

MINUTES

Cascade Charter Township Zoning Board of Appeals
Tuesday, June 14, 2011
7:00 P.M.

ARTICLE 1. Chairman Mel Casey called the meeting to order at 7:20 P.M.
Members Present: Casey, Logue, Alternate Neal
Members Absent: Goldberg, McDonald, both excused. James, unexcused.
Others Present: Assistant to the Manager Sandra Korhorn

ARTICLE 2. Chairman Casey led the Pledge of Allegiance.

ARTICLE 3. Approve the Agenda

Motion was made by Member Logue and supported by Member Neal to approve the Agenda. Motion carried.

ARTICLE 4. Approve the Minutes of the March 8, 2011 Meeting.

Motion was made by Member Neal and supported by Member Logue to approve the Minutes. Motion carried.

**ARTICLE 5. Case #11-3031 Bagger Daves/Jason Kreiger
(Public Hearing)**

Property Address: 2817 Kraft Ave.

Requested Action: They are requesting approval to use a building where a non-conforming situation exists, and where the building has been unused for more than 180 days.

Assistant to the Manager Korhorn said this property is at the corner of Kraft and 28th Street. It has been previously used under the names Trends Café and Big Boy. It has been vacant for all of 2010 and 2011. The non-conforming situations that we're looking at are lot size, setbacks from Kraft Ave., and parking lot landscaping.

This parcel is 1.67 acres. The Planning Commission has recommended some amendments to the ES (Expressway Service) Zoning that includes reducing the minimum lot size to 1 acre. Those amendments will be considered by the Township Board in late June.

The applicant will be removing a portion of the building as part of this project so the total sq ft for the building will be a little less than what it is now.

Our records indicate the building was constructed in 1985. The site is developed in conjunction with the surrounding properties and includes cross access with other properties.

We could not find any other variances for use of a vacant building where a non-conforming situation exists. We have had a few where there was a change of use.

We have a restaurant moving into a restaurant building so the reason they are here is because the building is non-conforming and has been vacant for over 180 days.

The intent of section 22.06.2 in the Zoning Ordinance is to eliminate non-conforming situations where possible. In this case we don't find it would be reasonable to correct these non-conforming situations for the following reasons:

- a. The building is actually becoming smaller and therefore more in compliance with the setbacks than it is today.
- b. The Township Board will consider amending the zoning code to allow for smaller lots. This was unanimously recommended by the Planning Commission.
- c. It is not changing to a different or more intensive use that would necessitate updating these deficiencies.

Staff recommends approval to use the lot for a new restaurant as it is being proposed.

Chairman Casey asked the Zoning members if they had any questions for Staff. Member Logue questioned if he understood the situation correctly; when the building was built it was in compliance, however due to changes in rules or right of ways it has become non-compliant. Staff verified that she believes that is correct.

Chairman Casey introduced Jason Krieger of Krieger | Klatt Architects, Inc. of Royal Oak, MI. Jason stated that Staff had covered most everything. He only added that Bagger Dave's is owned by Diversified Restaurant Holdings. They own about 20 BW3's. This will be their 6th or 7th Bagger Dave's location. They are proven operators and do a project right. He believes it will be good for the area. There is plenty of parking.

Chairman Casey asked if there were any questions for the applicant. Member Logue questioned the parking, which appears to share with the hotel, asking if there was enough parking for the parcel. Mr. Krieger answered that the property itself and the parking that is on the property that they own is well in excess of what's required for Bagger Dave's.

Chairman Casey asked the applicant if they would basically be gutting the interior. Mr. Krieger stated that they would be leaving the roof and three walls; then there will be a brand new facade, roof, and interior.

Member Logue made a Motion to move into Public Hearing. Support by Alternate Member Neal. Motion carried.

Chairman Casey asked if there was anyone from the public who wished to speak to this issue. With no one from the public present the Chairman asked for a Motion to close the Public Hearing.

Motion was made by Alternate Member Neal. Support by Member Logue. Motion carried.

In discussion, Korhorn reported that there were a few calls from residents regarding this case. They were in favor and glad that the property would be cleaned up.

Member Logue stated that he was in favor of taking a vacant parcel and turning it into something of value. Member Neal agreed.

Member Neal made a Motion to approve the proposed new restaurant. Support by Member Logue. Motion carried.

**ARTICLE 6: Case #11-3032 Mill Steel
(Public Hearing)**

Property Address: 5116 36th St.

Requested Action: The applicant is requesting Zoning Board approval for an addition to the front of the building. This addition is set back 49 feet from the ROW as opposed to the required 100 feet.

Chairman Casey introduced the case then asked Staff for comments. Korhorn stated that the applicant is requesting approval to allow an expansion of a non-conforming building (Section 22.03). The building is considered non-conforming because it has a front setback of less than 100 feet. Currently the front setback for the building is 49 feet. The addition that is being proposed would not come any closer to the street than the existing building. The addition is small enough that it will not require review by the Planning Commission since it is less than 5% or 5,000 sq. ft.

This building was constructed in 1968. There are neighboring buildings in this area that are also closer than the 100 ft required setback. This may be due to the road expanding over time.

Staff found a couple of previous variances that were similar. Both cases were from 2002 and were approved. One was for Sysco and the other was for 36th Street Ventures.

The new Transitional Industrial Zoning District in this area is on the north side of the road. Any structures there are allowed to have a 50 ft. front yard setback. This was incorporated to allow for flexibility and covers a limited area. This parcel does not fall within that Transitional Industrial Zoning District.

The Zoning Ordinance that pertains to the non-conforming situation: basically the physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in an increase in the total amount of space devoted to a nonconforming use, or greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations..... Based on that, this expansion is not creating a greater non-conformity than what already exists. Staff is recommending approval of the addition because it does not come any closer to the road than what already exists.

Chairman Casey asked for comments from the applicant. Ken Dixon of Dixon Architecture was present. He introduced Roger Schaefer representing Mill Steel and Ryan Dykhouse representing Dykhouse Construction. Mr. Dixon expressed high regard

for a business that desires to grow. He stated that the building will be 2-story with a combined square footage of 8,280 sq ft. It will allow them, over the next 3 – 4 years, to potentially hire 15 to 20 people at this location.

They are primarily looking at office space as they are somewhat land-locked with their ability to grow. They will continue their existing office space which is on the north end of their building. They will be eliminating some of the parking area and turning it back into green space.

Chairman Casey asked the applicant if the trees would be saved or removed. The reply was that they may disrupt some shrubs, but no trees would be affected during this construction.

Chairman asked for a Motion to open the Public Hearing.

Member Neal made a Motion to move into Public Hearing. Support by Member Logue. Motion carried.

Chairman Casey asked if anyone was present from the public who may have questions, comments, or concerns.

With no one from the public present, Member Logue made a Motion to close Public Hearing. Support by Member Neal. Staff stated that there were no calls to the Township regarding this case. **Motion carried.**

Member Logue commented that it looks like the addition will fit in very well. He is in favor of the variance. Member Neal was in agreement.

Member Logue made a Motion to approve the Variance request for the property at 5116 36th St. Support by Member Neal. Motion carried.

ARTICLE 7: Any other business

ARTICLE 8: Adjournment

Motion was made by Member Logue and supported by Member Neal to adjourn. Motion carried. The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Tom McDonald, Secretary

Carol M. Meyer, Planning Administrative Assistant