

**OSHEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A REGULAR MEETING HELD MARCH 12, 2020

Agenda

**PUBLIC HEARING: ACCESSORY BUILDINGS
CONSIDERATION OF AMENDMENTS TO SECTION 57.100 – ACCESSORY
BUILDINGS, FOR RECOMMENDATION TO THE TOWNSHIP BOARD.**

A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, March 12, 2020, commencing at approximately 6:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Bruce VanderWeele, Chair
Ron Commissaris
Micki Maxwell, Vice Chair
Mary Smith
Chetan Vyas

MEMBERS ABSENT: Dusty Farmer
Anna Versalle

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, and Martha Coash, Meeting Transcriptionist. Three other persons were in attendance.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:00 p.m.

Approval of Agenda

Hearing no suggestions for change, Chairperson VanderWeele let the agenda stand as presented.

Public Comment on Non-Agenda Items

Two members of the public commented on the special use for the proposed fruit belt nonmotorized trail that was approved at the Planning Commission meeting of February 27, 2020.

Mr. Tim Miller, 4310 S. 7th Street, said he has been a taxpayer and resident of Oshtemo Township for 67 years. At the last Planning Commission meeting he was appalled by the Commission for taking comments from people outside of the Township regarding trail implementation - it is wrong. As he stated at the last meeting, he is 100% opposed to a public trail along the fruit belt line. He said he doesn't know who here to call for security, but has been told AT&T has an easement right behind his house. The Township says AT & T does not enforce the trespassing law – he will bring a picture to prove that they do. The people the Commission are listening to from outside the Township are ultimately trespassing. He said he had documents for the Commissioners.

Ms. Gail Miller, 4310 S. 7th Street, distributed documents to the Commission. She asked for a show of hands from Commissioners who had visited the property, saying that as of the last meeting no one had been there. She referred to letters received by the Township from people and groups who do not live in the Township. She said Attorney Porter said Ameritech indicated the land is private and they do not enforce trespassing laws unless their equipment is damaged, yet the Commission took letters from people complaining and that they are trespassers. She said that owning 84 acres, with 2,290 feet of their property along the proposed trail, there is no way you can put up a six-foot fence by her house for protection. Even with a fence in place it would only be a blind where trail users could watch what they are doing. She indicated they would continue to oppose this plan and to gather signatures of neighbors of surrounding, adjacent property owners. In her opinion, signatures of those who live along and adjacent to the trail should supersede those of non-residents. The proposed trail is only 18 acres from start to finish; their property is almost six of those, a large number that has not been taken into consideration. There are already enough trails in this Township. With 70 acres available behind the Township Hall and the Kal-Haven Trail, the proposed trail is not needed. There is also a letter about ITC in the communications received by the Township. She said that surprised her because Ms. Maxwell was one of the people who opposed ITC. You know that is an easement right that doesn't belong to the property and that this Planning Commission planning how to use that corridor – will not happen in her lifetime because her name is on that land.

There being no further comments, Chairperson VanderWeele thanked the Millers for their comments and moved to the next agenda item.

Approval of the Minutes of the Meeting of February 27, 2020

The Chair asked if there were additions, deletions or corrections to the Minutes of the Meeting of February 27, 2020.

Ms. Lubbert requested that the following language, underlined, be added to the third paragraph on page 15: “Ms. High explained the acquisition grant stipulates the property will be used for outdoor recreation in perpetuity and that it has to be open to the public within 90 days of acquisition.”

Mr. Vyas made a motion to approve the Minutes of the Meeting of February 27, 2020 as presented with the requested correction. Ms. Maxwell seconded the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item.

PUBLIC HEARING: ACCESSORY BUILDINGS
CONSIDERATION OF AMENDMENTS TO SECTION 57.100 – ACCESSORY
BUILDINGS, FOR RECOMMENDATION TO THE TOWNSHIP BOARD.

Ms. Lubbert said recently, there have been concerns about how the Township has been regulating accessory buildings on residential properties, specifically where they were permitted to be located on a parcel, lot, or building site. After review of the Accessory Buildings and Setback Ordinances, it was determined that amendments were needed to clarify where accessory buildings would be permitted and ensure that the two regulations worked in concert. The Planning Commission reviewed and made a motion to recommend approval of the Setback Ordinance amendments to the Township Board at their regular December 12, 2019 meeting and, after discussion, directed staff to develop a new version of the Accessory Building code with more structure and detail. Areas of interest, in addition to placement, included: height, the treatment of accessory buildings on lots/building sites vs. parcels, and the overall permitted square footage of detached buildings based on lot size.

She said based on direction from the Commission, staff restructured the Accessory Building Ordinance, further amended sections of the code for clarity, and added language to address the noted areas of interest. Drafts of the proposed code language were reviewed by the Commission at their January 30th and February 13th meetings. After discussion and some amendments, the Commission agreed to move forward with the proposed changes to Section 57.100 and set a Public Hearing for their meeting on March 12th. A notice for the Public Hearing was published on Tuesday, February 25, 2020.

She noted the amended ordinance has the support of the Township Attorney, Zoning Administrator, and Ordinance Enforcement Officer. In addition, several of the proposed regulations were vetted for viability with the Fire Department and Southwest Michigan Building Authority.

Ms. Lubbert explained the proposed amendment reorganizes Section 57.100 into six sections: applicability, restrictions, setbacks, size restrictions, height, and application requirements. The goal of this reorganization is to help staff and the public easily navigate through the requirements for installing accessory buildings in Oshtemo Township. She provided a summary of the requirements outlined in each section:

Applicability: This section outlines what properties this code applies to; in summary all properties within a residential zone with a residence as their primary use. It should

be noted that properties located within the AG, Agricultural District where the structure will be used to support a farming operation are exempt. Continuing with previous practice, all accessory buildings over 200 square feet will require site plan review and approval. This section also identifies unique types of accessory buildings and directs users to other applicable sections of the code.

Restrictions: This section outlines all restrictions related to the use and construction of residential accessory buildings. All the requirements outlined in this section are in the previous accessory building code or noted in other areas of the code. The goal of this section is to provide one location where all restrictions for this type of structure can be found.

Setbacks: This section specifies where accessory buildings can be placed on a lot. Specifically, front yard setbacks as side and rear setbacks are addressed in a different section of the code. The proposed setback requirement differentiates between properties within a subdivision or site condominium and those that are not. There is an understanding that properties that are not within a subdivision or site condominium typically are larger and, more often than not, have a rural character that needs to be considered. The proposed language would place accessory buildings behind a house on a property within a subdivision or site condominiums. The front yard setback would be treated the same along the sides of both roads. In the other cases, the accessory building could be placed in front of a home as long as it met that district's principle building setback. A 10-foot separation between structures is also proposed for fire safety (to limit exterior fire spread).

Size Restrictions: Currently the zoning code does not have clear size limitations and any proposed large accessory building may trigger review by the Zoning Board of Appeals, subject to staff discretion. The existing regulations are somewhat subjective. The goal of this section is to provide clear standards that can then be applied administratively. The requirements outlined in this section pull from other existing areas of the code (ex. allowed percentage lot coverage) and previous interpretations or practices. Within site condominiums and subdivisions, the proposed code now specifies that the footprint of any residential accessory building cannot be larger than the primary structure. In addition, based on the area of a property, maximum cumulative square-footages for accessory buildings on a property are proposed. These numbers are based on other communities' standards but have been increased to keep in mind the Township's rural character.

Height: This section specifies how tall any given accessory building can be on a property. Based on previous reviews and experiences, the proposed maximum permitted height for an accessory building was increased from 25 feet to 30 feet. However, similar to the size restrictions intended to protect property values and neighborhood aesthetics, language was added that the height of an accessory building could not exceed the height of the principle building within subdivisions or site condominiums.

Application requirements: This last section of 57.100 outlines the details needed for staff to complete a site plan review of a building exceeding 200 square feet and ensure that all requirements are met.

The proposed amendments for 57.100 Accessory Buildings Serving a Primary Residence were provided.

Ms. Lubbert recommended the amendments be approved and forwarded to the Township Board for approval.

Chairperson VanderWeele asked whether Commissioners had questions for Ms. Lubbert.

Ms. Maxwell asked whether the visuals provided would be included in the amendments section for clarification.

Ms. Lubbert said that had not been her intent but noted that it could be done.

Chairperson VanderWeele questioned whether 3. C., which mentions a 10 foot separation between buildings includes garages that are detached from the house.

Attorney Porter said the definitions make it clear detached garages are included.

Ms. Maxwell asked for clarification of the allowed square footage for accessory buildings.

The Chair said as it reads, the term “gross floor area” used to determine the allowed size restriction for accessory buildings includes the combined floor area for each floor of a multiple floor building. He felt the gross floor area should include only the footprint of the building - length by width.

Ms. Lubbert indicated the original intent was that only the footprint, length by width, would be considered as the gross floor area.

Chairperson VanderWeele requested the wording reflect that intent.

Attorney Porter said the “combined gross floor area” should be changed to say “first floor of primary structure” to reflect the intent and eliminate confusion.

Ms. Smith asked how two lots homesteaded together would be treated.

Attorney Porter said they would be combined for assessing and building purposes.

Ms. Smith wondered whether if the properties were across the street from each other that the entire acreage would be treated the same way.

Attorney Porter said, in theory, they could cross the road though this circumstance is rarer all the time. The right-of-way in some cases is measured from the center of the street.

Ms. Lubbert noted if this issue were to come up a variance could be sought on a case by case basis.

Hearing no further questions, Chairperson VanderWeele moved to public hearing and asked if anyone cared to address the Commission.

Mr. Ken Schneider asked to defer to the covenants of sub-divisions rather than to regulate by ordinance. He was pleased the amount of square footage allowed for accessory buildings was increased from the original proposal, but thought it should be extended further for larger properties. He noted agricultural district 1-A was mentioned.

Attorney Porter explained that these regulations would only apply to properties in the 1-A district if the principal structure on the property was residential.

Mr. Schneider said regarding the 10-foot clause, if the fire department was concerned about how large a fire can get, it seems they would have suggested buildings be limited to a certain size. Fire in one 30 x 60 building would be harder to fight than two 30 x 40 buildings. As far as setbacks are concerned, he felt it would be plausible to allow people to put trees up instead of requirements regarding size or height of buildings and wondered if buildings are not visible from the road whether the Township should really care. He said he was reading through the proposal in light of the future of his property. One of the reasons he chose Oshtemo Township was because of the way the ordinances were written. He thinks the way the older ordinance was stated allows for more interpretation. The new ordinance is definitely a lot more specific and he wondered whether we have to get as detailed as is proposed.

Chairperson VanderWeele thanked Mr. Schneider for his comments. Hearing nothing further, he closed the public hearing and moved to Commission Deliberations.

Ms. Maxwell asked whether they are looking at sub-divisions.

Attorney Porter said there are standards based on where the property is located.

Ms. Smith said most site condominiums have restrictions on access buildings. The Township ordinance would take precedence.

Attorney Porter said the Township would set minimum requirements. A builder could exceed the requirements by increasing the set back or further limiting the size of accessory buildings.

Attorney Porter noted sub-division and site condominium rules often fall by the

wayside as developers don't follow proper procedures or associations don't maintain enforcement. It can become a problem if there are not minimum standards in place by ordinance.

Ms. Lubbert added deeds in subdivisions are only valid for a specific number of years and if rules are not enforced by residents they fall by the wayside, so there would be no lasting regulations in place without ordinance.

Mr. Vyas asked if the fire department requirements are based on standards.

Ms. Lubbert replied that a lot of municipal codes have separation requirements, though the requirements vary, frequently from 5 - 12 feet. Our fire department felt 10 feet is appropriate and the proposed 10 foot separation is also consistent with when the building code triggers fire rated wall requirements.

Attorney Porter added that when a 10 foot distance is maintained, the fire rated wall requirements aren't activated, the cost to a homeowner is reduced.

Chairperson VanderWeele called for a motion.

Mr. Vyas made a motion to approve the Amendment to Section 57.100 Accessory Buildings as presented with the agreed upon change of wording in number 4,b from "combined gross floor area" to "first floor area". Ms. Maxwell seconded the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next item on the agenda.

OTHER BUSINESS

Ms. Maxwell, in response to the earlier comment by Ms. Miller, explained she was involved with the ITC property issue, but that the Fruit Belt Trail is a different situation. The Township is actually purchasing property. ITC didn't want to buy their land, so it's a whole different story. When the Township owns the property, then they can set the rules, enforce them and provide maintenance.

OLD BUSINESS

There was no old business to consider.

PLANNING COMMISSIONER COMMENTS

Ms. Lubbert said the Township was working on how to address the Corona Virus. She will keep Commissioners up to date as that moves forward.

ADJOURNMENT

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 6:45 p.m.

Minutes prepared:
March 14, 2020

Minutes approved:
April 30, 2020