

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD SEPTEMBER 22, 2015

Agenda

PUBLIC HEARING: PARKING VARIANCE REQUEST (PRIME CONSTRUCTION AND DEVELOPMENT FOR BRONSON HEALTHCARE GROUP) SEEKING TO BE ALLOWED 26 PARKING SPACES FOR RECENTLY APPROVED BRONSON FASTCARE FACILITY LOCATED ON APPROXIMATELY FOUR ACRES OF VACANT LAND AT 6220 WEST MAIN STREET IN THE “R-3” RESIDENCE DISTRICT (PARCEL NO. 3905-14-288-011)

SITE PLAN REVIEW: (AUTOZONE DEVELOPMENT, LLC) FOR PROPOSED 14,000 SQUARE FOOT RETAIL STORE ON 1.4 ACRE PARCEL LOCATED AT THE EASTERNMOST UNADDRESSED OUTLOT BETWEEN MEIJER AND WEST MAIN STREET IN THE “C” LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-14-185-039)

SITE PLAN REVIEW: (ARCHITECTURAL WORKSHOP FOR KALAMAZOO MORTGAGE) FOR A CHANGE IN USE FOR PROPERTY LCOATED AT 2425 SOUTH 11TH STREET, CURRENTLY PINE WEST BANQUET HALL, LOCATED IN THE “C” LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-25-405-012)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, September 22, 2015, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson
Bob Anderson, Second Alternate
Nancy Culp
Millard Loy
Neil Sikora, First Alternate
L. Michael Smith

ABSENT: James Sterenberg

Also present were Julie Johnston, Planning Director; James Porter, Attorney; Ben Clark, Zoning Administrator; and eight interested persons.

Call to Order and Pledge of Allegiance

Chairperson Bell called the meeting to order and the "Pledge of Allegiance" was recited.

Public Comment on Non-Agenda Items

There were no comments on non-agenda items. However, Julie Johnston took the opportunity to introduce herself, as the new Planning Director, and the new Zoning Administrator, Ben Clark, to the members of the Board and said she looked forward to working with them.

Approval of the Minutes of August 25, 2015

The Chairperson asked if there were any additions, deletions or corrections to the minutes of August 25, 2015. Nancy Culp said the reference to members present which indicated that Nancy Carr was present should be changed to Nancy Culp.

Hearing nothing further, the Chairperson called for a motion on the minutes. Mr. Loy made a motion to approve the minutes of August 25, 2015, as corrected. Mr. Smith seconded the motion. The Chairperson called for a vote on the motion, and the motion was approved unanimously.

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Chairperson Bell moved to the next item on the agenda, a parking variance for Bronson Health Group, and asked Mr. Clark for his report.

Mr. Clark explained that the applicant was granted site plan approval on August 25, 2015, to develop a fastcare healthcare facility. He said, per Section 68.000 of the Zoning Ordinance, the 1,584 square foot building would be required to have a minimum of eight to ten parking spaces and would not be permitted more than 110% of that number. The reason for the variance was that the applicant had determined, based upon its facility on Westnedge Avenue in Portage, that it would need approximately 26 parking spaces during the peak flu season. Mr. Clark also said that the applicant does intend to build additional buildings on the subject property in the not-to-distant future and felt that this additional parking would facilitate the overall parking needs for multiple buildings thereby furthering the cross-access parking requirements of the Township.

Mr. Clark then took the Board through the approval criteria as more fully set forth in his report dated September 22, 2015.

The Chairperson asked if there were any questions. Mr. Sikora asked Mr. Clark to point out the parking areas on the overhead, which he did. The Chairperson asked why the variance was separated from the site plan review. Mr. Clark said it was a timing issue.

The Chairperson then asked to hear from the applicant. Daniel Lewis of Prein & Newhof introduced himself to the Board. He explained that they determined they needed 20 parking spaces at their Westnedge facility. Given that and the fact that this facility was going to add one additional examination room, they determined that they needed approximately 26 parking spaces for peak demand. He said the parking would be for staffing and for patients.

The Chairperson opened the floor to questions. She began by asking how long the urgent care facility in Portage had been operated. Ms. Susan McKeowns introduced herself to the Board and explained that facility had been in operation for approximately a year and a half. She said the Westnedge fastcare facility had two exam rooms, and the subject facility would have 50% more exam rooms, and therefore, the additional parking was necessary.

The Chairperson asked at what point the applicant knew there was a need for additional parking. Mr. Lewis said they knew immediately after looking at the Zoning Ordinance that the parking would be insufficient for this type of facility.

Mr. Sikora asked what the intent of the applicant was with regard to the additional buildings and their use of the parking area. Mr. Lewis said that they would likely extend the road further north and construct parking areas off that private drive. He said he was not sure whether the parking areas would necessarily be interconnected at this point in time but could serve as overflow in the future.

The Chairperson asked if there were any further questions. Hearing none, she opened the hearing to the public. There was no public comment. Therefore, the Chairperson called for Board deliberations.

Mr. Smith said he thought that the proposal sounded reasonable. He said, considering their needs and that there were not any other similar developments in the Township, he thought that their parking request was reasonable. Mr. Anderson said he did not see any downside to the request. Mr. Loy said he felt that the applicant had demonstrated a need, and he thought they should grant the variance request. The Chairperson said she thought it should be noted that this is the first time anyone had asked to have parking increased beyond the Township's minimum parking requirements. Attorney Porter said it was likely that when additional buildings were added and the cross-access easement provisions of the Township's Ordinance were implemented, that there would not be any excessive parking at this site at that time.

Mr. Clark said he was comfortable in recommending the additional parking because this type of use did not have any minimum required parking space requirements defined by Section 68.400 of the Ordinance. Therefore, he thought this matter fell under Section 68.410B which states that “For those uses not specifically mentioned, the requirement for off-street parking facilities shall be based upon uses similar in terms of parking demand as determined by the Township.” Therefore, he thought that the ZBA had the latitude to use its discretion in expanding the allowed parking spaces.

Ms. Johnston mentioned that she thought that parking should be based upon the use and that granting it for such a specific use as a fastcare health facility would not set an adverse precedent.

Again, the Chairperson said that she wanted to make sure that the Board did not set an adverse precedent because of the unusual nature of the request. The staff indicated that they understood.

The Chairperson asked if there was anything further. Hearing nothing further, she said she would entertain a motion. Mr. Smith made a motion to grant the variance, as requested, based upon the staff report and the comments in the record. Mr. Loy seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

SITE PLAN REVIEW: (AUTOZONE DEVELOPMENT, LLC) FOR PROPOSED 14,000 SQUARE FOOT RETAIL STORE ON 1.4 ACRE PARCEL LOCATED AT THE EASTERMOST UNADDRESSED OUTLOT BETWEEN MEIJER AND WEST MAIN STREET IN THE “C” LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-14-185-039)

The Chairperson indicated that the next item on the agenda was the consideration of the site plan review for AutoZone Development, LLC. The Chairperson called for a report from the Planning Department staff. Ms. Johnston explained to the Board that AutoZone is preparing to develop a new retail store on the easternmost outlot in front of Meijer. She said the subject property is approximately 1.4 acres in size in the “C” Local Business District.

She said that the proposed building was approximately 1,400 square feet in size and parking would be located to the south and east of the building with two access drives – one south towards Meijer and one onto the access drive leading to M-43.

She explained that the applicant was looking for approximately 37 parking spaces in line with the Ordinance. She stated that the Fire Marshal, the Township Engineer and MDOT had all approved the proposed circulation and access provisions of the proposed plan. She did note that there was an issue with regard to the possible need for a Phase II environmental, and that the applicant was agreeable to completing

the Phase II environmental study for the subject property. Ms. Johnston then took the Board through the standards for approval of the site plan as set forth in Section 82.800, as more fully set forth in the report.

The Chairperson asked if there were questions of the Planning Director. Mr. Loy asked about signage. Ms. Johnston said that the applicant had not yet submitted a sign application, and therefore, the only information which she had at this time was the proposed location of the sign.

Ms. Culp asked if it was necessary to use the service drive on the east end of the Meijer's parking lot area. Mr. Clark said it was not required, but he said there was not anything within the Township's Access Management Plan which would warrant denial of the use of that access drive. He also noted that the Fire Marshal and Township Engineer had approved the use of the same.

Mr. Anderson asked how they determined that there was an environmental issue on site. Ms. Johnston said that they had detected an odor of hydrocarbons on the property and a possible discoloration of soil.

Hearing no further questions, the Chairperson asked to hear from the applicant's representative. Mr. Wesley Verlin said he was the Engineer for the proposed project. He said he thought staff had covered the proposed project quite thoroughly and asked if the Board had questions.

Mr. Smith asked if they would accept waste oil. Mr. Verlin said that they would, but it would be entirely above ground, and therefore, there should not be any environmental concerns.

Ms. Culp asked if the second access drive was necessary. Mr. Verlin said he thought it was in order to allow for ingress and egress for large delivery trucks.

Mr. Sikora asked if Mr. Verlin or his client had thought about restructuring the center lane of the access drive going to Meijer to allow a left turn lane coming into their facility. Mr. Verlin said that they had not considered that, and he thought they could discuss that matter with Meijer. Mr. Sikora said he thought perhaps that would avoid any possible stacking issues or conflict issues with traffic.

Ms. Johnston said that perhaps the center lane could be used as a left turn lane and encouraged the applicant to approach Meijer to discuss adding that in the future. However, she said there was not anything within the Township's Ordinances that would mandate such a reconfiguration.

Mr. Clark said maybe they could label the lane as a left turn lane whether one was coming into Meijer or coming out of Meijer.

The Chairperson asked if AutoZone knew about the difficulties with this intersection, and if not, she thought they should familiarize themselves with the records including the number of accidents at this site. The Planning Director said she thought that was an excellent suggestion.

The Chairperson raised an issue with regard to the recommendation for a Phase II environmental study assessment. She said her reading of that would not necessarily require AutoZone to clean up the property. Attorney Porter said that the Chair was correct, but that once the Phase II was completed, if there was contamination, it would have to be remediated. He said if AutoZone had a provision in its contract, it might be able to rescind the buy-sell agreement with Meijer, but once Meijer was on notice that there was environmental contamination, it would then have to be cleaned up by Meijer. He said he felt confident that State law would require a remediation if, in fact, an environmental contamination was discovered.

Mr. Sikora said he was not sure what the ZBA's authority was with regard to allowing or not allowing a drive onto the access drive, and if it met Township Ordinances, he did not believe there was any basis to deny its use. Ms. Johnston said that perhaps this is an issue which the Planning Department should look at in the future and work on more specific criteria within the Access Management Plan.

Mr. Smith said having worked in the auto parts business for a number of years, he did not think traffic would be a major issue at this site now or in the future.

The Chairperson asked if there were further questions. Hearing none, she said she would entertain a motion. Mr. Loy made a motion to approve the site plan, as submitted, with the following recommendations:

1. A Phase II Environmental Site Assessment must be completed to address the detected petroleum hydrocarbon soil contamination and its recommendation for remediation followed.
2. A sign permit is required before any new signs are installed on site, and all signage shall conform to the requirements of the sign chapter of the Zoning Ordinance.
3. Site plan approval is subject to the approval of the Fire Department, pursuant to adopted codes.
4. Site plan approval is subject to the review and acceptance of the Township Engineer as adequate.

Mr. Sikora seconded the motion. The Chairperson called for a vote on the motion. The motion passed unanimously.

SITE PLAN REVIEW: (ARCHITECTURAL WORKSHOP FOR KALAMAZOO MORTGAGE) FOR A CHANGE IN USE FOR PROPERTY LCOATED AT 2425 SOUTH 11TH STREET, CURRENTLY PINE WEST BANQUET HALL, LOCATED IN THE "C" LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-25-405-012)

The Chairperson indicated that the next item for consideration was an application from Architectural Workshop for Kalamazoo Mortgage for a site plan review for a change in use from a banquet hall to office suites for property located at 2425 South 11th Street. The Chairperson asked to hear from the Planning Department.

Mr. Clark submitted his report to the Board. He said that the current location of Pine West Banquets & Catering and the Lucky Steer Restaurant was being restructured into commercial office suites for four professional offices. He said the subject property is situated on approximately 2.16 acres between U.S. 131 and 11th Street. He said that there were no changes to the overall floor area, and while there had to be restriping in the parking area, the layout would basically stay the same. He also noted that there would be no additional landscaping required.

Mr. Clark said because there were no significant exterior changes, both the Township Engineer and the Fire Marshal were satisfied with the proposed layout.

He noted that, under Section 78.730 of the Zoning Ordinance, the lighting was installed prior to 1994, and therefore, it did not need to meet the 0.1 foot-candle illumination limitation at the property line. Mr. Clark then proceeded to take the Board through the standards for site plan approval as set forth in Section 82.800 of the Zoning Ordinance.

The Chairperson asked if there were any questions of Mr. Clark. Hearing none, she asked to hear from the applicant.

Mr. Richard Schramm, Architect, introduced himself to the Board on behalf of the applicant. He said he thought this was the simplest site plan he had ever worked on in all his years as an architect. He reiterated what Mr. Clark had said with regard to the restriping of the parking lot, and that other than that, all changes would be internal to the office building. Mr. Schramm then introduced his clients, Ryan Rarick and Brian Methner, to the Board.

Mr. Smith asked what the office space would be used for. Mr. Rarick said it would be used for Kalamazoo Mortgage, and they would be the anchor tenant. Kalamazoo Insurance would be the second tenant, and they were working on letters of intent with two other businesses to occupy Suites C and D.

The Chairperson asked when they would be likely to begin and end construction. Mr. Rarick said they would likely start November of this year and complete the site improvements by April, 2016.

Mr. Smith asked if they were changing any of the lights. Mr. Schramm said there were existing poles, and they might change some light fixtures, but they would not change the overall lighting design for the property. Mr. Clark indicated that if they made changes to the lighting system, they would have to comply with current lighting standards including photometric requirements.

Mr. Loy said he thought it was an ideal use for the property. Mr. Smith said, while he had gotten some good meals there in the past, he thought this was a good steady use for the property. Mr. Sikora said he thought it was a good use and an ideal location, and he appreciated what they were doing to upgrade the building.

The Chairperson said if there were no other questions, she would entertain a motion. Mr. Smith made a motion to approve the site plan, as submitted, subject to the following recommendations:

1. A sign permit is required before any new signs are installed on site, and all signage shall conform to the requirements of the sign chapter of the Zoning Ordinance
2. Site plan approval is subject to the approval of the Fire Department, pursuant to adopted codes.
3. Site plan approval is subject to the review and acceptance of the Township Engineer as adequate.

Mr. Loy seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

Any Other Business / ZBA Member Comments

The Chairperson asked if there was any other business or comments from the ZBA members. Hearing none, she welcomed Nancy Culp to the Board.

Adjournment

There being no further business, Chairperson Bell adjourned the meeting at approximately 4:00 p.m.

Minutes prepared:
September 24, 2015

Minutes approved:

November 17, 2015