

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A MEETING HELD JULY 23, 2015**

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**Agenda**

**PUBLIC HEARING: SPECIAL EXCEPTION USE AMENDMENT AND SITE PLAN REVIEW OF THE APPLICATION FROM LYNDON CRONEN FOR A NEW ACCESSORY BUILDING LOCATED AT 5071 WEST H AVENUE IN THE R-3 RESIDENTIAL DISTRICT. (PARCEL #3905-12-230-033).**

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, July 23, 2015, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

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

ABSENT: Dusty Farmer

Also present were Greg Milliken, Planning Director; James Porter, Attorney; and Martha Coash, Meeting Transcriptionist. Three other persons were 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. Antosz seconded the motion. 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 JUNE 25, 2015**

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the meeting of June 25, 2015. Hearing none, he asked for a motion to approve the minutes as presented.

Mr. Antosz made a motion to approve the minutes of the June 25, 2015 meeting. Mr. Boulding, Sr. seconded the motion. The motion was approved unanimously.

## **PUBLIC HEARING: SPECIAL EXCEPTION USE AMENDMENT AND SITE PLAN REVIEW OF THE APPLICATION FROM LYNDON CRONEN FOR A NEW ACCESSORY BUILDING LOCATED AT 5071 WEST H AVENUE IN THE R-3 RESIDENTIAL DISTRICT (PARCEL #3905-12-230-033).**

Chairperson Schley moved to the next item on the agenda, a public hearing for a special exception use amendment and site plan review of the application from Lyndon Cronen, and asked Mr. Milliken to review the request.

Mr. Milliken said the subject property is located at 5071 West H Avenue, at the southwest corner of H Avenue and Drake Road. It is a 3.57-acre parcel with approximately 450 feet of frontage on H Avenue and 300 feet of frontage on Drake Road. The existing office building was approved in 1985 with a parking addition approved in 1994.

He noted the property is located in the R-3 zoning district. It is a transitional residential district that allows limited commercial uses with certain restrictions. An office building is a special exception use in the R-3 district, and any expansion of such use must also be approved through the special exception process. Therefore, the proposed storage building associated with the business requires special exception approval.

Mr. Milliken explained the properties to the north and west are primarily developed with single family homes and are located in the R-2 district. To the east across Drake Road is Kalamazoo Township where there are homes and Kalamazoo Central High School. To the south are properties in the R-3 and R-4 districts. This includes a senior center and a historic home. The historic home is also within the historic overlay district.

He reminded the Board a similar request presented by AVB on behalf of the applicant was heard and ultimately denied by the Planning Commission at its February 26<sup>th</sup>, 2015 meeting. The previous proposal included a larger 4,000 square foot, six bay building.

Mr. Milliken said the applicant is proposing to build a 1,080 square foot accessory building associated with the existing business on the subject property. The building would be 30 feet wide, 36 feet deep, and have side walls of 12 feet in height. It would be a steel sided building with a shingled roof. The proposed structure includes three overhead doors on the west side, facing the primary building on the property. The proposed building is to be located to the east of the existing primary structure, approximately three feet from of the edge of the parking lot. The structure will be connected to electricity but is not intended to be connected to water or sanitary sewer utilities. It will not be an occupied structure, nor will it employ any exterior lighting.

He said the Drake Road and H Avenue frontages are subject to enhanced setbacks by Section 64.100 of the Ordinance. The minimum required setback from H Avenue is 70 feet from the right of way. The minimum required setback from Drake Road is 120 feet from the centerline of the road. To the south, the minimum required setback is 100 feet because of the historic overlay district. The proposed structure satisfies all stated setback requirements.

The Township Fire Marshal and Engineer have reviewed the proposed plans and have indicated they have no problems with the site plan as presented.

Mr. Milliken told the Board the applicant is proposing to maintain a wide buffer of existing landscaping along both street frontages, which includes a variety of materials such as canopy trees and understory growth, thereby providing an adequate amount of screening along both street frontages. There is also a four to five foot natural berm along these boundaries.

He explained along the south property line adjacent to the Historic Overlay Zone, an E greenspace is required to be installed. While there is existing vegetation on this part of the property that will be preserved, and the applicant has indicated that he intends to plant evergreen trees immediately adjacent to the proposed structure, additional plantings may be required if construction of the building removes more screening along the southern exposure than is acceptable.

He noted Section 78.650 requires all uses undergoing site plan review provide a sidewalk consistent with the Township's Non-motorized Plan. No sidewalk is provided on the submitted site plan due to the fact that the applicant is using the original document from 1985 before such improvements were required. It is recommended that the applicant sign a commitment to not protest a special assessment district should such a facility be proposed along the H Avenue and/or Drake Road frontages.

Regarding standards for approval, he said Section 23.404 provides specific requirements for office buildings in the R-3 district. This is not an office building, but it

serves as an expansion of the office building use in that district. Therefore, it should be consistent with the requirements for such use. A review of the proposed project shows that it is consistent with these standards and that the overall use of the property will remain in compliance with the criteria listed in the Zoning Ordinance.

Chairperson Schley thanked Mr. Milliken and asked if it was his position that the proposed building would be used for purposes of a professional organization, which is how an office is defined in the Zoning Ordinance.

Mr. Milliken said that was correct.

The Chairperson asked whether other Commissioners had questions.

Mr. Antosz said the application called the proposed building a storage/accessory building and wondered if that is an office building.

Mr. Milliken said the use permitted under special exception is for an office building. That can include a building that will function to support the existing business. Storage purposes related to the professional office use fit that criterion.

Mr. Antosz asked whether granting this request would open the door to others with similar accessory building requests in R-3.

Mr. Milliken said the door has already been opened and provided several examples of similar structures and uses in the R-3 district in the Township. He felt the requested building will be part of the office and would not violate standards since it would not be out of character.

Attorney Porter pointed out that Section 23.203 refers to accessory buildings for residential uses and felt this should be treated in the same manner.

Mr. Boulding, Sr. asked for clarification regarding whether water and restroom facilities might be included in the building.

Mr. Milliken suggested the applicant might address that question.

Attorney Porter noted a storage building wouldn't typically have water or sewer.

Ms. Jackson asked about the square footage of the original building.

Chairperson Schley said the original building comprises 4600 square feet and that with the additional structure, the total square footage would be under 10,000 square feet.

There were no further questions; Chairperson Schley asked the applicant if he would like to speak.

Mr. Lyndon Cronen, 5180 Grand Arbore Trail, Portage, told Commissioners that with existing fast growing Austrian Pine trees and the addition of more this fall, that three sides of the building should be well screened from the road by 15-16 foot trees within a year. He said the principle uses of the building will be storage and re-boxing of student accident forms and preparation to ship or deliver to schools. Some office furniture may be stored there. Most of the forms activity will take place during the summer months. Currently this work is done in cramped space in the existing building. Since the restroom facilities in the existing building are within 300 feet of the proposed building and most of the work will be done there during the summer months, water/sewer service will not be needed. He noted the business has 20 employees.

In response to a question from Chairperson Schley, Mr. Cronen said his business is a professional organization selling insurance and the new building will have a direct relationship to that business. If there were additional free space in the existing building, the forms work would be done there.

The Chairperson thanked Mr. Cronen for his comments and asked if there were comments from the public.

Mr. Peter Brakeman, 2611 N. Drake Road, said his property was just to the south of the Cronen property. He has lived on the historical property there for seven years and said Mr. Cronen has been an accommodating and gracious neighbor and that he has gone to a lot of trouble to come up with a solution for his proposed plan. Mr. Brakeman said he was happy to see him move forward with it. He noted the buildings are hidden from H Ave. and Drake Road and supports his plans.

There were no further public comments; Chairperson Schley closed the public hearing and moved to board deliberation.

Chairperson Schley noted the Commission had not approved Mr. Cronen's initial application at its February 26, 2015 meeting and that for the record the discussion at that time should be referenced in any future related matter.

The Chairperson moved to board deliberation and began with his comments.

He said one of the discussion items from the February meeting was whether this is an accessory or storage building. Under the zoning ordinance, an office building is fundamentally different from the concept of an office building under the building code, and noted the building code is not what the Commission should consider in their review of land use. Whether it has to have toilets and temperature in a certain range and other similar requirements are part of the building code foundation.

Chairperson Schley's interpretation of the Ordinance regarding an office is that, a building used for professional organizations is an office. If the definition of accessory building is applied to this proposal, he has a problem with the precedent it would set. In

his opinion R-3 doesn't, as written, allow accessory buildings. It does, however, allow office buildings less than 10,000 square feet. As he heard the applicant describe the proposed building's intended use, he is in agreement with Staff's position that this building complies with the definition of an office building in the Township ordinance. In his mind, as long as the building is less than 10,000 square feet and the warehousing isn't for something unrelated to the professional business, but has a direct purpose related to it, the ordinance definition of office is met. Under that criterion he is willing to move forward on this request.

Ms. Smith asked what the ramifications would be if, in the future, Mr. Cronen sells his property and a new owner would, for example, use the property for a contractors' business which would be in violation of the zoning ordinance.

Attorney Porter said that could happen any time on any property, and that a new owner would be required to obtain a permit at that time and it would be caught in that way.

Chairperson Schley said that has occurred in the past; that type of situation cannot be second-guessed and is part of the process of how requests are approved.

Mr. Milliken said he has visited the subject property several times and that it is consistent with the applicant's representation; the core use fits into the office definition.

The Chairperson noted the business is a professional insurance group. If the intent was to house something unrelated to the business and that came to light it would be an issue, but if it were instead a larger office building able to house items related to the business, it would be fine.

Both Ms. Jackson and Mr. Loy felt the application was acceptable.

In answer to a question from Mr. Boulding, Sr. regarding the word "intended" as it related to the exclusion of water/sewer facilities, Mr. Cronen said the bulk of the time people will be working in the proposed building will be during good weather months. 99% of the time there will not be a vehicle in the building, but one might be stored during especially bad weather and that when school starts they would use a truck to dispose of excess forms by backing it up to the new building.

Chairperson Schley noted zoning and land use still need a building permit and confirmed with Mr. Cronen that the building will be within 300 feet of the primary building with facilities. He said they will want electricity and may possibly run natural gas to accommodate a hanging heater to keep the building from freezing. He noted there is no requirement under the Michigan Building Code for water/sewer in a building if it is within 300 feet of the workplace. If the building were attached it would still comply under the 10,000 square feet maximum requirement.

Ms. Smith, Mr. Boulding, Sr. and Mr. Antosz all agreed they felt the application was acceptable.

Ms. Smith made a motion to approve the application as proposed subject to the following conditions:

1. A detailed landscape plan is to be submitted to Staff, prior to the issuing of a certificate of occupancy, confirming that existing and proposed landscape materials along Drake Road, H Avenue, and the area facing the historical district satisfy the greenspace requirements of the Zoning Ordinance.
2. The applicant must sign a commitment—in a form approved by the Township Attorney—to not protest a special assessment district should such a non-motorized facilities be proposed along the H Avenue and/or Drake Road frontages.
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 motion was approved unanimously.

### **OLD BUSINESS/OTHER BUSINESS**

Chairperson Schley asked if there was old business or other business to come before the Commission.

Mr. Milliken told Commissioners that Meijer is still reviewing their plans; they have around 20-30 applications currently for similar proposals for pick-up service they proposed here and need more time to address all the comments from Commissioners. They may return or may pass on the Oshtemo store for now.

Attorney Porter said since the proposal was tabled to a date certain, if they return for another meeting, it will need to be re-noticed for public hearing.

Mr. Milliken does not expect a need for a meeting on August 13 but will be in touch with Commissioners. There are two issues likely for the August 27 meeting.

In response to a question from Ms. Jackson, Mr. Milliken said the only issue with the fireworks tents this year was that Jake's was two days late removing their tents due to scheduling issues with the tent company.

Attorney Porter reported the developers who were denied in their proposal for a development on VanKal have filed suit against the Township and he counseled Commissioners to refer any communication regarding the suit to the Township and legal counsel.

There was no further business so the Chairperson moved to the next item.

### **PLANNING COMMISSIONER COMMENTS**

There were no comments from Commissioners.

### **ADJOURNMENT**

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Schley asked for a motion to adjourn.

Mr. Loy made a motion to adjourn. Mr. Boulding, Sr. seconded the motion. The motion carried unanimously.

Chairperson Schley adjourned the Planning Commission meeting at approximately 7:50 p.m.

Minutes prepared:  
July 26, 2015

Minutes approved:  
August 27, 2015