

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD AUGUST 23, 2011

Agenda

**LATTERNER – NUMBER OF DWELLINGS ON PARCEL AND DEPTH-TO-WIDTH
VARIANCES – 4025 NORTH 3RD STREET - (PARCEL NOS. 3905-05-330-011 AND
3905-05-330-015)**

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, August 23, 2011, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Vice Chair
L. Michael Smith
Neil Sikora, First Alternate
James Sterenberg, Second Alternate

MEMBERS ABSENT: Roger Taylor
Grace Borgfjord
Robert Anderson

Also present were Jodi Stefforia, Planning Director; James W. Porter, Township Attorney, and four other interested persons.

Call to Order/Pledge of Allegiance

The meeting was called to order by the Vice Chairperson at approximately 3:00 p.m., and the "Pledge of Allegiance" was recited.

Minutes

The Vice Chairperson said the next item on the Agenda was approval of the minutes of July 26, 2011. A motion was made by Mr. Smith to approve the minutes, as submitted. The motion was seconded by Mr. Sikora. The Vice Chairperson called for a vote on the motion, and the motion passed unanimously.

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The Vice Chairperson indicated that the next item on the Agenda was consideration of a request for variance from Section 66.150 of the Zoning Ordinance from Mr. John Latterner to allow the building of a new residence on a property where

there are already two residences, one of which will be removed once the new residence was completed. In addition, Mr. Latterner is requesting a second variance from Section 66.201 to allow the combination of a landlocked parcel with the subject property where the resulting property will have a depth greater than four times the width. The subject property is located at 4025 North 3rd Street in the "RR," Rural Residential District, Parcel Nos. 3905-05-330-011 and 3905-05-330-015. The Vice Chairperson asked to hear from the Planning Department. Ms. Stefforia submitted her report to the Board dated August 23, 2011, and the same is incorporated herein by reference.

Ms. Stefforia proceeded to take the Board through a review of the standards for approval for a nonuse variance, focusing on each of the individual variance requests at each stage of the review, as more fully set forth in her report. Ms. Stefforia asked the Board to pay particular attention to the fact that, while there was a request to have a second residence on the property, the owners were simply replacing one of the residences which would be torn down if the variance was approved and that the two original residences were both built in the 1940's, well before any enacted Zoning Ordinance in the Township. Ms. Stefforia also noted that the new house, unlike the old house, would bring the property more into compliance, at least with regard to the front yard setback requirements of the Township Zoning Ordinance. So in that respect, they would actually be bringing the property more into compliance. Ms. Stefforia also pointed out the fact that, if the owners wanted to, the two houses could remain indefinitely.

With regard to the depth-to-width ratio, Ms. Stefforia said that the advantage of combining a landlocked parcel is that it would be open to accessory uses, such as outbuildings, etc.

Ms. Stefforia noted that one of the neighbors stopped into the Township Hall and had expressed support for the proposed variance, while one of the other neighbors in the area questioned why this would be allowed in a single-family residential area.

The Vice Chairperson asked if there were any questions for Ms. Stefforia.

Mr. Sterenberg asked whether the properties would meet the 4-to-1 ratio if they were not combined. Ms. Stefforia said that they would, but she thought the advantage of eliminating the landlocked parcel weighed in favor of granting the variance. Mr. Sterenberg asked if the landlocked property would be unbuildable as it currently exists. Ms. Stefforia said that it would, and while this would not allow the building of a residence, an accessory building, such as a pole barn, could be built on the property if the properties were combined. She said it would also make it easier for future transfer and sale of the real property.

Mr. Sterenberg asked if the southerly house met the setback requirements. Ms. Stefforia said she had not made any measurements, and while it did not appear that it did, the residence predated the setback provisions in the Zoning Ordinance.

Mr. Sikora asked about the notations on the map. Ms. Stefforia said the notations were merely clarifications that the property boundaries on the map were not accurate.

The Vice Chairperson asked to hear from the applicant.

Mr. John Latterner introduced himself to the Zoning Board of Appeals. He said he thought Ms. Stefforia did a fine job of presenting the matter, and he did not think he could add much to the report, but he said he would be willing to answer questions.

Mr. Sterenberg asked if there were any plans regarding the smaller home currently on the property. Mr. Latterner said they currently had no plans for that home.

The Vice Chairperson asked if anything had happened to the house to cause them to want to rebuild. Judy Latterner introduced herself to the Board and explained that the house was getting old, and the cost to fix it up likely would exceed the cost to build a new house. She thought building a new house would be an overall improvement to the property.

The Vice Chairperson asked why the Latterners chose to build a new house behind their other home. Mrs. Latterner said that was to bring the property more into compliance with the Zoning Ordinance. Mr. Latterner said it would also allow them to have a place to stay while they built the new house.

Mr. Sterenberg asked when they would likely start the new house and how long it would take to complete it. Mr. Latterner said they hoped to start next year, and that they understood they had one year to complete the new home, and then the other house would have to be torn down.

The Vice Chairperson asked if there were any public comments.

Mr. Bob Latterner introduced himself to the Board. He said he owned the property to the north, and he thought it would be an improvement to remove the older home on the property and replace it with a new home, and doing so, would improve the tax base of the community.

The Vice Chairperson called for Board deliberations. The Vice Chairperson asked if there should be one motion or two motions. Ms. Stefforia suggested two separate motions.

The Vice Chairperson requested that the Board first address the depth-to-width ratio provisions. Mr. Smith said he had no problem in granting such a request since they have granted similar requests to others in the past.

Mr. Sterenberg asked how far out of compliance the combination would be. Ms. Stefforia said it would be less than 8-to-1. Mr. Sikora said, as with other similar parcels in the Township, he certainly did not see any advantage to the community in allowing a

landlocked, unbuildable parcel to exist. He thought it would be better to see it combined with another parcel, even if it did not meet the strict requirements of the depth-to-width ratio.

Mr. Smith then made a motion to combine the subject property based on the findings in the staff report. The motion was seconded by Mr. Sikora. The Vice Chairperson called for a vote on the motion, and the motion passed unanimously.

The Vice Chairperson said the next issue is a discussion of granting a variance to allow two dwellings on an existing parcel. Mr. Smith said, while he did not like to see a nonconformance continue, he believed this was an improvement, not only in the fact that a new home would be built, but that it would bring the property into compliance with the setback requirements of the Zoning Ordinance.

Mr. Sikora asked if there was any consideration from the applicant in removing the smaller house on the property. The Latterners indicated they did not want to see that house demolished because their youngest daughter lived there and that there might be a need to use it for their in-laws in the future.

The Vice Chairperson said that the property could be platted and that would provide the mechanism to have the two homes on the property. However, she asked whether that was a practical solution. Ms. Stefforia said to plat the property, they would have to get a surveyor, follow the steps in the Land Division Act with the Township and State, and that the alternative of doing a site condominium would still require a surveyor, an attorney, a review by the State Condominium Board, as well as the Township. Given that there were already two houses on the subject property and that they were bringing the new house into compliance with the setbacks, the Vice Chairperson said it was an overall improvement of the condition of the property.

Ms. Stefforia said that the ZBA had, on occasion, denied similar requests if there were other alternatives. The Vice Chairperson, however, raised an issue with regard to hardship. Attorney Porter noted that even by platting or site condominiumizing the property, there would likely be other problems. He said the only way to plat it or site condominiumize it would be to gerrymander the property, and that there would still be remaining issues such as sideline setbacks for the property to the south. He said in doing that, they would likely create conditions requiring additional variances just to get a plat or site condominium approved.

Mr. Sikora said he did not think the community would gain much by going through the legal technicalities of preparing a plat or site condominium if the end result was to need further variances. He thought it would be more expedient to handle this matter as requested.

The Vice Chairperson asked if there was any other discussion, and if not, she said she would entertain a motion. Mr. Sikora made a motion to allow a variance from Section 66.150 of the Zoning Ordinance to allow the building of a new residence on the subject property where there are already two residences, one of which will be removed

once the new residence is completed per the Zoning Ordinance provisions. The motion was seconded by Mr. Smith. The Vice Chairperson said that she would like it noted for the record that this request was unique in that both of these buildings preexisted any Oshtemo Charter Township Zoning Ordinance, and by building the new residence further back from the road, the applicant was bringing the property more into compliance with regard to the setback provisions of the Zoning Ordinance.

The Vice Chairperson asked if there were any other comments, and hearing none, called for a vote on the motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

None.

Any Other Business

Ms. Stefforia noted that there would be a joint board meeting on September 20, 2011, at 6 p.m.

Adjournment

There being no further business to come before the Board, the Vice Chairperson adjourned the meeting at approximately 3:30 p.m.

Minutes Prepared:
August 26, 2011

Minutes Approved:
_____, 2011