

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD MAY 27, 2014

Agenda

PUBLIC HEARING: APPLICANT (MCDONALD'S USA, LLC) REQUESTS VARIANCES TO ALLOW THE PARKING AND CIRCULATION AREA TO EXTEND AS THE RESULT OF A SECOND DRIVE-THROUGH LANE INTO THE REQUIRED GREENSPACE AREA ALONG WEST MAIN STREET REDUCING THE 20 FOOT GREENSPACE TO A MINIMUM OF 10.5 FEET AS REQUIRED BY SECTION 75.130 OF THE TOWNSHIP ZONING ORDINANCE; TO ALLOW ESTABLISHMENT OF AN ACCESSORY STRUCTURE WITHIN THE FRONT YARD SETBACK ALONG WEST MAIN STREET 22 FEET FROM THE PROPERTY LINE, 48 FEET LESS THAN REQUIRED BY SECTION 64.300; AND TO ALLOW THE ACCESSORY STRUCTURE TO BE LOCATED WITHIN THE SIDE YARD SETBACK AREA, 15 FEET FROM THE WEST SIDE PROPERTY LINE, 5 FEET LESS THAN REQUIRED BY SECTION 64.100. THE SUBJECT PROPERTY IS LOCATED AT 6820 WEST MAIN STREET IN THE C-LOCAL BUSINESS DISTRICT. (PARCEL NO. 3905-14-155-050)

A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, May 27, 2014, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Bob Anderson, Second Alternate
 Cheri Bell
 Lee Larson
 Neil Sikora, First Alternate
 L. Michael Smith
 James Sterenberg

MEMBER ABSENT: Millard Loy

Due to Mr. Loy's absence, Mr. Sikora was called upon to act as a sitting member for the meeting.

Also present were Greg Milliken, Planning Director; James Porter, Attorney; Martha Coash, Meeting Transcriptionist; and three interested persons.

Call to Order and Pledge of Allegiance

Since this was the first meeting of the year and the Chair was no longer on the Board. The meeting was called to order by Greg Milliken, Planning Director, at approximately 3:00 p.m., and the "Pledge of Allegiance" was recited.

Election of Officers

Attorney Porter explained the Board needed to elect a Chair, Vice Chair, and Acting Secretary and asked if there were nominations for these officer positions.

Mr. Sikora nominated Ms. Bell as Chairperson and Mr. Larson supported the nomination. Members unanimously elected Ms. Bell as Chairperson.

Ms. Bell assumed the Chair and thanked the Board for their confidence in her. She asked for nominations for Vice Chairperson and Secretary.

Mr. Larson nominated Mr. Smith as Vice Chairperson and Mr. Sterenberg supported the nomination. Members unanimously elected Mr. Smith as Vice Chairperson.

Mr. Larson nominated Mr. Sterenberg as Secretary and Mr. Smith supported the nomination. Members unanimously elected Mr. Sterenberg as Secretary.

Attorney Porter noted that Mr. Sikora and Mr. Anderson, as the last two members who joined the Board, would be first and second alternates.

Mr. Milliken added that Mr. Loy is the liaison to the Planning Commission and Mr. Larson is the representative to the Township Board.

Public Comment on Non-Agenda Items

Chairperson Bell called for public comment on non-agenda items. Hearing none, she proceeded to the next agenda item.

Approval of the Minutes of December 17, 2013

The Chairperson asked if there were any additions, deletions or corrections to the minutes of December 17, 2013. No changes were noted. Mr. Smith made a motion to approve the minutes as presented. Mr. Sterenberg seconded the motion. The motion was approved unanimously.

PUBLIC HEARING: Request for Variances from McDonald's USA, LLC To Allow the Parking and Circulation Area to Extend as the Result of a Second Drive-Through Lane into the Required Greenspace Area Along West Main Street Reducing the 20 Foot Greenspace to A Minimum Of 10.5 Feet as Required By Section 75.130 of the Township Zoning Ordinance; To Allow Establishment of an Accessory Structure Within the Front Yard Setback Along West Main Street 22 Feet From the Property Line, 48 Feet Less Than Required By Section 64.300; And to Allow the Accessory Structure to be Located Within the Side Yard Setback Area, 15 Feet from the West Side Property Line, 5 Feet Less than Required by Section 64.100. The Subject Property is Located at 6820 West Main Street in the C-Local Business District. (Parcel No. 3905-14-155-050)

Chairperson Bell asked Mr. Milliken to review the application.

Mr. Milliken said the McDonald's franchise located at 6820 West Main Street desires to make a series of updates and renovations to this facility to improve the aesthetics, traffic flow, and efficiency of operations. Proposed improvements include façade improvements, interior renovations, construction of a storage shed, and installation of a dual drive-through.

He noted the facility was granted a special exception use in 2001 due to the presence of the drive through facility and that as a special exception use, any amendment to that use requires approval of the Planning Commission at a public hearing. Such review is forthcoming.

However, he added, the proposed improvements also result in the need for three variances. The ZBA will hear those requests first prior to submittal of the site plan and special exception use request. Pending the results of the variance requests, the site plans will be prepared accordingly.

Mr. Milliken explained the subject property is located at the northwest corner of 9th Street and West Main Street in the C-Local Business District and is an outlot in the Menard's commercial shopping center.

Mr. Milliken said one of the improvements is the addition of a second drive-through ordering lane, an improvement that can be seen at other McDonald's throughout the region, including the other Oshtemo location on West Main Street in front of Target. This addition will extend the circulation area and paved surface further to the south and closer to West Main Street. There is no setback for parking / circulation, but there is a required greenspace area along arterials. The minimum width of the required greenspace area is 20 feet. The proposed expansion of the circulation system would extend into that greenspace area reducing the width of the greenspace to 10.5 feet at its narrowest. Three trees would also be removed as a result of the expansion and would be replaced by three new trees.

He said it is important to note that the encroachment into the greenspace is not for the entire extent of the lot or the parking surface. As the driving lane curls around the south end of the building and the drive-through ordering stations, it extends into the required green space to a maximum extent of 9.5 feet and then curls back. The extent of encroachment equals about 40% of the width of the parking lot.

Mr. Milliken said the applicant is also proposing to make improvements to the dumpster storage corral located in the southwest corner of the property. These include the addition of new doors and creation of an enclosed, covered storage area at the back (south) end of the existing dumpster corral. The work will involve increasing the height of the screening wall by approximately three feet using matching block to a peak height of about 9.5 feet and installation of a flat metal roof. This 216 square foot covered, enclosed area qualifies as an accessory structure and therefore must satisfy the setback requirements of the C district at this location.

He noted there are no specific setback requirements for dumpster pads or screening devices in the Ordinance. The dumpster storage area was permitted to be built in its current location on the original site plan. However, by enclosing a portion of it and creating an accessory structure, it would be subject to the setback requirements for an accessory structure.

Mr. Milliken pointed out the setback for all structures along West Main Street is 170 feet from the centerline of the road (Section 64.100). The right of way is 200 feet for this portion of M-43, so practically speaking, the setback from the property line is 70 feet. The dumpster storage area is currently located 22 feet from the front property line, 48 feet less than required.

Mr. Milliken reviewed the standards of approval of a nonuse variance, noting that as far as greenspace, there do not appear to be alternatives for a site plan that includes a dual drive-through that does not encroach into the required greenspace area. The site could continue to function with one drive-through lane as it has. However, traffic does back up at the single window at peak periods quite often thereby disrupting the circulation system and parking availability at the site creating a safety and access hazard.

In addition, he said the option for compliance for accessory structure setbacks is simply not to enclose this portion of the dumpster corral. Although less convenient, the property could still be used with denial of the variance.

Mr. Milliken noted as far as substantial justice is concerned a variance for a similar reduction in greenspace area from Costco was approved in December, 2013 to allow parking within the required greenspace area along West Michigan Avenue. He added there are plenty of examples of variances being granted for accessory structures in side yard setbacks. The vast majority of these are residential however; no specific example of a commercial request could be found that was a good comparison.

As far as unique physical circumstances are concerned, he said there will remain a substantial amount of greenspace that cannot be developed due to the width of the MDOT right of way. There is also substantial topography further to the south that will help to mitigate any impacts created by the improvements on site.

He added the unique situation with accessory structure setbacks here is the fact that the accessory structure is being constructed within an existing dumpster storage corral that was previously constructed in conformance with the Ordinance. This is not a limitation of the site, but utilization of this existing improvement on the site eliminates the need for addition of another structure elsewhere on the property.

Mr. Milliken acknowledged this is a self-created hardship, but both cases are the result of improvements that were not in use or conceptualized in 2001 when the original site plan was approved and developed. Therefore, space was not set aside to accommodate additional circulation space to the south or for a storage building and reflects the evolution of site design and efficiency.

Mr. Milliken explained the purpose of the greenspace requirement is to provide a buffer from the proposed improvements and development to the adjacent roadway, and vice versa. The applicant is requesting a reduction in that buffer in order to provide improvements to the circulation and efficiency of the site. The ZBA should consider if a variance is in order and if the intent of the buffer is still satisfied considering the improvements being made.

He further explained the setback requirement for accessory structures establishes an organized streetscape and creates a separation between the public and private realm in the commercial areas of the community. The ZBA should consider whether this improvement is significantly different than the existing dumpster corral or if it should be held to the same standard as an accessory structure also taking into consideration the impact of the proposed improvement on West Main Street.

Mr. Milliken concluded his review, saying if one or more of the variances are approved, staff would recommend they be approved conditional upon approval of the special exception use and site plan for the additions by the Planning Commission.

Chairperson Bell asked if Members had questions for Mr. Milliken.

In response to a question from Mr. Sterenberg, Mr. Milliken clarified there are three variances requested: 1) the addition of the second drive results in one variance request regarding the reduction in the greenspace width, and 2) the addition of the accessory structure within the dumpster pad results in a reduction of the side setback on the west side and the front setback on the south side, which requires two variances. He noted there is no setback required for dumpsters or dumpster screening; it is the fact that it is being enclosed and must satisfy setback requirements that makes a variance necessary. The footprint will not increase.

There were several questions regarding the proposed layout. Mr. Milliken noted the site is challenging and that in looking at past documentation, he believes the site plan was designed and approved with an orientation to the north putting the rear of the site along West Main Street which technically is the front yard.

Also discussed were the property line and right of way line, which coincide as well as the provision of the required fire lane width of the bypass lane, which is 20 feet.

Hearing no further questions for staff, Chairperson Bell asked the applicant to speak.

Mr. Dave Evans, Lead Architectural Project Designer with WD Partners, and designer of the McDonald's plan, explained it is the intention of the plan to reduce congestion in the parking lot and at the drive-thru for customers and to increase the speed of the drive-thru service. He noted that to maintain the access lane for all vehicles, it was necessary to encroach on the landscape buffer in order to meet the 20 foot fire lane width for the bypass lane required by the fire department. He said any trees removed to accomplish the improvements would be replaced, and offered to answer questions from the Board.

In response to questions, Mr. Evans said there is room at the edge of the curb before the grade drops for the extension, and he does not anticipate any exposure of the curb or the need for a retaining wall. One parking spot next to the trash corral will be eliminated; the angled parking will remain. The capacity will increase from 10 to 13 cars in line at the drive-thru; nationwide studies have shown the second lane expedites service greatly and will allow the restaurant to meet industry standards for McDonald's.

There were no further questions from the Members, and there were no public present for public comments. Chairperson Bell moved to Board deliberation.

Board members commented on the positive improvements that would result from this project, and agreed that screening from the street would be better and the finished accessory building would look nicer. Also noted was that the project packed a lot into a small space.

Chairperson Bell asked Mr. Milliken to comment further about the lack of commercial requests of this nature. He noted he could not find a request for a commercial accessory structure that required a setback variance. The rear yard element of the dumpster corral is actually in the "front yard" due to the manner in which the site is oriented. It was noted that this is a unique situation given the small size of the property, the orientation of the building and the fact that it is not at eye level from the road. With these conditions, the variance would not set a precedent for other properties along West Main Street or in the C District.

The Chairperson asked for a motion to approve the variance to allow the parking and circulation area to extend as the result of a second drive-thru lane into the required

greenspace area along West Main Street reducing the 20 foot greenspace to a minimum of 10.5 feet as required by Section 75.130 of the Township Zoning Ordinance.

Mr. Smith made a motion to approve the variance as presented, subject to the condition that the site plan and amendment to the special exception use is approved by the Planning Commission. Mr. Larson seconded the motion. The motion was approved unanimously.

The Board discussed the variance requests. They stressed the importance of retaining greenspace, but noted this is unique given the topography and the 200 feet of right of way from M-43 which means the streetscape will not be significantly affected by the addition. Also noted was that the greenspace variance is for a bump out into the setback, not a majority. It was felt the intent of greenspace is still being achieved.

Also discussed was the proximity of the non-motorized path to the bypass lane, and concern for visibility for those who would be using the path. Mr. Evans indicated the line of shrubs at the apex of the curve could be replaced in the site plan with the expansion to protect it from the adjacent non-motorized path.

It was also noted the minimum number of required parking spaces are provided with the proposed plan, but alterations to try to provide more safety would reduce them below the minimum. Due to the limited property site, smaller than other McDonald's, there are not many alternatives and it was felt this plan provided reasonable trade-offs for the best possible situation.

Mr. Smith made a motion to approve the front and side yard setback variances as presented for the accessory structure subject to the Planning Commission approval of the site plan and special exception use amendment. This was based on the same unique findings stated previously for the other variance at this property. Mr. Sikora seconded the motion. The motion was approved unanimously.

Any Other Business / ZBA Member Comments

Mr. Milliken reminded the Board they have scheduled a special meeting for Thursday, June 12 at 3:00 p.m. to consider a sign deviation request and a site plan review.

Adjournment

Chairperson Bell noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, she adjourned the meeting at approximately 4:09 p.m.

Minutes prepared:
May 29, 2014

Minutes approved:
June 12, 2014