

OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD AUGUST 22, 2006

**Agenda**

**TOMLINSON ACCESSORY BUILDING REVIEW - 7356 WEST H AVENUE - (PARCEL NO. 3905-03-455-020)**

**CHILIMIGRAS FRONTAGE VARIANCE - 7110 WEST H AVENUE - (PARCEL NO. 3905-03-480-030)**

**TARGET LIGHTING VARIANCE - 5350 WEST MAIN STREET - (PARCEL NO. 3905-13-255-071)**

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, August 22, 2006, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Duane McClung  
Mike Smith  
Roger Taylor

MEMBERS ABSENT: Millard Loy  
Dave Bushouse

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

**Call to Order**

The Acting Chairman, Duane McClung, called the meeting to order at approximately 3:00 p.m.

**Minutes**

The Acting Chairman indicated the first item on the Agenda was the approval of the minutes of June 27, 2006. Mr. Smith 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.

Ms. Stefforia told those in attendance that since there were only three members of the Board present, it would require a unanimous decision by the Board of Appeals in order to approve any of their requests. Therefore, if anyone wanted a matter tabled until a full Board could be convened, the Board would accommodate such a request. Hearing nothing, the Acting Chairman proceeded with the meeting.

**TOMLINSON ACCESSORY BUILDING REVIEW - 7356 WEST H AVENUE - (PARCEL NO. 3905-03-455-020)**

The first item up for consideration was the site plan review for a proposed accessory building where the aggregate floor area of the accessory building exceeded the ground floor area of the dwelling. He said the subject property was located at 7356 West H Avenue, Parcel No. 3905-03-455-020.

The Chairman called for a report from the Planning Department. Brian VanDenBrand presented his report to the Zoning Board of Appeals dated August 22, 2006, and the same is incorporated herein by reference. He explained to the Board that the applicant wanted to construct an accessory building on a residential parcel. He explained that under Section 78.800 approval of the Zoning Board of Appeals was necessary because the aggregate floor area of the accessory building exceeded the ground floor area of the dwelling. He said the property currently contained a 484 square foot detached garage. He said with the additional proposed building the aggregate area of the accessory buildings would increase to 1,940 square feet thereby exceeding the 1,288 square foot area of the ground floor of the residence. Mr. VanDenBrand then proceeded to take the Board through the standards for approval of an accessory building under Section 78.820.

The Acting Chairman asked if there were any questions of the Planning Intern. Hearing none, he asked to hear from Mrs. Tomlinson. Mrs. Tomlinson said she had no comment. The Acting Chairman then asked the Board for their thoughts. Mr. Taylor said they had certainly seen many similar requests and it appeared to be appropriate under the guidelines. Mr. Smith said he did not see any problems with the proposed request.

Ms. Bugge asked if they would confirm the location of the proposed accessory building and whether or not it would extend beyond the leading edge of the house. Mrs. Tomlinson verified the location of the proposed structure and indicated it would, in fact, be behind the leading edge of the home.

Mr. Taylor made a motion to approve the request as submitted based upon the report from the Planning Department. The Acting Chairman said he thought it was appropriate in this case and stated there were plenty of trees along the road right-of-way to properly screen the proposed structure. The Acting Chairman asked if there was a second to the motion. Mr. Smith seconded the motion. The Acting Chairman called for further discussion, and hearing none, called for a vote on the motion. The motion passed unanimously.

**CHILIMIGRAS FRONTAGE VARIANCE - 7110 WEST H AVENUE - (PARCEL NO. 3905-03-480-030)**

The Acting Chairman said the next item on the Agenda was the request for a variance from Section 66.201 to allow a land division resulting in the creation of a parcel with less than 200 feet of frontage on a public street. The Acting Chairman noted that the subject parcel was located at 7110 West H Avenue, west of 9<sup>th</sup> Street, Parcel No. 3905-03-480-030. The Acting Chairman called for a report from the Planning Department. Ms. Bugge expressed a concern that no one was present on behalf of the applicant. After a brief discussion, it was agreed to have Ms. Bugge present her report and take public comment and then determine whether or not to proceed.

Ms. Bugge presented her report to the Zoning Board of Appeals dated August 22, 2006, and the same is incorporated herein by reference. Ms. Bugge explained that the property was a nonconforming parcel located on the north side of H Avenue. She said it currently had 220 feet of frontage on H Avenue and approximately 1942 feet of length, thereby exceeding the 4 to 1 depth-to-width ratio. She said the applicant was requesting a variance to allow a division into two parcels. Parcel A would contain the house, garage, well and septic and conform to all dimension requirements of the Ordinance. Parcel B, intended for future development, would have 66-foot of frontage on an unnamed street stub extending from Old Savannah Drive in addition to 20 feet on H Avenue. It would consist of approximately 8.5 acres. Ms. Bugge then proceeded to take the Board through a review of the standards for approval of a nonuse variance as more fully set forth in her report.

Mr. McClung asked how much frontage would be left on H Avenue after the proposed division. Ms. Bugge said that Parcel B would have 20 feet of frontage, but that the applicant was also reserving a 46-foot easement across Parcel A, thereby possibly providing a 66-foot wide access point to the rear parcel from H Avenue, as well as the frontage on the street stub from Old Savannah.

Mr. Taylor asked if there was sufficient area retained with Parcel A to meet all the necessary requirements of the Ordinance for the existing buildings on that site. Ms. Bugge indicated that it was wide enough to accommodate all necessary setback requirements.

The Acting Chairman asked if there was any public comment. Ms. Debra Kelly said they owned property next door and she was concerned that there was discussion about the possibility of putting a road in next to their property. Ms. Bugge explained that the applicant was reserving a private easement to that property but that the installation of any road would be subject to Township and Road Commission review.

The Acting Chairman asked if there was any further public comment. Mr. Ken MacLeod introduced himself to the Board. Mr. MacLeod said he owned property west of Old Savannah Drive and had problems with water runoff. He said he was concerned about possible drainage issues and what the impact of any proposed development might have on his property. Ms. Bugge explained that the applicant was not requesting to develop the property at this time and that the request to divide the property would not have any immediate impact upon drainage issues. Mr. MacLeod thanked the Board for their consideration.

Mr. Taylor said he thought that the request was quite straight forward. Mr. Smith said he was somewhat concerned about the easement retained for the larger parcel. Ms.

Bugge again reminded the Board that at this point it was just a private easement, not actually a request for a road right-of-way. Ms. Kelly said she would be very concerned about development of a road in that area. Attorney Porter noted that the property owner was not likely to obtain a permit to place a road in that location, given the close proximity of the road to the south. Ms. Stefforia confirmed that the road on the Chilimigras property at the located of the private easement would not likely be approved because it would not meet the 150-foot distance requirement between two public roads. Ms. Bugge again stressed that the issue before the Board was whether or not the division of the land should be allowed with appropriate restrictions.

Mr. Smith made a motion to approve the request as submitted for the reasons set forth in the Staff report with the condition that no building permits would be issued for Parcel B until a road is constructed. Mr. Taylor seconded the motion. The Chairman called for further discussion, and hearing none, called for a vote on the motion. The motion passed unanimously.

### **TARGET LIGHTING VARIANCE - 5350 WEST MAIN STREET - (PARCEL NO. 3905-13-255-071)**

The Acting Chairman said the next item on the Agenda was consideration of variance from Section 78.720 to allow use of light fixtures that exceed the 400 watt limitation and perimeter illumination levels that exceed 0.1 footcandle. He said the subject property was located at 5350 West Main Street, Parcel No. 3905-13-255-071. The Acting Chairman asked for a report from the Planning Department. Ms. Bugge submitted a report to the Board dated August 22, 2006, and the same is incorporated herein by reference.

Ms. Bugge explained that the property was separately owned but located within the Maple Hill Pavilion area. She said the applicant was proposing to replace 18 light poles supporting 27 fixtures with 20 light poles and 39 light fixtures of 1,000 watts each. She noted that the existing lighting consisted of 1,000-watt fixtures; however, once they are removed the site would need to come into compliance with the Ordinance. Therefore, the applicant wanted a variance to allow the use of the 1,000-watt light fixtures and to exceed the 0.1 footcandle limitation along the property line. Ms. Bugge then proceeded to take the Board through the standards of approval for a nonuse variance as more fully set forth in her report.

The Acting Chairman asked if the area in the front was affected due to the narrowness of that area. Ms. Bugge said that it was. He asked if there were new lights proposed in the area near West Main. Ms. Bugge said there were and that was one of the reasons for the lighting exceeding the perimeter limitation of 0.1 footcandle. The Acting Chairman asked if most of the lighting, other than that by West Main Street, involved the parking area. Ms. Bugge indicated that was correct. The Acting Chairman then said his main concern was light along the front perimeter of the property traveling off-site onto West Main Street.

Mr. Smith asked about the other properties and how they had been developed. Ms. Bugge indicated that one property which had been redeveloped had left their pre-existing lighting and, therefore, was grandfathered. However, the adjacent property had received a

variance to use 1,000-watt fixtures and exceed the perimeter limitation on part of the property.

The Acting Chairman asked if there were any further questions from the Board, and hearing none, asked to hear from the applicant. The applicant's representative, Wayne Tokkdel, introduced himself to the Board. He said part of the reason for their request for a variance was due to the fact that they were switching from high-pressure sodium lights to metal halide and, therefore, though they were 1,000 watts, the lumens being generated were actually being reduced. He said, in addition, that the fixtures they would use to replace existing ones would be full cut-off, flat glass, fully dark sky compliant. He said that while they exceeded the permitted wattage limitations, it would be a vast improvement over what was currently in place. Mr. Tokkdel also noted that they wanted to maintain some continuity between the existing lighting in the area and what was proposed. He said if they did not do so there would be blind spots across the property. In addition, he added that lighting at the access point was a safety issue for his company and, therefore, respectfully requested that the Board grant the requested variance.

Mr. Smith asked what would happen if they went to 400-watt lights. Mr. Tokkdel said there would be twice as many poles to meet the lighting security levels required by Target.

The Chairman asked if the light would be reduced after hours. Mr. Tokkdel said that most of the parking lot lights go off at 10:00 p.m. and that the employee parking lot lights stay on until approximately 10:30 p.m. He said other than that, there were only 175-watt light fixtures on the building for security.

Mr. Smith said he had some concern about the proposal. He said he understood the request to maintain some continuity on the parking areas but that he had concerns about perimeter lighting. Mr. Taylor said that he was appreciative of the fact that the new lights would be dark-sky compliant, however, he did have some concern about lighting near West Main. He said perhaps they could go to two fixtures with 400-watt lights as they approached West Main.

The Acting Chairman noted that the sharp cut-off lighting would be an improvement over what was currently on site. Mr. Tokkdel said with regard to the road right-of-way that the 0.5 foot candles would meet any roadway code provision. Ms. Stefforia said while that was true, she suggested that the Zoning Board of Appeals disallow the variance with regard to the frontage area along West Main. She said that she thought the Board could distinguish between the continuity with regard to the interior lighting but that if the lighting along West Main were reduced, then future developments along the roadway could also be brought into compliance. The Acting Chairman asked the applicant what that would do to the lighting. The applicant said it would lower their lighting by about 20 percent, but that they could certainly comply with that request.

Mr. Smith then made a motion to approve the request with the exception of the poles at the entrance drive on West Main which would be limited to 400 watts. Mr. Taylor seconded the motion. The Acting Chairman called for discussion on the motion, and hearing none, called for a vote on the motion. The motion passed unanimously.

**Other Business**

None

**Adjournment**

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 4:20 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:  
September 5, 2006

Minutes Approved:  
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