

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD SEPTEMBER 23, 2014

Agenda

PUBLIC HEARING: APPLICANT (OMNI COMMUNITY CREDIT UNION) REQUESTS SIGN DEVIATION FROM THE OSHTEMO TOWNSHIP ZONING ORDINANCE TO ALLOW TWO GROUND SIGNS, ONE MORE THAN PERMITTED FOR A FINANCIAL INSTITUTION, PER SECTION 76.170 OF THE TOWNSHIP ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT 6622 WEST MAIN STREET IN THE C-LOCAL BUSINESS DISTRICT (PARCEL #3905-14-185-031).

PUBLIC HEARING: APPLICANT (SCHOOLMASTER) REQUESTS VARIANCE FROM THE OSHTEMO TOWNSHIP ZONING ORDINANCE TO ALLOW THE DIVISION OF A PARCEL RESULTING IN TWO PARCELS THAT HAVE A DEPTH GREATER THAN FOUR TIMES THE WIDTH OF THE PARCEL AS REQUIRED BY SECTION 66.200 OF THE TOWNSHIP ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT 1795 2ND STREET IN THE RR-RURAL RESIDENTIAL DISTRICT (PARCEL #3905-07-480-015).

PUBLIC HEARING: APPLICANT (D&R SPORTS) REQUESTS VARIANCE FROM THE OSHTEMO TOWNSHIP ZONING ORDINANCE TO ALLOW THE CONSTRUCTION OF A 9,600 SQUARE FOOT STORAGE BUILDING WITH A SUPPLEMENTAL SIDE YARD SETBACK OF 58 FEET, 33 FEET LESS THAN THE 91 FOOT MINIMUM PROVIDED IN SECTION 64.750(b) OF THE TOWNSHIP ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT 8178 WEST MAIN STREET IN THE C-LOCAL BUSINESS DISTRICT (PARCEL #3905-16-280-012).

A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, September 23, 2014, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Bob Anderson, Second Alternate
Cheri Bell, Chairperson
Lee Larson
Millard Loy
Neil Sikora, First Alternate
L. Michael Smith

MEMBER ABSENT: James Sterenberg

Also present were Greg Milliken, Planning Director; James Porter, Attorney; Martha Coash, Meeting Transcriptionist; and seven interested persons.

Due to Mr. Sterenberg's absence, Mr. Sikora was called upon to act as a sitting member for the meeting.

Call to Order and Pledge of Allegiance

Chairperson Bell called the meeting to order and the "Pledge of Allegiance" was recited.

Approval of the Agenda

Mr. Larson made a motion to approve the agenda as presented. Mr. Sikora seconded the motion. The motion was approved unanimously.

Public Comment on Non-Agenda Items

Chairperson Bell called for public comment on non-agenda items. Hearing none, she proceeded to the next agenda item.

Approval of the Minutes of August 26, 2014

The Chairperson asked if there were any additions, deletions, or corrections to the minutes of August 26, 2014. No changes were noted.

Mr. Larson made a motion to approve the minutes as presented. Mr. Smith seconded the motion. The motion was approved unanimously.

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The Chairperson said the next item on the agenda was a public hearing on a request from Omni Community Credit Union, requesting a sign deviation and asked Mr. Milliken to review the application.

Mr. Milliken said the applicant is requesting a sign deviation on behalf of Omni Community Credit Union, located at 6622 West Main Street on the north side of West Main Street just east of 9th Street, in order to replace their existing ground sign along West Main Street with two unique three-dimensional style pyramid signs. One of the signs will be located at the site of the existing ground sign, and one will be located adjacent to the building. Commercial uses are permitted one ground sign per street frontage, and therefore the deviation request is needed.

He noted the subject property is lower than the road creating some challenges for visibility and identification. In fact, in 2008, the credit union received a deviation from the sign height requirement for their existing sign to allow them to establish the height requirement from the height at the road level and not the ground at the base of the sign. The proposed pyramid signs and other related improvements to the facility are designed to address these visibility issues and concerns.

Mr. Milliken said the pyramids would have four triangle faces, two of which would contain 30 square feet of signage each. Due to the separation between faces, each would count towards the calculation of sign area, giving a total sign area of 60 square feet for each pyramid. The pyramids are eight feet tall and internally illuminated.

He said the front sign would be located in the same location as the existing ground sign for the credit union, which is also 60 square feet in size and 8 feet in height. The second sign would be located on an existing concrete circle that exists immediately to the southwest of the building.

Mr. Milliken reviewed the standards of approval and explained the second sign will be much closer to the building than typical signage that would influence the surrounding property owners. It will function more as a wall sign or a piece of public art than a ground sign due to its location adjacent to the building and set back from the road. The setback from West Main Street and the topography will also limit the impacts from the second sign.

He said there are a couple of unique issues that pertain to this request. The first are the challenges to the visibility that have led the applicant to seek opportunities to improve its signage. These include the slope and topography as well as the setback from West Main Street. These do apply to other uses along this stretch of West Main Street.

Mr. Milliken continued, saying another potentially unique aspect is the fact that the site functions as a site with multiple street frontages having its west side border a primary access drive to the Meijer development. Regardless, this drive does not qualify the property for additional ground signage under Zoning Ordinance.

He commented that in order for the granting of a deviation not to set an adverse precedent, there must be something unique about this request such that the Board can differentiate this decision from a similar request in the future as well as previous requests. The Board should consider the unique design and concept of the signage and particularly the proposed location of the second sign adjacent to the building rather than along a street frontage.

Chairperson Bell thanked Mr. Milliken for his review, said Members could ask questions at this point and asked Mr. Milliken if any comments had been received from surrounding property owners; no comments were received.

Mr. Smith confirmed the new signs would be smaller than the existing sign; 60 square feet is permitted. Mr. Milliken indicated that the two sides of the new signs added together equal about 60 square feet.

In response to a question from Mr. Larson, Mr. Milliken said he was comfortable with the calculation of square footage for the signs as listed in the application. The area of the logo overhanging the edge of the sign is cancelled by the excess triangle area.

Chairperson Bell asked whether the applicant wished to speak.

Mr. Mike Parnon, BrandPoint Design, spoke on behalf of his client, Omni Community Credit Union, and told the Board the idea is to create signage that is less sign and more art, something that will be novel but will also get the public's attention. They will remove the electronic sign to provide an art piece, an LED lighted design that is good and true to the logo, but presented as three dimensional. The opaque and illuminated glass design will be created at significant cost.

The Chairperson asked if Board Members had questions for Mr. Parnon.

In answer to several questions, Mr. Parnon explained the LED lighting specifics, noted the sign would be unique to this location but thinks Omni may go in this direction in other locations in the future. He explained Omni is here to stay and is a good community partner, which would be further evidenced by this investment in a unique art sign. He noted the second sign, closest to the building, is site specific to the valley, not the road height.

Determining that there were no public comments, the Chairperson moved to Board Deliberations.

There was significant discussion of the request by Members, who appreciated the artistic features of the signs and the idea of a complementary fixture near the building, and felt it would be helpful to have a sign that was visible from the access roads. However, concerns were raised that the second sign did not meet the standards of the Ordinance for a deviation. It was stated that because it is the same size of the other sign, it is challenging to treat it as art and not a sign. Also, due to its location near the building, it does not really function as a sign. So members found it hard to classify. Members were also not comfortable treating the access drive as a street frontage for purposes of granting additional signage.

Attorney Porter and Mr. Milliken suggested the applicant might wish to request the Board to table the application in order to further discuss options with staff and possibly consider location and design of the second sign.

Chairperson Bell was not sure where the Board stood on the request as presented and said other alternatives might be viewed more positively.

Mr. Parnon agreed this was a good path forward and requested the Board to table the item.

Mr. Milliken said they would discuss the plan further and that a revised request would be on October's agenda. Upon inquiry, he noted that because the logo is included, the pyramid is considered a sign and the deviation is required.

Chairperson Bell asked Mr. Milliken to supply the minutes from the meeting when Arby's signage was considered.

Mr. Loy made a motion to table the request from Omni Community Credit Union as requested by Mr. Parnon. Mr. Larson seconded the motion. The motion was approved unanimously.

PUBLIC HEARING: APPLICANT (SCHOOLMASTER) REQUESTS VARIANCE FROM THE OSHTEMO TOWNSHIP ZONING ORDINANCE TO ALLOW THE DIVISION OF A PARCEL RESULTING IN TWO PARCELS THAT HAVE A DEPTH GREATER THAN FOUR TIMES THE WIDTH OF THE PARCEL AS REQUIRED BY SECTION 66.200 OF THE TOWNSHIP ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT 1795 2ND STREET IN THE RR-RURAL RESIDENTIAL DISTRICT (PARCEL #3905-07-480-015).

Chairperson Bell said the next item on the agenda was a request for a depth to width variance in the RR-Rural Residential District and asked Mr. Milliken to speak regarding the request.

Mr. Milliken told the Board the subject property is located on 2nd Street just north of J Avenue. It is a 13.3 acre property with 440 feet of frontage on 2nd Street and a depth of 1320 feet. In this stretch of 2nd Street, there are several parcels that are the same depth and are either 440 feet or 220 feet in width.

He said the applicants desire to take the vacant property and divide it into two properties, each with 220 feet of frontage. The 220 feet would satisfy the minimum frontage requirement, but with 1,320 feet of depth, it would violate the 4:1 depth to width ratio. It would however match the dimensions of properties immediately to the north (including property owned by the applicant). Those parcels to the north were granted a variance from the 4:1 requirement in 2004.

He continued, saying the 4:1 depth to width ratio, although provided for in the Zoning Ordinance, is a standard set forth in the State Land Division Act. It states that for divisions involving parcels less than 10 acres in size, the depth of such parcels cannot exceed four times their width. The purpose of this is to limit the creation of "spaghetti" lots that occupy large, narrow expanses of vacant land that go unused and limit potential for future development.

Mr. Milliken reviewed the standards of approval in light of the variance request presented in the Staff Report. He indicated the proposed land division is consistent with surrounding properties but is not the only option for compliance. The minimum parcel size in the RR district is 1.5 acres and the minimum frontage is 200 feet. Therefore a parcel with 200 feet of frontage and 300-400 feet depth could be split without requiring a variance. Instead of two, similar sized, spaghetti-shaped parcels, the conforming split would result in a smaller parcel and a larger L-shaped parcel. While this would conform, the applicants are not in favor of this arrangement from a size or consistency standpoint as well as from a marketability position.

Mr. Milliken stated that there are several past decisions where the Board approved requests for variances regarding the depth to width ratio requirement, including a 2004 decision on the Elzinga property that is immediately north of the subject property and where the applicant currently lives.

He also indicated that the applicant did not establish the existing dimensions of the property. However, they have requested the proposed dimensions that are in conflict with the Zoning Ordinance requirements.

Mr. Milliken suggested the ZBA should consider the arrangement and layout of adjacent properties and potential impact the proposed division would have on the land and future development of the area; the potential for impact on public health, safety, or welfare; and the previous decisions made by the Board in similar matters.

Chairperson Bell asked if there were any questions for Mr. Milliken regarding the application. There were no questions, but Mr. Loy noted there have been a number of similar variances granted over the years. Attorney Porter said the intent of the Land Division Act is to create organized development. Mr. Smith said most of the variances granted in the past in this area are pretty much the same type of division and that he sees no problem with the request.

The Chairperson asked if the applicant had any comments.

Mr. Rich Schoolmaster said it was his intention to split the property, build a house on one piece and either build another home on the second piece and sell it, or sell the land. He did not want to create an "L" shaped piece. He noted he lives at 2051 2nd Street and that the parcel he lives on is the same size as what he would be creating.

The Chairperson asked for public comment.

Ms. Linda Gould, property owner at 10130 West J Avenue, stated that she was opposed to the division. She owns property immediately to the south of the property. She did not think anything would be developed at the site and did not want to disturb the rural country they live in.

Mr. Fred Gould, 1919 Quail Run Drive, stated he was the former owner of the J Avenue property now owned by his daughter. He wants to maintain the integrity of their property. He and his wife are concerned about possible future development on the property adjacent to theirs if the variance were granted, especially if a building were placed close to their property and noted the intent of the previous owner, Mr. Snow, was not to divide the parcel in question and voicing their concern about quality of life and for wildlife in the area and their opposition to shrinking the “footprint” of the original property. Mr. Gould said there had been an opportunity for them to purchase the property in question from Mr. Snow, but that they had chosen not to do so. He also said he would have been at previous meetings regarding past similar requests if he had been notified, but that the 300 foot notification does not cover many people in more rural areas and suggested the Township consider expanding its notification guidelines.

Attorney Porter commented that if people buy property they can build on it wherever they choose as long as they follow the ordinance.

At this point, Chairperson Bell moved to Board Deliberations.

Mr. Smith said he appreciated the Goulds’ sentiment, but that the request was not unique and noted that if one does not like what might occur on adjacent property in the future, they should buy it.

Comments indicated there was consensus in favor of the request.

Chairperson Bell asked for a motion to approve the variance request.

Mr. Smith made a motion to approve the request from Mr. Schoolmaster for the reasons listed above regarding the standards of approval and precedent as a result of previous approvals in the area for similar requests. Mr. Larson seconded the motion. The motion was approved unanimously.

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Chairperson Bell said the next item on the agenda was a request from D & R Sports for a supplemental side yard setback variance and asked Mr. Milliken to speak regarding the request.

Mr. Milliken told the Board the applicants own and operate D&R Sports on West Main Street and seek to add a new 80’x120’ (9,600 square feet) storage building on site

for interior storage of boats and equipment. A 26 foot overhang / porch would be included on the east side of the structure. The proposed building is located on the western portion of the site about 300 feet from West Main Street. It is proposed to be 31 feet in height at its peak.

He said the subject property is predominately located in the C – Commercial zoning district. The side yard setback for buildings in the C district is 20 feet or the height of the building, whichever is greater. However, when the property is adjacent to a residential zoning district, the setback is expanded to 85 feet plus one foot for each foot in height of the proposed structure over 25 feet. The property to the west of the subject property is in the RR-Rural Residential zoning district. Thus, the side yard setback requirement for the proposed structure is 91 feet.

He noted the new structure is proposed to be located 58 feet from the west property line, 33 feet less than the required, enhanced setback. Because of the nature of the use and improvements proposed and existing on site, the development could be approved administratively. However, due to the encroachment into the side yard setback, it is before the ZBA for a dimensional variance request.

He said while the adjacent property is in a residential district, it is occupied by a commercial entity – Handley’s Tree Service – who has submitted a letter of support in favor of the proposed variance. It is unlikely that the proposed expansion would have a material impact on the adjacent property due to the unique nature of the use.

Mr. Milliken referred to the Standards of Approval and said in its current configuration, the building really cannot be shifted east to accommodate the setback requirement. With the large trucks and trailers involved on the site, it is important to maintain the separation between buildings. The building could be reconfigured to be narrower and longer and not encroach into the setback, although this could affect its functionality. It could also be relocated to the northern portion of the site.

He reviewed past decisions of the ZBA noting an August 26, 2014 denial of a variance request from Kalamazoo Hotels, LLC, denied due to potential impact on the adjacent Church facility, particularly considering the intensity of the commercial use. A variance was approved for Menard’s in 2006 based on the use of adjacent property and a variance request from Hansen / Spurr Dental Office was approved in 2002 because without variance the property was unbuildable.

The prevailing unique element that affects this request is the existing use of the adjacent property. The Ordinance requires an enhanced setback from the subject property when adjacent to a residential zoning district. Although that is the case here, the adjacent property is occupied by a commercial use and the proposed structure would be adjacent to log piles.

He noted the applicant has chosen the size and location of the structure, both of which have combined to result in the need for the current variance. However, the applicant did not place the adjacent commercially used property in a residential zoning

district. The question for the ZBA to consider is whether the use of the adjacent property is a unique element that warrants the granting of the variance.

Chairperson Bell asked if there were any questions for Mr. Milliken regarding the application. Hearing none, she asked the applicant to speak.

Mr. Randy Van Dam, D & R Sports Center, said he has worked with an environmental engineer to address both current and future issues and visions for the site. The original building placement was chosen to leave enough room for future development. He noted one of the reasons for the 26 foot overhang included on the building is to provide more display area for boats that is out of the weather.

In response to a question from Mr. Loy, Mr. Van Dam said the end of the lean-to structure would not be enclosed. He also explained the plan provides enough interior floor area for turnaround space while still leaving room to be able to use both sides of the structure for rack storage.

Mr. Larson confirmed the ridge line runs north and south.

In answer to a question from Mr. Larson about what portion of the 16 foot sidewall would be seen from the adjacent Handley property, Mr. Van Dam said there is an existing elevated berm fully planted with spruce trees that should completely obstruct the view. He commented that he has a good relationship with Mr. Handley and that he has no problem with Mr. Van Dam's request.

Attorney Porter commented the change in topography could be a point for the Board to use as a basis for their decision.

Chairperson Bell moved to Board Deliberation at this point.

Mr. Sikora confirmed with Mr. Milliken that the added outside display did not have a bearing on the request. Mr. Milliken indicated that in fact it would actually reduce the number of boats displayed outside which would be an improvement.

The Chairperson noted Handley's is in the RR district and that because it is adjacent to the D & R property, an enhanced setback is required for the D&R property.

Attorney Porter said commercial activity has been in place at the Handley's site long before now.

Chairperson Bell noted the denial that occurred at last month's meeting for a similar request was because the adjacent property to the commercial property was a church and Mr. Loy also noted that was also a request for a five story building; this request concerns a building that is 16 feet in height and will not be seen from the Handley property due to the existing berm/trees.

Responding to a question about what might occur in the future on the Handley property; Chairperson Bell confirmed with Mr. Milliken that any change would require the term to remain in place, as approved years ago.

Mr. Loy made a motion to approve the request for setback from D & R for the reasons stated in Board discussion. Mr. Larson seconded the motion. The motion was approved unanimously.

Any Other Business / ZBA Member Comments

Mr. Milliken told the Board a special meeting was scheduled for October 6 regarding a sign deviation request for the “Corner at Drake” development. If Omni is ready with an amended request, it could also be included on the agenda.

Chairperson Bell said she thought the suggestion by Mr. Gould to expand notification to property owners in residential areas was worth consideration.

Attorney Porter noted the Board has, on occasion, expanded notification beyond statute requirement.

Adjournment

Chairperson Bell noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, she adjourned the meeting at approximately 4:23 p.m.

Minutes prepared:
September 25, 2014

Minutes approved:
October 6, 2014