

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD AUGUST 24, 2010

Agenda

VOLKEL – VARIANCE – SECOND DWELLING ON A PARCEL – 7280 WEST N AVENUE. (PARCEL NUMBER 3905-34-455-065)

YOUNG – VARIANCE – NON-CONFORMING PARCEL BUILDABLE FOR DUPLEX – 2111 NORTH DRAKE ROAD. (PARCEL NUMBER 3905-12-280-065)

HOLIDAY INN – SIGN DEVIATION – INCREASE SIGN AREA OF LEGALLY NON-CONFORMING OFF-SITE SIGN. (PARCEL NUMBER 3905-25-405-116)

LANGELAND FUNERAL HOMES – SITE PLAN REVIEW – EXPANSION OF EXISTING BUILDING – 3926 SOUTH 9TH STREET – (PARCEL NUMBER 3905-35-330-018)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, August 24, 2010 commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Roger Taylor, Chairman
Dave Bushouse
L. Michael Smith
Neil Sikora, First Alternate
James Sterenberg, Second Alternate

MEMBERS ABSENT: Robert Anderson
Cheri Bell

Also present were Jodi Stefforia, Planning Director; Chris West, Associate Planner and eight interested persons.

Call to Order and Pledge of Allegiance

The meeting was called to order at approximately 3:00 p.m. The “Pledge of Allegiance” was recited by the Commissioners.

Minutes

The Chairman said the next item was the review and approval of the July 27, 2010 minutes. Mr. Sikora made a motion to approve the minutes as is. Mr. Smith seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

VOLKEL – VARIANCE – SECOND DWELLING ON A PARCEL – 7280 WEST N AVENUE. (PARCEL NUMBER 3905-34-455-065)

The Chairman said the next item on the Agenda was a consideration of a request by Jim and Tracy Volkel for a variance from Section 66.150 of the Zoning Ordinance to allow a second dwelling on a parcel. He said the subject parcel was located at 7280 West N Avenue, being parcel 3905-34-455-065. The Chairman asked for a report from the Planning Department. Ms. Stefforia submitted her report to the Zoning Board of Appeals dated July 27, 2010, and the same is incorporated herein by reference.

Ms. Stefforia reviewed the background information regarding the request and went over the standards of approval of a nonuse variance. The Chairman then asked if there were any questions for Ms. Stefforia.

Mr. Taylor asked if the Planning Department had received any comments from neighbors who were mailed notifications. Ms. Stefforia indicated there were none. Hearing no more questions, the Chairman invited the applicants to comment on their request.

James Volkel indicated that the barn was first built to be used solely for storage. When he wanted to add on to the structure, his contractor told him that adding a living area into the barn would be a nice addition but the applicant did not do so when his contractor found out it would not comply with the Zoning Ordinance. Some years after the addition was complete, the applicant added a living area in the second floor of the barn for his mother-in-law to live in. In 2010, the fire department was called to the property when a fire alarm went off; at this time the Township became aware that the barn was being used as a dwelling unit in violation of the Zoning Ordinance. He noted that his mother-in-law cannot live in their basement and that he had no intention to rent or sell the barn as a dwelling but only wanted to allow his mother-in-law to live there. He also noted that he did not intend to violate the Zoning Ordinance.

Mr. Bushouse asked the applicant how tall the lower level of the barn was. Mr. Volkel responded that it was 14 feet tall.

Mr. Sterenberg asked if the kitchen was installed when the barn was first constructed. Mr. Volkel said that it was not and that he installed it in 2005 when his mother-in-law moved in. Mr. Sterenberg asked if a permit was acquired when the kitchen was installed. Mr. Volkel replied that a permit was not acquired.

Tracy Volkel added that they did not knowingly violate the Ordinance.

The Chairman opened the the floor to public comment.

Gerald Helsley, 7298 West N Avenue, said that he has lived next to the applicant for eight years and has never been offended by the applicant's mother-in-law living in the barn.

Hearing no more public comment, the Chairman closed the public comment portion of the meeting and began the Zoning Board of Appeal's deliberation. Mr. Smith indicated that he has sympathy for the applicants' situation but has a problem with skirting the ordinance. He also stated that he felt the applicants had other alternatives available to them

Mr. Smith agreed, adding that if this variance were granted that it would set a precedent in future cases and that with too many variances there would be no need to have a Zoning Ordinance at all.

Mr. Bushouse added that he didn't want to set an adverse precedent with this case. He noted that the Board needs to keep sympathy for the applicants' situation out of their decision and that the issue before them is that they are asking for a second dwelling on a single parcel.

Mr. Sterenberg felt that there were other alternatives available such as platting. He asked Ms. Stefforia how long the platting process normally would take. She told him that it would take at least six months from start to completion. Mr. Sterenberg added that he appreciated that the applicant did not intentionally violate the ordinance and wondered whether the ZBA could set a time limit on a variance that would allow the second dwelling on the parcel for a defined period of time. Ms. Stefforia indicated that she would like to defer that question to the Township Attorney

Mr. Sikora felt it was important not to set a precedent with this case and was hesitant to approve the variance. He said he would like to see another option available to the applicants.

Mr. Sterenberg inquired as to whether the barn complied with the building code. Ms. Stefforia indicated that she did not know if it did but any variance should be subject to the building official being allowed access to the barn for an inspection.

Ms. Stefforia indicated that a text amendment may be appropriate at some time in the future that would address aging-in-place and family apartments on the same parcel as the primary residence. Mr. Bushouse indicated that it was the job of the ZBA to solely interpret the existing Zoning Ordinance and to leave any new ordinances to the Planning Commission.

Mr. Sikora stated that he would like to table this issue and wait for the Township Attorney's advice regarding a time limit or other conditions attached to a variance. Ms. Stefforia indicated that the ZBA could take action to table the issue at hand.

Mr. Bushouse stated that sometime emotions must be ignored. He felt it was not the ZBA's business to look into the personal situation of the applicant but to make a

ruling on the basis of the facts of the case. Mr. Sikora added that he was willing to support the board's decision if they wished to look at the case this way.

Mr. Sterenberg stated that he felt that granting a variance would be bending the ordinance to fit this current situation and that the applicants put the cart before the horse when they added a living area to the barn without Township approval.

The Chairman called for a motion. Mr. Smith made a motion to deny the variance on the grounds that it would set an adverse precedent and was a self-created hardship. The motion was seconded by Mr. Sterenberg. The Chairman called for a vote and the motion passed 4-1 with Mr. Sikora voting against. Mr. Sikora indicated that he would have preferred to wait for the Township Attorney to be present in order to explore other options available to the applicants.

YOUNG – VARIANCE – NON-CONFORMING PARCEL BUILDABLE FOR DUPLEX – 2111 NORTH DRAKE ROAD. (PARCEL NUMBER 3905-12-280-065)

The Chairman said the next item on the Agenda was a consideration of a request by Cavel Young for a variance from Section 66.201 of the Zoning Ordinance to allow a parcel which has less than 200 feet of frontage to be considered buildable for purposes of adding on to the existing dwelling to make it a duplex. He said the subject property was located at 2111 North Drake Road, parcel number 3905-12-280-065. The Chairman asked for a report from the Planning Department.

Ms. Stefforia indicated that the applicant was not present at the meeting but called earlier in the day to let the Planning Department know she was unable to attend. Ms. Stefforia indicated that the applicant wanted to table her request until the next ZBA meeting. Ms. Stefforia stated that this request was also tabled at the previous ZBA meeting because the applicant was not present.

Mr. Taylor wondered how flexible the ZBA should be with the applicant regarding rescheduling the application and if the Township would have any extra expense if the issue was tabled. Ms. Stefforia indicated that the ZBA could table this request to a specific date and the Township would not have to publish another public notice.

The Chairman called for a motion. Mr. Smith made a motion to table the request until the September 28, 2010 ZBA meeting with the condition that the ZBA would act on the request at that meeting whether the applicant was present or not. The motion was seconded by Mr. Sikora. The Chairman called for a vote and the motion passed unanimously.

HOLIDAY INN – SIGN DEVIATION – INCREASE SIGN AREA OF LEGALLY NON-CONFORMING OFF-SITE SIGN – 2747 SOUTH 11TH STREET. (PARCEL NUMBER 3905-25-405-116)

The Chairman said the next item on the Agenda was a consideration of a request by Tim Rayman for Holiday Inn West for a deviation from Section 76.170 of the Zoning

Ordinance to increase the sign area of a legally non-conforming off-site sign. He said the subject parcel was located at 2747 South 11th Street, being parcel 3905-34-405-065. The Chairman asked for a report from the Planning Department. Mr. West submitted his report to the Zoning Board of Appeals dated August 24, 2010, and the same is incorporated herein by reference.

Mr. Sikora asked Mr. West to clarify the change that was being requested. Mr. West indicated that the original sign at this location had a sign face area of 18 square feet but was reduced to nine square feet last year when the applicant received a deviation to replace a legally non-conforming off-site sign; the applicant is now requesting a deviation to allow the nine square foot sign to be replaced with a 14 square foot sign.

Mr. Bushouse was afraid that the applicant would want to increase the sign face area of another legally non-conforming off-site sign they had at 11th and Stadium. He asked Mr. West if he knew if a request to that effect would be coming. Mr. West indicated that he did not know, but the applicant was present and could speak to this issue.

The Chairman asked Mr. West if he had received any comments from neighbors regarding this request. Mr. West indicated that he had not received any comments. There being no more questions for staff, the Chairman invited the applicant to comment on request.

Tim Rayman, on behalf of Holiday Inn West, stated that Holiday Inn West had no intention of applying for a deviation to increase the sign face area of the sign at 11th and Stadium. He then went on to say that when they requested the deviation last year that Holiday Inn Corporate only had a nine square foot sign available but since then a 14 square foot sign had become available. He stated that since the remodel of the hotel the hotel management has found that the nine square foot sign is too small and difficult for hotel guests to locate because the hotel itself is not visible from 11th Street.

Mr. Sterenberg asked the applicant if the ZBA granted the deviation would 14 square feet be enough? Mr Rayman indicated that if they wanted to increase the size of the sign more than 14 square feet in the future they would have to receive another deviation at that time.

Mr. Smith commented that logo and lettering on the existing sign was very small in comparison to the entire sign face area and that the sign could be altered in compliance with the Zoning Ordinance with a sign face replacement. He asked the applicant whether other sign design layouts were available. Mr. Rayman said that other layouts were not available.

There being no public comment, the Chairman closed the public comment portion of the meeting and began the Zoning Board of Appeal's deliberation.

The Chairman stated that the variance the applicant sought in 2009 was approved because it was bringing the non-conforming use closer to compliance. This request, if

granted, would be going in the opposite direction. He stated that granting this deviation would set a precedent that drifts further from the ordinance. He stated that the age and history of the sign was justification for a sign at this location but not to increase its non-conformity.

Mr. Smith indicated that, in his opinion, the existing sign layout was a bad idea and that bad design was the problem rather than the nine square foot sign face area. Mr. Sikora agreed. The Chairman urged the ZBA to focus on zoning issues and not sign design issues.

The Chairman asked if the existing sign was illuminated. Mr. West indicated that it was internally illuminated.

Mr. Bushouse indicated that there used to be a fence along the sides of Holiday Terrace that helped funnel people to the hotel but this fence has since been removed.

The Chairman called for a motion. Mr. Smith made a motion to deny the request based upon their discussion and because it would be increasing a non-conforming sign. Mr. Sikora seconded the motion. The motion passed unanimously.

LANGELAND FUNERAL HOMES – SITE PLAN REVIEW – EXPANSION OF EXISTING BUILDING – 3926 SOUTH 9TH STREET – (PARCEL NUMBER 3905-35-330-018)

The Chairman said the next item on the Agenda was a request for site plan approval by Langeland Funeral Home for a proposed expansion of an existing building. He said the subject parcel was located at 3926 South 9th Street, being parcel 3905-35-330-018. The Chairman asked for a report from the Planning Department. Mr. West submitted his report to the Zoning Board of Appeals dated August 24, 2010, and the same is incorporated herein by reference.

Mr. West indicated that the applicant should speak to barrier free parking spaces provided, overall parking needs for the site, and any proposed lighting on-site.

Mr. Bushouse asked Mr. West if the plan had been reviewed by the Fire Department. Mr. West indicated that it had not because there were no proposed changes to the driving lanes or to the ingress and egress lanes.

Mr. Sterenberg asked Mr. West if the proposed expansion had an effect on parking lot landscaping. Mr. West indicated that when the proposed addition is constructed, 11 trees would be removed and that they would have to be replanted on site in order to comply with the landscaping ordinance. Mr. West also indicated that the expansion would get rid of some parking lot landscaping areas but that there would be sufficient parking lot landscaping area when these areas were removed.

Hearing no more questions for staff, the Chairman asked the applicant to comment on their proposed site plan for the expansion of an existing building.

Patrick Flanagan, on behalf of the applicant, explained the proposed site plan. He stated that his firm had worked with Langeland Funeral Home when they built their building in 2002. Mr. Flanagan said that two additional barrier free spaces would be required after the construction and would most likely be located directly to the west of the building; the site would lose one parking space in order to paint an aisle for one of the barrier free spots.

Mr. Flanagan also said that external lighting would be soffit style and would be used to illuminate the walls of the building. He also said that a porch or lantern type light would also be used at the building entrance being added with the addition. No pole lighting or wall packs are proposed. He indicated that the applicant will submit lighting details to staff for review.

Mr. Flanagan stated that overall parking availability has not been a problem in the past for the funeral home and would likely not be a problem after the expansion due to the staggering of services throughout the day. He stated that there is room for parking lot expansion to the west of the existing lot if needed in the future. Norm Langeland, on behalf of Langeland Funeral Home, also stated that parking would not be an issue.

There being no public comment, the Chairman closed the public comment portion of the meeting and began the Zoning Board of Appeal's deliberation.

Mr. Smith indicated that the request was pretty straight forward and reasonable. He was confident that the applicant would replace the trees that would be removed and that the number of parking spaces would be sufficient. Mr. Sikora agreed.

The Chairman called for a motion. Mr. Smith made a motion to approve the request subject to staff review and approval of the landscape plan, lighting plan, and parking. Mr. Sikora seconded the motion. The motion passed unanimously.

The Chairman called for a motion. Mr. Smith made a motion to deny the request because it would be increasing a non-conforming sign. Mr. Sikora seconded the motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

None.

Any Other Business

There was no other business.

Adjournment

There being no further business to come before the Board, the Chairman adjourned the meeting at approximately 4:30 p.m.

Minutes Prepared:
September 14, 2010

Minutes Approved:
_____ 2010