

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A SPECIAL MEETING HELD AUGUST 9, 2016

Agenda

PUBLIC HEARING: VARIANCE REQUEST (NATIONAL FLAVORS, 7700 STADIUM DRIVE)

DANIEL HINKLE, REPRESENTING NATIONAL FLAVORS, IS REQUESTING A VARIANCE FROM THE ZONING ORDINANCE, SPECIFICALLY SECTION 68.301: LOADING AND UNLOADING OF THE OFF-STREET PARKING ORDINANCE TO ALLOW LOADING/UNLOADING IN THE FRONT YARD. (PARCEL #3905-34-155-050)

A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, August 9, 2016, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: James Sterenberg, Vice Chairperson
Nancy Culp
Millard Loy
L. Michael Smith, Alternate

MEMBERS ABSENT: Cheri Bell, Chairperson
Bob Anderson, Alternate
Neil Sikora

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

Call to Order and Pledge of Allegiance

Vice Chairperson Sterenberg called the meeting to order and invited those present to join in reciting the "Pledge of Allegiance."

Public Comment on Non-Agenda Items

There were no public comments on non-agenda items.

Approval of the Minutes of July 26, 2016

The Vice Chairperson asked if there were any additions, deletions or corrections to the minutes of July 26, 2016. Hearing none, he asked for a motion of approval.

Mr. Loy made a motion to approve minutes of July 26, 2016 as presented. Mr. Smith supported the motion. The motion was approved unanimously.

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Vice Chairperson Sterenberg said the next item was a request for a variance for National Flavors and asked Ms. Johnston to review the application.

Ms. Johnston said the applicant, representing National Flavors, LLC, intends to develop the subject property as a manufacturing facility, which is a use permitted by right in the I-1 zoning district. The parcel in question is approximately 10 acres and has frontage on both Stadium Drive and Stadium Park Way. The applicant would like to place the front façade of the building facing Stadium Drive, which is the more visible frontage of the parcel. To accomplish this, loading and unloading would have to take place along Stadium Park Way, which is also considered a front yard for this parcel. Placing the loading/unloading at this location necessitates the request for a variance to *Section 68.301: Loading and unloading*, which states that all loading/unloading must take place in a side or rear yard. Front yards are determined by the definitions indicated in *Section 11.355: Lot, parcel or building site frontage* and *Section 11.580: Yard, front*.

Ms. Johnston walked through the relevant standards for review by the Board in considering this variance request.

First to be considered was whether conformance to the Ordinance was *Unnecessarily Burdensome*.

Ms. Johnston commented the Ordinance requirement for placing loading/unloading in the side and rear yards is to help screen this type of activity from the public right-of-way. The difficulty with this property is the two front yards, Stadium Drive and Stadium Park Way. While the property is currently vacant, which provides opportunities to place the loading/unloading in the side or rear yard, the outcome does not meet the screening protections intended. Placing the loading/unloading in the side yard would not screen the activity from Stadium Park Way, as the side of the building is

visible from this public roadway. Placing the loading/unloading in the rear yard also does not accomplish this goal because of its visibility from Stadium Drive.

In addition, she said, placing the loading/unloading within either the side or rear yard would require additional impervious surface on this site, increasing storm water runoff and reducing the amount of the parcel that could stay in a natural state. It would also require a reconfiguration of the building, which would alter the location of the front façade from Stadium Drive.

Finally, Ms. Johnston said, the property that faces this parcel along Stadium Park Way is also zoned I-1: Industrial. A pending application has been presented to the Planning Commission for a mini-storage facility at this location. Immediately to the north of this parcel is Harrison Packing, which has their loading/unloading area in the side yard adjacent to the National Flavors parcel. The placement of loading/unloading in the front yard of National Flavors should have minimal impact on these industrial uses. In addition, the planned landscape screening shown on the concept plan immediately adjacent to the loading/unloading area and along both public roadways will help screen the use from the more visible frontage of the parcel, Stadium Drive.

Ms. Johnston noted the second standard to consider was *Substantial Justice*.

Per section 68.301 of the Oshtemo Township Zoning Ordinance, she said, all properties are required to have their loading/unloading take place in the rear or side yards. Planning staff feels that while such a requirement is generally appropriate for office, commercial and retail properties because of their visibility to the public, industrial properties could be viewed differently. In this specific case, the only public that would access Stadium Park Way would be those wishing to access either the subject site, Harrison Packing or the pending mini-storage facility.

Ms. Johnston told the Board that Staff was also able to find past instances of when the Zoning Board of Appeals was inclined to grant relief from this requirement or the Planning Commission offered relief through a Planned Unit Development: Costco, 5100 Century Avenue was granted a loading/unloading variance in the side and rear yard on December 17, 2013, (fronting on Century Avenue, West Michigan Avenue and Stadium Drive) and a PUD concept plan was approved for Field & Stream, 5215 Century Avenue on February 11, 2016. (Fronting on Century Avenue and West Michigan Avenue)

The third standard she asked the Board to consider was *Self-Created Hardship*. She said the variance request could be considered a self-created hardship as the applicant could design the building in such a way that loading/unloading is in the rear or side yards. However, as stated previously, the intent of the Ordinance is not being met as both the side and rear yard are visible from an adjacent public road. In addition, redesigning the building would likely move the front façade from the Stadium Drive right-of-way, which is the most visible frontage. From a planning and design perspective, staff would like to see the façade that is architecturally aesthetic facing Stadium Drive. In addition, the status of this property as a corner lot was not created by the applicant.

Ms. Johnston also noted seeking relief from the loading/unloading requirements and permitting it adjacent to a local road that currently only serves a handful of properties does not compromise the public health, safety and welfare of the community.

Staff recommended approval of the variance request from *Section 68.301: Loading and unloading* and cited the following reasons:

- Compliance is unnecessarily burdensome due to the restrictions of two front yards on the lot because of frontage on Stadium Drive and Stadium Park Way.
- The unique characteristic of a double frontage lot was not a circumstance created by the applicant.
- The Oshtemo Township Zoning Board of Appeals and the Planning Commission have granted similar relief in the past. Approving this application for a variance would ensure that substantial justice and equal opportunity is being done.

The Vice Chairperson thanked Ms. Johnston for her review of the application and asked if there were questions from the Board.

In answer to questions, Ms. Johnston noted neighbors within 300 feet of the property had been noticed, notice was published in the *Kalamazoo Gazette*, and no input was received from the public. She also said there will likely be new landscaping proposed by the owner as part of a site plan review.

Hearing no further questions, Vice Chairperson Sterenberg asked if the applicant wished to speak.

Mr. Dan Hinkle, 4285 Squire Heath, Portage MI 49024, explained National Flavors makes flavors for products such as beverages, gum and tea to customer specifications, and described the business as being a high mix, low volume environment. The plan is to replace the old facility with this new building. The old building will possibly be used for storage. Personnel will all be moved to the new location.

Attorney Porter noted the parcel is already in the IDD.

The Vice Chair asked if there were Board comments.

Mr. Loy said it was a long time coming to the community and was in support of granting the variance. Mr. Smith concurred.

Hearing no further comments, Vice Chairperson Sterenberg asked for a motion.

Ms. Culp made a motion to approve the variance request for National Flavors at 7700 Stadium Drive, Parcel #3905-34-155-050, based on the recommendation and reasons provided by Staff. Mr. Loy supported the motion. The motion was approved unanimously.

Any Other Business / ZBA Member Comments

Ms. Johnston noted there would likely be two items on the agenda for the ZBA meeting scheduled for August 23rd.

Adjournment

Vice Chairperson Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, adjourned the meeting at approximately 3:16 p.m.

Minutes prepared:
August 10, 2016

Minutes approved:
August 23, 2016