

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD MAY 23, 2006

Agenda

BUFORD SETBACK VARIANCE - BUILDING AND PARKING - 6312 WEST MAIN STREET - (PARCEL NO. 3905-14-255-080)

FARRELL ACCESSORY BUILDING REVIEW - 10384 WEST L AVENUE - (PARCEL NO. 3905-19-470-010)

FRENCH ACCESSORY BUILDING REVIEW - 9265 WEST M AVENUE - (PARCEL NO. 3905-32-205-015)

HOWARD SETBACK VARIANCE - 25 WOODLANE DRIVE - (PARCEL 3905-24-101-060)

SKY KING MEADOWS SIGN DEVIATION - SOUTH 9TH STREET- (PARCEL NO. 3905-14-385-300)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, May 23, 2006, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Millard Loy, Chairman
Mike Smith
Dave Bushouse
Duane McClung
Roger Taylor

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Township Planner; James W. Porter, Township Attorney; and approximately 11 other interested persons.

Call to Order

The Chairman, Millard Loy, called the meeting to order at approximately 3:00 p.m.

Minutes

The Chairman indicated the next item on the Agenda was the approval of the minutes of April 18 and April 27, 2006. Mr. McClung made a motion to approve the minutes as submitted. The motion was seconded by Mr. Smith. The Chairman called for a discussion and hearing none, called for a vote on the motion, and the motion passed unanimously.

BUFORD SETBACK VARIANCE - BUILDING AND PARKING - 6312 WEST MAIN STREET - (PARCEL NO. 3905-14-255-080)

The Chairman indicated that the third item on the Agenda was the application for a variance from Sections 23.404(f) and 64.700(a) to allow a reduced building setback and parking in the required building setback area. He explained that the subject property was located at 6312 West Main Street, Parcel No. 3905-14-255-080. The Chairman called for a report from the Planning Department. Ms. Stefforia submitted her report dated May 23, 2006, and the same is incorporated herein by reference.

Ms. Stefforia explained that the applicant recently received a special exception use and site plan approval from the Planning Commission. She said the property was zoned "R-3" where offices are allowed as a special exception use. During site plan review, the Planning Commission had acknowledged that, given the size of the property, setback relief was likely necessary for the property to be redeveloped. She said in addition to the building setback requested, the "R-3" District did not allow parking to be located within the building setback areas. Ms. Stefforia went on to review the site with the Zoning Board of Appeals and indicated that supplemental setback of 50 feet from the side and rear yard lines required under Section 64.700(a) would prohibit the use of the property for anything other than a residence. She said that, based on the Planning Commission's request, the applicant had moved the building to the rear of the property, placing the parking in front; and, therefore, six parking spaces were located within the front setback area for which a variance was necessary.

Ms. Stefforia then took the Board through the standards of approval for the nonuse variance for both the supplemental setback and the front parking setback requested, as more fully set forth in her report. Upon conclusion of Ms. Stefforia's report, the Chairman asked if there were any questions. Hearing none, the Chairman asked to hear from the applicant.

Mr. Buford introduced himself to the Zoning Board. He said that he thought Ms. Stefforia had covered the request thoroughly and asked if there were any questions. Mr. Bushouse asked if the applicant had looked at designing the property with parking behind the building. Mr. Buford said that they had proposed parking in the rear, but doing so would result in additional violations, especially along the sides of the building. It was at the Planning Commission's request that he relocated the building to the rear of the property.

Mr. Bushouse asked if the applicant owned the building to the east. Mr. Buford said he did not own the building to the east. He said the building was owned by a chiropractor who also had parking in the front.

Mr. Taylor asked about the history of the rezoning on the property. Ms. Stefforia said the property had recently been rezoned from "R-2" to "R-3." She explained that the rezoning was consistent with the Land Use Plan and the desire of the Township to develop offices in this area along West Main rather than retail-commercial.

The Chairman asked if there were any comments from the audience. Hearing none, he closed the public portion of the meeting and called for Board deliberations.

Mr. Bushouse said that he was concerned that allowing parking in the front yard would lessen the residential look along West Main. He said perhaps the property should be combined with the property next door, the house torn down, and parking developed in the rear of the property. He said he did not think that the proposal matched what the Township wanted to see along West Main Street.

Mr. Smith said he did not have a problem with parking in front given the extensive green space in the right-of-way. He said he thought it would be unreasonable for the area to remain residential.

The Chairman asked about what other variances would have been required if the parking had been in the rear. Ms. Stefforia showed the previously proposed layout and showed how the required green space on the east and west sides of the buildings would have to be removed, thereby requiring a variance. She also showed the difficulty that the Planning Commission thought there would be with turning vehicles around toward the rear of the parcel. Ms. Bugge also pointed out the difficulty of placing the well and drain field on the property based on the prior site plan.

Mr. Taylor asked if there would be a possibility of coordinating the curb-cut with the chiropractor's adjacent property. The Chairman said he thought it would be more practical if they built at the same time. Ms. Stefforia responded by asking the Township Attorney if they could make that requirement. Attorney Porter said, given the two pre-existing parcels, he had concerns whether they could make it an absolute requirement, even in light of their Access Management Plan. However, he said they could request it.

The Chairman said he understood what Mr. Bushouse was saying but thought that, given the small size of the parcel, some relief was warranted. After a brief discussion, Mr. McClung made a motion to approve the two variances as requested, based upon the reasons set forth in the Staff report and provided that the shared access with the property to the east be encouraged in the future. Mr. Smith seconded the motion. The Chairman called for a vote on the motion, and the motion passed 4 to 1, with Mr. Bushouse in opposition.

FARRELL ACCESSORY BUILDING REVIEW - 10384 WEST L AVENUE - (PARCEL NO. 3905-19-470-010)

The Chairman indicated that Item #4 was the next item on the Agenda, which was the site plan review of a proposed accessory building which would exceed the ground floor area of the dwelling. He said the property was located at 10384 West L Avenue, Parcel No. 3905-19-470-010. The Chairman called for a report from the Planning Department. Ms. Bugge submitted her report dated May 23, 2006, and the same is incorporated herein by reference.

Ms. Bugge said the applicant wanted to construct an accessory building which exceeded the ground floor area of the dwelling and the height permitted for accessory buildings. She said that the ground floor area of the existing dwelling was 2,689 square feet and that the proposed accessory building area would be 4,488 square feet with a height of 28 feet, exceeding the permitted 25-foot height by 3 feet. Ms. Bugge proceeded to take the Zoning Board of Appeals through the standards for approval of an accessory building under Section 78.820, as more fully set forth in the report. Ms. Bugge concluded by presenting the Board with a letter from Mr. and Mrs. Peterson, who live immediately east of the subject property, stating their opposition to the granting approval of the proposed building.

The Chairman asked if there were any questions of Ms. Bugge. Hearing none, he asked to hear from the applicant. Ms. Angie Farrell introduced herself to the Zoning Board of Appeals. She said they had plans to construct a building in order to store general gardening equipment and personal items, including a motor home in the future.

Mr. Bushouse asked what type of drive they would have. Ms. Farrell said they would extend their existing asphalt drive to the proposed structure.

Mr. Taylor asked if there would be a second drive onto Second Street. Ms. Farrell indicated there would not. The Chairman asked if there would only be personal items stored within the proposed structure. Ms. Farrell indicated yes.

Ms. Bugge asked what object was shown on the overhead north of the existing residence. Ms. Farrell said that it was a small shed which would be removed at the time the new structure was built.

The Chairman asked if there were any comments from the audience. Hearing none, he called for Board deliberation. The Chairman asked if there were pine trees along Second Street. Ms. Farrell indicated that there were. Mr. Bushouse said he had driven in the area and he did not recall seeing very many pine trees. Ms. Farrell said it was all pine trees, many of them 50 years old or older.

Mr. Bushouse asked about the floor elevation of the structure in relation to Second Street and asked if the location of the building was higher than Second Street. Ms. Farrell indicated that was correct.

Mr. Taylor asked as a condition of granting the approval if they could limit a second access onto Second Street, so as to not open up views to the neighbors to the east. Attorney Porter indicated he thought that would be an appropriate condition of granting the approval. The Chairman said the applicants were requesting quite a large building, but given the fact they wanted to store a motor home in it, he thought it seemed reasonable.

Mr. McClung then made a motion to approve the request as submitted based upon the Staff report and the record, provided there be no second access for the accessory building onto Second Street. Mr. Smith seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

FRENCH ACCESSORY BUILDING REVIEW - 9265 WEST M AVENUE - (PARCEL NO. 3905-32-205-015)

The Chairman indicated that the next item on the Agenda was Item #5, which was a site plan review for a proposed accessory building which would exceed the ground floor area of the dwelling. He said the subject property was located at 9265 West M Avenue, Parcel No. 3905-32-205-015. The Chairman called for a report from the Planning Department. Ms. Stefforia submitted her report dated May 23, 2006, and the same is incorporated herein by reference.

Ms. Stefforia said the applicant wished to construct a 2,592 square foot accessory building on a 5.5 acre parcel. She said the building exceeded the ground floor area of the dwelling and, therefore, Zoning Board of Appeals' approval was necessary, pursuant to Section 78.820. Ms. Stefforia pointed out, using an overhead view of the site plan, that the proposed structure would be set back more than 200 feet from West M Avenue, more than 100 feet from the west, more than 200 feet from the east property lines, and several hundred feet from the rear property line. She also pointed out that there were a significant number of trees that would buffer the view of the building from the road and adjacent property. Ms. Stefforia then took the Board through a review of Section 78.820, as more fully set forth in her report.

The Chairman asked if there were any questions of Ms. Stefforia. Mr. Smith asked what the surrounding property was currently being used for. Ms. Stefforia said

she was not sure and suggested that Mr. Smith ask the applicant. The Chairman asked if there were any more questions, and hearing none, asked to hear from the applicant.

Mr. Bruce French introduced himself to the Zoning Board of Appeals. He began by telling Mr. Smith that the property that surrounded his parcel was a cornfield. A question arose as to what type of siding would be used and what color it would be. Mr. French said that the siding would be blue, and the roof would be gray shingles.

Mr. Smith asked whether Mr. French's hobby would be turned into a business. Mr. French said it would not be used for business purposes. He said he collected old iron, such as tractors, etc., but he would not run a business from the property.

Mr. Bushouse asked if Mr. French would give up his shop on Stadium Drive. Mr. French said not as long as he could stay at that location.

The Chairman asked if there were any comments from the audience. Hearing none, he called for Board deliberation. After a short discussion, Mr. Smith made a motion to approve the applicant's request, as submitted, based upon the Staff report and record. The motion was seconded by Mr. McClung. The Chairman called for a vote on the motion, and the motion passed unanimously.

HOWARD SETBACK VARIANCE - 25 WOODLANE DRIVE - (PARCEL 3905-24-101-060)

The Chairman indicated the next item on the Agenda was Item #6, which was the request for a variance from Section 64.200 to allow a reduced setback for a proposed addition to the existing dwelling located at 25 Woodlane Drive, Parcel No. 3905-24-101-060. The Chairman asked to hear from the Planning Department. Ms. Bugge submitted a report dated May 23, 2006, and the same is incorporated herein by reference.

Ms. Bugge explained that the Zoning Board of Appeals had rejected a request for a variance for an outbuilding on the subject property on April 18, 2006. She explained that the property was a corner property on which the house was situated diagonally to Woodlane Drive, rather than parallel. She said, as a result of that configuration, the corner of the attached garage was only 34.5 feet from the road right-of-way, and under the current zoning, it is considered legally nonconforming. She said the owner now wished to expand the existing garage with a 28 x 18 foot addition. She said the addition would be set back from the existing corner of the garage by 8 feet, but due to the angle of the dwelling, and to continue the existing ridge line through the addition, its leading corner would be approximately 36 feet from the right-of-way, instead of the 40 feet required. She said the applicant should confirm exactly where the leading edge of the addition would be as part of the request.

Ms. Bugge then took the Board through the standards for approval of a nonuse variance, as more fully set forth in her report. The Chairman asked if there were any questions, and hearing none, he asked to hear from the applicant.

Mr. Tim Visser appeared on behalf of the Howards and introduced himself to the Zoning Board of Appeals. He said his intent was to simply try to come up with a proposed plan which would work for the Howards and yet allow them to add an additional third stall to their garage. Mr. Smith asked what the exterior surface of the proposed addition would be. Mr. Visser said it would match the existing wood siding of the house.

Ms. Bugge asked how Mr. Visser had made his measurements. Mr. Visser said he had made them from the foundation, but looking at the site and reviewing the survey that was done, he thought they would be not less than 35 feet from the road and would meet the 10-foot side yard setback. Ms. Bugge then asked if the setback would be slightly less than what was indicated in the initial drawing due to the overhang. Mr. Visser indicated that was correct.

Mr. Smith asked what the plans were to remove the existing shed. Mr. Visser said plans had been made with the person that built it, and as soon as he could get into the area, it would be removed. Mr. Visser said it would have to be removed before the addition could be made to the garage.

The Chairman asked to hear from the audience. Mr. Dan Thompson introduced himself to the Zoning Board of Appeals. He said he lived to the southwest of the Howards. He said that he supported the proposed addition and thought that a variance was justified because of the angle of the house in relationship to the public street.

Hearing no further comments, the Chairman called for Board deliberations. The Chairman began by saying the proposed plan was much preferred to the previous accessory building located on the site. Mr. Smith echoed the Chairman's statement. After a brief discussion, Mr. McClung made a motion to approve the variance as requested. The motion was seconded by Mr. Taylor. The Chairman called for a vote on the motion, and the motion passed unanimously.

SKY KING MEADOWS SIGN DEVIATION - SOUTH 9TH STREET- (PARCEL NO. 3905-14-385-300)

The Chairman said the next item was Item #7, which was a request for a deviation to allow a second development entry sign at the Sky King Meadows residential development, located on the east side of 9th Street, Parcel No. 3905-14-385-300. The Chairman asked for a report from the Planning Department. Ms. Bugge submitted a report dated May 23, 2006, and the same is incorporated herein by reference.

Ms. Bugge explained that the applicant was requesting a second residential subdivision identification sign. She said there was currently one subdivision identification sign located at Mickey's Trail and that the applicant was seeking a second one off Lexy Lane. She said Section 76.160 permits one, 30 square foot, sign for identification and/or information sign per street entrance, not to exceed one per 2,600 linear feet of continuous road frontage. Ms. Bugge reported that Mr. Shields suggested that when he initially spoke to Staff, he was told two signs would be allowed. However, Ms. Bugge noted in her report that while a conversation took place, it was stated that a second sign might be possible, depending on the distance between the entry roads. Given that there is not the requisite 2,600 feet of separation between the two signs, the applicant was requesting a deviation to allow placement of a second entry sign. Ms. Bugge then took the Board through a review of the criteria for granting a deviation under the Ordinance, as more fully set forth in her report.

The Chairman asked if there were any questions of Ms. Bugge. Mr. Bushouse said he had done some research and looked at a number of subdivisions in the area and noted that they did not have any entry signs at all. Ms. Bugge said that was correct but new subdivisions traditionally had some type of entrance sign, but typically one sign, not two, unless the required 2,600 feet of distance between signs was met.

The Chairman asked to hear from the applicant. Mr. Troy Shields of the Sign Shop introduced himself. He said that he was hoping that the Board would consider his request because he thought it would be better for traffic and for fire and rescue vehicles to have the proposed sign. He said, while they did not have the 2,600 feet of distance separating the two signs, there certainly was considerable distance between the two signs.

Mr. Smith asked the applicant if the second sign were permitted if it would be the same as the first sign. Mr. Shields indicated that it would. Ms. Stefforia said that the Board may want to consider the fact that once the non-residential property is built up, it might not be inappropriate to have two entrance signs, given the distance and the amount of commercial development between the two signs. Mr. Taylor asked if there was any precedence set in similar cases. Ms. Bugge indicated that there was not, since this was the first request of this kind under the Ordinance.

Mr. McClung asked why a half mile was chosen. Ms. Stefforia said it was likely based upon what other communities had done in their ordinances. Mr. McClung said the Township could have just as easily chosen a quarter mile instead of a half mile. Ms. Stefforia conceded that was correct.

The Chairman called for comments from the audience and hearing none, called for Board deliberation. The Chairman began by asking about the commercial development proposed as part of the PUD. Mr. Smith then said the fact that you could not see from one road to the other, two signs might be helpful to people in the area.

Mr. Bushouse said that most of the subdivisions of the Township did not have any signs at all. He said the ones that do have signs typically only have one sign, and he did not want to see additional signs being put in, particularly in this area, given the fact they were going to have additional commercial signs located north of Lexy Lane. Mr. Bushouse concluded by saying that typically people do not use subdivision signs to locate people's homes; they use a street address.

Ms. Stefforia said she had to respectfully disagree with Mr. Bushouse and said that people often use subdivision signs to identify where they live and that she, in fact, used a development sign to help people locate her home.

The Chairman said he had to agree with Mr. Bushouse. He said that with the commercial development in the area, he thought there would be sufficient signs, and he did not want to see additional signs cluttering the area. He said he also thought one sign was sufficient for a residential development. Mr. Taylor concurred, saying that too many signs result in clutter and actually impede the purpose for which they are constructed.

The Chairman said that the Sign Ordinance had been worked on extensively and that the Planning Commission had tried diligently to reduce the number of signs and did not want to see multiple signs put up for subdivisions, unless they were separated by a significant distance.

After a brief discussion, Mr. Bushouse then made a motion to deny the request based on the Staff report and the record. The motion was seconded by the Chairman. The Chairman called for a vote on the motion, and the motion passed 3 to 2, with Mr. Smith and Mr. McClung in opposition.

OTHER BUSINESS

The Chairman asked if there were any other business, and hearing none called for adjournment.

ADJOURNMENT

There being no further business to come before the Zoning Board of Appeals, the Board adjourned at approximately 4:05 p.m.

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

By:

Millard Loy, Chairman

By: Mike Smith

By: Roger Taylor

By: Duane McClung

By: Dave Bushouse

Minutes Prepared:
May 25, 2006

Minutes Approved:
_____, 2006