

**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS**

**MINUTES OF A MEETING HELD DECEMBER 17, 2013**

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**Agenda**

**REQUEST FOR VARIANCES TO ALLOW THE LOADING AREA FOR A PROPOSED NEW RETAIL FACILITY TO BE LOCATED WITHIN THE FRONT YARD AREA ALONG WEST MICHIGAN AVENUE, A VARIANCE FROM THE REQUIREMENTS OF SECTION 68.301; TO ALLOW OFF-STREET PARKING WITHIN THE BUFFERYARD AREA ALONG WEST MICHIGAN AVENUE REDUCING SAID BUFFERYARD FROM 20 FEET TO 11 FEET, A VARIANCE FROM SECTION 75.130.D; AND TO ALLOW THE INSTALLATION OF LIGHT FIXTURES WITH LAMPS AT 875 WATTS, 475 WATTS GREATER THAN THE 400 WATT MAXIMUM PROVIDED FOR IN SECTION 78.720.C.(3). THE SUBJECT PROPERTY IS LOCATED ON THE NORTHWEST CORNER OF STADIUM DRIVE AND DRAKE ROAD IN THE C-LOCAL BUSINESS DISTRICT AND CURRENTLY CONSISTS OF SEVERAL PARCELS.**

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A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, December 17, 2013, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Roger Taylor, Chairperson  
Cheri Bell  
Lee Larson  
Millard Loy  
Neil Sikora, First Alternate  
L. Michael Smith  
James Sterenberg, Second Alternate

MEMBERS ABSENT: None

Also present were Greg Milliken, Planning Director; James Porter, Attorney; and three interested persons.

**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.

## **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 November 26, 2013**

The Chairperson asked if there were any additions, deletions or corrections to the minutes of November 26, 2013. No changes were noted. Mr. Loy made a motion to approve the minutes as presented. Mr. Smith seconded the motion. The motion was approved unanimously.

**Request for Variances to Allow the Loading Area for a Proposed New Retail Facility to be Located within the Front Yard Area along West Michigan Avenue, a Variance from the Requirements of Section 68.301; to Allow Off-Street Parking within the Bufferyard Area along West Michigan Avenue Reducing said Bufferyard from 20 feet to 11 feet, a Variance from Section 75.130.D; and to Allow the Installation of Light Fixtures with Lamps at 875 Watts, 475 Watts Greater than the 400 Watt Maximum Provided for in Section 78.720.C.(3). The Subject Property is Located on the Northwest Corner of Stadium Drive and Drake Road in the C-Local Business District and Currently Consists of Several Parcels.**

Chairperson Taylor asked Mr. Milliken to provide background regarding the proposed variances requested by the applicant.

Mr. Milliken indicated that Costco has proposed to construct a 150,000 square foot retail store with an 8 pump gas station on 16.29 acres within a larger 39.25 acre commercial development in the C Local Business zoning district at the northwest corner of Stadium Drive and Drake Road. The property is also adjacent to US-131 and West Michigan Avenue.

Mr. Milliken indicated that the Planning Commission had reviewed the site plan and special exception use last week at a public hearing and approved it with conditions. One of these conditions was obtaining a variance for the three items identified in the public hearing notice. Should they be denied, the site plan would need to be amended.

Mr. Milliken reiterated that the approval by the Planning Commission was not a mandate to the Zoning Board of Appeals that the variances be approved.

Mr. Milliken reviewed the details of the site plan and its layout with the Board. He indicated three variances were required.

The first variance involved Section 68.301, which prohibits loading areas in front yards. Front yards are defined as the open space between the front property line and

the closest projection of the building. Because the property fronts on West Michigan Avenue, that is technically a front yard.

Mr. Milliken stated that the building is really a four-sided building. There is access on all four sides due to the service drive surrounding the structure. The primary entry to the retail store is on the south / southwest side with the majority of the traffic being routed around the south and west sides. The north side is the service side and adjacent to a detention basin. Mr. Milliken pointed out that the loading area is over 100 feet from the West Michigan Avenue right of way and also separated by up to 15 feet in elevation change along with substantial screening along the street frontage. This landscaping includes evergreens for all season screening.

Mr. Milliken stated that the plan could be shifted so the loading area was not near West Michigan Avenue but then would effectively (if not technically) be in the front yard of the rest of the development. This four-sided arrangement is unique.

Mr. Milliken indicated the second variance needed involves the bufferyard requirement along West Michigan Avenue. The bufferyard is required to be 20 feet wide. Section 75.130.D requires that there be no parking or circulation within the required bufferyard area. The site plan shows parking within 11 feet of the right of way area.

Mr. Milliken indicated this is new development on nearly 40 acres and could be shifted south to accommodate the required bufferyard requirement. He also stated that there is a unique aspect related to this, and that is the right of way along West Michigan Avenue. It is 100 feet wide, as opposed to the typical 66 feet wide right of way found on most County roads.

Mr. Milliken indicated that the developer has received permission to do grading and landscaping in the right of way so there will be the perception that the 20 foot bufferyard has been provided. The Board will need to determine if the right of way situation is unique enough to warrant the granting of the variance or if it will need to be brought into compliance.

Mr. Milliken stated that the last request for a variance was from Section 78.720(c) which limits lamps of 35 feet in height to 400 watts and the applicant desires 875 watts. He stated that the applicant has satisfied all other requirements of the Ordinance including the spread of light and light levels at exterior property lines. He stated that the facility will turn off all parking lot lights during overnight hours once all employees have left at the end of the day.

Mr. Milliken confirmed that the lights could be brought into conformance with the standards by using lower wattage bulbs but would result in placement of additional lamps and poles. This was the case with Wal-Mart who was denied their request for a variance to allow use of 1000 watt lamps. Upon denial, they replaced the 1000 watt

lamps with three 400 watt lamps resulting in additional light on the site. Several larger commercial uses were granted this variance in the past.

Chairperson Taylor asked if the Township had received any comments or questions from notified neighbors regarding this request. Mr. Milliken indicated they had not.

Mr. Larson asked what the zoning was across the street. Mr. Milliken stated that the zoning on the north side of West Michigan Avenue was industrial.

Mr. Smith asked if there was any likelihood that the Road Commission would give up the additional right of way to reduce West Michigan Avenue from 100 feet to 66 feet in width. Mr. Milliken suggested that the applicant could speak to the current status of the discussions with the Road Commission.

Mr. Sterenberg asked about the staging of trucks near the loading area and whether those would be visible from West Michigan Avenue. The Board members engaged in a discussion of truck staging, the landscaping along West Michigan, and the traffic patterns around the site. Mr. Milliken indicated that the entire service drive would be designated as a fire lane and that would limit the ability for trucks to stage in that area for an extended period of time.

Ms. Bell asked if the amount of parking was compliant with Ordinance standards. Mr. Milliken indicated that it was.

Mr. Sterenberg asked what the status was of the Road Commission discussions. Mr. Milliken said that was something the applicant could address.

Joe Gesmundo of American Village Builders introduced himself as the property owner, developer, and applicant. He presented his vision for the development and potential for the site.

Mr. Gesmundo presented the history of his association with the property. He has been acquiring the property in this area for over 20 years. He also described the MDOT project that will be occurring adjacent to the site next year.

Mr. Gesmundo presented the overall plan for the entire development and how Costco is related to the other potential development on the site. He indicated that the service drive could have been a County Road, but that would have raised issues of plowing, landscaping, maintenance, etc. If it were a County Road, all four sides would not just function as front yards but likely would be defined as such as well. He presented the four-sided architecture

Tim Britain, Viridis Design Group, stated that he was the landscape architect who helped with the design of the property. He indicated there is a lot of evergreen material along West Michigan Avenue including several elements with significant height starting

at a minimum of 8 feet. He also pointed out that the truck dock is lowered against the building.

The Board discussed the walls and loading area and the section drawings along West Michigan Avenue. There was discussion of the screening along West Michigan Avenue and the screening for the loading area.

Mr. Britain stated that Costco would install 192 trees and 350 shrubs; the development would install 220 trees, 520 shrubs, and 2000 perennials in first phase; and there would likely be at least 750 trees within the development when complete.

Mr. Sterenberg asked if the wall at Stadium and Drake will be installed right away. Mr. Britain confirmed that was correct.

Mr. Sterenberg asked what the space that is left undeveloped would look like when complete.

Mr. Britain stated it would be seeded, stabilized, graded, and maintained.

Mr. Larson asked if all landscape materials would be native and non-invasive. Mr. Britain said they would not all be native but that they would not be invasive.

Mr. Gesmundo stated that West Michigan Avenue used to be Territorial Road and then was US 12. It was eventually replaced by I-94 and then Stadium Drive. It now terminates at Venture Park and Drake Road. It is not going to be extended to the east or west. Therefore, the 100 foot wide right of way does not seem necessary anymore.

Mr. Gesmundo stated that they had a traffic engineer study the traffic to be generated by Costco and the potential surrounding development and collaborated with traffic engineers for MDOT, the Road Commission, the City, Costco, and the Township. They projected how much traffic would be generated, projected it out 20 years, and added additional traffic to be safe. The engineers determined seven times more traffic would be necessary to warrant the installation of a left turn lane on West Michigan.

Mr. Gesmundo demonstrated that the 66 foot right of way provides adequate space for all of the improvements they have been asked to make as well as the potential for a left turn lane should it be needed in the future. The Road Commission did not rule out reduction of the right of way, but the process is onerous and time does not permit proceeding at this time.

Ms. Bell confirmed that the Road Commission has approved the placement of the various elements shown on the plans within the right of way.

Mr. Gesmundo stated that is correct. He indicated they have met with the Road Commission multiple times and are in agreement with them regarding the lack of justification for a center turn lane, have received general agreement regarding an

easement for elements within the right of way, and approval of the driveway location on West Michigan Avenue.

Ms. Bell asked about the implications of the Road Commission expanding the roadway in the future and possibly going into the wall and landscaping area. Mr. Porter stated that is why the easement is important and would be executed before construction.

Mr. Britain stated that the reason for a bufferyard area is for setback of various land uses and for screening. He indicated that considering the landscaping, wall, and use of the property within the right of way, the intent of the setback and screening is achieved even if not all of it occurs on the private property.

Mr. Sterenberg stated he envisions a lot of traffic coming in the back way on West Michigan Avenue. He asked if that was considered in the analysis.

Mr. Gesmundo stated it was, and in fact the traffic engineers added additional traffic to West Michigan from what was originally proposed. Still there was no significant impact.

Mr. Loy stated he asked the same question of the traffic engineer at the public hearing and was assured there would be no impact.

Mr. Gesmundo assured the Board that there would still be room in the right of way for addition of such a lane in the future if it is determined to be needed.

The Board continued discussion of the easement and uniqueness of the site.

Mr. Gesmundo showed the lighting plan as proposed with 875 watt lamps on 28 poles with 45 fixtures. He indicated if denied, they would use 400 watt lamps on 35 poles with 98 fixtures. He illustrated that the site will be nearly dark in the evening once the employees leave about 11pm.

Mr. Loy said they discussed the gas station lighting at the Planning Commission.

Mr. Larson asked for clarification of Ordinance requirements and compliance. Mr. Milliken explained the requirements and indicated that they comply with all except the lamp wattage.

Mr. Gesmundo discussed the difference between 875 watt and 400 watt bulbs in terms of energy use, number of fixtures, and light levels. He stated he would rather see less poles and fixtures when there is really no benefit to the reduction in wattage.

Chairperson Taylor opened the public hearing and asked if there were any comments from the public. Hearing none, he closed the public hearing. He moved into deliberation and suggested that the variances be addressed individually.

Mr. Smith indicated in terms of the loading area variance, the north side of the building is not really the front of the building, and in fact all four sides of the building function as and are design to serve as if located in front yards. Due to this uniqueness, Mr. Smith made a motion to approve a variance from Section 68.301 to allow a loading area to be located within a front yard area. Mr. Larson seconded the motion. The motion was approved unanimously.

Mr. Loy indicated that he felt West Michigan Avenue is unique in terms of its right of way. Ms. Bell confirmed through Mr. Milliken that there are few if any other roads in the Township in a similar situation to West Michigan Avenue in terms of right of way and history. Ms. Bell indicated it was important to note that the requirement was still being satisfied although some of the material is located in the right of way. Mr. Loy made a motion to approve a variance from Section 75.130.D to allow off-street parking with a bufferyard area along West Michigan Avenue reducing the width of said bufferyard from 20 feet to 11 feet. This was on the condition that the Township receives an agreement or easement from the Road Commission to allow the screening material / wall to be located within the right of way. Mr. Smith seconded the motion. The motion was approved unanimously.

Mr. Larson indicated he favors less lighting fixtures, the lighting still complies with the other requirements of the Ordinance, and the proposed lighting plan has less total wattage than it would if the variance were denied. The Chairperson stated he thought the Township is looking at these standards. Ms. Bell reminded the Board they need to look at the criteria. Mr. Porter suggested it could be considered unnecessarily burdensome to comply with the requirement due to the additional poles and fixtures that would be required and the fact that others have received similar variances in the past. The Board agreed that these standards need to be addressed. Ms. Bell made a motion to approve a variance from Section 78.720.c.(3) to allow use of lamps with 875 watts. Mr. Loy seconded the motion. The motion was approved unanimously.

### **Any Other Business / ZBA Member Comments**

Mr. Milliken indicated that this was Chairperson Taylor's last meeting. He has served on the Board since May 2006. He presented Chairperson Taylor with a certificate and thanked him for his leadership and service.

There were no other comments from ZBA members.

### **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 5:05 p.m.

Minutes prepared:  
December 19, 2013

Minutes approved:  
May 27, 2014