

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD JANUARY 24, 2017 (Corrected)

Agenda

PUBLIC HEARING: VARIANCE REQUEST, MATTHEW AND DEANNE BASSE, 2433 NORTH 5TH STREET

APPLICANT IS REQUESTING A VARIANCE FROM SECTION 64.000 OF THE ZONING ORDINANCE TO ALLOW A PROPOSED 1,200 SQUARE FOOT RESIDENTIAL ACCESSORY STRUCTURE TO BE LOCATED THREE FEET FROM THE SOUTH PROPERTY LINE WHEN 17 FEET WOULD NORMALLY BE REQUIRED. THE SUBJECT PROPERTY IS ZONED RR: RURAL RESIDENTIAL. (PARCEL #3905-09-305-010).

SITE PLAN REVIEW: FISH WINDOWS STORAGE BUILDING, 7162 STADIUM DRIVE STEVE BROWN, REPRESENTING BROWN'S FOUNDATION, LLC DBA FISH WINDOWS, IS REQUESTING A SITE PLAN REVIEW FOR A NEW STORAGE BUILDING ON A DEVELOPED PROPERTY ON THE NORTH SIDE OF STADIUM DRIVE, APPROXIMATELY 1,000 FEET WEST OF 8TH STREET. (PARCEL #3905-34-230-030.

A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, January 24, 2017, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Wiley Boulding, Sr.
Neil Sikora
Anita Smith
L. Michael Smith
James Sterenberg
ABSENT: Bob Anderson
Nancy Culp

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

Call to Order and Pledge of Allegiance

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

He noted the "Election of officers" would move from #7 on the agenda to #2.

Election of Officers

Vice Chairperson Sterenberg asked for nominations for the offices of Chairperson and Vice Chairperson for 2017.

In answer to a question from Mr. Smith, Mr. Sterenberg indicated he would be willing to serve as Chair.

Mr. Smith nominated Mr. Sterenberg for the office of Chairperson. Hearing no other nominations, the Board voted unanimously to elect Mr. Sterenberg as Chair for 2017.

Mr. Smith asked Mr. Sikora if he would be willing to serve as Vice Chair; Mr. Sikora agreed he would accept a nomination.

Mr. Smith nominated Mr. Sikora for the office of Vice Chairperson. Hearing no other nominations, the Board voted unanimously to elect Mr. Sikora as Vice Chair for 2017.

Agenda Approval

Chairperson Sterenberg determined there were no further changes to the agenda and moved to the next item on the agenda.

Public Comment on Non-Agenda Items

There were no comments on non-agenda items.

Approval of the Minutes of December 20, 2016

The Chairperson asked if there were any additions, deletions or corrections to the minutes of December 20, 2016. Hearing none, he asked for a motion for approval.

Mr. Sikora made a motion to approve the minutes of December 20, 2016 as presented. Mr. Smith supported the motion. The motion was approved unanimously.

PUBLIC HEARING: VARIANCE REQUEST, MATTHEW AND DEANNE BASSE, 2433 NORTH 5TH STREET
APPLICANT IS REQUESTING A VARIANCE FROM SECTION 64.000 OF THE ZONING ORDINANCE TO ALLOW A PROPOSED 1,200 SQUARE FOOT RESIDENTIAL ACCESSORY STRUCTURE TO BE LOCATED THREE FEET FROM THE SOUTH PROPERTY LINE WHEN 17 FEET WOULD NORMALLY BE

**REQUIRED. THE SUBJECT PROPERTY IS ZONED RR: RURAL RESIDENTIAL.
(PARCEL #3905-09-305-010).**

Chairperson Sterenberg said the next item was a request for a variance to allow a residential accessory structure to be located three feet from the south property line at 2433 North 5th Street in the RR: Rural Residential District and asked Mr. Clark to review the application.

Mr. Clark said the applicant wishes to demolish a derelict, legally non-conforming (insufficient side setback to the south) accessory building and replace it with a new, 1,200-square foot structure, which is also proposed to have a decreased side setback. The majority of the subject property is heavily wooded, characterized by marked changes in topography, and aside from where the residence is located further to the west, the only suitable area to place a structure without completing significant site modifications is in the 58-foot-wide section nearer to 5th Street. While the narrow section of the parcel near the street is relatively flat, and could hypothetically accommodate a reasonably sized accessory building while meeting both minimum side building setbacks, it is also traversed roughly east to west by a power line, further reducing the already scarce area where a structure of any reasonable height may be placed.

These factors, he said, of topography, tree cover, parcel shape, and the presence of the power line—the applicant contends, mean that the only reasonable place to locate an accessory building is roughly in the same area as the existing structure, but as near to the south property line as feasible. Specifically, the applicant is asking for approval to locate the structure three feet from the south boundary, while section 64.000: Setback and Sideline Spacing of the Zoning Ordinance dictates that it shall be no closer than 17 feet. The existing accessory building is approximately 540 square feet in size, while the desired new structure would be 1,200, necessitating the increased encroachment into the side setback since the building envelope is restricted to the north by the power line.

Mr. Clark also pointed out that an old house, approximately 900 square feet in size and legally non-conforming with regards to its front setback from the 5th Street right-of-way, is also present on the property. Currently in a state of disrepair, the applicant has indicated that they intend to improve this structure, allowing it to be used as an additional accessory building.

Mr. Clark said the application meets the Standards of Approval and provided examples where topography and other physical factors have warranted relief from the Zoning Ordinance's setback requirements as applied to residential accessory buildings. He noted the subject property, as well as that owned by the affected neighbor to the south, are both un-platted, fairly large, rural parcels. The adjacent home to the south, even with the reduced side setback for the accessory building as requested by the applicant, will still enjoy a considerable degree of separation—approximately 200 feet.

Mr. Clark said staff recommended approval of the variance request to allow three feet of side setback from the south property line of the subject property when 17 feet, equal to the height of the proposed accessory structure at its peak, would typically be required for the following reasons:

1. Due to unique physical circumstances present on the subject property, conformance with section 64.000 of the Zoning Ordinance with regards to the south side setback is unnecessarily burdensome, and no reasonable options for compliance are available for the applicant.
2. The Zoning Board of Appeals has granted similar variances in the past, and substantial justice would be served.
3. The spirit of the Zoning Ordinance will be observed, and the public health, safety, and welfare of the community will be secured.

Chairperson Sterenberg thanked Mr. Clark for his review and asked whether Board members had questions for him.

Chairperson Sterenberg noted there were letters of support for this variance from two neighbors, one with adjacent property to the south and one from across 5th Street. He also confirmed there will be no habitable building on the property.

There were no other questions. Chairperson Sterenberg asked if the applicant wished to speak.

Mr. Matt Basse, 2433 N. 5th Street, said he hopes to replace the roof on the second building on the property and intends to use both the new and repaired structures as storage for projects and hobbies. He noted the new building will be constructed in the same spot as the current building, but the footprint will extend further to the south and east.

The Chairperson asked for public comment. Hearing none, he closed the public hearing and moved to Board Deliberations.

Several Board members expressed their support for improvements to the property and for granting the requested variance. Chairperson Sterenberg asked for a motion.

Mr. Smith made a motion to grant the variance as requested based on the rationale provided by the Zoning Administrator's recommendation. Mr. Sikora supported the motion. The motion was approved unanimously.

SITE PLAN REVIEW: FISH WINDOWS STORAGE BUILDING, 7162 STADIUM DRIVE STEVE BROWN, REPRESENTING BROWN'S FOUNDATION, LLC DBA FISH WINDOWS, IS REQUESTING A SITE PLAN REVIEW FOR A NEW STORAGE

BUILDING ON A DEVELOPED PROPERTY ON THE NORTH SIDE OF STADIUM DRIVE, APPROXIMATELY 1,000 FEET WEST OF 8TH STREET. (PARCEL #3905-34-230-030.

Chairperson Sterenberg moved to the next item on the agenda, a request from Fish Windows for a site plan review of a storage building at 7162 Stadium Drive. He asked Mr. Clark to review the plan.

Mr. Clark said the subject property was purchased by Brown's Foundation, LLC, with the intention to use the existing structure as the administrative/general business office for Fish Windows, and also to erect a 1,500-square foot storage structure further north on the parcel to store equipment. In addition to the storage building, the applicant also intends to construct an approximately 4,900 square foot fenced-in gravel yard adjacent to the new structure for the temporary storage of trailers and other wheeled equipment associated with the primary business.

He indicated the project satisfies all major zoning compliance considerations not otherwise discussed in this report: The use is permitted by right, all applicable building setbacks are being met, no new outdoor lighting is being proposed, and in general the proposed structure and business will have little to no impact on surrounding land uses and properties.

Mr. Clark explained vehicles will access the site via a preexisting driveway that connects to Stadium Drive. Internal circulation aisle dimensions are largely sufficient throughout the parking lot area, except for the intermediate driveway that connects the two major parking area nodes on the property. The existing paved portion of this drive is approximately 15 feet wide at its narrowest point, but the applicant will be widening this passage to 24 feet in order to better accommodate fire apparatus and general two-way vehicle circulation. The property currently has approximately 24 spaces, some of which will be removed in order to accommodate the new structure, but a surplus over what is required by Ordinance will remain.

He noted the applicant has already submitted a signed and notarized form to the Township attesting to their willingness to participate in any future special assessment districts established in order to fund the relevant facility's construction of a sidewalk or path along their frontage as part of the 2013 Non-Motorized Plan which does indicate that this portion of Stadium Drive will one day have some type of pedestrian facility

Due to some difficulties imposed by various site constraints, some adjustments to the proposed landscaping plan were made. The revised plan was deemed suitable by Ms. Karen High. Three required canopy trees will be located outside the south buffer area, the location to be explicitly approved by the ZBA. Additionally the turnaround area will be maintained and kept clean year round.

Mr. Clark said the Township Engineer has approved the general design of the storm water management facilities for the site, but some specifications do need to be confirmed. Changes, if any are necessary, will be minor, and will not significantly alter

the project as proposed. The Fire Marshal is generally satisfied with the site layout, but some final discussions are necessary in order to ensure that an adequate apparatus turn around area is provided on the site.

Mr. Clark said although some minor issues need to be resolved before the site layout can be considered truly complete, staff is satisfied that all major concerns have been addressed, recommended site plan approval to the Zoning Board of Appeals with the following conditions, to be administratively resolved where applicable.

1. Any outstanding site design concerns with regards to the establishment of a sufficient fire apparatus turn-around area shall be resolved to the Township Fire Marshal's satisfaction.
2. Final design of the storm water management facilities on the site shall be subject to the Township Engineer's approval.
3. If proposed departures from the planting requirements of section 75.000 of the Zoning Ordinance are granted by the Zoning Board of Appeals, then details of such shall be entered into the public record.
4. In lieu of requiring that the applicant immediately construct a pedestrian path or sidewalk along their Stadium Drive frontage, the Zoning Board of Appeals will accept the provided signed and notarized sidewalk special assessment district agreement form.

Chairperson Sterenberg asked if there were questions from Board Members.

In answer to a question from Mr. Boulding, Sr., Mr. Clark indicated there is not much in the Ordinance regarding fencing in this zoning area; the fencing present meets the Ordinance.

The Chairperson asked whether the applicant wished to speak.

Mr. Dan Lewis, Prein & Newhof Engineers, 7123 Stadium Drive, said Mr. Clark's presentation was comprehensive and covered the landscaping and turnaround issues. He asked if there were further questions.

There were no further questions from the Board. Chairperson Sterenberg asked if there were questions or comments from the public. Hearing none, he asked for Board comments.

Mr. Smith said the site plan looks good, that it is always a goal to enhance businesses and this is a nice addition to a longstanding Township business.

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

Mr. Sikora made a motion to approve the site plan as presented with the conditions included in the Zoning Administrator's recommendation. Mr. Smith supported the motion. The motion was approved unanimously.

Any Other Business / ZBA Member Comments

Chairperson Sterenberg welcomed new members Mr. Boulding, Sr. and Ms. Smith, who both thanked the Board for their welcome.

Mr. Boulding Sr. said he has served for five years and is now in his last year of eligibility to serve on the Planning Commission. He has been involved in the community for close to 25 years and it is his pleasure to serve on the ZBA.

Ms. Smith said this is her first time to serve on a Board, that she is excited to serve the community, has already learned quite a bit, and has enjoyed the experience so far.

Chairperson Sterenberg also noted that Mr. Clark has taken over for Ms. Johnston as the permanent Staff person who will attend ZBA meetings and welcomed him in this new capacity.

Mr. Clark acknowledged he will be the permanent Staff person and is pleased and ready to take on this new role.

Adjournment

Mr. Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, he adjourned the meeting at approximately 3:26 p.m.

Minutes prepared:
January 29, 2017

Minutes approved:
February 28th, 2017