

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD JULY 23, 2013

Agenda

LIGHTING VARIANCE (DENOAYER CHEVROLET) FROM THE MAXIMUM WATTAGE REQUIREMENT FOR OUTDOOR LIGHT FIXTURES AS STATED IN SECTION 78.720 TO ALLOW INSTALLATION OF 851 WATT FIXTURES, 451 WATTS GREATER THAN THE 400 WATT MAXIMUM. SUBJECT PROPERTIES ARE 5850 & 5800 STADIUM DRIVE (PARCEL NOS. 3905-25-305-048 & 3905-25-180-019).

A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, June 23, 2013, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Roger Taylor, Chairperson
Cheri Bell
Millard Loy
Neil Sikora, First Alternate
James Sterenberg, Second Alternate

MEMBERS ABSENT: Lee Larson
L. Michael Smith

Also present were Greg Milliken, Planning Director, James Porter, Attorney, five other interested persons, and Martha Coash, Meeting Transcriptionist.

Call to Order and Pledge of Allegiance

The meeting was called to order by Chairperson Taylor at approximately 3:00 p.m., and the "Pledge of Allegiance" was recited. Due to absences of Mr. Larson and Mr. Smith, Mr. Sikora and Mr. Sterenberg were called upon to act as a sitting members for the meeting.

Public Comment on Non-Agenda Items

Chairperson Taylor called for public comment on non-agenda items. Hearing none, he proceeded to the next agenda item.

Approval of the Minutes of June 25, 2013

The Chairperson asked if there were any additions, deletions or corrections to the minutes of June 25, 2013. No changes were noted. Mr. Sikora made a motion to approve the minutes as presented. Mr. Loy seconded the motion. The motion was approved unanimously.

Lighting Variance (DeNooyer Chevrolet)

Chairperson Taylor asked Mr. Milliken to present his report on the lighting variance requested by DeNooyer Chevrolet.

Mr. Milliken explained that the requested variance from the lighting requirements of the Zoning Ordinance for DeNooyer Chevrolet, which is the dealership on the easternmost part of the "campus" (adjacent to Metro Toyota) that has developed over time and is just west of the 131 and Stadium Drive intersection.

He said the DeNooyer Chevrolet property currently has 29 light poles that are 25 feet in height. The applicant proposes to replace these existing poles with new 22 foot tall poles so that all lights throughout the campus will be at a 22 foot height, consistent with the height of the poles at Metro Toyota. New LED light fixtures are proposed for each pole. The current ordinance limits lights to 400 watts, but currently many greatly exceed 400 watts. 17 of the light poles, around the perimeter in front, have two 1000 watt fixtures and two 400 watt fixtures; the applicant is proposing one 851 watt fixture per pole. Four poles have four 1000 watt fixtures each currently; they are proposing two 851 watt fixtures per pole. Four other poles have three 1000 watt fixtures that will be replaced by one 426 watt fixture each. Finally, four poles have two 400 watt fixtures that will be reduced to one 279 watt fixture. Mr. Milliken pointed out the locations of the various lights on a map of the property.

He continued, saying that the LED lighting will also be installed at Metro Toyota, but that they were given a variance in 2005 to allow them to exceed 400 watts, up to 1000 watts, so they are already covered. Because the DeNooyer Chevrolet dealership was established in 1983 before the current Ordinance was adopted, much of the lighting was in place prior to the establishment of Township standards. As a result, DeNooyer Chevrolet did not need a variance at that time, but one is required now that a change in lighting is planned.

Mr. Milliken said the Ordinance was developed to limit the spread of light so as to control glare and impacts on adjacent properties. It predates LED technology which does a much better job of controlling and focusing the spread of light, as well as providing desired light levels at lower wattage. The change to LED lighting will provide a significant positive impact on decreasing the amount of light that is spread to other properties. Many of the proposed lamps will still exceed 400 watt maximum, but the amount of light produced on site will be the same, and the light spilling over the property

lines will be reduced – in some places from 20.0 to 1.0 footcandles. This is a big improvement, and will bring the property much closer to conformance criteria.

He reported that in looking at this request, Staff considered the history of variance approvals; the use of new technology that was not considered in drafting the Ordinance; the overall improvement to the site including bringing it much closer to conformance; and review of approval criteria as shown in the staff report. After careful review, Staff recommends approval of the variance as requested.

Chairperson Taylor asked Mr. Milliken if there were any public comments regarding this issue from notified parties.

Mr. Milliken said no comments were received.

The Chairperson asked if there have been any light variance complaints regarding the variance granted to Metro Toyota.

Mr. Milliken said he was not aware of any complaints. Controls are in place for lights to be turned down at 9:30 p.m. to lessen impact on Quail Run neighbors.

Mr. Sterenberg asked how light levels and brightness are determined and what is desired with the change in technology.

Mr. Milliken said the Ordinance focuses on footcandles and spillover at property lines as well as on-site disparities. Previously they were in excess of that, exceeding 20.0 footcandles at some points along the property line for which they previously received a variance. He said he would let the applicant provide additional information regarding the technical lighting specifications.

Mr. Sikora confirmed that although the ordinance specifies 0.1 foot candles, that 1.0 foot candles are present at some perimeter areas and asked where those areas were.

Mr. Milliken indicated on the map that the area is near the Shell station.

Ms. Bell confirmed the Zoning Board does not need to address the foot candle issue since it was already allowed in a previous variance. Mr. Milliken indicated that was correct.

Hearing no further board comments, Chairperson Taylor asked the applicant to please address the Board.

Mr. Todd DeNooyer, a partner in both DeNooyer Chevrolet and Metro Toyota, 5800 Stadium Drive, indicated he would like to defer questions to Robert Vanderhill of Keen Lighting, who is more versed on lighting technical issues.

Mr. Robert Underhill, Director of Business Development for Keen Technical Solutions of Traverse City, an energy solutions company working on the lighting project for DeNooyer Chevrolet and Metro Toyota, told the board LED is an evolving technology. Measurement in foot candles is still valid. LED technology provides the ability to decrease peak demand, reduce the carbon footprint, and to direct light exactly where it is wanted. Wattage is what has been used over the years as a bench mark by Townships. His company is now stripping lights of wattage to keep light from spilling over onto other properties and roadways. They are all about dark sky compliancy. He indicated the DeNooyer's site would appear dark from above but would have illuminated automobiles below. They are working with Cree Lighting, a company who has worked extensively with automobile dealerships.

Mr. Sterenberg asked if there would be a brighter effect even with lower wattage.

Mr. Underhill said the goal was to achieve and maintain the same footcandle levels on site. This was done so there will be no change in light levels on the site while using less energy and having less spillover to adjacent properties and roads.

Mr. Sterenberg said he believes the intent of the Ordinance is to control brightness.

The Chairperson asked for public comment on this item; there was none and he asked the board for their thoughts.

Mr. Sterenberg said he was satisfied that this project could achieve maintaining or reducing brightness with less wattage and said he supports the variance. He felt the Planning Commission should look at the Ordinance to consider updating it to reflect the changes in technology.

Ms. Bell clarified that the brightness of the property is not on the table. If the property was already exceeding the Ordinance limits, she wondered if the variance had already been granted.

Mr. Milliken said DeNooyer's was already exceeding the Ordinance when it was put in place by the Township and so they were grandfathered until such time as they wanted to make a change.

Ms. Bell commented that approving the variance will mean they will continue to exceed the allowed wattage and wondered if the number of fixtures sre also in question.

Mr. Milliken said there is no Ordinance requirement for the number of fixtures.

Chairperson Taylor asked whether the current stepping down of lighting at 9:30 p.m. would remain in effect.

Attorney Porter indicated all conditions and limitations of the Ordinance, except for the wattage variance, if approved, would remain in effect, including the stepping down of lighting at 9:30 p.m.

Mr. Sterenberg moved and Mr. Loy supported the motion to grant the variance to allow the installation of light fixtures that exceed 400 watts up to 851 watts. Motion carried 5 – 0.

Chairperson Taylor moved and Mr. Sterenberg supported the motion to recommend that the Planning Commission take a look at the lighting Ordinance in respect to changing lighting technology. Motion carried 5 – 0.

Any Other Business / ZBA Member Comments

Mr. Milliken told members there would be a meeting scheduled for August 27 to consider a residential front set-back variance request.

Ms. Bell said she would not be in attendance; Mr. Milliken noted Mr. Smith is expected back by then.

Adjournment

Chairperson Taylor noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, he adjourned the meeting at approximately 3:33 p.m.

Minutes prepared:
July 24, 2013

Minutes approved:
August 27, 2013