

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A MEETING HELD SEPTEMBER 13, 2018

Agenda

DRAFT ORDINANCE CHANGES:

Section 53:510 – Reversion of Rezoning (Conditional Rezoning)

Section 64.100 – Designated Highways (Setbacks and Sideline Spacing)

OLD BUSINESS

a. Zoning Ordinance Re-Organization Tables/Graphics

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, September 13, 2018, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson
Fred Antosz
Ollie Chambers
Dusty Farmer, Secretary
Micki Maxwell
Mary Smith
Bruce VanderWeele, Vice Chairperson

MEMBERS ABSENT: None

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist, and one interested person.

Call to Order and Pledge of Allegiance

Chairperson Bell called the meeting to order at approximately 7:00 p.m. and invited those present to join in reciting the “Pledge of Allegiance.”

Agenda

Chairperson Bell asked for additions or deletions to the proposed agenda.

Ms. Johnston said she had two updates to add under “Any Other Business,” 1) GO! Green Oshtemo planning effort, and 2) Lighting Ordinance and enforcement.

The Chair asked for a motion.

Mr. VanderWeele made a motion to accept the agenda with the suggested amendments. Mr. Chambers supported the motion. The motion was approved unanimously.

Public Comment on Non-Agenda Items

The Chair determined no one in the audience cared to comment regarding non-agenda items and moved to the next agenda item.

APPROVAL OF THE MINUTES OF THE WORK SESSION OF AUGUST 23, 2018

The Chair asked if there were any additions, deletions or corrections to the Work Session Minutes of August 23, 2018. Hearing none, she asked for a motion.

Mr. VanderWeele made a motion to approve the minutes of the Work Session of August 23, 2018 as presented. Ms. Maxwell supported the motion. The motion was approved unanimously.

Chairperson Bell moved to the next agenda item.

DRAFT ORDINANCE CHANGES:

Section 53:510 – Reversion of Rezoning (Conditional Rezoning)

The Chair asked Ms. Johnston to present the Staff report regarding Reversion of Rezoning.

Ms. Johnston reported the Township recently received an inquiry on a property, 3000 South 11th Street, that was conditionally rezoned in 2016 to the R-3: Residence District to allow office uses to develop. The property was originally zoned R-2: Residence District. The request from a realtor was to allow the property to be used as a single-family home, as originally zoned. In reviewing the conditional rezoning application and Section 53: Conditional Rezoning of the Zoning Ordinance, it became clear that the conditional rezoning no longer met the requirements of Section 53.500, which indicates that the approve development or use must be established within 12 months of the rezoning.

She said conditional rezoning for 3000 South 11th Street was never established and the period for requesting an extension lapsed. Township staff was going to initiate a reversion to the original R-2 District, but found that the language in Section 53.510 required a full public process. She said Township staff would first have to request the reversion process be initiated at a Township Board meeting then, if approved, the Planning Commission would have to hold a public hearing and the Township Board would have to hold two readings.

Ms. Johnston said the ordinance seems redundant and over-regulatory as Section 53.510 clearly states that if the use is not established within 12 months of

approval or an extension is not granted, the land reverts to its former zoning classification. To ensure this happens, the Township would just need to record a revocation of conditional rezoning with the County Registrar of Deeds, removing the conditions established on the property.

She asked the Planning Commission to consider the following changes:

Section 53.510 – Reversion of zoning.

*If **the** approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection 53.500 ~~above~~, then the land shall revert to its former zoning classification as set forth in MCL 125.3405 (**Michigan Zoning Enabling Act, Public Act 110 of 2006**).*

*The reversion process shall be initiated by **Township staff who will send a notification letter to the property owner indicating a Revocation of Conditional Rezoning will be recorded with the County Registrar of Deeds. The property owner will have 30 days from the date of the notification letter to appeal the Revocation to the Township Board. If no appeal is filed within the 30-day period, the Revocation of Conditional Rezoning will be recorded and the land shall revert to its former zoning classification.***

~~the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applied to all other rezoning requests.~~

Attorney Porter explained it is not necessary to go through the existing public process for the land to revert to its original zoning if the requirements are not met; it could automatically revert under the proposed simplified changes as long as the Township is providing necessary due process by notifying the property owner.

In answer to a question from Ms. Farmer about how one would go about extending the deadline for establishment of use, Ms. Johnston said substantial changes would need to have been made. The owner would need to write a letter asking for an extension and outlining what had been done. The Township Board would approve or deny the request. The request could be denied if circumstances changed and the request was no longer appropriate. If the Board approved the extension they could decide on the amount of time to grant, likely six – 12 months.

Chairperson Bell wondered if there was internal infrastructure in place to keep track in order to be able to send a notification letter to the owner ahead of the deadline.

Ms. Johnston noted tracking is not currently being done but electronic means are available to do so.

After further discussion it was felt that in addition language could be added to the revisions to require the owner to inform the Township within the 12 month period that they have established use. It was also decided it would be appropriate if notice had not

been received of established use, to notify the owner at the end of 12 months that an extension request would be necessary via a trackable communication. The owner would be given a 30 day period to verify establishment of conditional use or to file an appeal. If not received with the 30 day period, the conditional zoning revocation would be recorded.

In response to a question from Mr. VanderWeele who wondered if the request could go to the Planning Commission rather than the Township Board, Attorney Porter explained the Planning Commission does not have the authority, in this instance, to provide due process to the owner. The Commission is a recommending body for zoning.

Ms. Johnston will make the revisions as discussed and plan for a public hearing at the November 8 Planning commission meeting.

Section 64.100 – Designated Highways (Setbacks and Sideline Spacing)

Chairperson Bell asked Ms. Johnston to review the next agenda item regarding Designated Highway Setbacks requirements.

Ms. Johnston said Staff would like the Planning Commission to consider changing the setback requirements of Section 64.100: Designated Highways. The setbacks listed for these roadways are quite large, particularly for streets that are predominately used and zoned residential. Staff's main concerns center around the inconsistency in setbacks within the Township. Residential homes on parts of 6th Street must meet the 70-foot setback but on other parts of the same roadway, are required to only be 30 feet back from the right-of-way. In addition, the ordinance has been challenging to administer for this same reason. Public reception of the setback differences, particularly for residential homes, has not been well received. The larger setback takes up a considerable amount of buildable land. This is particularly true for smaller parcels found along these roadways.

She said Staff did some investigation into this section of the Zoning Ordinance to try to determine why these setbacks were initially established. Looking at past minutes of the Zoning Board, it appears Designated Highways have been around since at least 1972. According to a public notice from December of 1972, setbacks from designated highways with at least a 66-foot wide right-of-way was 100 feet. The Designated Highways ordinance was in place when the Zoning Ordinance was re-codified in 1984. However, the exact configuration of the requirements could not be found. But, Staff assumes the current setback distances were determined during the 1984 re-codification because none of the amendments since that time changed the setback distances.

Staff speculated these larger setbacks were due to a desire to retain a rural character in the Township. The farther buildings are set back from the road, the more opportunity for existing vegetation, green spaces, and new landscaping. These setbacks could also have been established to provide opportunities for more right-of-way on these primary roads. After reviewing minutes from a May 1998 Planning

Commission meeting, roads were added to the Designated Highways list because of their classification change by the Road Commission of Kalamazoo County – meaning a change from a local road to a primary road. But, no reasoning for why these particular roads needed a larger setback was given other than the road designation change.

She noted looking through the Zoning Board of Appeals record since 2005, there were approximately 10 front yard variance requests made due to the Designated Highways setback requirement. Staff asked the Planning Commission to consider the following changes:

East & West	Minimum Setback Distance
<i>West Main Street from 12th Street to Van Kal Street</i>	<i>170 feet from the center of the street right-of-way</i>
<i>Stadium Drive from 12th Street to the South line of SECTION 31 of the Township</i>	<i>120 feet from the center of the street right-of-way</i>
<i>Almena Drive from West Main to Van Kal Street</i>	<i>120 feet from the center of street right-of-way</i>
<i>H Avenue from 12th Street to Van Kal Street</i>	<i>70 feet from the street right-of-way</i>
<i>KL Avenue from 12th Street to Van Kal Street</i>	<i>70 feet from the street right-of-way</i>
North & South	
<i>12th Street/Drake Road the entire length of Township</i>	<i>120 feet from centerline of street right-of-way</i>
<i>Van Kal Street from the South line of SECTION 31 of the Township to West Main Street and the portions within Sections 6 and 7 of the</i>	<i>70 feet from the street right-of-way</i>
<i>6th Street from G Avenue to West Main Street and from ML Avenue to N Avenue</i>	<i>70 feet from the street right-of-way</i>
<i>10th Street from G Avenue to West Main Street</i>	<i>70 feet from the street right-of-way</i>
<i>9th Street from the centerline of Section 2 to N Avenue</i>	<i>70 feet from the street right-of-way</i>
<i>4th Street from West Main to the South line of the Township</i>	<i>70 feet from the street right-of-way</i>
<i>11th Street from Stadium Drive to Parkview Avenue</i>	<i>70 feet from the street right-of-way</i>

The minimum setback for all buildings constructed along the highways above designated within the Township shall be as prescribed above unless a larger setback is otherwise required in the Zoning Ordinance or unless the building is constructed or located within 300 feet of a building existing on the effective date of this Ordinance provision (August 31, 1998) which is closer than the above prescribed setback requirements, in which case such setback may be decreased according to the following schedule:

<i>Distance Between Buildings</i>	<i>Setback Distances</i>
<i>Over 175 feet and up to 300 feet</i>	<i>Existing building setback distance, plus 2/3 of the difference between the prescribed setback distance and the existing building setback distance.</i>
<i>Over 50 feet and up to 175 feet</i>	<i>Existing building setback distance, plus 1/3 of the difference between the prescribed setback distance and the existing building setback distance.</i>
<i>Up to 50 feet</i>	<i>Existing building setback distance but not less than 40 feet from the street right-of-way line.</i>

She said the current requirement for residential and agricultural setbacks outside of streets designated as highways is 30 feet from the road right-of-way. For commercial and industrial uses, the setback is 70 feet from the road right-of-way. Staff recommended letting these regulations stand for those ~~streets~~ roads indicated above. For commercial uses, the setback distance required for most of the designated highways would be met anyway, as the general ordinance requirement is already 70 ft.

Ms. Johnston said there were two reasons staff is requesting to keep West Main Street, Stadium Drive, and Drake Road as designated highways. First, these are the major thoroughfares in the Township that developed primarily as commercial corridors. Second, the rights-of-way lines on these roads varies, depending on the location within the Township. Having a setback requirement from the center line instead of the right-of-way line provides for consistency in appearance of building frontages, essentially creating a build-to line.

After discussion regarding how setback regulations could affect future development including difficulty in adding wider roads, sidewalks and bike paths, and new construction of buildings, whether it might be better to require 40 feet rather than 30, considerations regarding trying to put as many homes into compliance with setback regulations, and whether wider setbacks could/should be different for the western portion of the Township than for the eastern portion, it was agreed further investigation was warranted.

Ms. Johnston and Mr. Clark, Zoning Administrator, will return to the Board with more information after they have explored these questions.

OLD BUSINESS

a. Zoning Ordinance Enhancements through the addition of Tables and Graphics.

Chairperson Bell moved to the next item on the agenda and asked Ms. Johnston for her presentation regarding Zoning Ordinance Enhancements through the addition of Tables and Graphics.

Ms. Johnston reported after reviewing the Township's zoning ordinance, Wade Trim developed a preliminary listing of recommended tables/graphics for consideration.

After comments/suggestions have been received and the list finalized, Wade Trim will begin preparing tables and graphs for review.

Mr. Antosz appreciated looking at information this way rather than just verbiage.

Chairperson Bell asked that when the tables/graphics are included on the web site they be large enough to be easily readable.

Ms. Johnston said each table and graph could be made as large as a page on the website. She hoped to have the final ordinance reorganization, including the graphs and tables, to present to the Commission at the second meeting in October with the goal of setting a public hearing in November.

ANY OTHER BUSINESS

a. GO! Green Oshtemo Planning Effort

Ms. Johnston updated the Board on the GO! Green Plan to date. Staff has been working on this for 8-9 months and during the plan development process it was decided that the Plan should be included as part of the Township's overall Master Plan. The intent of this inclusion is to provide future integrated reviews of these important Township features as part of the Master Plan five-year review requirement. To include the GO! Green Plan into the Master Plan, the full public adoption process is required, which means distribution to our neighboring jurisdictions for a 63-day review.

Ms. Johnston plans to bring some segments of the Plan to the Commission in September and the full draft in October. The 63-day review period, which will occur in November-December will allow ample time for refining and editing.

Chairperson Bell felt it was a great idea to include the GO! Green Plan in the Master Plan.

Ms. Farmer noted the Planning Commission used to look at other jurisdictions' Master Plans and felt it would help in the effort to be more regionalized to review them.

Chairperson Bell agreed, mentioning the benefit of neighborly concern, but noted Master Plans are not a small thing to review and felt they could focus on what might be applicable to Oshtemo Township, such as Future Land Use Plan, Non-motorized Plan, trail connections etc.

b. Lighting Ordinance and Enforcement

Ms. Johnston explained there have been complaints about strings of LED lights on building façades. She said the ordinance requires lights to shine straight down and therefore these types of "string" lighting is not allowed by code. These lights cannot be

downward directed, so it violates the ordinance. About ten properties have been sent letters telling them the lights must be taken down by a date certain.

Business owners want the lights and have gone to the Township Board to ask about changing the ordinance. The Board held a work session regarding this issue on September 11th and decided they would like the Planning Commission to review the ordinance. It was last considered by the Planning Commission in 2006, but at that time the Commission did not feel these types of lights should be allowed.

In the interim, she said owners have been asked to turn the lights off – some have complied, others haven't. The Ordinance Enforcement Officer is working with the business owners to ensure the noncompliant lights are being turned off for now. Research will need to be done before the issue can be brought to the Commission for review. Ms. Johnston thought she might be prepared by the November meeting.

PLANNING COMMISSIONER COMMENTS

In response to the Chair, Ms. Johnston updated the Board on progress at Westgate and developments on MDOT preliminary road requirements for that area.

Chairperson Bell said there will be an open house September 16 from 1 – 4 p.m. at the Drake Farmstead property. The recently commissioned mural painted by Conrad Kauffman will be unveiled at the open house.

ADJOURNMENT

Hearing no further comments, Chairperson Bell adjourned the meeting at approximately 8:30 p.m.

Minutes prepared:
September 14, 2018

Minutes approved:
September 27, 2018