

OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD MAY 22, 2012

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Agenda

**WARN – CLARIFICATION OF APPROVED SETBACK VARIANCE FROM SECTION 60.200 OF ZONING ORDINANCE TO ALLOW AN ACCESSORY STRUCTURE WITH A FIVE FOOT REAR YARD SETBACK AND SEVEN FOOT SIDE YARD SETBACK – 3546 SMITHFIELD WAY – (PARCEL NO. 3905-33-171-058)**

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A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, May 22, 2012, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Roger Taylor, Chairman  
Grace Borgfjord  
James Sterenberg, Second Alternate

MEMBERS ABSENT: Cheri Bell  
L. Michael Smith  
Robert Anderson  
Neil Sikora, First Alternate

Also present were Greg Milliken, Planning Director; Karen High, Zoning Administrator; James W. Porter, Township Attorney, and one other interested person.

Call to Order/Pledge of Allegiance

The Chairman called the meeting to order at 3:00 p.m., and the “Pledge of Allegiance” was recited.

Approval of Agenda

The agenda was approved by a consensus.

## Public Comment on Non-Agenda Items

The Chairman said the next item was public comment. There being none, the Chairman asked the Board to proceed with the next agenda item.

## Minutes

The Chairman said the next item on the agenda was approval of the minutes of April 24, 2012. Ms. Borgfjord then made a motion to approve the minutes, as submitted. The motion was seconded by Mr. Sterenberg. The Chairman called for a vote on the motion, and the motion passed unanimously.

## **WARN – CLARIFICATION OF APPROVED SETBACK VARIANCE FROM SECTION 60.200 OF ZONING ORDINANCE TO ALLOW AN ACCESSORY STRUCTURE WITH A FIVE FOOT REAR YARD SETBACK AND SEVEN FOOT SIDE YARD SETBACK – 3546 SMITHFIELD WAY – (PARCEL NO. 3905-33-171-058)**

The Chairman said the next item was a clarification on the setback variance request from Mr. and Mrs. Warn for the property located at 3546 Smithfield Way, (Parcel No. 3905-33-171-058). The Chairman asked to hear from the Planning Department.

Mr. Milliken reminded the Board that they granted a variance to Mr. Warn at the meeting of April 24, 2012. He said that the applicant had been granted a variance to build a 22' x 22' accessory building five feet from the rear lot line and seven feet from the side yard lot line. The variances were required to accommodate the drain field and the reserve area for the drain field and required confirmation of the exact location of each by the Township Planning Department in conjunction with the County Health Department.

Mr. Milliken explained that Karen High had visited the site, along with the Health Department staff and determined that the rear yard variance was necessary to keep from intruding on the reserve area for the drain field, but technically, the side yard setback variance was not required due to the distance between the side property line and the drain field. However, upon inspection, it became evident that, in order to meet the required side yard setback, they would have to cut down one of the evergreen trees near the rear lot line and the three mature trees in the middle of the lot in order to allow access to the accessory building. Mr. Milliken asked Ms. High to explain to the Board what she had seen on site.

Ms. High explained that she had met with the Health Department at the site. Together, they located the drain field as well as the reserve area, and the building could technically be built with only a five-foot rear yard setback to accommodate the reserve area while satisfying the minimum side yard setback requirement. However, she used photographs to explain that it could only be done if some mature trees in the middle of

the lot were cut down, and if one of the larger evergreens on the rear of the lot was also cut. She said that is why Mr. and Mrs. Warn were bringing the matter back to the Board because technically, they could remove the trees and meet the requirements of the original variance.

Attorney Porter stated that a variance granted for a reason other than that set forth in the record could not be granted administratively. He said the issue of whether a variance should be granted because of the trees needed to return to the Zoning Board of Appeals.

Ms. High commented on how nicely the yard was landscaped.

The Chairman asked if the hearing had been re-noticed. Mr. Milliken said it had not because staff was simply seeking clarification on the issue of the variance. The Chairman asked if there had been any negative comments about the proposed variance. Mr. Milliken said there had not.

Mr. Sterenberg asked for clarification to make sure that he fully understood the nature of the request. He stated that the rear yard variance was needed, and Mr. Milliken indicated that was correct. It was needed because of the reserve area. Mr. Sterenberg confirmed the side yard variance was not necessary to preserve the drain field or the reserve area but would be necessary in order to preserve the trees on the property. Mr. Milliken indicated that was correct.

There was a general discussion regarding the trees, their location and the effect upon a turning radius of a vehicle driving into the accessory building. Mr. Milliken clarified that all the Board was being asked to consider was the side yard setback in order to preserve the existing trees on the property.

The Chairman noted that the Township has made a concerted effort in its Master Plan, as well as its Zoning Ordinance, to plant and preserve trees throughout the Township. Mr. Sterenberg said, given the minimum nature of the variance to preserve the existing trees, he thought it was a good idea. Mr. Milliken said, by preserving the trees in the center of the property, it would screen the structure from the road.

Ms. Borgfjord said that the trees at issue were mature trees and were not insignificant. She said had they been small trees, they could have been moved, but given their size, it would not be practical, and they would have to be destroyed if a variance was not granted.

Ms. Borgfjord raised the issue regarding the proximity of the proposed accessory building to the accessory building next door and whether anything would have to be done to address that issue. Attorney Porter and Mr. Milliken both commented that the Building Department will take care of any fire-rating issues, if they were necessary.

The Chairman then asked if he could have a motion. Ms. Borgfjord made a motion to grant a side yard setback to allow the applicant to build within seven feet of

the side yard at issue. The Chairman asked for a friendly amendment, stating that the applicant was required to maintain the trees which had been preserved as a result of the variance. Ms. Borgfjord agreed to add that as a condition of her motion. The motion was seconded by Mr. Sterenberg. The Chairman called for further discussion. Hearing none, he called for a vote on the motion. The motion passed unanimously.

#### Any Other Business

None.

#### Adjournment

There being no further matters to come before the Board and the Board having exhausted its Agenda, the meeting was adjourned at 3:30 p.m.

Minutes Prepared:  
May 25, 2012

Minutes Approved:  
June 26, 2012