

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD MARCH 28, 2017

Agenda

PUBLIC HEARING: VARIANCE REQUEST (MICHAEL NOORA, 10540 WEST J AVENUE)

APPLICANT IS REQUESTING A VARIANCE FROM SECTION 64.000 OF THE ZONING ORDINANCE TO ALLOW A NEW RESIDENTIAL ACCESSORY BUILDING TO BE LOCATED EIGHT FEET FROM THE EAST PROPERTY LINE WHEN 16 WOULD TYPICALLY BE REQUIRED. THE SUBJECT PROPERTY IS ZONED RR: RURAL RESIDENTIAL. PARCEL NO. 3905-07-380-040.

PUBLIC HEARING: VARIANCE REQUEST (CHARTER TOWNSHIP OF OSHTEMO, 7275 WEST MAIN STREET)

APPLICANT IS REQUESTING VARIANCES FROM SECTIONS 64.000 AND 66.000 OF THE ZONING ORDINANCE TO ALLOW THE CONSTRUCTION OF A NEW WATER PRESSURE REDUCTION STATION ON THE NORTH SIDE OF WEST MAIN STREET, LEGALLY BUILDABLE AND THE PROPOSED FACILITY WILL NOT COMPLY WITH THE NECESSARY FRONT SETBACK. SUBJECT PROPERTY IS ZONED AS RR: RURAL RESIDENTIAL. PARCEL NO. IS PENDING.

A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, March 28, 2017, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: James Sterenberg, Chair
Bob Anderson.
Nancy Culp
Neil Sikora, Vice Chair
L. Michael Smith

ABSENT: Wiley Boulding, Sr.
Anita Smith

Also present were Ben Clark, Zoning Administrator, James Porter, Township Attorney, Julie Johnston, Planning Director, Martha Coash, Meeting Transcriptionist, and one interested persons.

Call to Order and Pledge of Allegiance

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

Public Comment on Non-Agenda Items

There were no comments on non-agenda items.

Approval of the Minutes of February 28, 2017

Chairperson Sterenberg asked if there were any additions, deletions or corrections to the minutes of February 28, 2017. Hearing none, he asked for a motion for approval.

Mr. Sikora made a motion to approve the minutes of February 28, 2017 as corrected. Mr. Smith Sr. supported the motion. The motion was approved unanimously.

PUBLIC HEARING: VARIANCE REQUEST (MICHAEL NOORA, 10540 WEST J AVENUE)

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Chairperson Sterenberg said the next item was a request for variance to allow a new residential accessory building from Michael Noora and asked Mr. Clark to review the request.

Mr. Clark said the applicant wished to be provided relief from the minimum required side setback for an accessory building. The location of an existing single-family home, the relatively long and narrow subject property once also accommodated a 720-square foot detached garage, which burned down in September of 2016. Having been located approximately eight feet from the east property line, the now-demolished accessory building was legally non-conforming due to insufficient side setback: Section 64.000 of the Zoning Ordinance now requires that such a structure be placed at least ten feet from any side or rear property line, or equal to the structure's height at its peak, if taller than ten feet.

He said, as detailed in section *62.000: Non-conforming Uses* of the ordinance, the loss of such a non-conforming structure means that it may not be reconstructed, unless it is in full compliance with all current standards. Due to numerous practical difficulties present on the property, the applicant is seeking relief from section *64.000: Setbacks and Sideline Spacing* of the Zoning Ordinance, and would like to construct a new, similarly sized accessory building with the same eight-foot setback as the old one, when 16 feet would typically be required. The desired new structure would be located further south on the property and closer to the primary dwelling than the old garage. Site factors motivating this request include narrow property width (105 feet), marked topography variation, driveway location, and the presence of septic and other facilities on the property.

Mr. Clark explained this parcel was created prior to the current Zoning Ordinance, which requires 200 feet of frontage for any new non-platted property in the RR zoning district. With only 105 feet of frontage, and never widening along its 458-foot depth, the subject parcel is quite narrow. Staff did discuss the possibility of placing the new accessory building in the cleared area towards the north end of the property, but the applicant displayed that the property drops off in excess of eight feet just behind where the old garage was located. Requiring relocation would necessitate significant regrading, as the slope in question is very likely too steep to accommodate a driveway, especially when ice and snow are factored in.

Staff also explored the option of moving the garage further to the west with the applicant. The applicant informed staff that conflicts with the septic line would arise if this scenario were to be implemented. Moving the garage to the west would also require that the driveway be altered to wrap around that side of the house, necessitating tree removal and also forcing vehicles to wend their way around the water wellhead in the front yard as well as the home's propane tank, which is close to the west side of the house.

Mr. Clark said this request meets applicable standards, and based upon the following findings, Staff recommended approval of the variance request to allow eight feet of side setback from the east property line of the subject property when 16 feet, equal to the height of the proposed accessory structure at its peak, would typically be required:

1. Due to unique physical circumstances present on the subject property, namely steep slopes and restrictive parcel dimensions, conformance with section 64.000 of the Zoning Ordinance with regards to the east 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 asked if there were questions for Mr. Clark.

In answer to a question from Mr. Anderson, Mr. Clark said there had been no comments from neighbors.

The applicant, Mr. Michael Noora, 10540 West J Avenue, owner of the property, asked if Board Members had questions for him.

Hearing no questions, Chairperson Sterenberg noted there were no members of the public present and asked if there were Board Member comments.

Mr. Sikora thanked Mr. Noora for his well thought out design and explanation of the need for the location requested. He said he was in support of the variance based on the Staff report.

Since there were no further comments from Board Members, the Chairperson asked for a motion to approve the request.

Mr. Anderson made a motion to approve the variance as requested, based on applicable standards and the recommendation of Staff. Mr. Smith supported the motion. The motion was approved unanimously.

PUBLIC HEARING: VARIANCE REQUEST (CHARTER TOWNSHIP OF OSHTEMO, 7275 WEST MAIN STREET)
APPLICANT IS REQUESTING VARIANCES FROM SECTIONS 64.000 AND 66.000 OF THE ZONING ORDINANCE TO ALLOW THE CONSTRUCTION OF A NEW WATER PRESSURE REDUCTION STATION ON THE NORTH SIDE OF WEST MAIN STREET, LEGALLY BUILDABLE AND THE PROPOSED FACILITY WILL NOT COMPLY WITH THE NECESSARY FRONT SETBACK. SUBJECT PROPERTY IS ZONED AS RR: RURAL RESIDENTIAL. PARCEL NO. IS PENDING.

Chairperson Sterenberg moved to the next item on the agenda and asked Mr. Clark for the Staff report.

Mr. Clark explained part of the initiative to connect residents in the western reaches of the Township to the public water system due to groundwater contamination from the old KL Avenue landfill, the placement of a pressure reduction station (PRS) is necessary in this part of Oshtemo. In determining an appropriate site for the PRS, the Township identified a small, relatively unusable piece of land that was formerly attached to the south end of 854 Josiane Drive, within the Maple Hill Estates #2 subdivision. Being of limited utility to the private property owners, who were willing to sell the land in question, as well as having frontage on West Main Street, the Township opted to purchase the land for the planned PRS.

He said while the site's location is ideal for the PRS, its size and proximity to West Main Street means that building the station there while complying with sections 64.000: *Setback and Sideline Spacing* and 66.000: *Area Requirements, Dwelling Standards, and Residential Occupancy of the Zoning Ordinance* is practically impossible, necessitating a handful of variances. Due to the fact that the proposed 16-foot by 24-foot PRS qualifies as a structure, compliance with sections 64.000 and 66.000 is technically necessary. The following list details the variance requests at hand:

1. *Section 66.000: Area Requirements...*
 - a. Relief from the minimum amount of frontage necessary for a buildable property. 200 feet required per the ordinance, with only 35 feet available.

- b. Relief from the minimum size for a buildable property. 1.5 acres required, approximately 0.05 available.
2. *Section 64.000: Building Setbacks...*
- a. Relief from Section 64.100, which dictates that no structures may be placed closer than 170 feet to the West Main Street centerline. Approximately 95 feet of setback are indicated on the proposed project site plan.

Mr. Clark commented on the standards associated with approval of the variance and noted the granting of this variance will in no way compromise the public health, safety, and welfare of the community. Rather, by granting the requested relief, the ZBA will be acting to help improve quality-of-life in the Township, as the proposed PRS is a necessary piece of a much-needed public water extension project. He indicated there were no comments from residents regarding this request for variance.

Mr. Clark said based upon the following findings, staff recommended approval of the variance requests from section *64.000: Setbacks and Sideline Spacing* and section *66.000: Area Requirements, Dwelling Standards and Residential Occupancy* of the Oshtemo Township Zoning Ordinance. Specifically, staff requested relief from the following standards:

1. Allow a 95-foot front setback from the West Main Street centerline when 170 feet is typically required.
2. Deem a property with 35 feet of road frontage and 0.05 acres in area as buildable, when 200 feet and 1.5 acres are typically required, respectively.

The following reasons are the basis for rationale to grant the variances:

1. Due to the property's narrow frontage and small area, conformance with the requirements of the Zoning Ordinance are unnecessarily burdensome and practically impossible.
2. Granting of the variances will actively help to fulfill the public health, safety, and general welfare of the community.
3. A setback variance for a PRS on the south side of West Main Street was granted in the past, therefore substantial justice is being observed.

Chairperson Sterenberg determined there were no comments from the public and moved to Board Deliberations.

Mr. Smith said approving the variance was necessary to improve the infrastructure.

Ms. Culp asked if there would be trees planted to provide screening.

Mr. Clark said this project would also require special exception use approval from the Planning Commission. The proposal will include robust screening with evergreens.

With no further discussion, Chairperson Sterenberg called for a motion.

Mr. Sikora made a motion to approve the variance as requested, based on applicable standards and the recommendation of Staff. Mr. Smith supported the motion. The motion was approved unanimously.

Any Other Business / ZBA Member Comments

Ms. Julie Johnston, Planning Director, told the Board the Staff Member who serves the ZBA changed in January 2017 from her to Mr. Clark. It was her intention to attend the January meeting to explain the transition but she was unavailable in both January and February.

She said Mr. Clark was looking to increase his understanding of planning and zoning and to do more in the Township to enhance his career. She fully supports him and wants him to remain in the Township. She indicated she will still be active with Mr. Clark in ZBA matters and will still attend meetings if requested.

Chairperson Sterenberg said the ZBA is happy to have Mr. Clark and appreciate making the change official.

Mr. Sikora asked whether the Township has done anything to address “tiny houses.”

Mr. Clark responded the minimum square footage allowed for a house on a parceled lot in the Township is 1000 feet. The only exception is in trailer parks; a tiny house could be erected there.

Adjournment

Chairperson Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda, and there being no other business, adjourned the meeting at approximately 3:14 p.m.

Minutes prepared:
March 30, 2017

Minutes approved:
May 23rd, 2017