

**MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
MARCH 17, 2009**

The meeting was called to order by Vice-Chairman Randy Horton at 9:30 a.m.

Roll call was taken by Recording Secretary, Marty Stinson.

MEMBERS PRESENT: Elizabeth Frasier, Sandy Harvey, Randy Horton, and Dan Jozwiak.

MEMBERS ABSENT: Jason Simmons and Alternate Jack C.M. Davis

MINUTES:

It was moved by Board Member Harvey and supported by Board Member Frasier to approve the minutes of the meeting of September 16, 2008, as presented.

AYES: All. Motion carried.

NAYS: None.

AGENDA AMENDMENT:

It was moved by Board Member Harvey and supported by Board Member Jozwiak to amend the agenda to include the election for Chair and Vice-Chairman.

AYES: All. Motion carried.

NAYS: None.

ELECTION OF OFFICERS:

It was moved by Board Member Harvey and supported by Board Member Jozwiak to nominate Randy Horton for Chairperson and Elizabeth Frazier for Vice-Chairperson.

AYES: All. Motion carried.

NAYS: None.

PUBLIC HEARINGS:

**CONDITIONAL USE PERMIT # 2009-01
CURWOOD FESTIVAL, INC.
TEMPORARY PARKING LOTS CLOSING REQUEST**

A public hearing was conducted for the conditional use permit for the Curwood Festival parking lot closures. Sherri Bakos, Interim Office Manager for the Curwood Festival made the request.

John Archer, Building and Zoning Official, stated that the Board is not involved with the street closures, just the parking lots closures. He reviewed the list of parking lots.

1. Closure of the Exchange Street parking lot from 6:00 p.m., Thursday, June 4, through Sunday, June 7, to allow concession owners to set up.
2. Closure of the entire Armory parking lot Friday, June 5 at 5 p.m. through Sunday, June 7.
3. Closure of the Public Safety Building parking lot for the carnival and the entertainment tent area, Wednesday, June 3, through Sunday, June 7.
4. Closure of parking lot on the corner of Curwood Castle Drive and Bradley on Wednesday evening June 3 for setup through Sunday June 7 for Renaissance Encampment.
5. A new request this year of the parking lot at the corner of Main and Washington Street from Thursday, June 4, through Sunday, June 7

Mr. Archer suggested that restrictions be applied for the new parking lot at Washington & Main regarding weight, no driving of tent stakes and nothing to damage the surrounding gardens.

Board Member Jozwiak asked if the changes at the Ball, Water and Exchange lot will deter the vendors. Mr. Archer stated the design of the parking lot is a "U" shape with an entrance and exit for vehicle traffic from Water Street. Also there are approximately five pedestrian walk throughs on the alley side (south)

REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS

March 17, 2009

Page 2

and on the Exchange Street side (north). Also there is a pedestrian entrance to the lot which is centered in the lot on the east end of the lot.

Board Member Jozwiak also asked if the surface of the lot will be redone. It was stated the lot will be capped with a two inch layer of asphalt later in the summer.

It was moved by Board Member Harvey and supported by Board Member Frasier to accept the application with the inclusion of the restrictions to the Main and Washington Street parking lot regarding weight limitation, no driving of tent stakes and nothing to damage the surrounding gardens.

AYES: All. Motion carried.

NAYS: None.

CONDITIONAL USE PERMIT # 2009-02
FARMERS MARKET
TEMPORARY PARKING LOTS CLOSING REQUEST

Mr. Archer stated that Ms. Schautz asked to be excused from this meeting. He reviewed the request and stated that there might be intermittent times where the Farmers Market may need to move to the Park and Mason parking lot due to the Ball, Water & Exchange lot renovations this spring.

Board Member Harvey asked if the insurance condition had been met. Mr. Archer couldn't vouch for that.

There were no public comments.

It was moved by Board Member Jozwiak and supported by Board Member Harvey to approve the request for the conditional use permit for the Farmers Market with condition that Ms. Schautz has the insurance in place, and the city will have the ability to move the Farmer's Market to the Park & Mason lot as needed.

AYES: All. Motion carried.

NAYS: None.

VARIANCE 2009-01
770 S. CHESTNUT STREET
REQUESTED BY RICK LAMB,
ADVANCED DRAINAGE SYSTEMS, INC.
FRONT YARD SETBACK

Rick Lamb, Advanced Drainage Systems, Inc. spoke on the need for expansion towards the north in line and connected to the existing building. The pipe storage and fence will be removed. Mr. Archer handed out an older photo and described the property lines. Then he described the variance in 2006 for a 40 x 80 building that was built. Advanced Drainage Systems wishes to duplicate the previous variance which would allow ADS to construct a 40 x 40 addition to the existing building. Also note with buildings being this close to the street it is good practice to require some vegetation to break that intrusiveness of a building so close to the street.

Chairman Horton opened the public hearing with no comments being received. Mr. Archer stated he had the public notice from the newspaper and an affidavit of mailing. Chairman Horton brought the hearing back to the Board.

It was moved by Board Member Harvey that ADS has been a good neighbor and a good employer in the area and to grant the variance request to include soft vegetation in front of the structure. This is not contrary to public interest and doesn't impair light or air supply to neighbors.

AYES: All. Motion carried.

NAYS: None.

REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS

March 17, 2009

Page 3

VARIANCE 2009-02
620 WRIGHT STREET
REQUESTED BY PROPERTY OWNER LOYD BARTHOLOMEW
REQUEST TO BUILD AN ACCESSORY STRUCTURE WITHOUT A PRIMARY STRUCTURE

Mr. Loyd Bartholomew spoke about his request to build a garage with a house on top of it at 620 Wright Street.

Mr. Archer stated the original variance request was to construct an accessory building (garage) on his lot without a primary structure (house). In light of this new concept other issues arise, but the need for this variance would not be required. Also state law prohibits changing the variance request without proper notice to the neighborhood.

This new request raises the issue of a variance for the minimum house width plus side yard setback distances. The question now to Mr. Bartholomew is, does he want to drop this request and refile for his new proposal. There will be additional cost, but not as much as the first due to some of the research has already been done and we could get it ready for next month.

Board Member Harvey asked if Mr. Bartholomew had any time limitation on the project. Mr. Archer answered a project must be started within one year of a variance being granted and a building project must be completed within six months of pulling a building permit. Mr. Archer then asked Mr. Bartholomew if he would like to discuss his options with his mother (present in the audience). If so, the hearing could be tabled for a short time and then called back to order.

It was moved by Board Member Jozwiak and supported by Board Member Harvey to table this discussion for a few minutes to allow Mr. Bartholomew time to consider his decision.

AYES: All. Motion carried.

NAYS: None.

VARIANCE 2009-03
310, 314 N. GOULD STREET
REQUESTED BY GEOFFREY DANCIK, PROVISIONS, LLC
REQUEST FOR FRONT YARD SETBACK REDUCTION

Mr. Geoffrey Dancik reviewed his request for a front yard setback due to the site constrictions with the Sennott Drain. He requested a 20 foot setback consistent with the Social Security Building at 306 N. Gould Street. They have contacted Shiawassee County Drain Commissioner about moving the drain.

Board Member Harvey asked if they have had a hearing with the Drain Commission. Mr. Dancik stated he is in the process of filling out the application for that.

The Public Hearing was opened. Mr. Joe DeCaire, Chairman of the Caledonia Charter Township stated that they had to redesign the Walgreen Building parking lot because of the drain.

Mr. Archer noted the city has no objections to abandonment and removal of the small east-west drain tributary. He also noted that we didn't receive any communications regarding this request from the public. Also noted, it is customary when constructing new parking lots over existing drains to replace the old drain tile to alleviate having to tear up the lot for drain repairs. The Social Security Building did just that

The present zoning of this lot is RM-1. Due to this lot's low swampy condition towards the east, it is not a good site for multi family development. A rezoning request will be held on Monday, March 23, 2009.

Board Member Harvey asked if the Planning Commission did spot zoning here. Mr. Archer stated as it turned out, it did result in a spot zoning. Some history on that zoning is it started out as rezoning the entire parcel. As time went on, the parcel was split and the first developer reduced the rezoning request to 304 and 306.

REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS

March 17, 2009

Page 4

Board Member Harvey stated this is a natural wetland. Seems like there should be a different area available because of the issue of drainage. She is reluctant to consider such a large setback.

Mr. Dancik stated other sites were considered. Their goal was to keep this development in the city. As a result, this was best suited for their client's needs. ProVisions is working with the MDEQ regarding flood plain and wetland issues to alleviate any contribution to flooding in the area. The building will be situated at the highest point of the property keeping it out of the flood plain as much as possible. Also, compensating cuts will be excavated to equal any fill that must be placed in the flood plain. My company is very intent on green built projects and this project will follow suit with installation of bio swales, rain gardens, pervious pavement, etc. Also all storm water will be kept on the property with drainage directed to a detention pond

Board Member Harvey stated that variances are a real challenge and we have to be careful.

It was moved by Board Member Harvey and supported by Board Member Jozwiak to grant the variance setback because to strictly apply the setback would unreasonably prevent ProVisions, Inc. from using the property, and this use will not impair an adequate supply of light and air to adjacent property. This is also contingent upon the rezoning of the property.

AYES: All. Motion carried.

NAYS: None

RETURNED TO TABLED VARIANCE 2009-02
620 WRIGHT STREET
REQUESTED BY PROPERTY OWNER LOYD BARTHOLOMEW
REQUEST TO BUILD AN ACCESSORY STRUCTURE WITHOUT A PRIMARY STRUCTURE

The Board returned to the tabled variance request for 620 Wright. Mr. Bartholomew stated he will stay with his original request.

Chairperson Horton asked if this lot adjoined anything else. Mr. Bartholomew stated there are empty lots to the north and west, and a home to the south.

Board Member Harvey stated there were several vehicles. Mr. Bartholomew stated they were his parents' – all are street legal. He wants to put the stuff in the yard into the garage. Board Member Harvey stated there was a lot of water there. Mr. Bartholomew stated that he would have to go to the MDEQ.

Mr. Archer stated the area is all flood plain and any construction is pending approval from the MDEQ. The next challenge is all garages must be built in the rear yard. That would place the garage in the area covered with water.

Board Member Harvey asked if he had any intention of starting a business.

Mr. Bartholomew stated no.

Mr. Archer stated he had the affidavit of mailing and the newspaper ad. He had five responses by phone and two by mail. All were contrary to granting of a variance due to the eyesore and parking of illegal vehicles, past and present.

Chairman Horton asked if anyone else had any comments. There were none.

Board Member Jozwiak asked what size the garage would be.

Mr. Bartholomew stated whatever the Board would allow him to build.

Mr. Archer commented that it would have to be subordinate to a house, so probably no larger than 20 x 20' or 20 x 24'.

REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS

March 17, 2009

Page 5

Board Member Harvey asked if we had any precedents.

Mr. Archer stated no – a few are grandfathered due to being constructed prior to adoption of the present ordinance.

It was moved by Board Member Harvey and supported by Board Member Frasier that based on the information and conditions that the variance be denied because it is self-created, will set a precedent, and the entire lot is in the flood plain.

AYES: All. Motion is denied.

NAYS: None

ADJOURNMENT:

It was moved by Board Member Harvey, supported by Board Member Frasier to adjourn the meeting.

AYES: All. Motion carried.

NAYS: None

The meeting was adjourned at 10:49 a.m.

Dan Jozwiak, Secretary