

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A MEETING HELD FEBRUARY 26, 2015

Agenda

PUBLIC HEARING: SPECIAL EXCEPTION USE (FIRST AGENCY) - PLANNING COMMISSION TO CONSIDER SPECIAL EXCEPTION USE REQUEST OF THE APPLICATION FROM AVB CONSTRUCTION ON BEHALF OF LYNDON CRONEN FOR THE EXPANSION OF AN EXISTING SPECIAL EXCEPTION USE TO CONSTRUCT A 4,000 SQUARE FOOT STORAGE BUILDING FOR THE EXISTING OFFICE ON THE SUBJECT PROPERTY LOCATED AT 5071 WEST H AVENUE IN THE R-3 RESIDENCE DISTRICT. (PARCEL #3905-12-230-033)

PUBLIC HEARING: SPECIAL EXCEPTION USE (PNV INVESTMENTS, LLC) – PLANNING COMMISSION TO CONSIDER SPECIAL EXCEPTION USE REQUEST OF THE APPLICATION FROM SCHLEY ARCHITECTS ON BEHALF OF PNV INVESTMENTS, LLC FOR THE EXPANSION OF AN EXISTING SPECIAL EXCEPTION USE TO CONSTRUCT A 2,800 SQUARE FOOT ADDITION ONTO AN EXISTING OFFICE BUILDING ON THE SUBJECT PROPERTY LOCATED AT 5659 STADIUM DRIVE IN THE R-3 RESIDENCE DISTRICT. (PARCEL #3905-25-332-020)

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, February 26, 2015, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Terry Schley, Chairperson
Fred Antosz
Wiley Boulding, Sr.
Millard Loy
Pam Jackson
Mary Smith
Dusty Farmer

MEMBERS ABSENT: None

Also present were Greg Milliken, Planning Director and James Porter, Township Attorney. There were approximately seven other people in attendance.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order by Chairperson Schley at approximately 7:00 p.m., and the "Pledge of Allegiance" was recited.

AGENDA

The Chairperson asked for a motion to approve the agenda.

Mr. Loy made a motion to accept the agenda as presented. Mr. Boulding, Sr. seconded the motion. The motion passed unanimously.

Chairperson Schley also took this opportunity to introduce the new member of the Planning Commission, Mary Smith. He explained that she was an engineer, and he welcomed her to the Commission.

ELECTION OF OFFICERS AND ZBA LIAISON

The Chairperson said the next item up for consideration was the election of officers for the 2015 calendar year. He expressed an interest in remaining as Chair, at which point Mr. Loy made a motion to appoint Terry Schley as the Chairperson of the Planning Commission. The motion was seconded by Mr. Boulding, Sr. The Chairperson called for a vote on the motion, and the motion passed unanimously.

The Chairperson said the next position to be filled was the Vice Chair. Mr. Loy made a motion to appoint Pam Jackson as the Vice Chair. The motion was seconded by Ms. Farmer. The Chairperson called for a vote on the motion, and the motion passed unanimously.

The Chairperson asked Mr. Loy if he would be interested in remaining as the ZBA liaison, and he said that he would. Mr. Antosz then made a motion to appoint Mr. Loy as the ZBA liaison. The motion was seconded by Ms. Farmer. The Chairperson called for a vote on the motion, and the motion passed unanimously.

Mr. Milliken noted that the Commission also needed a Secretary. The Chairperson called for nominations for Secretary. Ms. Farmer nominated Mr. Antosz to be Secretary for the Planning Commission. Mr. Boulding, Sr. seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Chairperson Schley asked if anyone in attendance wished to comment on non-agenda items.

There were no public comments on non-agenda items. Chairperson Schley moved to the next item on the agenda.

APPROVAL OF THE MINUTES OF DECEMBER 11, 2014

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the meeting of December 11, 2014. Hearing none, he asked for a motion to approve the minutes.

Mr. Loy made a motion to approve the minutes of the December 11, 2014 meeting. Ms. Farmer seconded the motion. The Chairperson called for a vote on the motion. The motion passed unanimously.

Chairperson Schley moved to the next item on the agenda.

PUBLIC HEARING: SPECIAL EXCEPTION USE (FIRST AGENCY) - PLANNING COMMISSION TO CONSIDER SPECIAL EXCEPTION USE REQUEST OF THE APPLICATION FROM AVB CONSTRUCTION ON BEHALF OF LYNDON CRONEN FOR THE EXPANSION OF AN EXISTING SPECIAL EXCEPTION USE TO CONSTRUCT A 4,000 SQUARE FOOT STORAGE BUILDING FOR THE EXISTING OFFICE ON THE SUBJECT PROPERTY LOCATED AT 5071 WEST H AVENUE IN THE R-3 RESIDENCE DISTRICT. (PARCEL #3905-12-230-033)

Chairperson Schley said the next item on the agenda was a public hearing to consider the special exception use requested by AVB Construction to construct a 4,000 square foot storage building for an existing office on the subject property located at 5071 West H Avenue in the R-3 Residence District. The Chairperson asked to hear from staff.

Mr. Milliken submitted his report to the Planning Commission dated February 26, 2015, and the same is incorporated herein by reference. Mr. Milliken explained that the subject property on H Avenue was 3.57 acres in size with 450 feet of frontage on H Avenue, 300 feet of frontage on Drake Road.

Mr. Milliken explained that the subject property is located in the R-3 Zoning District, and the applicant was proposing a storage building to be used in association with the office building currently existing on the property. Mr. Milliken took the Commission through a review of the proposed development using a series of overhead slides and diagrams showing the proposed development along with an alternate conceptual plan.

Mr. Milliken outlined the applicant's proposal for maintaining existing landscaping, as well as planning additional berms for purposes of screening the property.

Mr. Milliken then took the Commission through a review of the Standards for Approval as fully set forth in his report. Mr. Milliken explained that Attorney Porter might have some additional input regarding this matter and turned the matter over to Township counsel.

Attorney Porter explained to the Commission that, as with any legislation, an Ordinance needs to be read in its entirety. He explained that he did not disagree with the technical analysis provided for by Mr. Milliken, but he thought that some additional information should be provided regarding accessory uses associated with office use.

Mr. Porter said, when looking at this proposal, he reviewed Section 78 of the Zoning Ordinance dealing with accessory buildings and noted, while this did not fall within the definition of an accessory building for a home occupation, that if it were a home occupation, the accessory building could not be used for a business use except in conformance with Section 78.900 of the Zoning Ordinance. In looking at that Section of the Ordinance, he took note of the fact that the Planning Commission had previously determined what it thought was compatible as an appropriate business use of an accessory building as a special exception use to a home occupation.

Attorney Porter noted under Section 78.920 of the Zoning Ordinance that the Planning Commission had set certain size limitations for accessory buildings to be used in a residential area in conjunction with a home office. The Planning Commission determined that for properties of 3 acres or more, accessory buildings were limited to 1,200 square feet. He also noted that the Ordinance stated that for residential structures, in no case shall the area of the accessory building utilized for the home occupation exceed the interior gross floor area of the dwelling.

Attorney Porter said, while the home occupation was not directly on point, he thought it could be instructive to the Commission as it tried to determine whether this use was compatible or injurious to adjacent properties. Attorney Porter also noted that Mr. Rod Walters of 5163 West H Avenue had provided written comments, bringing to the Commission's attention that there was already an existing accessory building located on the premises. The Chairperson thanked Attorney Porter for his input.

The Chairperson began by asking about the first two sections of Section 23 of the Zoning Ordinance dealing with R-3 residential uses. In focusing on the provisions of Section 23.400, the Chairperson asked the Planning Director if he determined that the subject building was an office building, since he did not see a specific provision to allow accessory buildings in Section 23.

Mr. Milliken acknowledged that Section 23 did not talk about accessory structures but they were allowed throughout the R-3 District, as they were in other

districts which did not specifically mention accessory buildings. He said he thought it was a proper extension of a non-residential use, and was an accessory building.

Mr. Schley then asked if Mr. Milliken thought that the use was incidental to the office use. Mr. Milliken said he thought that was an issue which needed to be answered.

Attorney Porter noted that he thought it was an accessory building, and in answering the question of whether it was an incidental use to the principal use is why he directed the Commission to look at Section 78.920 of the Zoning Ordinance.

The Chairperson asked if there were any questions of the Planning Director.

Mr. Loy asked why, if the ZBA recently did not allow a developer in an I-1 zone to have loading doors to face a public street, why someone developing in an R-3 zone with six garage doors would be allowed to face the street. Mr. Milliken said the prohibition is not against overhead doors but against loading areas in the front yard, and he thought they should ask the applicant the purpose of the number of doors for the subject building.

Mr. Antosz asked if there would be any outdoor lighting. Mr. Milliken said he was not aware of any. Mr. Antosz then asked if the applicant would be constructing a sidewalk. Mr. Milliken said it was not included on the plan and some form of commitment should be required. It was up to the Planning Commission to decide whether funds should be escrowed or whether the applicant should agree to an assessment in the future. Mr. Antosz asked if there was a pool. Mr. Milliken said there was no pool located on the subject property.

Ms. Farmer asked what the size of the existing accessory building was on the subject property. Mr. Milliken said he would need to review the file.

Mr. Schley asked what the existing size of the office building was on the subject property, and Mr. Milliken said he would need to check on that as well.

The Chairperson asked if this was a private residence, could they build a garage this large. Mr. Milliken said they could only if the home was 4,100 square feet in size. Attorney Porter asked if the applicant would have to take into account the size of the existing accessory building. Mr. Milliken indicated that he would.

Mr. Boulding, Sr. asked staff if the first issue to address would be how to define what was being proposed. He asked whether the subject building was an office, storage building, or an accessory building? Mr. Milliken said he thought it was an accessory building. The Chairperson noted it was an issue for the Planning Commission to address.

The Chairperson asked if there were any more questions. Hearing none, he asked to hear from the applicant. Mr. Darrell Rynd from AVB Construction was in attendance on behalf of the applicant, Lyndon Cronen. Mr. Rynd said he could not answer some of the fundamental questions which had been raised regarding the Ordinance. However, he thought this use was supplemental to an existing use on the property. He said initially they did not think they would even need to have a public hearing, and after it was initially pulled, they took a closer look at the issue in response to some of the concerns identified in the initial staff report. He said they had tried to lower the building height and screen the building better with vegetation and berms. Mr. Rynd said that the original building had eight doors, and they reduced that amount to six doors. He did note that the applicant had been at that property for 30 years and needed the additional space because they had a business which handled insurance for schools. He said the need for the various bays was based upon the amount of information pamphlets that they had to sort and distribute to schools throughout a multi-state area. He said the current office's main floor is approximately 4,500 square feet, and the other building on the site was approximately 1,500 square feet, but it housed lawn equipment, picnic tables, etc.

The Chairperson asked if there was any intent to provide outdoor lighting. Mr. Rynd said he was not sure, but thought there would likely be some down lighting on the building.

Ms. Smith asked why there were so many doors on the proposed building. Mr. Rynd said two of the doors were for deliveries, and he thought the larger ones were going to handle deliveries from 20-foot trucks, but the doors were primarily for access to the materials.

Ms. Smith asked if they would be bringing any semi-trucks to the site. Mr. Rynd indicated no.

Mr. Loy raised a question regarding the 20-foot apron and the ability of trucks to reach the subject building, given that there were two 90-degree angles which would have to be navigated. He said he did not think a person could get any truck in there the way it was designed. Mr. Rynd said it was likely that the drive for the second design would be more appropriate. However, in either case, a more formal design and layout would be developed with adequate engineering detail if the request is approved.

The Chairperson asked if there were any more questions of the applicant's representative. Hearing none, he called for public comment.

Mr. Rod Walters introduced himself to the Commission. He said he lived on H Avenue, just west of the subject property. He said Mr. Cronen was a very good neighbor, but he did not particularly like the gigantic pole barn which was proposed. He said he thought it would make the area look like a warehouse district.

Mr. Walters said he was not happy with the size of the proposed building, and perhaps a single door at the end would address some of his concerns. He told the Planning Commission if it approved the request, that he thought a professional landscaping plan would be necessary. He said that some nice trees should be planted and neatly landscaped, not just leaving the existing brush and scrub trees which were on site.

Ms. Michelle Richard introduced herself to the Planning Commission. She said she lived just south of the property on Drake Road in an historic home. She noted that Mr. Cronen was a good neighbor, but she was concerned about the proximity of such a large building to the historic buffer zone. She was also concerned that the berm might produce more water run-off which would reach the foundation of her older home. She told the Planning Commission that she would be happier if this building was further north on Drake Road.

Mr. Rynd then told the Commission that he believed his client would be happy to do additional landscaping. He also noted that they had provided for drainage around the building with piping leading from the eaves troughs to the appropriate drainage area.

The Chairperson asked Township counsel if the applicant's request for a special exception use permit were denied, if they were limited to not returning for one year. Attorney Porter noted that generally that was true unless they submitted a significantly altered proposal.

The Chairperson asked if Mr. Milliken had had an opportunity to calculate the square footage of the existing office building and the existing accessory building. Mr. Milliken said that the existing office building was 3,800 square feet, and the existing accessory building was approximately 1,300 to 1,400 square feet.

The Chairperson said when he originally looked at this proposal, he was hoping that he could warm up to it, but he did not see that happening. He said aesthetically he thought that the garage was not too bad and noted that if it was a personal garage, they could design it or paint it any color they chose. However, he noted for the Commission's purposes they had to treat this accessory building as a business use because zoning runs with the land, and if this building were approved and ownership changed, it would run with the land. He said that while Mr. Cronen was a good neighbor, they did have to think about the long-term implications of the proposal.

The Chairperson told the Commission that he struggled with the technical aspects of the Zoning Ordinance and whether accessory buildings were appropriately permitted within the R-3 zone. He said he read the R-3 zone as allowing new offices but was concerned that incidental accessory uses were not permitted or at least needed to be better defined. He thought it was appropriate in trying to address the suitability of this structure to look at the standards for home occupations as pointed out by Township counsel under Section 78.920. He said if this was a business to house trucks, it would be clear that it would not be permitted. He said if this was simply a 40'x100' warehouse,

it would not be permitted in a residential zone; it would be typically be directed to an I-R or I-1 zone. He said he thought the issue was one of a matter of scale.

Mr. Loy said that he was concerned that the applicant already had an existing accessory building on site, and now they were asking for another one. He said he had a serious issue with the size of the proposed structure.

Mr. Boulding, Sr. said that, while there were differing definitions to consider, and even considering this as an accessory building, he said the Township's Master Plan was to allow "limited" office development in the R-3 zone. He said he did not think that the size of this structure fit into an R-3 zone. He said if it did not change the character of the area, it certainly would affect the character of the area. Lastly, he said those residents living across the street would be directly affected, and he did not think it was a good fit for the property.

Ms. Farmer said that she was concerned that there was already an existing accessory building on site, and that it had not been included within the conceptual drawings. She also said, if you compared it to an accessory building for a home occupation, it was substantially larger than what would be allowed for a similarly-situated property.

The Chairperson asked the Planning Director if someone wanted a monster garage, would we allow him to build it. Mr. Milliken said that the Ordinance does allow it with approval of the Planning Director and site plan review. Attorney Porter noted that, while that was true, most large accessory buildings which exceeded the square footage of the residence were not approved directly by the Planning Director, but were often referred to the ZBA for site plan review and approval.

Ms. Jackson said that, while Mr. Cronen was a nice neighbor, she was concerned about the proposed landscaping. In addition, she was most concerned about the size of the proposed structure. She noted that the properties to the north, south and west were all residential, and that this building did not seem compatible with the area.

Mr. Antosz said that, when he originally reviewed this matter in January, he was opposed to it. He noted that the revised plan made it better, but he thought the building should still be smaller than what was proposed and better landscaped. He said size was a serious question.

Ms. Smith said she was concerned about the design of the building. She said she thought six doors were problematic because it appeared to be designed to accommodate six vehicles. She stated, while the applicant might not use the structure for that purpose, she thought in the future it would most likely be purchased and used by someone wanting to access all six doors, such as a contractor, and that simply did not fit into an R-3 zone. She noted that, while this area was becoming more suburban

and a diagonal exposure helped, the building itself still was not compatible with other uses in the R-3 zone.

The Chairperson asked if there was a motion to approve the proposed amendment to the special exception use permit. Hearing none, he asked if there was a motion to deny the amendment to the special exception use permit. Mr. Boulding, Sr. made a motion to deny the request, and the motion was seconded by Mr. Loy. Township counsel asked if the record could reflect that the motion to deny was for the reasons set forth in the record. Both Mr. Boulding, Sr. and Mr. Loy concurred.

With the motion on the table, the Chairperson asked if there were any further comments, Ms. Farmer said, while she appreciated the applicant's attempt to berm and landscape the property, that the incompatibility was a matter of size, and she hoped the applicant, if he wanted to re-submit a modified application, would take that into consideration before returning to the Planning Commission.

The Chairperson said his biggest concern was that this structure did not appear to be subservient to the primary use. He said he did not think it was incidental, given the fact that the square footage of the proposed building exceeded the square footage of the principle structure. He said that warehouses simply were not something that should be permitted in an R-3 zone.

Mr. Boulding, Sr. said, if he lived in the area, he would not want to look at a building of this size and design across from him in a residential neighborhood.

The Chairperson noted that the Commission had to consider the request and design which were put in front of it, and it was not its job to redesign this for an applicant. Therefore, their only option was to either grant it or deny the request based upon the standards set forth in the Zoning Ordinance.

The Chairperson called for a vote on the motion. The motion passed unanimously.

PUBLIC HEARING: SPECIAL EXCEPTION USE (PNV INVESTMENTS, LLC) – PLANNING COMMISSION TO CONSIDER SPECIAL EXCEPTION USE REQUEST OF THE APPLICATION FROM SCHLEY ARCHITECTS ON BEHALF OF PNV INVESTMENTS, LLC FOR THE EXPANSION OF AN EXISTING SPECIAL EXCEPTION USE TO CONSTRUCT A 2,800 SQUARE FOOT ADDITION ONTO AN EXISTING OFFICE BUILDING ON THE SUBJECT PROPERTY LOCATED AT 5659 STADIUM DRIVE IN THE R-3 RESIDENCE DISTRICT. (PARCEL #3905-25-332-020)

The Chairperson indicated that the next item on the agenda was the Planning Commission's consideration of a special exception use, and that due to a conflict, he

was recusing himself, and removing himself from the dais, called for the Vice Chair to chair this item of the meeting.

Ms. Jackson then took over as Vice Chair of the meeting, noting that the Planning Commission was being asked to consider a special exception use from Schley Architects, on behalf of PNV Investments, to construct a 2,800 square foot addition to an existing office building located at 5659 Stadium Drive in the R-3 zoning district.

The Vice Chair asked to hear from staff. Mr. Milliken submitted his report to the Commission dated February 26, 2015, and the same is incorporated herein by reference.

Mr. Milliken explained that the building was located at 5659 Stadium Drive and consisted of two separate buildings. He noted that the applicant had already received a variance to locate the addition 15 feet from the west property line. He said the proposed addition was being made to the southern two-story building with approximately 6,921 square feet currently occupied by an attorney's office and a physical therapy clinic.

Mr. Milliken explained that the 2,800 square foot addition would extend 25 feet 5 inches from the existing building, bringing it in line with the existing building to the north. He said the addition was to house a physical therapy gym associated with a new therapy tenant in the building.

Mr. Milliken noted that the redevelopment includes resurfacing of the parking lot. In such instances, the Ordinance encourages bringing the lot into conformance with Ordinance standards. He said the proposed improvements include adding greenspace within the parking lot area to bring them more into conformance with the landscaping requirements of Section 75.140. At the conclusion of his report, Mr. Milliken took the Commission through the considerations for approval pursuant to Section 60.100 of the Zoning Ordinance, as more fully set forth in his report.

The Vice Chair asked if there were any questions of Mr. Milliken.

Mr. Antosz asked about water and sewer being connected to the building to the south and asked if it was going to be connected to the building to the north. Mr. Milliken said the north building was already connected.

Ms. Farmer asked about the sidewalks and when they would be installed. Mr. Milliken said at the time of construction.

Hearing no further questions, the Vice Chair asked to hear from the applicant.

Mr. Kris Nelson from Schley Architects spoke on behalf of PNV Investments, LLC. However, he said before he spoke, he thought the Commission should hear from the applicant as to what they were trying to achieve on site.

Mr. Paul Vlachos introduced himself to the Planning Commission. He said that they had a tenant which occupied a portion of their north building that wanted to move to their south building but needed a work space and/or “gym” as an open exercise area for children. He said the north building then would be used by the adult program for physical therapy, keeping all of that business within the Township. Mr. Vlachos noted that they would maintain the landscaping to the west, rebuild their parking lot, install water and sewer, and overall, substantially upgrade the facility and hoped that the Commission would approve their proposal.

Mr. Nelson explained to the Commission that the only suitable location on site to put the addition was to the west due to limitations involving parking, as well as public utilities. He said he thought they had designed the building to blend in with the existing structures, and again noted the improvements being made to the site including parking and public utilities.

The Vice Chair asked if there were any public comment. Hearing none, she asked if there were any questions of the applicant.

Mr. Antosz asked about storm water and how it would be handled. Mr. Nelson said that, based on the Township’s Engineer’s analysis, they would be adding leaching basins, and storm drain trenches sized pursuant to the Township’s regulations to comply with the 100-year storm.

The Vice Chair asked if there were any further questions, and hearing none, she called for Commission deliberation.

Ms. Farmer said she thought it was gratifying to see a developer who is willing to put in sidewalks at the time of development. She also noted that she thought the proposed site plan was consistent with the area and the allowed uses within the R-3 zone.

Mr. Loy said, at the time the ZBA granted the variance to allow an encroachment on the setback to the west, that they took note of the fact that it was immediately adjacent to a parking lot and still more than 100 feet from the R-4 structure to the west.

The Vice Chair asked for further discussion. Hearing none, she called for a motion. Ms. Farmer made a motion to approve the site plan subject to the following conditions as set forth in the staff report:

1. Compliance with required landscaping along the west property line should existing landscaping be removed.
2. The Master Deed and any other legal documents associated with the Stadium Drive Office Condominium be amended as necessary

to reflect the expansion to the office building (condominium unit) and recorded copies be provided to the Township.

3. Site plan approval is subject to the approval of the Fire Department, pursuant to adopted codes.
4. Site plan approval is subject to the review and acceptance of the Township Engineer as adequate.

Mr. Loy seconded the motion. The Vice Chair called for further discussion. Hearing none, she called for a vote on the motion. The motion passed unanimously.

OLD BUSINESS

Mr. Schley resumed the dais and took over as Chairperson of the meeting. He asked if there was any old business. He said he wanted to remind the Commission to plan a meeting in the spring to take road trip to take a look at existing landscaping in the Township in order to evaluate future needs.

Mr. Milliken then presented the Commission with the Planning Department Annual Report 2014. Many of the Commissioners thanked him for the thoroughness of that Report.

The Chairperson said he thought, given the discussion at the meeting, they should also look at the definitions of “incidental” and “accessory uses” and make sure that things were clear in the future. The Chairperson also said that the Commission would likely be looking at new developments and sanitary sewer needs to be established by the Commission. He said he thought that whatever the Planning Commission did, it should be consistent with the Master Plan and based on what would protect the ground water. He said that might involve the Planning Commission reviewing the density provisions where sewer was not available or likely not to be installed in the near future. Ms. Farmer reminded the Commission that ultimately decisions on this topic will need to come to the Township Board.

The Chairperson asked Staff to prepare an initial presentation on issues such as background information, sewer and water requirements, density issues and mapping areas with and without sanitary sewer.

ANY OTHER BUSINESS

The Chairperson noted that there were training sessions available in 2015 and that Planning Commissioners who were interested should talk to the Township Planning Director.

PLANNING COMMISSIONER COMMENTS

Mr. Loy happily explained to the Planning Commission that the Oshtemo Historical Society had entered into a contract for a new Master Plan for the development of The Drake Homestead.

ADJOURNMENT

Having exhausted the agenda, the Chairperson called for adjournment of the meeting at 9:05 p.m.

Minutes prepared:
March 2, 2015

Minutes approved:
March 26, 2015