

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A VIRTUAL MEETING HELD APRIL 27, 2021

Agenda

PUBLIC HEARING: VARIANCE FOR HUNTINGTON RUN MOBILE HOME PARK EXPANSION

THE FOUR LEAF COMPANIES, ON BEHALF OF HUNTINGTON RUN PARTNERS LLC, WAS REQUESTING RELIEF FROM SECTION 49.150(C) OF THE ZONING ORDINANCE WHICH REQUIRES THAT ALL MOBILE HOME PARKS HAVE A MINIMUM OF TWO ACCESS STREETS CONNECTING THE PARK TO OSHTEMO'S STREET NETWORK. THE REQUEST WAS TO ALLOW THE HUNTINGTON RUN MOBILE HOME PARK AND THE PROPOSED EXPANSION AREA TO HAVE ONE POINT OF FULL INGRESS/EGRESS.

A virtual meeting of the Oshtemo Charter Township Zoning Board was held Tuesday, April 27, 2021 beginning at approximately 3:00 p.m.

MEMBERS PRESENT: Neil Sikora, Chair
Anita Smith, Vice Chair
Dusty Farmer
Fred Gould

(All attending within Oshtemo Township)

MEMBERS ABSENT: Ollie Chambers
Micki Maxwell

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, Colten Hutson, Zoning Administrator, and Martha Coash, Meeting Transcriptionist.

Guests present included Rob Lamer, Excel Engineering and Kevin Shaughnessy, Four Leaf.

Call to Order and Pledge of Allegiance

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

APPROVAL OF AGENDA

After determining no changes were needed, Chairperson Sikora requested a motion.

Mr. Gould made a motion to approve the agenda as presented. Ms. Farmer seconded the motion. The motion was approved unanimously by roll call vote.

Chairperson Sikora moved to the next agenda item.

APPROVAL OF THE MINUTES OF February 23, 2021

The Chair asked if there were any additions, deletions, or corrections to the minutes of February 23, 2021.

Four minor typos/corrections were suggested.

Ms. Farmer made a motion to approve the Minutes of February 23, 2021 as corrected. Mr. Gould seconded the motion. The motion was approved unanimously by roll call vote.

Chairperson Sikora moved to the next agenda item and asked Mr. Hutson for his presentation.

PUBLIC HEARING: VARIANCE FOR HUNTINGTON RUN MOBILE HOME PARK EXPANSION

THE FOUR LEAF COMPANIES, ON BEHALF OF HUNTINGTON RUN PARTNERS LLC, REQUESTED RELIEF FROM SECTION 49.150(C) OF THE ZONING ORDINANCE WHICH REQUIRES THAT ALL MOBILE HOME PARKS HAVE A MINIMUM OF TWO ACCESS STREETS CONNECTING THE PARK TO OSHTEMO'S STREET NETWORK. THE REQUEST IS TO ALLOW THE HUNTINGTON RUN MOBILE HOME PARK AND THE PROPOSED EXPANSION AREA TO HAVE ONE POINT OF FULL INGRESS/EGRESS.

Mr. Hutson explained that Four Leaf Companies, on behalf of Huntington Run Partners LLC, was requesting relief from Section 49.150(C) of the Zoning Ordinance which requires that all mobile home parks have a minimum of two access streets connecting the park to Oshtemo's street network. The request was to allow the Huntington Run Mobile Home Park and the proposed expansion area to have one point of ingress/egress. An emergency access drive was proposed to replace the required second access street. If approved, the parcel encompassing the expansion area would be required to be combined with the parcel(s) currently comprising the existing portion of the mobile home park.

He said the area in question is zoned R-5: Residence District. Mobile home parks are listed as special uses within this district. Site plans for special exception uses of this nature generally go through a formal review process that begins at an administrative

level and then ultimately goes before the Township Board following a recommendation from the Planning Commission. However, as the proposal is in direct conflict with Section 49.150(C) of the Zoning Ordinance, staff could not move the item forward to the Planning Commission. However, Section 49.150(C) also states that the Zoning Board of Appeals has the authority to grant a variance from the requirement for additional access streets where, in the opinion of said Board, the additional access or accesses would not improve traffic safety because of the peculiar characteristics of the proposed development. The applicant has requested the Zoning Board of Appeals consider a variance for their proposal from Section 49.150(C): Mobile Home Parks and Accessory Buildings and Uses. If the requested variance is approved, a complete site plan will still be required to go through the formal planning process and be reviewed by the Planning Commission and Township Board for site plan and special use approval.

SECTION 49.150(C): Mobile Home Parks and Accessory Buildings and Uses

Mr. Hutson said the applicant provided the following rationale for this variance request from Section 49.150(C):

- Atlantic Avenue is a public street that runs NE/SW connecting both major roads that run E/W-Parkview Avenue and N/S-South 9th Street. Atlantic Avenue is a connector road to these two streets and does not continue NE past Parkview Avenue and there is not a purpose to continue west past S. 9th Street. As a connector road, the need for a second access point is diminished because it serves the purpose of the ordinance.
- The existing access point is not a small entrance. The Cranbrook Lane entrance off Atlantic Avenue is a boulevard entrance with 24' wide ingress lane, 24' wide island, and 24' wide egress lane. Two-way traffic could travel on the ingress or egress lanes alone, if ever needed. The Oshtemo Zoning Ordinance for a private two-way road width is 24'. There is the ability to stack 20 cars turning left in the egress lane without impeding right turning traffic. We have never seen this many cars stacked to turn left.
- The proposed Huntington Run Expansion is a plan that was approved by the Oshtemo Township without the second access in 2005.

He indicated Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows.

STANDARDS OF APPROVAL OF A NONUSE VARIANCE (PRACTICAL DIFFICULTY):

*Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?*

*Standard: Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?*

*Standard: Minimum Necessary for Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the Zoning Board of Appeals (ZBA) for consistency (precedence).*

*Standard: Self-Created Hardship
Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?*

*Standard: Public Safety and Welfare
Will the variance request negatively impact the health, safety, and welfare of others?*

Mr. Hutson said Staff analyzed the request against the principles for a dimensional variance and offered the following information:

- **Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.**

His Comment:

The 8-acre expansion area is located to the west of the existing portion of the mobile home park. Residential property surrounds the vacant parcel to its north, east, and west, with industrial property being situated to the south. The developed portion of the mobile home park possesses roughly 750' of road frontage adjacent to Atlantic Avenue and Parkview Avenue, whereas the expansion area itself has approximately 40.5' of road frontage adjacent to S 9th Street. Although the developed area of the mobile home park has sufficient road frontage to the north to install a secondary point of ingress/egress, approving such would defeat the purpose of requiring a secondary access drive due to its proximity to the mobile home park's existing access drive. The approximate 40.5' of road frontage on S 9th Street is not wide enough to facilitate a 66' wide right-of-way required per Section 49.150(F). Without acquiring easements or additional land from neighboring properties to gain an alternative access point to the parcel, creating a secondary point of ingress/egress is not likely.

He added that even if the mobile home park acquired sufficient road frontage on S 9th Street through an easement or additional land, the Road Commission of Kalamazoo County has expressed to Township staff that they would not grant said access due to the number of existing curb cuts and high traffic volumes on S 9th Street.

- **Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.**

His Comment:

Many mobile home parks outside and within Oshtemo Township possess more than one access street connecting said park to a public roadway. Requiring a secondary

full access point is not unreasonable given that mobile home parks are one of the most intense land uses within Oshtemo Township. For perspective, subdivisions and site condominiums with an excess of 50 dwelling units require a secondary ingress/egress be installed. The expansion to Huntington Run Mobile Home Park would increase the number of dwelling units to 233 in total. Acquisition of easements or additional land could be explored further to provide a full secondary access point to the site. Requiring a secondary point of ingress/egress is not unreasonable.

It should also be noted that other permitted uses, permitted uses with conditions, and special uses within the R-5: Residence District would still be able to develop on this parcel if the reviewing body were to deny the variance request. Section 51.30(A) of the Zoning Ordinance outlines that a commercial driveway that facilitates two-way traffic shall have a maximum throat width of 36'. With the parcel having approximately 40.5' of frontage along S 9th Street, accommodating a width less than 40.5' would suffice.

- **The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.**

His Comment:

In researching past ZBA decisions regarding reducing the number of access streets for mobile home parks, Planning Department staff identified two comparable cases:

1. *Pheasant Ridge Mobile Home Park (aka Huntington Run Manufactured Home Community), 6255 Cranbrook Lane, 01/21/1991:*

A variance was granted by the Zoning Board of Appeals on January 21, 1991 to allow Pheasant Ridge Mobile Home Park to have one point of ingress/egress rather than the two points of ingress/egress required per Zoning Ordinance. The existing portion of the mobile home park has approximately 574' of road frontage adjacent to Atlantic Avenue and 176' of road frontage adjacent to Parkview Avenue (750' total). Excerpts of the minutes from said public hearing indicate that two points of ingress/egress were initially proposed for the development, one being located on Atlantic Avenue and the second being located along Parkview Avenue.

During the public comment stage of the meeting, a citizen expressed to the Zoning Board of Appeals that they had several safety concerns regarding the Atlantic Avenue and Parkview Avenue intersection, noting that it was already dangerous as it was. The citizen also expressed that the site plans for any proposed development at this location should incorporate having the intersection reconfigured in such a way to accommodate increased traffic. Minutes from the meeting demonstrate Zoning Board of Appeals members' concerns regarding the safety issues of the Atlantic Avenue and Parkview Avenue intersection as well, noting that eliminating the Parkview Avenue access point would help alleviate many potential traffic problems posed by the existence of the Parkview Access.

Staff at the time who presented the report indicated that the Fire Department did not have any opposition to the elimination of the proposed secondary access point for the site. When the applicant offered to install a gated emergency access drive adjacent to Parkview Avenue rather than a normal point of ingress/egress, the Fire Department declined the offer, having no interest in a gated emergency access drive at this location. It should be noted that when the variance was granted in 1991 an Oshtemo Fire Station was located on the corner of Parkview Avenue and Stadium Drive, which is where the Oshtemo Community Center is now located. That said Fire Station has since been removed; the closest Fire Station is located on S 6th Street. The proximity of the Fire Station to the mobile home park in 1991 most likely influenced the Oshtemo Fire Department's reasoning for not requiring a secondary access point or emergency drive. The secondary entrance not being in accordance with the Township's adopted Access Management Plan influenced board members' decision as well.

Although a variance was granted to reduce the number of access streets from two to one, he noted one of the major reasons for granting approval was that the Zoning Board of Appeals recommended that the secondary access point on Parkview Avenue be eliminated entirely. This is mainly attributed to the safety issues associated with the site and as to where the secondary access point would be located. The shortness in distance between both access points in addition to their proximity to the busy intersection of Parkview Avenue and Atlantic Avenue heavily influenced the Zoning Board of Appeals' decision to grant the variance. The Zoning Board of Appeals strongly considered the safety aspects of the proposal and chose to approve the variance.

2. *Wildwood Mobile Home Park (aka Woodland Estates), 4797 S 4th Street, 02/04/1991*

A variance was granted by the Zoning Board of Appeals on February 04, 1991 to allow Wildwood Mobile Home Park to have one point of ingress/egress rather than the two points of ingress/egress required per Zoning Ordinance. Excerpts of the minutes from said public hearing indicate that two access points existed when the property originally developed in the 1960s, one adjacent to S 4th Street and the second adjacent to S 5th Street. Although the mobile home park had two access points, the access point on S 5th Street was only a gated access drive. The applicant requested a variance to formally close the once approved S 5th Street access point in its entirety.

Minutes from the public hearing identified the following reasons to support the elimination of the S 5th Street access point: 1) the Township's Access Management Plan indicated that only mobile home parks with over 600 units warrant consideration for a secondary access drive, 2) low traffic volumes recorded for 4th Street by the Road Commission of Kalamazoo County, 3) the Fire Department did not oppose the elimination of the secondary access drive, 4) Pheasant Ridge Mobile Home Park on January 21, 1991 was granted a variance to reduce the number of access drives from two to one, and 5) a second access point would not improve traffic and safety. It should be noted that some Board Members were worried whether one access point would be sufficient for a mobile home park of this size. One Board Member conveyed that since

the Fire Department was not in opposition to closing the secondary access point, and given the reasons mentioned earlier, that they should grant the variance.

The Zoning Board of Appeals decided to grant the variance request to eliminate the established secondary access point adjacent to S 5th Street. The existing portion of the park had approximately 200 units at the time of the variance request. However, it should be noted that when this project expanded to the north in 1996 to construct an additional 116 mobile home units, a second point of ingress/egress was installed.

- **The problem is not self-created.**

His Comment:

The applicant's desire to construct an additional 31 mobile home units has triggered this variance request. When Huntington Run Mobile Home Park was originally constructed in the early 1990s a variance was granted that allowed for one point of ingress/egress rather than the two points of ingress/egress required by the code. As previously noted in this report, an expansion of this special use was approved 16 years ago on March 24, 2005. At that time, it was determined that a variance was not required. Per Section 65.50: Duration of Approval, special use permits terminate if such special use did not commence within one year from its date of approval. As the previous owner never capitalized on the opportunity to proceed with the development and an extension was not requested, the 2005 approval is no longer valid. This submission is considered a new project and this request needs to be considered under current policies and best practices. The previous approval of the project cannot be considered. Expanding the mobile home park is not required nor necessary. The request is a self-created hardship.

- **Public safety and welfare.**

His Comment:

Mobile home parks are one of the most intense uses the Township possesses in terms of density. With the expansion, the site would cover over 46 acres in area and have approximately 233 dwelling units in the community. Having more than one normal access point which allows for two-way traffic provides many benefits to the future residents of the mobile home park. From a life and safety perspective it should be noted that the Oshtemo Fire Department highly prefers regularly used entrances and does not favor limited access roads.

However, the National Fire Protection Association's Fire Code (NFPA-1 as adopted by Oshtemo on 3/9/2021) does allow for a gated limited access road to address the Fire Department's needed access to the site. If a variance were granted, Huntington Run would be required to install an emergency access drive adjacent to S 9th Street. Although not preferred by the Oshtemo Fire Department, they would need to have 24/7 access to the control gate. The limited access drive would also need to meet all safety standards and specifications imposed by the Oshtemo Fire Department.

Oshtemo Township's engineering consultant, Prein and Newhof, evaluated the existing and future development of Huntington Run and the driveway connected to

Atlantic Avenue from a traffic engineering standpoint. Data from traffic counts collected by the Kalamazoo Area Transportation Study (KATS) from 2017 found there to be an Average Daily Traffic (AADT) of 1,812 vehicles. This indicates the traffic on Atlantic Avenue is moderately low. Using Land Use Code 240 'Mobile Home Park' for the calculation from the ITE trip generation book for the future addition to the park and comparing it to existing conditions, Prein and Newhof believes the additional traffic generated by the proposed development expansion alone is not enough to trigger the need for a secondary full point of ingress/egress.

Mr. Hutson suggested the Zoning Board of Appeals may make a motion including the following findings of fact relevant to the requested variance:

- Support of variance approval
 - The unique physical characteristics of the property's frontage creates challenges and limits the opportunity of developing a mobile home park at the site. A full access point at this property's frontage on S 9th Street is not feasible.
 - There are two previous cases in which mobile home parks were granted a variance to allow for one point of ingress/egress rather than two.
 - Per the Access Management Plan, mobile home parks with over 600 units warrant consideration for additional full access points. Huntington Run Mobile Home Park, including the expansion, would have 233 units. The variance request, if approved, would not be creating a life and safety issue.

- Support of variance denial
 - The variance request is a hardship that is self-created, as the applicant is not required to expand the development.
 - Other reasonable options for compliance are available. Other uses permitted in the R-5: Residence District could build here without a variance. In addition, easements or land acquisition from neighboring properties could be explored further.

He suggested possible motions for the Zoning Board of Appeals to consider:

1. Variance Approval.

The Zoning Board of Appeals approves the variance request due to unique physical circumstances of the property in question, minimum necessary for substantial justice, and approval will not impact the health, safety, and welfare of others.

2. Variance Denial

The Zoning Board of Appeals denies the variance request as the need for the variance is a self-created hardship and conformance with code requirements is not unnecessarily burdensome.

Chairperson Sikora thanked Mr. Hutson for his report and asked whether Board members had questions.

Mr. Gould asked whether the applicant was aware of the requirement that prior approval had to be implemented within 12 months.

Attorney Porter said it is a standard provision that after 12 months a site plan approval ceases to exist if not acted upon within that time frame.

Ms. Lubbert noted the mobile home park was recently purchased and that the applicant is not the same as the one granted the approval 16 years ago.

Hearing no further questions from Board Members, Chairperson Sikora asked if the applicant wished to speak.

Mr. Rob Lamer, Engineer with Excel Engineering and representing the owner of Four Leaf, said when the park was purchased last year the owners were not aware of the site plan expiration, which is why they have come before the ZBA.

He stated safety is most important and is the biggest reason they were seeking a second emergency limited access drive. The Kalamazoo County Road Commission does not feel it would be safe to add a 9th Street access, that it would be safer to funnel traffic to the main roads (9th and Parkview) from one spot on Atlantic. Fire Department access is also important. He noted it would take about the same time for fire department vehicles to access the south end of the park from the existing ingress/egress as it does to reach the west end, toward 9th Street. Fire Department access would not be less safe than it is today. The 24-foot ingress/egress boulevard lanes were likely designed to provide emergency access. He offered to answer any questions the board might have but noted Mr. Hutson had provided a thorough report.

As there were no questions from ZBA members, Chairperson Sikora moved to Public Hearing. Although there were no members of the public present, two letters were received from residents. Both writers were concerned with safety. The two letters are attached to these minutes.

Hearing nothing further, The Chair closed the public hearing and moved to Board Deliberation.

Ms. Farmer cited reluctance from the Fire Department to the requested variance, but noted they indicated that safety with a limited emergency access drive would be "better than nothing."

Ms. Lubbert explained that seeking possible alternatives, such as a second ingress/egress from Atlantic or Parkview to be achieved through easements or purchase of property, had been explored and had all fallen through.

Board members came to consensus that although they did not see a good solution, approval of the variance was the best of a bad situation with limited available options.

Ms. Farmer made a motion to approve the request for variance to allow Huntington Run to have one point of full ingress/egress with the addition of an emergency access drive to replace the required second access street, based on:

- 1) the unique physical characteristics of the property's frontage that creates challenges and limits the opportunity of developing a mobile home park at the site, means a full access point at this property's frontage on S 9th Street is not feasible,
- 2) substantial justice as there are two previous cases in which mobile home parks were granted a variance to allow for one point of ingress/egress rather than two, and
- 3) approval will not impact the health, safety and welfare of others.

Chairperson Sikora seconded the motion. The motion was approved unanimously by roll call vote.

Public Comment on Non-Agenda Items

There were no comments from the public.

Other Updates and Business

Ms. Lubbert said there are currently three items to be addressed on the May agenda which will likely require a longer meeting.

The Chair said he received an e-mail regarding a DNR Trust Fund Grant to allow the Township to purchase right of way for the Fruit Belt #2 recommendation.

Ms. Farmer confirmed the grant will be voted on by the legislature.

Chairperson Sikora said if that goes through it will be impressive and commended township staff for its work on this initiative.

Adjournment

Chairperson Sikora noted the Zoning Board of Appeals had exhausted its Agenda. There being no other business, he adjourned the meeting at approximately 4:07 p.m.

Minutes prepared: April 28, 2021

Minutes approved: May 25, 2021