

ZONING MINUTES
Cascade Charter Township
Zoning Board of Appeals
Tuesday, November 11, 2014
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, Hammond, McDonald, Neal
Members Absent: None
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 Agenda.

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

ARTICLE 4. Approve the Minutes of the October 14, 2014 Meeting.

Motion made by Member McDonald to approve the Minutes of the October 14, 2014 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 Case #14-3218 Redwood Living - WITHDRAWN BY APPLICANT

Public Hearing

Property Address: 5925 28th Street

Requested Action: The Applicant is requesting approval to allow the placement of a temporary sales office off-premises at 5925 28th Street.

ARTICLE 7. Case #14-3212 Lance Korhorn

Public Hearing

Property Address 3480 Buttrick Avenue

Requested Action: The Applicant is requesting a variance to allow a second accessory building on a property with less than 3 acres.

Community Development Director Peterson introduced the case by reviewing the map. The site is on Buttrick Avenue just north of 36th street by Golf Ridge Golf Course. This house has a large barn and detached garage with two (2) other structures. One is a small structure and the other is a larger accessory building. The property itself is 2½ acres. In 2011 they received a Special Use Permit to move a building from Burton Park to this location. At the time they received a Special Use Permit they indicated they would be removing the small building. The Township only allows one accessory building

for properties under three (3) acres. Everyone is allowed to have an attached or detached garage. Since they don't have an attached garage the Township counts the first larger building (barn) as their garage. Because the site is under three (3) acres they can have only one (1) accessory building. That was intended to be the larger building which they moved from the park and the small building was going to be removed. They've since decided they'd like to keep that small building and they're here to seek a variance in order to do that.

There's nothing unique to this property that would warrant a variance or exception. My biggest concern is that a variance here would lead others to seek a variance when there are no special circumstances to warrant it and to possibly encourage the amendment to our ordinance to alter how we account for accessory buildings on residential properties. I recommend against granting the variance.

Member McDonald asked how large the accessory building is that was supposed to be removed. Director Peterson stated that the building is approximately 10x20 or 200 sq. ft.

Chairman Casey asked the Applicant to come forward with any comments.

Lance Korhorn, 3480 Buttrick, came forward as the Applicant. The Applicant stated the building that is left is a former chicken coop that matches the building that was moved onto the property and it fits into the elements.

Member McDonald asked the Applicant how tall the structure was. The Applicant stated that the building is 6-7 feet tall and is 9'x16'.

Member Hammond asked the Applicant if the building could be moved. The Applicant stated the building is a block foundation and is not supported enough to be moved. Member Hammond asked why the building had not been removed. The Applicant stated that currently the structure is being used as a dog house.

Chairman Casey stated the building has a modern front and didn't look like a chicken coop from the road. The Applicant stated he had modernized the front.

Member Hammond made a motion to open the Public Hearing. Support from Member Berra. Motion passed 5-0.

No one wished to speak on the case.

Member McDonald made a motion to close the Public Hearing. Support from Member Hammond. Motion passed 5-0.

Member McDonald stated that this is a difficult situation because we don't like to set a precedent that may force a change to the ordinance. We're looking for an exception or uniqueness in a situation to justify the variance. The size of the 9x16 building makes it much easier to understand the situation as it's a very small structure.

Chairman Casey stated at your original request, in 2011, you specifically stated you were going to remove the structure. Now several years later you're here stating you want to keep the structure. Have you had any conversations with the Township in the interim regarding keeping the structure rather than removing it as agreed to originally. The Applicant stated there had been no communication. Chairman Casey asked if there were any other alternatives to the variance regarding the structure. The fact is if we approve it we're going to have other residents come forward based on the size of the acreage requesting similar variances and this building should have been torn down before this date.

Member Hammond stated he was siding with Staff at this point because there is no compelling case and we have to look at the ordinance and the future. The Applicant stated that his job is 24 hours and he needs the security for his animals while he is at work. Chairman Casey stated he understood the Applicant's concerns but the structure is what the Township is concerned with, not necessarily the use of the building. We are faced with a double precedent in that the building was already supposed to be removed as a condition of your last appeal and now you want to keep the building with a new variance. Member McDonald stated that logically it's pretty cut and dried and easy to deny. On the other hand, the building is 9x16 and 6-7' high which is pretty short. Because of the size, low profile, age (being on the property for the last 80 years), are those exceptional enough conditions without any complaints from the neighbors. Chairman Casey stated that on the 2011 application it was agreed to take the smaller building down. Member McDonald wondered if the Applicant could attach this building to the barn. Chairman Casey said if that was possible that would be an option. Member Hammond stated we just approved a similar case where the Applicant combined two buildings. Member Hammond stated the letter of the law stipulates you can't have two (2) buildings on the site and there's a prior agreement in place to remove one of the buildings. At the same time we don't want to open ourselves to similar situations in how we rule on this. Chairman Casey stated in previous cases, when a new owner wants to use the property differently or a building was not torn down, it leads to complications for the new owner and the Township.

Member Hammond stated this case could be tabled while the Applicant explores some other options and then appears in front of the commission at a later date.

Member McDonald asked the Applicant if he's able to acquire more property. The Applicant stated he can't because it's been sold to the golf course. Member Hammond asked the Applicant what the other building is used for. The Applicant stated the large barn is used for storage and the building isn't weather tight. Member McDonald asked how difficult it would be to move the shed over to the barn to combine the two. The Applicant asked if there was a distance requirement whereby he could create a hallway from one building to the other. Director Peterson stated there is no distance requirement but it has to be done to meet the building code. Member McDonald wants to know if the Commission is making the Applicant go through unnatural acts to meet the Ordinance that would look worse than leaving it as it is. Director Peterson stated that with combining the buildings they wouldn't need a variance, whether they move a building or attach an addition to the existing one. Chairman Casey stated the Applicant could either pick up and move the building or build an attachment to his barn and take down the smaller structure. The Applicant asked the maximum size his doghouse could

be. Director Peterson stated the Township doesn't have a maximum size for a building, but they do regulate the number of accessory buildings allowed on a property. The size of building dictates the process an Applicant has to go through.

Member Hammond made a motion for Case #14-3212, 3480 Buttrick Avenue that the Applicant's request for a variance to maintain the second accessory building be denied. Second by Member Berra. Motion passed. 5-0.

ARTICLE 8. Case #14-3215 Jeremy Penninga

Public Hearing

Property Address: 4932 Streamside Pointe

Requested Action: The Applicant is requesting a variance to construct a new accessory building in the front yard.

Director Peterson introduced the case by stating this is a small development off from Whitneyville Avenue around 48th Street on a small residential street. The property is a little over 4 acres. This property is vacant and they would like to build an accessory building in the front yard just a bit in front of the house. The Township requires accessory buildings to be either on the side or in the rear of the house. This property has a ravine in the backyard and falls off into a stream. There's no ability to go back or south on this property. Because this is a vacant piece of property Director Peterson feels there's options to re-configure the building plan in order to put the home in front of the accessory building. The Applicant could flip the buildings or move the house up a little so that's it's even with the accessory building and then this wouldn't be an issue. They may have to obtain a Special Use Permit from the Planning Commission if the building is over 832 sq. ft. Director Peterson is recommending the variance be denied even though there are certain situations with the property that are constraining.

Member Hammond asked Director Peterson what side yard setback issues there are with regard to this property. Director Peterson stated the Township requires 25' on the sides with no one side being less than 10'. The Applicant's plans show a 65' setback on the side so there's no issue regarding setbacks. Director Peterson stated the site restraints are the ravine and the location of the septic system.

Chairman Casey asked Director Peterson if his position was because nothing has been formulated or built that there are opportunities at this stage. Director Peterson stated because the house isn't constructed yet there's an opportunity of not granting a variance if there's some other reasonable alternatives.

Jeremy Penninga of 4932 Streamside Pointe came forward as the Applicant. He stated his family has outgrown their existing home and bought this lot and lot 1 in 2010. They had an addendum made by Streamside Pointe Association before they bought the lot to allow them to have a storage building in this location knowing that seeing the property and the lay of the land what best fits the property site. The Applicant keeps his boat, ATV, lawn equipment, gardening tools, etc. stored in the building. This would allow him to park 3 cars in the proposed garage along with the toys of his three (3) children. When planning the new lot layout with his architect they faced quite a few challenges with the 40' drop on the property where the cliff drops to the stream. The Applicant stated there were many challenges to the property but they were able to maintain and

preserve the multiple grades and trees on this property using this site plan. The plan has a walk-out basement to avoid excavation. He stated they'll have to dig into a crevice for the garage. The Applicant spoke with all the neighbors that surround his property and they have all approved and signed off on the location of this storage building in a document which he showed the commissioners. The Applicant stated this was his family's dream home, property, and location and would greatly appreciate approval of this variance.

Member McDonald asked the Applicant if his architect was aware of the Township's concerns regarding the placement of this building and would he comply with re-arranging the building to comply with the Township's requirements. The Applicant stated that after looking at several plans there could be some re-arranging. With the steep hill on the property there are a couple of 100 year old oak trees they're trying to save. Both the architect and the Applicant are also trying to save a grove of white pine trees in front of the house which they hope to use as a natural screen from the road. The Applicant stated they could flip the house and storage building but then they would have to take a large portion of the hill out, the oak trees, and a portion of the white pine trees.

Member Berra asked the Applicant if that was the only other option. The Applicant stated the architect felt that it was. The Applicant stated they'd be willing to flip the house and storage building and take out the trees and a portion of the hill if the variance wasn't granted.

Member Hammond asked the Applicant if the soil conditions dictated where the septic has to be built. The Applicant stated a company came out and sampled soil in back of and in front of the house. Where the septic is proposed to be on the current plans they can use existing soil.

Member McDonald asked the Applicant how many homeowners were in the Streamside Pointe Association. The Applicant stated currently there are two and his home will be the third. There are several other neighbors who aren't in the association that have signed his document. Member Hammond also asked the Applicant for clarification on where the road/driveway was exactly and how large the building is. The Applicant stated the building would be 828 sq. He stated they'd planned on a bigger building but in talking with Director Peterson downsized it in order to be under 832 sq.

Member Hammond made a motion to open the Public Hearing. Support by Member McDonald. Motion carried. 5-0.

Director Peterson stated he hadn't received any comments from the public.

Chairman Casey asked for comments from the audience.

Mr. Aaron Smith of 4941 Whitneyville Avenue SE, stated his house is directly across from Streamside Point. Mr. Smith is not concerned with where the building is, but rather, the view of the building from his living room window. He showed the commissioners a picture he had taken which shows, he believes, the proposed location of both the house and the accessory building. He's concerned about the natural screen

of white pine trees. If they remain they would provide a natural block so he wouldn't see the building in the Applicant's front yard from his living room window.

Member Hammond asked Mr. Penninga if that was feasible. Mr. Penninga stated it was. The only issue he has is whether the accessory building is in the front yard or the side yard.

Director Peterson stated Streamside Pointe is a small new private street that comes off from Whitneyville Avenue. Mr. Smith stated he now looks straight out at Mr. Penninga's driveway and if the natural screen of white pine trees has to come down he would like to see a natural barrier planted. Then in the future if he wants to sell his property there's a natural buffer that shields his view of the accessory building from his living room window.

Member McDonald stated it looks like from the plans of the proposed house and accessory building it wouldn't take much, if the topography were different, for the Applicant to move the accessory building back. Then he'd be in compliance but the accessory building would still be viewable by the neighbor. Director Peterson stated this is correct. The Applicant is in compliance. There's the potential for the other lot to be developed so a buffer zone is not necessarily going to change anything. Member McDonald stated that no matter what there will be a house or a shed in your view and it would still be in compliance. Mr. Smith stated that he was concerned with the size of the building. The Applicant stated the building will be 828 sq. ft. or 34' x 24'. Member McDonald asked if the structure was going to match the home that's being built. The Applicant stated the building is designed to look exactly like the house and to fit into the surrounding area.

Member McDonald made a motion to close the Public Hearing. Support by Member Hammond. Motion carried. 5-0.

Member McDonald stated it appeared the distance they would have to move the house up in order to be in compliance is minimal. I see there are topography issues and that the neighborhood and association approve. No matter what there will be a visibility issue for Mr. Smith. The Applicant stated he has plans to put in 14-15 large pines to screen the area. Member McDonald stated he would rather grant the variance because this is a very thought out plan than remove the large oak trees and cut into the hill. The topography issue moves me to approve the variance with the agreement the Applicant plant a tree screen. Chairman Casey stated that oak trees are very susceptible to construction and they may not be able to be saved anyway. The Applicant stated he's been in contact with a nursery in order to save the trees.

Member Berra asked if the architect had looked into moving the accessory building or house to be in compliance. The Applicant stated they did look at moving the house but the septic field didn't test out. If the accessory building is moved it would have 40' drops on either side within 30' of the structure. Member Berra asked Director Peterson if there were any other options. Director Peterson stated the house would have to be reconfigured or the septic field would have to be a distance from the house. The options are not very viable without redesign.

Member McDonald stated this is a well thought out plan. There are septic issues, topography issues, the neighbors are in agreement and I think they've done their homework.

Member McDonald made a motion to approve the variance based on the topographical issues, the approval from the association and the neighbors, and because it will save the trees with the stipulation that the Applicant plant the line of 14-15 pine trees along the west property line to screen the structure per the neighbor. Member Berra supported the motion. Motion carried 5-0.

Member Hammond stated for the record the only reason he voted "yes" on this variance was because of the extenuating circumstances of this property site.

ARTICLE 9. Any other business.

There was no new business.

ARTICLE 10. Adjournment

Motion by Member McDonald to adjourn the meeting. Support by Member Hammond. Motion Passed 5-0. Meeting adjourned at 8:12 PM.

Respectfully submitted,
Bill Cousins, Secretary

Ann Seykora/Debra Groendyk
Planning Administrative Assistant