

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD JULY 28, 2009

Agenda

HOLIDAY INN – SIGN DEVIATION – 2747 SOUTH 11TH STREET- (PARCEL NO. 3905-25-405-116)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, July 28, 2009, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

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

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Senior Planner; Chris West, Associate Planner; James W. Porter, Township Attorney, and four 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 June 23, 2009 regular meeting minutes. There being no changes, Mr. Taylor made a motion to approve the minutes, as submitted. The motion was seconded by Mr. Anderson. The Chairman called for a vote on the motion, and the motion passed unanimously.

HOLIDAY INN – SIGN DEVIATION – 2747 SOUTH 11TH STREET- (PARCEL NO. 3905-25-405-116)

The Chairman indicated that the next item on the Agenda was a request for a deviation from Section 76.170 to allow the replacement of two off-premise signs identifying the Holiday Inn. The first sign is located on Holiday Terrace at 11th Street, and the second sign is at Stadium Drive and 11th Street. The subject signs are in the right-of-way of Holiday Terrace and Stadium Drive. The Holiday Inn is located at 2747 South 11th Street, Parcel No. 3905-25-405-116. The Chairman asked to hear from the Planning Department. Mr. West submitted his report to the Zoning Board of Appeals dated July 28, 2009, and the same is incorporated herein by reference.

Mr. West proceeded to take the Board through a review of the criteria for granting the deviation as more fully set forth in his report. Mr. West specifically emphasized the fact that both signs would be replacing signs that have existed for 25-35 years and would actually decrease the size of both nonconforming signs. He indicated that, if granted, any relief should be subject to the applicant obtaining any necessary permits from the Michigan Department of Transportation and the Kalamazoo County Road Commission.

At the conclusion of Mr. West's report, the Chairman asked if there were any questions.

Mr. Bushouse asked about the property adjacent to the right-of-way of Holiday Terrace, the entranceway to Holiday Inn. Ms. Bugge indicated that the Holiday Inn no longer owned that property. Ms. Stefforia said she assumed that, at some point, the small strip abutting that right-of-way was sold off at a tax sale.

Mr. Taylor asked if they had had any communications regarding the proposed signage. Ms. Bugge indicated that they had not. Ms. Stefforia asked what part of the pole sign on Stadium Drive would be illuminated. Mr. West said the entire sign area would be illuminated. She noted that it would be a big change, given that the sign was changing from a dark background to a very light, i.e., white background.

Mr. Sikora said that the applicant would still have to meet the sign lighting requirements of the Ordinance. Ms. Stefforia said she thought there was a provision on lighting limitations. Attorney Porter raised a concern about the Zoning Board of Appeals imposing a limitation which might not be contained in the Ordinance.

Mr. Taylor asked whether the light was on 24 hours a day, seven days a week. Ms. Stefforia said she thought it was, and because it was a reverse of the existing colors, it certainly was going to be more noticeable.

Mr. Steve Hatto, a representative of Best Western, spoke of Best Western's support of the request for the proposed signs.

Mr. Sikora said that he was concerned about the request for signs in the right-of-way without any acknowledgment that they were permitted, either by the Road Commission or by the State of Michigan. Ms. Bugge said the signs had been there for 25-35 years, and that one of the recommended conditions would be that the applicant would need to receive acknowledgment from the County and State that the signs are allowed to continue. She said she thought the only reason the Board may wish to consider the deviation was the fact that the signs had existed on those sites for 25-35 years and that the new signs would be placed at the same location as the existing signs. She said the applicant could do a sign face change within the existing frame and would not have been required to obtain a deviation. Mr. Sikora again said his issue was the issue of ownership. Attorney Porter said he was also interested in that and thought the applicant should have to provide evidence that the signs are legally within the right-of-way.

Mr. Taylor asked what would happen if another developer wanted to put a similar sign up. Ms. Bugge indicated that a developer could always ask for a deviation, but given the Township's position on off-site signs, it did not appear there would be much likelihood of success.

The Chairman asked to hear from the applicant.

Mr. Brad Schmitz, General Manager for Holiday Inn West, introduced himself to the Board. He said that new design was based upon the launch of a new image program, for which they qualified under the auspices of their Holiday Inn franchise.

Ms. Bell noted that, with previous franchise proposals, the franchisee was given a choice of various different sizes of signs and asked whether the applicant had any other choices. Mr. Schmitz said that there were not any other choices, to the best of his knowledge, except for taller, larger signs. He also said he was not aware of any color choices in signage, and he did not believe that Holiday Inn would allow such variations.

Ms. Stefforia said she was not sure what Holiday Inn would do in certain communities since there are those municipalities which have enacted "dark background" requirements as part of their sign provisions. Attorney Porter noted that he would exercise caution in this area, since Oshtemo Township does not have a provision in the Zoning Ordinance which limits the amount of light emanating from a sign. Ms. Stefforia asked if they could put such a limitation on as part of the conditions in granting the deviation. Attorney Porter noted, in that context, the Zoning Board of Appeals would have the authority to impose such a limitation.

Mr. Bushouse asked if they could grant the deviation on the condition that the signs not exceed the existing lumens. Attorney Porter said he believed that would be within their authority or to limit the current wattage on the sign. Mr. Schmitz again noted, if they had simply used the existing frames, that there would have not been any restriction on them other than the existing Ordinance. The Chairman said he was not sure whether they could match the existing lumens, and he thought they were actually bringing the signs more into compliance, and thought it would be an improvement.

Mr. Anderson said he thought they would be better signs.

Ms. Bell said she was not as concerned about this location as she might be in a residential area, but she was concerned about changing the signs without some limitation on the impact they would have, even in this commercial area.

The Chairman asked if there was any public comment.

Mr. Steve Hatto again reiterated his support for the proposed signs. Ms. Bugge noted that if the Board did grant a deviation, she recommended that the deviation be based on the criteria set forth in the Staff report, as well as the extensive period of time these signs have been in existence. She said she would appreciate it if it was noted for the record that Mr. Hatto of Best Western may have supported the applicant's request in hopes of trying to gain support for a potential request from Best Western for an off-site sign.

Mr. Bushouse said that he was concerned about maintaining compliance with the Sign Ordinance, but this matter was a nonconforming use and had been in place for a number of years, and thought, if a deviation was granted in this case, it would not necessarily mean that the Township was not going to adhere to the Ordinance for new signs.

Mr. Taylor asked if it was significant that they were bringing the signs closer to conformance. Mr. Bushouse said he thought it was. Attorney Porter agreed. Ms. Stefforia said technically the signs were not closer to conformance since there are no off-site signs allowed but that these signs were preexisting.

The Chairman asked if there was further discussion. Hearing none, he said he would entertain a motion.

Mr. Anderson made a motion to approve the requested sign deviations based upon the recommendations and conditions as set forth in Staff's report, including approval is subject to the applicant obtaining all necessary approval from MDOT and KCRC. Ms. Bell asked for a friendly amendment, that the light not be so bright as to be objectionable to surrounding property owners. Mr. Anderson consented to that amendment to the motion. Ms. Bugge asked Mr. Anderson to note his reasoning. Mr. Anderson again reiterated the fact that the signs have been in place for 25-35 years, that they were actually decreasing in size and that if the signs were simply refaced, the applicant would not need a deviation at all. With that, Ms. Bell seconded the motion. The Chairman called for comments.

Mr. Sikora asked why the Board would allow the requested deviation if the object is to bring these signs into compliance. Attorney Porter noted that, because of the legal nonconforming status of the signs, they would be allowed to continue indefinitely, and that this deviation was a small step toward bringing the signs more into compliance (at least as to size) with the existing Ordinance, and allowed the property owner the

continued use of its property. Attorney Porter noted that there was a property interest involved here which had to be considered. Ms. Bell noted that she thought the deviation would do justice to the applicant, and that zero tolerance for preexisting uses would not be reasonable.

The Chairman called for a vote, and the motion passed 4-to-1 with Mr. Taylor voting against the motion.

Public Comment on Non-Agenda Items

None.

Any Other Business

None.

Adjournment

There being no further business to come before the Board, the Chairman called for adjournment of the meeting at approximately 4:00 p.m.

Minutes Prepared:
August 5, 2009

Minutes Approved:
_____, 2009