

ZONING MINUTES
Cascade Charter Township
Zoning Board of Appeals
Tuesday, October 13, 2015
7:00 P.M.
Cascade Library Wisner Center
2870 Jackson Avenue SE

ARTICLE 1. Chairman Casey called the meeting to order at 7:00 P.M.
Members Present: Berra, Casey, McDonald, Milliken, Neal
Members Absent: Waalkes (Excused)
Others Present: Community Development Director Steve Peterson and those listed on the sign in sheet.

ARTICLE 2. Chairman Casey led the Pledge of Allegiance to the flag.

ARTICLE 3. Approve the current Agenda.

Motion made to approve the Agenda as printed by Member McDonald. Support by Member Berra. Motion carried 5-0.

ARTICLE 4. Approve the Minutes of the September 08, 2015 Meeting.

Motion made by Member McDonald to approve the Minutes of the September 08, 2015 Meeting as written. Support by Member Berra. Motion carried 5-0.

ARTICLE 5. Acknowledge visitors and those wishing to speak to non-agenda items.

No visitors present wished to speak to non-agenda items.

ARTICLE 6. Case #15:3269 Cascade Hospital for Animals
Public Hearing

Property Address: 6730 Cascade Road SE

Requested Action: The Applicant is requesting a variance to allow an addition to the back of the building that is within 7 feet of the rear property line.

Community Development Director Peterson introduced the case. The site plan shows the additions that the Applicant is proposing. The reason for the variance is that in the rear yard there is a 30' rear yard set-back requirement. They would like their addition as close as 7' to the rear yard. The two other additions are adjacent to the side property line where 7' is the allowed setback for the B1 Zoning District. The rear addition is the only one that requires the variance. When we made amendments to the Zoning District we reduced the side yard setback to 7' which is what they are complying with. The rear set-back requirement of 30' has been in place for many years. The project itself was subject to variances years ago which is why they have a 25' setback today. Part of the reason for the addition is to control some of the noise from the dogs they have outside. Our Community Standards' Officer, the residents and Dr. Siegle have been working together to find some solutions to the barking dogs. It hasn't been something that has been a violation of any of our Township Ordinances but our Community Standards Officer has been involved to try to mediate or find solutions to control the noise. My

sense is that with this project we have exceptional circumstances that sets this project apart from others. We have Greenlefe condo's to the west and there is a large open area that is not developable which creates a large buffer of approximately 450' to the closest home. There is also a large buffer of about 150' to the closest the homes in the Villas as well. In the Village area we have the smallest lots and set-back requirements and I would consider this a substantial buffer between any of the residential uses. This sets it apart from other projects. They do not need a variance for the additions to the side but it will require review by the Planning Commission for Site Plan Approval for the additions. The Applicant needs Zoning Board Approval for the rear set-back before they can submit for Site Plan Approval by the Planning Commission. The standards show that it is applicable for a variance in the rear yard given the large buffer and I am recommending approval of the variance. There is a letter in favor of the variance in the packet. We received a letter from the Cascade Villas but it seemed the issues were more business process/operation issues and not pertaining to our variance standards. I am recommending approval of the variance to allow the addition in the back.

Member McDonald asked if the complaints were from both Greenlefe and the Villas. Director Peterson stated the complaints have come from the Villas. Member McDonald stated that the buffer was 150' to the Villas. Director Peterson concurred.

Member McDonald asked when the Cascade Hospital for Animals was built in relation to when the Villas were built. Director Peterson stated that the Cascade Hospital for Animals was built in 1982 and the Villas were built in the late 1960's or early 1970's. Director Peterson stated that the Villas were originally apartments and are now condos. Member McDonald asked if we had received complaints since the clinic was built. Director Peterson stated that the complaints began this summer and it seems we had a few complaints back as far as two years ago. Member McDonald stated that from a records standpoint we have had few complaints over the last 30 years and over the last two we have had a few complaints. This is to help address those complaints. Director Peterson stated that it was his understanding from Dr. Siegle that this was an attempt to work with the neighbors to figure out a solution to help with the noise.

Chairman Casey asked the Applicant to come forward with comments.

Rick Siegle, Hospital Director, Cascade Hospital for Animals, came forward as the Applicant.

The Applicant stated that Cascade Hospital for Animals has been in Cascade for 60 years. Our present footprint that we have has been expanded from our original build in 1982. Our present exercise area is outside and this addition has been there since 1996. The reason for the variance is primarily because I want to be a good neighbor. The neighbors have showed their frustration with barking dogs. We have done nothing different since 1996 but their frustration coincided with the Cascade Villa Apartments becoming Cascade Villa Condo's. I respect their rights and views and I am certainly not trying to discredit anything they express but I don't see this problem going away unless I try to address it. I am proposing to enclose the exercise area and I have hired an architectural firm to look at soundproofing. The final materials has yet to be determined but sound control is the primary reason that I am asking for the variance. On the west side of the building where I am requesting the variance is where I have the boarding facility. Logistically it makes the most sense to locate the exercise area closest

to the facility. I received a letter from Greenlefe Condo Association today and they requested I pass this on to the Zoning Board. The letter states: "The Board of Directors of Greenlefe Condo Association has approved the support of your request for a Zoning Variance to enclose your outside exercise areas." Also, I want to stress that we are not expanding our boarding facilities we are simply trying to mitigate the noise level. I am removing all of the cement and replacing it with Canine Grass which is AstroTurf which will help with the sound. We will be insulating and using acoustical tiles on the inside. I would like to comment that the Villas of Cascade sent a letter with itemized concerns that I would like to address: the tarp outside the exercise area that they were concerned was feces is actually black landscaping dirt that was extra. I can assure you that any dog waste will be handled appropriately. I am making a huge financial investment in trying to be a good neighbor and I would appreciate approval of the variance.

Member Berra asked the capacity of the boarding facility. The Applicant stated that the capacity is 80 dogs during the prime boarding time at Christmas but they are not all out at the same time.

Member McDonald stated that you had the addition in 1996 and had not had any issues until the apartments became condos, do you recall any complaints about sound. The Applicant stated that not until a couple of years ago. Member McDonald stated that you had no complaints for 16-17 years. The Applicant stated that this was correct.

Member Milliken asked what prompted the Applicant to make these changes. The Applicant stated that several neighbors have been consistent in voicing their frustration and unless I change my business model completely I do not see these complaints going away. I want to be a good neighbor and I need my neighbors to hear positive comments from me. I truly believe this will help mitigate the noise; it will not be completely silent but it will be drastically reduced.

Member McDonald made a motion to open the Public Hearing. Second by Member Berra. Motion passes 5-0.

Chairman Casey asked anyone with comments to come forward.

Donald Layher, 6710 Cascade Road, came forward with comments. Mr. Layher stated that he lives directly adjacent to the Cascade Hospital for Animals. Mr. Layher stated that he believes there have been some miss-statements made this evening. I do not live next to Cascade Hospital for Animals. I live next door to Cascade Barking Academy. Every single day of the week starting at 6 am, excessive barking, howling, yelping, screaming, and crying animals. This is the business this man decided to be in. There is also an Ordinance in the city of Cascade that I am well aware of and the fine situation associated with it. I have complained to the Township. I have complained to the Police and I have complained to the Kent County Health Department. Nothing ever changes. A week ago last Sunday, I was awakened at 6:25 AM by barking, howling, screaming, yelping animals. This goes on 7 days a week and nobody does anything about it. And we are stuck with it. I noticed in Mr. Peterson's preliminary report and the doctor's statement in regards to the Condo Association behind him, those buildings are hundreds and hundreds of feet away and they cannot hear these dogs barking. If they can it is very faint. My bedroom window is 150' feet away. We hear these dogs barking every day. It is obnoxious. I don't believe it does anything for the property values of the Villas

of Cascade or for anyone in the area. I know this meeting is about a setback variance in the rear of his lot. That is not really what this is all about. I do not understand why three buildings would be necessary to exercise dogs...bringing them even closer to where we live. We have four buildings, 12 units in each building. That is about 75-80 people. Retired people, school age children, and just plain working folks live here. This is a constant thorn in our side. Nobody is willing to do anything about it and now he wants to expand it. I think this is a real bad idea. I wonder if Mr. Peterson reached out to anyone in the Cascade Villas asking them their opinion of this project. Or any single resident that lives here. Once these buildings are built they will be here in perpetuity. No matter how long the doctor owns the building, he will eventually sell to someone else and this will continue. Nobody has denied there is a problem and now there is an expansion plan. Common sense does not dictate this. So I would urge you, that before you make up your mind in a finality type of a situation, that you consider everyone else involved, not just him running his business. There are people involved and our quality of life is involved here. The doctor says he wants to be a good neighbor, but he has not been a good neighbor. He says he wants to put up these sound barriers, but to me it is just a way for him to expand. To bring this even closer to our homes.

Member McDonald asked Mr. Layher how long have he lived in the Villas. Mr. Layher replied a year and a half. Member McDonald asked who he bought his property from. Mr. Layher does not own the property, he rents. He considered buying but now he is not so sure. He has lived in Cascade for 17 years and knew that Cascade Animal Hospital was there. Mr. Layher did not know that it was a boarding facility. He thought it was only an animal hospital where sick and injured animals go to get treated. And that is what this facility functions as, as far as I can tell. Member McDonald asked if he liked the idea of sound control as this is a huge expense for a business owner. The reason for this is to take care of the exact problem that you are talking about. Mr. Layher states that you can hear the animals barking even when they are not outside. Mr. Layher stated that by moving them closer to the Villas he doesn't care what type of sound barrier or enclosure that you use, it is not going to get any better, it is only going to get worse, and now there will be three. This facility, although beneficial to the neighborhood, as far as the medical capabilities and treating animals, is ill suited to be directly adjacent to a residential neighborhood. Member McDonald is curious that the facility has been there since 1982 and for 33 years without any complaints. Mr. Layher states that he has looked at other facilities around the area and that none of them is in a residential area. He just wants what everyone else has, peace and quiet. Member McDonald said he lives a quarter mile from a kennel boarding facility and he can hear it. Mr. Layher doesn't blame the doctor for wanting to maximize the use of his property, but not at our expense. The dog barking ordinance is violated every day. The police have been called and he was told that it is the lowest priority call that they have. I did get someone to come out once or twice and he was told that the Community Standards Officer would come out, but he has never heard from her. The Township Supervisor will not enforce the ordinance. If this was happening next to where you guys live you would be up in arms, you couldn't even sell your homes. I consider this an expansion, you are looking at it as a setback arguing about a couple of feet, who cares about that. What about the quality of life of everyone that lives directly next door. I wish the manager of the facility could be here, but there was a death in his family, I am sure he could tell you much more details than I can. You will make your recommendation, but be aware that whatever you decide affects the quality of life of a lot more people than are here tonight. And once this is built, it will not go away, it is there to stay.

Chairman Casey states that he understands that it is to enclose the noise, it has to help. Mr. Layher says that what guarantee do I have that it will do that and when I get woken up at 6 in the morning, who do I call? Chairman Casey states that the Cascade residents were concerned about the airport noise too, they can't call anybody on that because it is considered a condition. Mr. Layher states that there is an ordinance for the dog barking noise, drawn up in 2003. Director Peterson states that it is not quite as simple as that. Obviously the animal hospital operation is a permitted use, so it is not treated like a dog barking in a neighborhood. The Ordinance is completely different than a dog barking, and has been a permitted use since the 1980's. The operation is not violating any Ordinance.

Cecily Near, I live on the top floor of the unit adjacent to the animal hospital. I can look down into the yard and I can see how many employees are working and how many dogs are out there at any given time. I have 2 children and I have a home office and I find the animals very disruptive. There are time in the summer when I have a business call to make, that I have to close the windows in order to be able to hear. We also were told, as we were working with Cascade Township and Stephanie Fast, that there would be some accommodations for us, one of them would be that the animals would not be let out before 7am. Occasionally, once a week once or every two weeks, that is violated. Especially on a Saturday or a Sunday it is a huge nuisance. I don't think it is a huge policy change for them to make sure the animals are not outside until 7am. The two large buildings that are being added, I would view those as being a business expansion. That is for the boarding purpose not for the hospital and I think those will be very disruptive. The small building that he is asking the variance for, the 2 large buildings are not included in the variance and apparently he can build those without your approval, those are the ones that we have a concern with. The one that he is actually asking the zoning variance for, possibly will be helpful. When that door is open we can hear all 60-80 animals barking, and it is very loud, so covering that door as he is proposing will be helpful. It will mitigate the noise especially with the sound batting. The one with the variance will be helpful, it's the other two seems like it will be like a tin can. There is nothing in the paperwork that states that they will have sound batting which I think is necessary. The proposed building that they are adding will have half walls and doors and those will be facing my house as opposed to facing away in the opposite direction. I don't know if that is something that can be addressed with the Planning Commission.

Member McDonald asked where the doors would be located in relation to her home. Ms. Near showed on the drawing where the doors would be facing her master bedroom and kids bedrooms. Dr. Siegle stated that the doors are used for circulation and would not be open in the morning but rather in the evening. The door is actually facing at a 90 degree angle and will not be facing the Villas. The opening are for when we are cleaning the facility, I have to be able to get the area to dry for sanitary reasons. By code they cannot all be connected without having to redo the sprinkler system. This would be cost prohibitive. I am doing my best to mitigate the sound as much as possible.

Member McDonald asked if it was possible to put up sound fences. The Applicant stated for it to be practical I would have to go too high. Most of the cement will be removed and replaced with Canine Grass which will mitigate and absorb some of the sound. We will use products to help absorb the sound or keep the sound from leaving the building. The number of doors is not set in stone. The floor pattern is set in stone

but how we are going to build it will depend on the materials and design to reduce the noise. The Applicant stated that the two primary doors that would be used will be the ones that are facing away from the Villas.

Ms. Near stated that she would like to determine if this is a business expansion or noise mitigation. I would like to say that since the neighborhood is complaining why wasn't this brought to our attention or our management's attention? This information would have saved everyone a lot of time had this been brought to us in advance. We did not hear about any of these plans until we received a notice from Cascade Township and it just looks like an expansion. I think this is a Community Development issue that the Township needs to address. Had the Applicant brought these plans to us a lot of this information could have been disseminated more quickly and expediently and involved a lot less of your time.

The Applicant stated that in hindsight, this is true and he will take responsibility for not disseminating the information to the residents. This is not an expansion and we are not expanding the number of animals that we are boarding. Currently, we are exercising the dogs outside and this will allow us to do that indoors for more of the time. This will help reduce the noise. My staff has been advised to not let the animals out before 7:00 AM but I understand that this rule has been violated on occasion and I apologize and take responsibility for this as I am the owner.

Chairman Casey asked if any decibel studies had been done asking if there were any numbers available for before and after the improvements were made. The Applicant stated that no study had been done.

Rob Beahan, 3148 Thornapple River Drive, stated that he has been a resident of Cascade for many years and has been a client of Dr. Siegle and his father since the late 1950's. He has taken care of my animals for many years and I have worked with them through various projects and their main concern has always been to be a good neighbor and to try to always work out solutions with their neighbors. I look at this expansion not as a business expansion but as a way to mitigate the sound. I think he has always done his best to help out and be a good neighbor not just with his immediate neighbors but with the whole community. I am in support of this project.

Tim Thorpe, 6710 Cascade Road SE stated that he is sure there is a lot of conjecture with the barking that can only be proven if it is witnessed. The only thing I would suggest is if the Board could table the project until we could see the design from the acoustical engineer and the architect. I think that would make people a lot more satisfied as to the decision made on the property.

Member McDonald stated for clarification, the Zoning Board is here to either grant or deny the variance. The building plans would still have to go before the Planning Commission with a Public Hearing for final approval. Director Peterson stated that the building plans would go before the Planning Commission but there would not be a Public Hearing, however it will require a Site Plan approval. Member McDonald stated that the final plans and details will be publically known at the Planning Commission meeting and they will make the final decision on the Site Plans. Director Peterson states that the Site Plans typically will not include construction drawings, but if Dr. Siegle wants to forward them to the neighbors and share them, not a bad idea, but it is not pertinent

to this meeting. Even for the Site Plan approval we wouldn't get construction drawings that contain acoustic detailing, but if he is committing to doing that, it certainly it would be a good idea to share those with the neighbors. With Site Plan approval there wouldn't be a standard that would have to be met for acoustics. He is committing to it, so I would suggest that he share that with his neighbors. Member McDonald wants it clear to Mr. Thorpe that we are here to deny or approve the variance. It still has to go to the Planning Commission for final site approval. Mr. Thorpe thinks it should be in reverse, that the plans should be seen before the zoning variance is granted. Chairman Casey states that he thinks that Mr. Thorpe should talk to Dr. Siegle about that as neighbors, as that is beyond our venue of operation. We are here for the specific issue that is before us and we are having the Public Hearing accordingly. You are asking for detail that is beyond the scope of this meeting. He is requesting a variance and we have to grant it on the basis of the minimal variance in this circumstance. Director Peterson explains that he is here for the setback for the rear yard variance expansion and you use your standards to consider that. I would not call the acoustical changes inside the building pertinent to your standards for this particular case. I realize we will agree to disagree on that, but when I look at the standards for granting or denying the variance, I don't see anything there that would tell me that we would look at the acoustical properties of the addition.

The Applicant stated that as soon as he has plans from the architect he would be happy to contact his neighbors with those plans. He wants everyone to understand that he needs the variance to proceed with having plans drawn up.

Member McDonald made a motion to close the Public Hearing. Second by Member Berra. Motion passes 5-0.

Member McDonald stated he agreed with Mr. Beahan. Dr. Siegle has been a community member for many decades and I believe him if he says sound control is one of the main drivers for this Variance. Based on the Findings of Facts from Staff and based on the fact that the operation is a permitted use as per Township Ordinances and my firm belief is that the purpose is sound mitigation, I would make a motion to approve the variance for Case 15:3269 Cascade Hospital for Animals based on Findings of Fact. Second by Member Berra. Motion passes 5-0.

**ARTICLE 7. Case #15:3272 Lobdell Enterprises LLC
Public Hearing**

Property Address: 5121 & 5161 28th Street

Requested Action: The Applicant is requesting approval to change the use where a non-conforming situation exists where the building has been unused for more than 180 days.

Director Peterson introduced the case. This is the former Sleep Doctor site on 28th Street. Red Roof Inn is to the north and the new Drury Hotel is to the east. This property is actually two properties. The parking lot and the building are on separate parcels. The lot and building is non-conforming for a lot of reasons: lot size, setbacks, buffer yards and the property line runs thru the parking lot. It doesn't mean the site is unusable it just means that whenever there is a change in use, it has to come before the Zoning Board of Appeals. It gives us a chance to evaluate whether the non-conforming issues are going to cause us more problems. The change in the use is going to be a pizza and Coney dog style restaurant. The building will actually be split into two smaller sit

down restaurants within the building. I would have been more concerned if this was a drive thru situation. There are a couple of concerns. They are proposing to square off the building which would be a small addition and they are not meeting the 50' setbacks in the rear yard at 48'-49'. It requires a variance for the addition. The service drive in the back connects to McDonalds and eventually to Northern Industrial Drive. There is also a small directional sign up front. We required Drury Hotel's to gain an easement to allow access to the light for better access management. In doing that we said that they had the ability to be on the directional sign and now would be a good time to have these property owners be agreeable to that as well. There isn't anything that they are doing that makes it any worse than in the past and this site was formerly used as a restaurant. My recommendation is that you approve their change in use to this non-conforming site with the following conditions:

- Site Approval by the Planning Commission
- Service Drive must remain open
- They share the directional sign on 28th Street with Drury Hotel.

Chairman Casey asked the Applicant to come forward with comments.

Mike Ricke, Anchor Properties came forward as the Applicant and the proposed developer of the property. Lobdell Properties is the owner of the property and we have a purchase contract contingent on the Variance and Planning Commission approval. Our intention is to split the building into two separate bays or restaurants. The Coney restaurant will be on the eastern side of the building. A pizza restaurant is considering the western site. If we cannot secure the second restaurant it would become retail space. Assuming we get all approvals, we will renovate the building with new facades on 28th Street and the side facing the access drive. We will repave and curb the parking lot. Our engineer is adding curbed islands to control the traffic. We will add landscaping to the islands as well. There will not be a drive thru. The addition would be 790 sq. in order to accommodate two tenants. The service drive has an existing easement and the drive will continue as is and will be maintained. The drive that is perpendicular to the sight has many easements to help facilitate access. We are in an agreement to go on the directional sign. The sign is currently overlapping the right-of-way. We hope to move the sign back out of the MDOT right of way. This is an existing non-conforming site and we would like to purchase it and make improvements to make it more attractive. I ask that you approve the variance request.

Member McDonald stated for clarification that Director Peterson did not feel that moving the directional sign was an issue. Director Peterson stated that moving the sign is not an issue and the Applicant has stated he agreed to the share the sign.

Member McDonald made a motion to open the Public Hearing. Second by Member Berra. Motion passes 5-0.

Chairman Casey asked anyone with comments to come forward. No one wished to speak at the Public Hearing and Director Peterson did not receive any comments from the community.

Member McDonald made a motion to close the Public Hearing. Second by Member Berra. Motion passes 5-0.

Member McDonald made a motion to grant and approve the variances for Case 15:3272 Lobdell Enterprises to allow the non-conforming situations to exist and to allow the small edition on the plans dated 7/29/2015 with the conditions by Staff. Second by Berra. Motion passes 5-0.

ARTICLE 8. Case #15:3274 Richard Osborn

Public Hearing

Property Address: 7349 Kilmer Drive SE

Requested Action: The Applicant is requesting a variance to construct an addition to the house that does not meet the minimum 10 foot side-yard setbacks.

Director Peterson introduced the case. Kilmer Drive is south off 48th Street. There is an existing house and garage. The highlighted is where they would like to build the new garage. Obviously 4' and 7' setbacks are not permitted. Our minimum is 10'. You have to have at least 15' on the other side to equal 25'. They have more than enough on the north side but on the south side they are lacking. They just want to remove the old garage and have it come out a little bit further than the current garage. When you tear down and rebuild, the expectation is that you meet today's requirements. They are simply asking to maintain the same setback line. My sense is that the similar cases we had granted, the sites were already non-conforming or the encroachments were very small. I would put this property in the same category. In my mind this is a rather small encroachment and no worse than what is there today. The house was built in the 1960's and there were the 10' setbacks then as well and there may have been an error at the time the home was built. The garage is standard size and fits in with the character of the neighborhood. I recommend approval of the variance.

Chairman Casey asked the Applicant to come forward with comments.

Richard Osborn, 7349 Kilmer came forward as the Applicant. The Applicant stated the reason for garage replacement is that the foundation is cracking and leaning into the house. The garage has been demolished because it was a hazard.

Member McDonald made a motion to open the Public Hearing. Second by Member Berra. Motion passes 5-0.

Chairman Casey asked anyone with comments to come forward.

No one wished to speak at the Public Hearing.

Member McDonald made a motion to close the Public Hearing. Second by Member Berra. Motion passes 5-0.

Member McDonald made a motion to approve the variance for Case 15:3274 per Staff's Report. Second by Member Berra. Motion passes 5-0.

ARTICLE 9. Any other business.

ARTICLE 10. Adjournment

**Motion by Member McDonald to adjourn the meeting. Support by Member Berra.
Motion Passed 5-0. Meeting adjourned at 8:39 PM.**

Respectfully submitted,

Ann Seykora/Julie Kutchins
Planning Administrative Assistant