

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD JULY 24, 2007

Agenda

**MEIJER REALTY COMPANY - SITE PLAN REVIEW - 6700 WEST MAIN STREET -
(PARCEL NO. 3905-14-185-040)**

**STEENSMA LAWN AND POWER EQUIPMENT - SIGN DEVIATION - 7561 STADIUM
DRIVE - (PARCEL NO. 3905-34-185-036)**

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, July 24, 2007, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Grace Borgfjord, Chairperson
Duane McClung
Roger Taylor
Robert Anderson
Cheri Bell
Mike Smith, Alternate

MEMBER ABSENT: Dave Bushouse

Also present were Mary Lynn Bugge, Senior Planner; Brian VanDenBrand, Associate Planner; James W. Porter, Township Attorney; and approximately five other interested persons.

Call to Order

The Chairperson called the meeting to order at 3:00 p.m.

Minutes

The Chairperson indicated that the first item on the Agenda was approval of the minutes of June 26, 2007. Mr. McClung made a motion to approve the minutes as

submitted. Mr. Taylor seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

**MEIJER REALTY COMPANY - SITE PLAN REVIEW - 6700 WEST MAIN STREET -
(PARCEL NO. 3905-14-185-040)**

The Chairperson said that the next item on the Agenda was site plan review for Meijer Realty Company. She indicated that the ZBA was being asked to conduct review for a proposed expansion of the existing gas station building and other site changes at 6700 West Main Street, Parcel No. 3905-14-185-040. The Chairperson asked for a report from the Planning Department. Ms. Bugge submitted her report to the Board dated July 24, 2007, and the same is incorporated herein by reference.

Ms. Bugge explained that the applicant was seeking to make a 746 square foot addition to the existing 1,664 square foot convenience store building. She said that the applicant was also planning to change the canopy lighting, add parking and refresh certain aspects of the site. Ms. Bugge noted that the main issues for consideration were the possible need for an easement along 9th Street for the construction of a bike path, as well as the applicant's request for a deviation from some of the landscaping requirements to take into account the existing 30+ trees which were currently on site. Ms. Bugge concluded her report by taking the Zoning Board of Appeals through a review of Section 82.800, as more fully set forth in her report.

The Chairperson asked if there were any questions of the Planning Department. Hearing none, she asked to hear from the applicant.

Deb Gosselin of The Gosselin Group, introduced herself to the ZBA. She also introduced Jackie VanderPloeg, architect for the proposed gas station building addition. Ms. Gosselin explained to the Board that they would appreciate a deviation from the landscaping requirements. She explained that they had complied with the Township requirements at the time the gas station was originally built, and she asked that they take into account the existing 30 trees which were on site. She said she thought, if they added 70 additional trees, that it would look somewhat cluttered. She said, with regard to the bike path, they were referring that matter to their legal staff and were certainly willing to work with the Township. However, she said she was not certain whether an easement would be the appropriate method for the installation of a bike path or whether they would look at other options such as dedicating additional right-of-way in order to accommodate the bike path.

The Chairperson asked if there were any questions of Ms. Gosselin. Mr. Anderson asked if most of the expansion was going to be for additional retail sales. Ms.

VanderPloeg indicated that the purposes were to expand the cooler and freezer area of the convenience store and to increase area available for fast foods.

Mr. McClung asked if they would allow an easement along 9th Street. Ms. Gosselin again indicated that the people best able to answer that question were not available for the meeting. However, she said she did not think that there would be a problem in reaching some type of accommodation for the bike path. She was not certain that an easement would be the method for reaching that accommodation.

Mr. McClung said he did not have a problem granting the deviation on landscaping because he said that the applicant was still willing to add additional landscaping, but just wanted credit for the landscaping already in existence.

Mr. Taylor said he was not sure that he wanted to count the existing trees that were located on the subject property. He said he was concerned about creating a precedent in this area because much of the landscaping was not within the required landscape areas, and he thought, since the change was coming about because of the applicant's expansion of the use of the property, he did not see a valid basis for a deviation.

Ms. Bell said that she agreed with Mr. Taylor's comments. She said, if there was a prescribed requirement for a certain number of trees within the landscape areas, she thought they should be complied with, and she did not see any reason to grant a deviation.

Ms. Gosselin pointed out that some of the trees which they were asking for consideration were within the appropriate areas to be landscaped and that too many trees would be unattractive. She also indicated that they had previously acted in good faith and did not feel that they should be penalized for that. She also noted that there was a method within the Ordinance to allow for a deviation, and she asked that the Board take that into consideration.

Ms. Bugge indicated, if the Township received an increase in the dedication of right-of-way along 9th Street, that it could affect where the landscaping was located, which in turn, would affect what existing plants could be considered for purposes of the deviation. She also noted that, if anything happened to any existing trees, they would have to be replaced.

The Chairperson asked for clarification on the number of trees and their required location.

Mr. McClung said he thought all the applicant was asking for was to put in the required number of trees, but to receive credit for existing trees. Ms. Bugge said that the applicant would receive credit for any trees within the required landscape area. It

was the trees outside of that area for which the applicant would not necessarily receive credit and for which the applicant was requesting a deviation.

Mr. Smith suggested possibly allowing a partial credit along the west and south lines but not along the north or east lines of the property. Mr. McClung said, since the property owner owned all of the property to the north and east, he did not see a need to install landscaping in those areas. Mr. Smith said he felt it was a Township requirement and not having landscaping in the appropriate area would not achieve the intent of the Ordinance.

After a continuation of the discussion, it was the consensus of the Board to allow a credit for the existing trees along the west and south sides of the property, but require the installation of the landscaping along the north and east property lines pursuant to Ordinance requirements. Mr. McClung made a motion to approve the site plan with the following conditions:

- (1) Parking shall be provided in conformance with Section 68.
- (2) The Township requests that Meijer grant an easement or expand the right-of-way to accommodate and construct a bike path to Township specifications along the 9th Street frontage of the property; or, in lieu of constructing the path concurrent with the expansion, enter into and fund an agreement for future construction by the Township.
- (3) Lighting shall be provided in conformance with Section 78.700 and is subject to Staff review and approval.
- (4) A deviation is granted to allow credit for the existing trees along the west and south portions of the property but not along the east or north portions of the property to satisfy a portion of the landscaping requirements. A landscaping plan in accordance with Section 75 shall be submitted for Staff review and approval prior to the issuance of a Building Permit.
- (5) Landscaping shall be installed consistent with the approved landscaping plan prior to the issuance of a Certificate of Occupancy, or a Performance Guarantee shall be provided consistent with Section 82.950.
- (6) Site plan approval shall be subject to the applicant satisfying the requirements of the Township Engineer.

The motion was seconded by Mr. Anderson. The Chairperson called for further discussion. Hearing none, she called for a vote. The motion passed 4-to-1 with Mr. Taylor in opposition.

STEENSMA LAWN AND POWER EQUIPMENT - SIGN DEVIATION - 7561 STADIUM DRIVE - (PARCEL NO. 3905-34-185-036)

The Chairperson said the next item on the Agenda was the request for a deviation from Section 76.000 to allow a freestanding sign that exceeds the height, sign area and support area limitations. She noted that the subject property was located at 7561 Stadium Drive, Parcel No. 3905-34-185-036. The Chairperson asked for a report from the Planning Department. Mr. VanDenBrand submitted his report dated July 24, 2007, and the same is incorporated herein by reference.

Mr. VanDenBrand explained to the Board that Steensma Lawn and Power Equipment was requesting either a 64.4 square foot pole sign at 20 feet or a 64.4 square foot ground sign at 13 feet in height. Mr. VanDenBrand then took the Board through a review of the criteria for granting a sign deviation as more fully set forth in his report.

The Chairperson asked if there were questions of Mr. VanDenBrand. Hearing none, the Chairperson asked to hear from the applicant.

Mr. Brian Steensma introduced himself to the Board. He said that John Deere changed its logo approximately five years ago. He stated that they had resisted changing their signs. However, because they were a Gold Star dealer, they were being required to install a new sign. He said that normally they would not make this request, but the options which they were given by John Deere were limited, and none of them met the sign requirements. He said that they could not afford to lose their Gold Star status because it provided them with certain manufacture benefits and loss of it would severely impact their business. Mr. Steensma said he was leaning toward Option D being the Monolith sign, but that it did exceed the overall sign provisions in height so he was respectfully asking the Board to consider his request.

The Chairperson asked if there was any input from the public. Hearing none, she called for Board deliberations.

Mr. Anderson asked if the Monolith sign was installed, whether the existing sign would be left up. Mr. Steensma and Ms. Bugge both indicated that the current existing sign would come down.

Mr. McClung asked if Option D was only three foot taller than what was currently allowed. Ms. Bugge indicated that was correct. Mr. Steensma said they could locate the sign in a depression, but he did not know whether that would look very well or whether it would help with the Ordinance. Ms. Bugge, referring the Board to the Ordinance, said height was measured from either the street grade or the surrounding grade, whichever was lower, so she thought that would not help in bringing the sign into compliance.

Mr. Taylor asked if landscaping around the lower base would help in appearance. Ms. Bugge said it would help with its appearance, but it would not really address the deviation.

The Chairperson said that the real issue is the height, and she respected Steensma's business needs, but that she was really upset with the John Deere Company for placing Steensma in this position. She stated the Board had often discovered in the past that there were other options which a franchise company did not present, and what the franchise companies presented as a mandatory requirement was not always the case.

Mr. Taylor asked if the applicant had explained to the John Deere Company what they were up against. Mr. Steensma said that they had, and he had gone around and around with John Deere, but they simply would not budge on their requirements and explained that Steensma Lawn and Power Equipment would not be a Gold Star dealer, which he again indicated would have severe negative financial consequences to Steensma's. Mr. Anderson said it was not unusual for the franchising companies to make such requirements, and he said he thought it was unfortunate that John Deere had placed such restrictions on their dealers.

Mr. Anderson asked if any of the other signs on the dealer sign sheet submitted to the Board by Mr. Steensma would qualify for a Gold Star status. Mr. Steensma said that they would, but most of them would not be practical, either because they were wall signs or too small for the subject location.

Mr. Smith explained to Mr. Steensma that they typically did not grant sign deviations. He said that the problem with granting a sign deviation is that similar commercial operators with the same argument would be coming to the Board for sign deviations, and pretty soon the Sign Ordinance would be riddled with so many exceptions that it would no longer be applicable.

Attorney Porter asked if Mr. Steensma could take either the medium or large cabinet sign and make his own Monolith sign which would meet the height and sign area requirements of the Township. Mr. Steensma said that might be possible, but he was not sure that the sign would look very good.

Mr. Taylor said he had to agree with the applicant that it was certainly not Mr. Steensma who was creating the problem. He said he resented John Deere's approach and its overly-rigid policy. He stated that he thought John Deere would treat its Gold Star dealers better. He asked if Mr. Steensma could review his options and consider some type of cabinet sign made out of the signs which were available on the dealer sign sheet. The Chairperson suggested that perhaps the matter be tabled until the suggestions could be reviewed by Mr. Steensma. Mr. McClung said that the other alternative would be to give him an option to go up to ten feet above the existing grade and then let him design the sign with Staff approval.

After a brief discussion, it was the consensus of the Board to ask Mr. Steensma to review this matter and come back at a later date after having explored the option of building a cabinet sign or his own Monolith sign using the approved signs. Mr. McClung then made a motion to table this matter until it could be further reviewed by Steensma's and return at a later date. Ms. Bell seconded the motion. The Chairperson called for a vote on the motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

Ms. Bell said she wanted to thank the Township Board for providing her with educational training. She recommended it to other Zoning Board of Appeals members in the future.

Any Other Business

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 4:00 p.m.

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

By: Grace Borgfjord

By: Duane McClung

By: Roger Taylor

By: Robert Anderson

By: Cheri Bell

By: Mike Smith

Minutes Prepared:
August 3, 2007
Minutes Approved:
_____, 2007