

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD NOVEMBER 17, 2015

Agenda

**PUBLIC HEARING: PARKING VARIANCE REQUEST (MITCH LETTOW FOR SOUTHWEST MICHIGAN LAND CONSERVANCY)
APPLICANT IS SEEKING A VARIANCE FROM SECTION 68.300.C. OF THE ZONING ORDINANCE, WHICH REQUIRES ALL PARKING LOTS TO BE A PAVED SURFACE.**

A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, November 17, 2015, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson
Bob Anderson, Second Alternate
Nancy Culp
Millard Loy
Neil Sikora, First Alternate
L. Michael Smith
James Sterenberg

ABSENT: None

Also present were Julie Johnston, Planning Director, James Porter, Attorney, Martha Coash, Meeting Transcriptionist, and two interested persons.

Call to Order and Pledge of Allegiance

Chairperson Bell called the meeting to order and the "Pledge of Allegiance" was recited.

Agenda

The Chairperson noted the addition to the agenda of 2016 Meeting Dates under Other Business and asked for a motion to accept the revised agenda.

Ms. Culp made a motion to accept the revised agenda. Mr. Smith supported the motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

There were no comments on non-agenda items.

Approval of the Minutes of September 22, 2015

The Chairperson asked if there were any additions, deletions or corrections to the minutes of September 22, 2015. No changes were noted.

Mr. Smith made a motion to approve the minutes of September 22, 2015 as presented. Mr. Sterenberg seconded the motion. The motion was approved unanimously.

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Chairperson Bell moved to the next item on the agenda and asked Ms. Johnston for her review.

Ms. Johnston said the Southwest Michigan Land Conservancy, which was acquired by the Land Conservancy when the 69.5 acre parcel was donated by an Oshtemo resident in the winter of 2015, is requesting a variance from Section 68.300 of the Off Street Parking of Motor Vehicles regulations of the Zoning Ordinance, which requires all parking areas to be paved. The request is to allow the KL Avenue Nature Preserve to remain gravel to aid in pollution reduction and storm water management.

She noted the Conservancy has made no improvements to this property. The Conservancy would like a gravel parking lot, some type of fencing around the lot, signage and a trail head. Due to the RR: Rural Residential zoning of the property, the Conservancy will be required to request a Special Exception Use from the Planning Commission to operate as an outdoor recreational facility. Many of these details will be examined as part of that process.

In considering the Standards of Approval, she explained conformance with the parking regulation is not unnecessarily burdensome. However, a nature preserve is a unique land use that warrants some additional consideration with regard to the intent of conserving a "natural" setting. It could be argued that the use of a gravel parking lot is more in keeping with the intent of the land use than an asphalt or concrete pad.

She said Section 68.300 indicates that paved parking spaces and/or lots are required for all uses except single and two-family dwellings, mobile homes and farms. While the nature preserve is not an active farm, the rural and natural quality of the development lends itself more toward this type of use than multi-family, commercial or industrial uses which would also be required to meet this regulation. In addition, the land is zoned and future land use planned for Rural Residential development.

Staff contacted the applicant to get a sense of the number of vehicles per day the nature preserve is likely to experience. The intent was to understand if usage of the property was more like those that are allowed an exemption from this ordinance requirement. Since the KL Avenue Preserve is so new, vehicle visits per day is unknown. However, the applicant has indicated that their most visited preserve, the

Chipman Preserve in Comstock Township, on average experiences around 10 cars per day. A high peak travel day may see up to 20 visits. This low number of visits per day supports the idea that the preserve is more in line with the uses that are allowed an exemption to Section 68.300.

Ms. Johnston pointed out a nature preserve, while characterized by the Zoning Ordinance as a recreational use, will not have the same number of visits per day as an active park. The Preserve is a passive recreational experience that does not see the same activity as a recreational park with play equipment where families with children tend to congregate.

To Staffs' knowledge, there is only one other property that was granted a variance for an unpaved parking lot and it was conditioned that the lot be paved within a one-year time frame. The property in question was The Rock Church located at 2901 North 10th Street. The lot is now paved. The variance is being requested not because of any physical hardship on the property, but due to a desire to maintain a gravel parking lot that is more in keeping with the natural features of the site and which will assist with storm water management.

She pointed out that local ordinances almost always require that parking lots be paved. This is primarily due to the convenience of paved surfaces and to reduce dust which is often generated from unpaved areas. The intent is to ensure appropriate parking lots are developed for urbanized areas of a community. The KL Avenue Nature Preserve is in a more rural location of the Township where the Future Land Use Map clearly intends for this character to continue. Allowing the parking lot to remain gravel will not impede public health, safety or welfare. The applicant intends to pave the entrance with asphalt to eliminate any dust generated from the gravel parking lot which should be minimal due to the nature of the use on the property.

Ms. Johnston said Staff recommends approval of the variance request from Section 68.300.C. of the Off-Street Parking of Motor Vehicles ordinance for the following reasons:

- The rural nature and character of the use is similar to other uses that are allowed an exemption from Section 68.300, allowing the spirit of the Ordinance to be observed.
- The Future Land Use Map indicates continued rural uses for this area of the Township, which helps in protecting public health, safety and welfare as urbanization and the need for paved surfaces is not intended.

In answer to a question from Chairperson Bell, Ms. Johnston said the park is private property owned by the Conservancy which allows public access to the property.

The Chairperson asked if the applicant wished to speak to the Commission.

Mr. Mitch Lettow, Southwest Michigan Land Conservancy Stewardship Specialist, 6851 S. Sprinkle Road, provided background information on the 25 year old 501C3 non-profit organization. The Conservancy owns and works to preserve, restore habitat, and share with the public 14,000 acres in nine counties in SW Michigan.

Mr. Lettow said the KL Avenue Nature Preserve will have between 1-1/4 and 1-1/2 miles of trails. The property was acquired from a donor in 2011. The goal is to promote thoughtful access at preserves. The aesthetic of a gravel parking lot fits with the appearance, motif and values of the preserve. The park is at the top of the Kalamazoo Morain and as a result consists of sandy loam and lots of well-drained sandy gravel. The gravel drive will be slightly graded away from the road and will promote infiltration and recharge the ground water supply. The asphalt take-off pad at the road will not pull substrate from the lot to the street and will avoid tire spinning. He said the lot would be maintained and re-graded as needed and plowed in the winter.

In answer to questions from Commissioners, Mr. Lettow said hours of the park are self-imposed from dawn to dusk, with a knock box for emergencies provided. Full material with gravel on top will be used to construct the parking lot and drive. There will be no 4th Street access. He explained fire department access would be from the south. They have an ardent volunteer following who help with cleaning and maintaining park areas, work on trails, remove invasive species and do some mowing.

Geoffrey Cripe, Director of Land Protection for the Conservancy, said in 2012 an event was held inviting neighbors and interested persons to share their vision of the park. Being able to take a walk or a hike was the most mentioned desire. The neighbors were very pleased there would not be a sub-division built on the property.

Mr. Lettow answered further questions, saying there would not be handicapped parking spots available since at this point they are not able to afford to provide accessible trails, but may do fundraising in the future to do that.

Ms. Johnston confirmed handicap accessibility is not required because of the small size of the park.

Mr. Lettow said a turnaround would be provided for emergency vehicles and that the Conservancy would be open to school bus visits for groups in the future; they would like to expand the demographic of users.

Hearing no public comments, Chairperson Bell closed the hearing and moved to Board Deliberations.

Mr. Loy was concerned that the issues involved will set a precedent. The Township has never given a parking lot paving variance. No Fire Department report was provided. Hearing that school buses may visit is also concerning. He felt the Fire Department needs to look at the turnaround. He was not sure he could support the request.

Mr. Sterenberg cited the Ordinance requirements for a variance from parking lot paving, and said the turnaround would be reviewed as part of the site plan that would go to the Planning Commission at the appropriate time. The actual paving is the concern of the Zoning Board. He noted the paved approach to the lot could be a condition of the variance approval.

In answer to a question from Mr. Sterenberg, Attorney Porter said approval could not impose a time limitation for re-evaluation. If, in the future the Conservancy would want to enlarge the parking lot, they would need to return for a further variance.

Mr. Sikora felt the turnaround area shows good forethought for potential need and makes for safer access. The variance is specific to this application and this site, so he was not overly concerned that it would set precedent. He noted he has visited other Conservancy sites and they have done a wonderful job with them and felt they will do right by the KL site and will do what they say they will do.

In response to a question from Mr. Loy about parking lot construction, Ms. Johnston said a special exception request would need to go to the Planning Commission regarding construction details of the parking lot and would be examined as part of that process with input from the Fire Department.

Mr. Anderson said he was not concerned with the limited use site as long as good quality stabilizer is used; the nature of the project as proposed is fine.

Ms. Johnston said if there were concerns about expansion, the motion to approve the request could be specific to the number of spaces requested. Any expansion would need to be brought back to the Board for a variance for additional spaces or the lot would need to be paved at that time.

Mr. Sterenberg pointed out the unique nature of the project and noted the reason for requesting the variance is to reduce pollution and manage storm water rather than an economic one. He said he is inclined to approve the request with the stipulation that future improvement or enlargement of the lot would need further action by the Board.

Chairperson Bell said she would rather people would get what they need the first time around. She stressed the nature preserve is not a public park and thought approval of the variance for a gravel parking lot for the intended use, which is different from other Township parks, warrants the parking lot variance since it is more in line with a nature preserve.

Mr. Sikora again emphasized that any expansion or additions in the future would need to come back for site plan approval.

Mr. Smith made a motion to approve the variance as requested for 20 parking spaces and for a paved approach to the lot. Mr. Sterenberg seconded the motion. The motion was approved 6 – 1, with Mr. Loy dissenting.

Any Other Business / ZBA Member Comments

Ms. Johnston presented the schedule of ZBA 2016 Meeting Dates as follows:

January 26
February 23
March 22
April 26
May 24
June 28
July 26
August 23
September 27
October 25
November 15*
December 20*

She noted meetings are on the 4th Tuesday of each month at 3:00 p.m. with the exception of November and December, which are changed to the 3rd Tuesday. Also noted were joint meetings scheduled for February 17, May 19 and August 18.

Commissioners accepted the 2016 Zoning Board of Appeals Schedule of Meeting Dates as presented.

Ms. Johnston told the Board she had talked with Meijer representatives about the possibility of an access drive with a left turn lane from their driveway to AutoZone, but that Meijer is not interested at this time.

Adjournment

Chairperson Bell noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, adjourned the meeting at approximately 4:00 p.m.

Minutes prepared:
November 19, 2015

Minutes approved:
January 26, 2016