

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A SPECIAL MEETING HELD NOVEMBER 3, 2006

Agenda

**OLIVARES - ACCESSORY BUILDING REVIEW - 3823 SOUTH 1ST STREET -
(PARCEL NOS. 3905-31-255-011, 3905-31-255-014 AND 3905-31-255-017)**

A special meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Friday, November 3, 2006, commencing at approximately 4:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Millard Loy, Chairman
Mike Smith
Roger Taylor
Dave Bushouse
Duane McClung

MEMBERS ABSENT: None

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

Call to Order

The meeting was called to order at approximately 4:02 p.m. by the Chairman.

Agenda

The Chairman indicated that the first item was approval of the Agenda. Mr. McClung made a motion to approve the Agenda as submitted. The motion was seconded by Mr. Smith. The Chairman called for a vote on the motion, and the motion passed unanimously.

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The Chairman stated that the next item on the Agenda was consideration of a proposed accessory building on a parcel where the proposed building would exceed the ground floor area of the dwelling. He said the subject property was located at 3823 South 1st Street, Parcel Nos. 3905-31-255-011, 3905-31-255-014 and 3905-31-255-017. The Chairman asked to hear from the Planning Department. Mr. VanDenBrand submitted his report dated November 3, 2006, and the same is incorporated herein by reference.

Mr. VanDenBrand explained that the applicant owned three 10-acre parcels on 1st Street, totaling 30 acres. He said that the proposed building would measure 160 feet by 72 feet, for a total ground floor area of 11,520 square feet. Mr. VanDenBrand stated that the proposed building would be 28 feet high, which would exceed the maximum height of 25 feet. He then explained that the applicant was seeking approval for an accessory building that exceeds the permitted area and height criteria.

Mr. VanDenBrand said that the proposed accessory building along with the pool house would exceed the square foot area of the residence by approximately 7,300 square feet. Using an aerial photograph, he showed the proposed location of the subject accessory building and proceeded to take the Board through a review of Section 78.820, as more fully set forth in his report. He noted the location presented at the meeting, indicating the accessory building on the same parcel as the dwelling was correct and the aerial in the report was incorrect.

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

Dr. Olivares introduced himself to the Board members. He said he had five children, all with different interests and activities, which included boating, soccer, baseball, etc. He stated that he wanted to accommodate all their interests under a single roof, and he also wanted a portion of the proposed building for a woodworking shop.

Dr. Olivares said, with regard to the appearance of the building, his wife made him promise that the appearance would be compatible with the house. He also noted that the location was extremely secluded, given the distance from the road, as well as the large trees surrounding the proposed structure.

Mr. VanDenBrand added that Dr. Olivares' house was also a walkout, so that the actual square footage of the residence was approximately 10,000 square feet, and that the house would be much taller than the proposed accessory building.

Mr. Bushouse explained to Dr. Olivares that the Township's longstanding concern, when a large building like this was constructed, is that it would be sold in the future to someone who would want to run a business from the structure. Dr. Olivares assured the Board that he would only be using the proposed accessory building for his own personal use. He said, in addition to the sporting activities, his wife wanted to use part of the structure for horses. Mr. Bushouse asked if the woodshop would have any type of business activity. Dr. Olivares said that the building would only be used for hobbies and that there would be no business activity whatsoever.

The Chairman explained that the Township was asking individuals who wanted to construct these large buildings to sign a deed restriction evidencing the fact that the structure could only be used as an accessory building to the principal residential use and not for commercial business, either now or in the future. Dr. Olivares said that he understood why the Township would want such a deed restriction, and he indicated that he would be more than willing to execute such a document.

The Chairman asked how the Board felt about the height of the proposed structure. Mr. McClung said, with 16-foot side walls and a 4/12 pitch, the building would have to be at least 28 feet high. Dr. Olivares again pointed out that there were red pines surrounding the proposed structure. Mr. Taylor asked what the height of the pines were, and Dr. Olivares said that the pines were probably 40 feet to 50 feet high. Mr. McClung said, with the height of the pines, he did not have any concern about the height of the building.

The Chairman asked if there were any comments from the audience.

Tom Goodwin said he lived on 1st Street, and he said he thought the trees were probably 50 to 60 feet high and that the photograph that the Board was shown was probably taken a number of years ago, and the trees were much larger than shown on the photograph. He said he did not think that anybody would be able to see the building except from the air.

The Chairman asked if there were any further questions, and hearing none, he closed the public portion of the meeting and called for Board deliberations.

The Chairman asked Ms. Bugge if the walkout portion of the house was to be figured in the overall computation. Ms. Bugge said that it was not normally considered, but thought the fact that all of the home was finished for occupation, the Board could take it into consideration.

The Chairman asked for comments from the Board members. Mr. Bushouse said he was concerned that all of the applications for accessory buildings seemed to be larger and larger. He said he was very concerned that someone would turn such a large accessory building into a business. He also said he was concerned that the primary use of the property was being changed from residential to something different. The Chairman said that he understood his concerns, but with a deed restriction, he thought it should prohibit any future use of accessory buildings for commercial purposes.

Mr. Taylor said at some point the Township is going to have to consider what the maximum size of these types of structures should be. However, he said he was not concerned about the proposed accessory building, given the topography and the dense amount of trees surrounding the proposed building. The Chairman said he agreed and thought the largest factor in his mind in favor of granting Dr. Olivares' request was that the building would not be visible from any of the surrounding properties because of the trees. Mr. Smith said, given the setback and the height of the existing red pines in the area of approximately 50 feet, he really felt that the location and the screening were overriding factors in favor of granting approval.

The Chairman asked if there was further discussion, and hearing none, he called for a motion. Mr. McClung made a motion to approve Dr. Olivares' accessory building request upon the following conditions:

1. That the applicant enter into the appropriate deed restriction regarding the use of the accessory building.
2. That the landscaping and screening of the building remain permanent.
3. That, in the event the present trees no longer exist through death or harvesting, new mature trees would be planted to replace them to preserve this buffer.

Mr. Smith supported the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Adjournment

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 4:25 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:
November 16, 2006

Minutes Approved:
_____, 2006