he had built his home

there and wanted to retire in Oshtemo Township. However, his job might require him to move. He said, if he moved, he probably would have to sell his home. Therefore, he wanted to divide the property and keep a portion of it for a future retirement home, or possibly sell the property at a later date.

The Acting Chairman asked if there were any questions of the applicant. Hearing none, he called for public comment. Hearing none, he called for Board deliberations.

Mr. Taylor asked if there were any letters from any of the neighbors. Mr. VanDenBrand said he had not received any letters and had only received one phone call from someone outside of the notice area.

Mr. Anderson asked, if the subject property were platted or condominiumized, if the road frontage could be reduced to 100 feet. Mr. VanDenBrand said that was true, and added that they could possibly get some of the road frontage from Windingwood Drive. Ms. Stefforia said that the Zoning Board of Appeals had determined that the frontage requirement required contiguous frontage, and therefore, the road frontage could not be split between the Club View Drive frontage and Windingwood Drive frontage.

Mr. Anderson said the option in the future would be to put in a road. Mr. VanDenBrand answered that in the affirmative.

Mr. Bushouse asked if the applicant knew he would have to extend water and sewer, as well as a road, to make the property buildable in the future. Mr. Maley said he understood those requirements, and he would comply with whatever requirements were necessary to make the property buildable in the future.

The Acting Chairman asked the Board members if they had any other concerns about the proposal. Hearing nothing further, the Acting Chairman said he would entertain a motion. Ms. Bell made a motion to approve the request for the variance for the reasons set forth in the Staff's report and subject further to the condition that the property not be built upon until it is brought into compliance with the Zoning Ordinance. Mr. Taylor seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

OMNI COMMUNITY CREDIT UNION - SIGN HEIGHT DEVIATION - 6622 WEST MAIN STREET - (PARCEL NO. 3905-14-185-031)

The Acting Chairman noted that the next item on the Agenda was the application for a deviation from the limitations as set forth in Section 76.170 to allow a pole sign at a financial institution. He said the subject property is located at 6622 West Main Street, Parcel No. 3905-14-185-031. The Chairman called for a report from the Planning

Department. Mr. VanDenBrand submitted his report dated June 24, 2008, and the same is incorporated herein by reference.

Mr. VanDenBrand explained to the Board that Omni Community Credit Union was seeking a deviation to allow a pole sign where only a ground sign was permitted. He said the financial institution was permitted a ground sign with a maximum height of eight feet and 60 square feet in area. Mr. VanDenBrand took the Board through a review of the changes in the Zoning Ordinance which came about as the result of the Consumers Credit Union pole sign. Mr. VanDenBrand then proceeded to go through the criteria for the granting of a sign deviation as more fully set forth in his report.

The Acting Chairman asked if there were any questions of Mr. VanDenBrand. Hearing none, he asked to hear from the applicant.

Mr. Gerald Tillmann, on behalf of Sign Art, introduced himself to the Board. He said he was at the meeting on behalf of Omni Community Credit Union. Mr. Tillmann said the Credit Union was seeking to have a pole sign consistent with all of the other pole signs in the area and consistent with the "C-1" commercial zoning. Mr. Tillmann said the primary reason for the sign request was the differential in grade between M-43 and the property for Omni Community Credit Union. He stated that he did not think that the bottom half of the sign would be visible if it was a ground sign. He noted that it was not a self-created hardship. He also said that he thought snow would be a serious problem in the wintertime if they were not allowed to have a pole sign. At the conclusion of his presentation, the Acting Chairman asked the Board members if they had questions of Mr. Tillmann.

Mr. Anderson asked if he had a picture of the elevated ground sign which he had discussed. Mr. Tillmann said he did not have a copy.

The Acting Chairman asked if there was anything further from the applicant.

Mr. Ted Parsons, CEO of Omni Community Credit Union, introduced himself to the Board. He said he understood that the Township had recently amended its Ordinance; however, he wanted the Board to take a very serious look at their proposal. He said he was sorry to have to come and ask for a deviation, but he felt that, due to the grade, it was necessary, and he would very much appreciate the consideration of the Board.

The Acting Chairman asked if there was any further comments. Hearing none, he called for public comment. There being no public comment, he called for Board deliberations.

Mr. Smith said he did not have a great deal of sympathy for what the applicant was requesting, since they had chosen the particular property and certainly should have been aware of the Ordinance requirements. Mr. Bushouse said that, looking at the photos provided by the applicant, he did not believe that there was a significant decrease in grade at the location which Omni Community Credit Union would be installing the road sign. Therefore, he did not think that there was any basis to grant the deviation for a pole sign. Mr. Anderson said he would not necessarily have a problem with raising the sign to match the grade of the roadway, but thought they should not allow a deviation from a ground sign to a pole sign. The Acting Chairman said he would agree with that statement.

Mr. Anderson asked if the Board should look at changing the requirements for financial institutions. Ms. Stefforia reminded the Board that the Planning Commission had just recently dealt with the issue and felt that the financial institutions should be handled differently, particularly because they were allowed in residential zones. However, she added that, if the Board was looking for distinguishing factors, the subject site was zoned commercial. Mr. VanDenBrand reminded the Board that the issue was not the zoning, but the issue was the use of the property. He said that is the basis upon which signs were approved. Attorney Porter agreed with Mr. VanDenBrand, but noted that the zoning could serve as a basis for the granting of a deviation.

Mr. Bushouse pointed out that Chemical Bank had complied and apparently had not complained. Ms. Stefforia pointed out that, once the new retaining wall was built near Chemical Bank, it has expressed a concern over their sign issue. Mr. VanDenBrand pointed out that Chemical Bank had the option of moving its sign a bit west for better visibility.

Mr. Taylor pointed out, if they allowed the street level to establish the grade for the signs, that standard could be applied to Chemical Bank as well. Mr. VanDenBrand said that was true, and yet, they would still be limited to a ground sign. The Acting Chairman said he thought that grade was the issue.

Ms. Bell reminded the Board about a previous applicant who had requested to raise the base in order to address the issue of topography.

Mr. Bushouse pointed out that the tendency over the years was for municipalities to be more restrictive regarding their signs in order to enhance the overall appearance of their community. Mr. Bushouse said he thought that the people would likely notice the very unique building which Omni Community Credit Union was building, not the sign, in order to recognize the business on M-43. Mr. Bushouse said he would vote "no" on a motion to allow a pole sign.

Mr. Taylor asked Mr. Bushouse if he was voting no over the grade issue or the type of sign. Mr. Bushouse said he assumed that the right-of-way was just about at grade and certainly he did not want a pole sign in this area.

Ms. Stefforia pointed out to the Board that they had granted relief to Arby's in order to allow an increase in the height of its sign to compensate for the reduction in grade.

The Acting Chairman asked if there was a motion from any of the members. Mr. Anderson made a motion to grant the deviation as requested by the applicant. The motion failed for lack of a second. Mr. Bushouse then made a motion to deny the deviation for a pole sign. Mr. Taylor seconded the motion. The Acting Chairman called for a vote on the motion. The motion passed unanimously. The applicant asked what he was to do at this time. The Acting Chairman indicated that he would have to work with the Planning Department.

Attorney Porter said he was concerned that the Township did not at least consider allowing the applicant to raise its ground sign to grade level since they had granted a similar deviation to the neighboring property. Ms. Bell asked if the Board had the authority to do that. Attorney Porter said he thought it would be within its authority to grant this deviation similar to a lesser deviation than what was requested, even though it was not specifically requested. He thought it met the spirit and intent of the Ordinance.

Ms. Bell then made a motion to allow the applicant to establish the ground sign height as measured from the elevation of M-43 at the curb, subject to review and approval by Township staff. Mr. Taylor seconded the motion. The Acting Chairman called for a vote on the motion, and the motion passed unanimously.

GOLF RIDGE - SITE PLAN REVIEW AND BUILDING SEPARATION VARIANCE - 5349 WEST MAIN STREET - (PARCEL NO. 3905-13-405-029)

Ms. Stefforia suggested, since the applicants for Item No. 7 were present, and the applicants for Item No. 6 were not, that the Agenda be adjusted accordingly. The Acting Chairman asked that the Board consider Item No. 7 in advance of Item No. 6. He said the request was for a variance from Section 66.201 to allow a building separation of 10 feet when the Ordinance requires 40 feet, and site plan review of a proposed 5,015 square foot building for retail and/or restaurant use at 5349 West Main Street, Parcel No. 3905-13-405-029. The Acting Chairman called for a report from the Planning Department. Ms. Stefforia submitted her report to the Board dated June 24, 2008, and the same is incorporated herein by reference.

Ms. Stefforia explained that the development known as Golf Ridge, LLC was seeking to add to their current development along West Main Street. She explained there had to be a 40-foot separation between buildings under the current Zoning Ordinance. She noted, however, that in her review of the matter, she was not certain as to why that restriction was put in place. She indicated a text amendment would be presented shortly to the Planning Commission to allow the Building Code to address nonresidential building separation issues and not try to address them through zoning.

However, in order to move the current applicant's proposal ahead, it would require consideration of a variance.

Ms. Stefforia went through the standards for approval for a nonuse variance, as well as site plan review under Section 82.800 as more particularly set forth in her report.

The Acting Chairman asked if there were any questions of Ms. Stefforia. Hearing none, he asked to hear from the applicant. Mr. Tim Timmons introduced himself to the Board. He said he was a partner in Golf Ridge, LLC, and asked if he could answer any questions of the Board.

Ms. Bell asked about the lighting for the area between the two buildings. Mr. Timmons said that there would be some lighting in that area. Ms. Bell asked if the Board could make that a requirement. Attorney Porter indicated that the Board could make lighting between the two buildings a condition of granting a variance. Mr. Timmons said he did not believe that there would be any problem in accommodating such a request; he thought that was more than reasonable.

The Acting Chairman noted that there was no longer any public in attendance and called for Board deliberations.

Mr. Taylor asked if anyone on the Board knew what the history was concerning this 40-foot separation requirement. Mr. Bushouse said he thought it was likely due to a previous Planning Commission's Chairman's view on building separation for aesthetic purposes. Mr. Bushouse explained that the Code could address all of these issues, rather than the issue of building separation being dealt with in the Zoning Ordinance. Ms. Stefforia concurred.

Ms. Bell again mentioned the need for lighting between the buildings for safety purposes. Ms. Stefforia suggested that the Board could grant the variance subject to providing wall-mount lighting meeting Staff approval pursuant to lighting limitations in the Ordinance.

Mr. Anderson then made a motion to grant the variance, as requested, in accordance with the reasons set forth in the Staff report, subject to the Staff and the applicant reaching an agreement on providing adequate wall-mounted lighting between the buildings, in the outdoor dining area. Ms. Bell seconded the motion. The Acting Chairman called for a vote on the motion, and the motion passed unanimously.

The Acting Chairman said site plan approval was the next item for consideration. After a discussion of pertinent issues, Mr. Taylor made a motion to approve the site plan with the following conditions:

1. Exterior lighting shall comply with Section 78.700 of the Zoning Ordinance.

2. All proposed new exterior light fixtures must be submitted for Township review and approval before a Building Permit may be issued.
3. Any dumpsters and recyclable storage areas on the site shall be placed and enclosed as required by Section 75.160.
4. A Sign Permit, in compliance with Section 76, is necessary before any additional signs may be placed upon this property.
5. Site plan approval is subject to Township Engineer review and acceptance of site engineering as adequate.
6. The Hazardous Substances Reporting Form is needed from the proposed tenants.

Mr. Anderson seconded the motion. The Acting Chairman called for further deliberations. Hearing none, he called for a vote on the motion. The motion passed unanimously.

HATFIELD - DEPTH-TO-WIDTH VARIANCE - 8752 WENDALYN WAY AND 8544 WEST ML AVENUE - (PARCEL NOS. 3905-28-180-021 AND 3905-28-180-071)

The Acting Chairman indicated that the next item on the Agenda was actually Item No. 6, which was a request for a variance from the 4-to-1 depth-to-width limitation set forth in Section 66.201. He stated that the applicant was not present; however, after contacting him, he indicated that he wanted his request to be considered by the Board. The Acting Chairman said that the proposed variance was to allow for the reconfiguration of two parcels resulting in a depth greater than four times the width. He said the properties are located at 8752 Wendalyn Way and 8544 West ML Avenue, Parcel Nos. 3905-28-180-021 and 3905-28-180-071. The Chairman asked to hear from the Planning Department.

Ms. Stefforia submitted a report prepared by Ms. Bugge dated June 24, 2008, and the same is incorporated herein by reference. Ms. Stefforia explained that the applicants wanted to reconfigure the property which they own. She said it involved two parcels, one containing 54.9 acres, and the other parcel containing 12.5 acres. She said, after the division and reconfiguration, the two properties would consist of one 48-acre parcel, and the other parcel of 19.2 acres.

Attorney Porter noted that but for the Township's Ordinance, the state statute normally does not require a 4-to-1 depth-to-width ratio for parcels in excess of 10 acres.

Mr. Taylor asked why they were seeking reconfiguration. Ms. Stefforia said that the son was selling the larger parcel, and his father wanted to secure some additional land as a buffer.

The Acting Chairman asked if there was any public comment. Hearing none, he asked the pleasure of the Board.

Mr. Taylor then made a motion to allow the variance for the subject property as requested for the reasons set forth in the Staff report. Ms. Bell seconded the motion. The Acting Chairman called for a vote on the motion, and the motion passed unanimously.

Public Comment on Non-Agenda Items

None.

Adjournment

Hearing no further business, she adjourned the meeting at approximately 4:40 p.m.

Minutes Prepared:
July 14, 2008

Minutes Approved:
September 23, 2008