

**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS**

**MINUTES OF A MEETING HELD MARCH 27, 2018**

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**Agenda**

**SITE PLAN REVIEW: (DEVISSER LANDSCAPE ADDITION)**

**JOEL DEVISSER, OF DEVISSER LANDSCAPE SERVICE, WAS REQUESTING SITE PLAN APPROVAL FOR A 2,000 SQUARE FOOT OFFICE ADDITION AND A 3,000 SQUARE FOOT STORAGE BUILDING EXPANSION. THE SUBJECT PROPERTY IS AT 4014 SOUTH 9<sup>TH</sup> STREET, PARCEL NO. 3905-35-330-041.**

**PUBLIC HEARING: VARIANCE REQUEST (SPURR DENTAL)**

**APPLICANT WAS REQUESTING A VARIANCE FROM SECTION 64.300 OF THE ZONING ORDINANCE TO BE ALLOWED A TEN-FOOT REAR STRUCTURAL SETBACK WHEN 20 FEET IS TYPICALLY REQUIRED. THE SUBJECT PROPERTY IS LOCATED AT 1624 SOUTH DRAKE ROAD, PARCEL NO. 3905-25-231-010.**

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A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, March 27, 2018 at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT:	James Sterenberg, Chair Bob Anderson Nancy Culp Neil Sikora, Vice Chair Anita Smith Bruce VanderWeele
MEMBERS ABSENT:	L. Michael Smith

Also present were Ben Clark, Zoning Administrator, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist, and four interested persons.

**Call to Order and Pledge of Allegiance**

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

Chairperson Sterenberg welcomed new member Bruce VanderWeele to the ZBA. He also welcomed Planning Department Intern Natalie Bond.

**Public Comment on Non-Agenda Items**

There were no comments on non-agenda items.

## **Approval of the Minutes of August 22, 2017**

Chairperson Sterenberg asked if there were any additions, deletions or corrections to the minutes of August 22, 2017. Hearing none, he asked for a motion of approval.

Mr. Sikora made a motion to approve the minutes of August 22, 2017 as presented. Mr. Anderson supported the motion. The motion was approved unanimously.

### **SITE PLAN REVIEW: (DEVISSER LANDSCAPE ADDITION)**

**JOEL DEVISSER, OF DEVISSER LANDSCAPE SERVICE, WAS REQUESTING SITE PLAN APPROVAL FOR A 2,000 SQUARE FOOT OFFICE ADDITION AND A 3,000 SQUARE FOOT STORAGE BUILDING EXPANSION. THE SUBJECT PROPERTY IS AT 4014 SOUTH 9<sup>TH</sup> STREET, PARCEL NO. 3905-35-330-041.**

Chairperson Sterenberg asked Mr. Clark for his presentation on this request.

Mr. Clark indicated the subject property was granted Special Exception Use permission in 1986 by the Township Zoning Board of Appeals, but existing for some time before then, has been the site of DeVisser Landscape Service for more than three decades. It is comprised of two former single-family homes that have been converted to office use, as well as a handful of purpose-built structures that house equipment and landscaping products. Other installations present on the subject property include a cell phone tower near the south property line, and a handful of outdoor stalls for the storage of additional bulk landscaping materials. Although the property was subject to Special Exception Use when it was zoned for agricultural activity, it has since been rezoned to R-3 in the north, and I-1 in the south. All uses present on the site are now permitted by right in their respective zoning districts.

He said the applicant is seeking Zoning Board of Appeals approval to add onto the northern-most administrative office building, as well as extend the larger storage building to the west towards the back of the subject parcel. Given the size of the desired additions, section 82.000—*Site Plan Review* of the Zoning Ordinance requires approval from a reviewing body, in this case the ZBA.

Mr. Clark said based on Staff review the following required criteria for a home to be put to a non-residential use in the R-3 district are being met by the plan, which also indicates all applicable structural setbacks are being satisfied, and no new site lighting is indicated.

- a. *Any such building must remain compatible in size, height, external design, landscaping and surrounding open space as other residential buildings in the area adjacent and nearest to the proposed use within a radius not to exceed one-half mile.*

- b. *Any interior or exterior lighting shall be of a subdued character with the source not visible from the perimeters of the property and shall be reduced in intensity or eliminated during non-business hours.*
- c. *Required off-street parking and driveways shall be maintained upon the premises, appropriately landscaped and situated in locations least objectionable to adjacent premises, not closer than ten feet to such adjacent premises or within the required front setback areas.*
- d. *Landscaping shall be established in accordance with SECTION 75 between such premises and any adjacent premises utilized for single-family or two-family purposes or, if vacant, zoned for such purposes.*
- e. *Access to and from the premises by motor vehicles shall be designed to accommodate forward movement in each case and no vehicles shall be permitted to back into the abutting private or public street.*

Mr. Clark explained while some issues with the site plan need to be resolved that potentially impact public health, safety, and welfare, Township staff are generally satisfied with the general layout of the site plan as presented and are confident the lingering problems can be administratively resolved. The Staff recommendation was approval of the site plan by the ZBA, but requested the following conditions be attached, to be resolved prior to the issuance of any building permits:

1. The Township Engineer shall be provided with all information necessary to ensure that all storm water will be appropriately managed on-site, per Township standards.
2. The Township Fire Marshall shall be presented with a satisfactory site layout and surface material specifications in order to ensure adequate fire apparatus accommodation.
3. A revised site plan shall be submitted to the Township, showing a pedestrian connection between the expanded office building and the South 9<sup>th</sup> Street sidewalk.

Chairperson Sterenberg determined there were no questions from Board Members and that the applicant did not wish to speak. He moved to Board Deliberations.

Mr. Anderson confirmed the Fire Marshall will ensure there will be additional accommodation for adequate fire vehicle turn around.

In response to a question from Ms. Smith, Mr. Clark said no additional fire hydrants are required.

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

Mr. Anderson made a motion to allow site plan approval for DeVisser landscape service for a 2,000 square foot office addition and a 3,000 square foot storage building

expansion as recommended by Staff and including the three conditions as stated. Ms. Smith supported the motion. The motion was approved unanimously.

**PUBLIC HEARING: VARIANCE REQUEST (SPURR DENTAL)**

**APPLICANT WAS REQUESTING A VARIANCE FROM SECTION 64.300 OF THE ZONING ORDINANCE TO BE ALLOWED A TEN-FOOT REAR STRUCTURAL SETBACK WHEN 20 FEET IS TYPICALLY REQUIRED. THE SUBJECT PROPERTY IS LOCATED AT 1624 SOUTH DRAKE ROAD, PARCEL NO. 3905-25-231-010.**

Chairperson Sterenberg moved to the next item on the agenda and asked Mr. Clark for his presentation.

Mr. Clark explained the 3,127 square foot structure, constructed in 2002, located on the .72-acre subject property, currently houses the practice of John Spurr, DDS. Prior to construction of this facility, the property owners created a one-lot plat from the existing parcel, as its small area and narrow frontage yielded it unbuildable according to the Zoning Ordinance at that time. In order to be buildable, a *parcel* in the C-R zoning district would have needed 200 feet of frontage and 50,000 square feet of area. The subject property only possesses approximately 160 feet of frontage on Drake Road, and around 31,363 square feet of area. A *platted lot* in this classification, on the other hand, only requires 120 feet of width at the front setback line and 13,200 square feet of area.

He said the property owner is now looking to expand the dental practice, and wishes to enlarge the building. A number of factors make this exceptionally difficult. The unusually small property size, standard building setbacks in this zoning district, as well as the necessity for a fire truck turn around in front of the building are all factors that markedly limit where a building can be located on the lot. The current placement of the office is the most practical location. Now that there is a desire to enlarge the building, the property owner finds the majority of the available development envelope, factoring in setbacks, landscape buffers, and other site constraints, has already been exhausted.

He added in order to accommodate the desired 765 square foot office addition, which is intended to house three procedure suites and an administrative office, the applicant, on behalf of the owner, is seeking a reduced setback along the west property line, with the intention of constructing the addition approximately ten feet from that boundary whereas 20 feet is the standard minimum distance, per section 64.000: *Setback and Sideline Spacing* of the Zoning Ordinance. This arrangement, the applicant contends, is the most practical way to allow the property owner to reasonably expand the business there, while also having no material impact on adjacent property owners. Given the applicant would like relief from the minimum 20-foot structural setback, it should be noted the required ten-foot-wide landscape buffer area would be preserved.

He walked the group through the criteria for approval and summarized by presenting the following relevant findings to the Zoning Board of Appeals for consideration:

1. Staff is satisfied that reasonable expansion of the existing office building is impractical without relief from the minimum structural setback of 20 feet from the west property line.
2. The primary difficulty informing this variance request—small property size—is a factor that has been understood since the site was vacant. The parcel was platted specifically to render it buildable.
3. Other considerations aside, Staff feels granting the requested variance will *not* compromise public health, safety, and welfare. The property to the west is currently the site of a multi-unit residence, but the parcel itself is commercially zoned. Also, the nature of the use of the subject property is considered low impact.

Given the above findings, Mr. Clark said the variance request before the Zoning Board of Appeals will require careful deliberation and presented the Board with three possible courses of action:

1. Deny the variance, based on the fact that the practical hardship in this case was largely self-created.
2. Approve the variance, acknowledging there is indeed a hardship in place, regardless of provenance. Public health, safety, and welfare would be preserved if the variance is granted, and the spirit of the ordinance upheld.
3. Approve the variance with conditions, possibly requiring additional screening along the west property line. If the Zoning Board of Appeals is inclined to implement this option, staff would recommend evergreen plantings be installed along the west lot line, running 100 feet north from the southwest corner of the subject property. The density and number of plantings necessary to provide sufficient screening can be determined at the time of site plan review.

Chairperson Sterenberg thanked Mr. Clark for his presentation and asked whether Commissioners had questions.

Mr. VanderWeele asked whether additional parking would be required.

Mr. Clark said the site design would need to include some additional parking.

Chairperson Sterenberg confirmed this parcel was the only one in the plat when created, and that there will be adequate access for fire vehicles.

Mr. Clark reported three letters of support for this project were received from owners of immediately adjacent properties to the north, south and west of the property; no one objected. (Note: an additional letter of support was received subsequent to this meeting from the owner of the property immediately adjacent to the east.)

Mr. Anderson asked for clarification of what would occur if the ZBA were to require opaque vegetation screening on the west side of the property.

Mr. Clark indicated Staff would require a vegetation plan from the applicant, and that only conceptual guidance is needed from ZBA, if that body approves the variance with such a condition.

Hearing no further questions from the Board, Chairperson Sterenberg determined the applicant did not wish to speak and there were no public comments. He moved to Board Deliberations.

Mr. Sikora asked whether the dumpster and vehicle parking will encroach on the set back.

Mr. Clark said they are allowed encroach into the building setback, but not the landscape buffer.

Chairperson Sterenberg felt the spirit of the Ordinance would be observed, the public health, safety and welfare secured, and substantial justice done if the variance is granted, particularly if the Board requires vegetation screening and since the neighbor to the west, the most impacted, supports the request.

He also suggested it would be a good idea to talk with the neighbors to the west to ask for their input on screening.

Attorney Porter suggested the Board could condition approval by including direction to add landscaping in coordination with the Planning Department. Planning Department Staff could let the neighbors weigh in.

In response to a question from Ms. Smith, Mr. Clark confirmed the rezoning to commercial means this property is now legal, non-conforming.

Hearing no other comments, the Chairperson asked for a motion.

Mr. Sikora made a motion to grant the requested variance from section 64.300 of the zoning ordinance to allow a ten-foot rear structural setback when 20 feet is typically required as recommended by Staff, including Staff conditions as stated and also requiring additional screening along the west property line in coordination with the Planning Department. Mr. VanderWeele supported the motion. The motion was approved unanimously.

### **Any Other Business**

### **Approval of 2018 Meeting Dates**

Chairperson Sterenberg asked for a motion to approve the ZBA 2018 meeting dates: the fourth Tuesday of each month at 3:00 p.m., with the exception of December, when the meeting will be held on the third Tuesday.

Mr. VanderWeele made a motion to adopt the calendar of meetings as stated. Mr. Sikora supported the motion. The motion was approved unanimously.

### **2017 ZBA Officer Appointments, Chair and Vice Chair**

Mr. Sikora asked if Mr. Sterenberg was willing to continue as Chair for 2018. Mr. Sterenberg indicated he was willing. Mr. Sterenberg nominated Mr. Sterenberg for that office. There were no further nominations.

Mr. Sikora made a motion to elect Mr. Sterenberg to serve as Chair for 2018. Ms. Culp supported the motion. The motion was approved unanimously.

Mr. Sterenberg asked if Mr. Sikora was willing to continue as Vice Chair for 2018. Mr. Sikora indicated he was willing to do so. Mr. Sterenberg nominated Mr. Sikora for that office. There were no further nominations.

Mr. Sterenberg made a motion to elect Mr. Sikora to serve as Vice Chair for 2018. Ms. Culp supported the motion. The motion was approved unanimously.

### **ZBA Member Comments**

In response to a question, Mr. Clark indicated he expected there would be an agenda item for the April meeting.

### **Adjournment**

Chairperson Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda, and there being no other business, adjourned the meeting at approximately 3:35 p.m.

Minutes prepared:  
March 28, 2018

Minutes approved:  
April 24, 2018