

# OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

MINUTES OF MEETING HELD MARCH 3, 1997

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## Agenda

**PROSOURCE - VARIANCE FROM SECTIONS 82.900/84.200 - TIME EXTENSION FOR COMPLETION OF SITE - 5400 W. MICHIGAN**

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A meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Monday, March 3, 1997, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall, pursuant to notice.

**MEMBERS PRESENT:** Thomas Brodasky, Acting Chairperson  
David Bushouse  
William Saunders  
Lara Meeuwse

**MEMBER ABSENT:** Brian Dylhoff

Also present were Jim Wiley, Patricia R. Mason, Township Attorney, and two (2) other interested persons.

## **CALL TO ORDER**

The meeting was called to order at 3:07 p.m.

## **PROSOURCE - VARIANCE FROM SECTIONS 82.900/84.200 - TIME EXTENSION FOR COMPLETION OF SITE - 5400 W. MICHIGAN**

The next item was the application of Jack Vandenberg, representing ProSource, for variance approval from Sections 82.900 and 84.200 of the Zoning Ordinance as they relate to the occupancy of the subject facility. A time extension for the completion of the site in compliance with the site plan approved on August 26, 1996, is requested. The subject site is located at 5400 W. Michigan and is within the "C" Local Business District Zoning classification. It was noted that the item had been tabled from the meeting of February 24, 1997.

The incomplete site work included: (1) pavement/concrete work, (2) parking lot striping, (3) barrier-free parking signs/logos, (4) fire lane signs, (5) dumpster and enclosure, (6) site lighting, (7) stormwater system (retention basin/fencing), (8) final grade, (9) north boundary screening, (10) landscaping, (11) Township Engineer and Fire Department review.

Mike Ahrens was present on behalf of the applicant. He stated that the applicant had not been present at the preceding meeting due to a death in his family.

Mr. Ahrens stated that construction on the project got started late because the parcel had to be "split" from the Windsor Estates parcel and due to severe weather. Therefore, the variance was needed so as to allow occupancy of the site prior to completion of the "exterior work."

In response to questioning by the Acting Chairperson, Mr. Ahrens stated that no base coat for the paving had yet been laid.

The Acting Chairperson sought comment from the Planning and Zoning Department, and Mr. Wiley stated that the Board should condition any approval of variance on approval by the Fire Department and Engineer.

Ms. Meeuwse questioned the applicant's representative, who stated he was the contractor for the project. He said that the variance was needed to allow for occupancy prior to the date when asphalt was available. There was discussion of the incomplete site work, and it was noted that the signs could not be established until the "asphalt is down."

In response to questioning by Mr. Saunders, Mr. Ahrens stated that all inside work would be done prior to occupancy. The applicant was hoping to have gravel down before occupancy of the site. There was discussion of when the items could be completed, and the applicant's representative stated that he was sure the work could be completed by the end of June.

There was no public comment offered, and the public hearing was closed.

Mr. Saunders moved to grant temporary variance from Sections 82.900 and 84.200 so as to allow occupancy of the proposed site prior to completion of the listed items. It was required that the site be completed in strict compliance with the approved site plan, subject to Fire Department approval, by July 1, 1997. The applicant was required to post a performance bond or provide a cash assurance in an amount sufficient to provide for completion of the items. The reasons identified for temporary variance were the weather conditions and past decisions by the Board. Ms. Meeuwse seconded the motion, and the motion carried unanimously.

## **OTHER BUSINESS**

A letter dated February 23, 1997, from James Bacon was referenced. The letter was with regard to the variance hearing of December 16, 1996, in which Mr. Bacon had requested a "zero setback" for an identification sign for the Springwood Hills Subdivision at the Almena Road entrance. Variance had been denied. The letter reported that, since the hearing, efforts had been made to install the sign at the proper setback but that the owner of the property refused to allow the sign to be placed on his property. The letter asked that the Board reconsider the variance.

The Township Attorney noted that recent case law had established that there was no authority for reconsideration unless reconsideration was allowed for in the Zoning Ordinance. The Township's Zoning Ordinance did not provide a reconsideration procedure. Therefore,

if Mr. Bacon sought variance, he would need to file a new application. Nevertheless, Board members reviewed the plat layout for the Springwood Hills Subdivision and its entry point at Almena Road. Board members noted that the sign could not be allowed by variance in the road right-of-way; therefore, since the lot owner would not apparently allow permission to place the sign on his property, there was no location which could be approved for the sign even if a new application for variance was filed. Further, the refusal of the lot owner was not a basis, in the Board's opinion, for variance, in that it appeared that the hardship was self-created, i.e., that the subdivision developer had not reserved an appropriate location for an identification sign for the subdivision.

**ADJOURNMENT**

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

**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS**

By: \_\_\_\_\_  
Brian Dylhoff, Chairperson

By: William Saunders  
William Saunders

By: Thomas Brodasky  
Thomas Brodasky

By: Lara Meeuwse  
Lara Meeuwse

By: David Bushouse  
David Bushouse

Minutes Prepared:  
March 4, 1997

Minutes Approved:  
3-17-97

AGENDA: \_\_\_\_\_  
MINUTES: ZBA

DATE: March 3, 1997  
SENT: March 20, 1997

ZBA

Lara M.  
 Dave B.  
 Bill S. } 3-10-97  
 Brian  
 Tom B.

PEOPLE

Jack Vandenberg  
8646 Shaver Road  
Kalamazoo, MI 49002

Home Builders Association  
5700 West Michigan  
Kalamazoo, MI 49009

PC

Marvin  
\_\_\_\_\_  
Lara  
 Ken H.  
 Millard  
 Ted C.  
 Wilfred

Oshtemo Business Association  
P.O. Box 1  
Oshtemo, MI 49077

TB

Fred  
\_\_\_\_\_  
Dave B.  
\_\_\_\_\_  
Marvin  
 Norm

OFFICE

Becky  
 Bob  
 Marci  
 Lois  
 Ron  
 Tony  
 Jim  
\_\_\_\_\_  
Attorney's  
\_\_\_\_\_  
Index  
 Elaine

23 Total



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
616-375-4260 FAX 375-7180 TDD 375-7198

## **NOTICE**

### **OSHTEMO TOWNSHIP ZONING BOARD OF APPEALS**

March 3, 1997  
3:00 p.m.

### **AGENDA**

1. Call to Order
2. Variance Request - ProSource

Jack Vandenberg, representing ProSource, requests Variance Approval from Sections 82.900/84.200, Zoning Ordinance, as they relate to the occupancy of the subject facility. A time extension for the completion of the site in compliance with the site plan approved on August 26, 1996 is requested.

Subject site is located at 5400 West Michigan and is within the "C" District.  
(3905-25-205-033)

3. Other Business
4. Adjourn

James A. Bacon  
195 Golden Pond Circle  
Kalamazoo, Michigan 49009  
(616) 372-7952

February 23, 1997

Dear Zoning Board of Appeals Members:

This letter is in regard to the variance hearing held December 16, 1996 at which time I represented the interests of Springwood Hills subdivision in requesting a 0' setback for an identification sign at the Almena Road entrance. The request was denied because it was felt by the board that the existing 20' setback provided a reasonable margin of safety for traffic coming into Springwood Hills off of Almena Road. You may recall that there was however, a general consensus that a sign would increase the safety of persons entering the subdivision from Almena Road, which is routinely snow covered in the winter and has traffic traveling in excess of 45-50 mph around the corner. Since the hearing, efforts have been made to install the sign within the proper setback requirements, but the owner of the property in question has refused to allow the sign to be placed anywhere within his private easement .

We have, in good faith, attempted to comply with the township regulations but have arrived at a significant obstacle that is preventing the subdivision from having its entitled identification sign as stated in Section 76.146 of the Township Zoning Ordinance. I am therefore writing to ask the Board of Appeals to reconsider the situation in light of the new information, and reverse the decision to deny the variance. We understand that a variance request of this nature his not previously been granted, but believe that these unique circumstances necessitate a careful review and reconsideration of our request.

Sincerely,



James A. Bacon