

MINUTES

Cascade Charter Township Zoning Board of Appeals
Monday, October 11, 2010
7:00 P.M.

- ARTICLE 1.** Chairwoman Wilson called the meeting to order at 7:00 p.m.
Members Present: Casey, Goldberg, James, Logue, Neal (alternate), Wilson
Members Absent: None
Others Present: Planning Director Peterson, Applicant
- ARTICLE 2.** Chairwoman Wilson led the Pledge of Allegiance to the Flag.
- ARTICLE 3.** **Approve the Agenda for the October 11, 2010 Zoning Board of Appeals Meeting.**
Chairwoman Wilson requested a motion for the approval of the October 11, 2010 Agenda.

Motion was made by Member Goldberg and supported by Member Casey to approve the Agenda as presented. Motion carried unanimously.
- ARTICLE 4.** **Approve the Minutes of the September 15, 2010 Meeting.**
Chairwoman Wilson asked if there were any additions, subtractions, corrections to the September 15, 2010 Minutes and requested a motion for approval.

Motion was made by Member Goldberg and supported by Member James to approve the September 15, 2010 Minutes as submitted. Motion carried unanimously.
- ARTICLE 5.** **Case #10-3005 Kim Thompson**
(PUBLIC HEARING)
Property Address: 7261 Red Bud Lane
Requested Action: The applicant is requesting a Variance to replace the existing accessory building at the same 5 foot rear setback as the existing building.

Planning Director Peterson reviewed the property location being on the north side of Red Bud Lane just east of Thornapple River Dr. The proposed building will be about 10x15, not 10x10. Anything under 200 square feet does not require a building permit. The existing building is located in a rather tight spot. There is not a whole lot of space for the building because of the driveway and the deck locations. He identified what he thought was a reasonable alternative, just south and east of the proposed location. however the applicant said that is the location of the well. The rear setback of 10 feet is the smallest setback we allow given the small size of the building. The current building has been in place for some time with the same setback. The request is to keep the same setback that they have with a slightly larger building. Staff recommends the approval of the variance.

Chairwoman Wilson asked if directly west of the home was part of their property. Planning Director Peterson said that it was but did not know all the specifics of what might all be there. Planning Director Peterson commented that there appeared to be enough room, but that it was not very practical. Chairwoman Wilson replied that there

seemed to be a competing interest. We have a philosophy in our Zoning Code that says if something is torn down and it doesn't comply, and if they are rebuilding, it then has to comply with the ordinance. Chairwoman Wilson questioned the Planner if he was recommending that they allow the variance because it was there and because there weren't very many changes being made. She did not feel the findings of facts had been met or that the situation was very unique.

Planner Peterson explained that he provides his opinion and, after looking at the whole situation, the Zoning Board of Appeals can make their decision. The applicant could keep what they had or add on to it, as long as their addition was 10 feet away from the property line.

Member Goldberg asked how the existing 10x10 shed come to be there and was there a prior variance that allowed the shed to be there? Planner Peterson replied that he couldn't find any variance for this property or any other similar types of variances. He would guess that the shed had been there a long time. Member Goldberg questioned, when people remodel, they are not allowed to increase the non-conformity, right? The Staff Report reads as though they are putting in a smaller building than what was there before, but it sounds like they are actually putting in a bigger building. Planner Peterson replied that when he said smaller building he meant when compared to what we normally see built. In this case the new building will not be smaller than the old. Member Goldberg asked if the applicant were to use the existing back wall of the existing building; tear everything else down and push it forward. The Planner stated that the applicant could add on, but the addition would have to meet the setback.

The applicant Ruth Thompson explained that the purpose of the existing building is to store snow blowers and lawn mowers. If the new shed had to be located in the back corner it would be difficult, particularly with the snow blowers. There isn't easy access. There are wood walkways to get things up and over. The current shed is really ugly and old. We need more room. We would like to use the existing footprint and go out to the side, about another 6 feet. It will be an entirely new building and in keeping with the style of the house.

Chairwoman Wilson asked if anyone had questions for the applicant. Member James asked if the shed would be stick built as opposed to a building purchased from Home Depot and delivered. The applicant said it would be stick built. Member Goldberg asked if it would be on a concrete pad. The applicant replied that they would have 6x6 posts underneath a wood floor, elevated off the ground so it would be level with the driveway. There would be no plumbing but possibly electric. The applicant's husband along with a contractor would be constructing the building. If electrical were added, there would be an inspection. The new building would be under 200 square feet.

Motion was made by Member Goldberg and supported by Member Casey to open the Public Hearing. Motion carried unanimously. Public Hearing was opened.

No one from the public was present.

Staff did not receive any response from the mailing of the Public Hearing Notices.

Motion was made by Member Goldberg and supported by Member Logue to close the Public Hearing. Motion carried unanimously.

Chairwoman Wilson asked if anyone wished to discuss any of the issues. One Member expressed that if the applicant is interested in keeping their items under cover, it would be a good thing to allow that. If they're having overflow they may have an issue where they can't protect their property. The existing deck is sort of nestled around this building and I am sort of inclined to grant the variance. Chairwoman Wilson stated the fact that their property can't be protected by a shed that doesn't meet the code is really not part of what we're supposed to consider when we're considering the variances. We are supposed to consider the finding of facts. If we cannot meet the finding of facts then we're really not supposed to grant the variance. On an emotional level I would agree with you, on a Zoning Board level I would have to say that those aren't issues that we can consider.

Motion was made by Member James and supported by Member Logue to approve the Variance as requested.

Member Goldberg stated that looking through the findings of fact, there are some difficult ones. The one I have the most difficulty with is that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure. Is that the minimum variance that makes possible the reasonable use of the land, building or structure? On the west side, I agree that it isn't reasonable to put it on the other side of the deck. But the fact that the well is in the vicinity on the other side, does that mean that you can't have a building like this in that area? The exact well head location isn't known at this time. Planning Director Peterson said from a historical perspective we have granted variances because of the location of wells or septic systems in the past. The applicant was asked if she knew where the well head is. She pointed the area out on a map and explained that the whole area is very tight. Member Goldberg asked if they could frame a motion to grant the variance only to the extent necessary to avoid the well head. If it's possible to fit the building in, or bring it more forward, making the least variance needed because of where the well head is. The applicant expressed her concern regarding the closeness the building would create in that general area. Planner Peterson explained that they were trying to reduce the amount of variance necessary to get as close to 10 feet as possible. Member Goldberg said that is the hardest finding of all the findings is to say, this is the least variance necessary to give you a reasonable use of your property, accommodate this building, and accommodate your well location. We still have to be faithful to our Ordinance which requires that we grant the minimum variance needed to accomplish those purposes. The applicant still had a concern with moving the building forward because of steps. She felt that the whole deck would have to be redone because it wouldn't work. Chairwoman Wilson said that they should do the best they could under the circumstances to minimize the variance. Member Goldberg stated that if the group was open to an amendment he would make a Motion to amend. Member Logue expressed that he takes an exception because normally you do want to keep construction as far away from a well to avoid any possible contamination. Discussion was made that no one wanted to violate the Health Department code with the well being close. A

question came up as to how can a motion be framed to do this very thing, as it's non-specific. Planner Peterson answered that we have a standard of what we're starting with, five feet in the rear setback, they can't come any closer than that. He would be willing to meet on site with them and determine if the building can be moved forward to minimize the amount of variance, if not it can go where proposed.

Member Goldberg suggested wording it like the Ordinance, which is to site the structure on the property in such a way as to minimize the extent of the variance required. Put it in the general location that has been proposed, which is in the NE corner of the property.

**Member Goldberg made a motion to amend the original motion. It was supported by Member Casey. Members in favor, 4. Opposed, 1 (Member Logue)
The Amended Motion was approved.**

Motion to Approve with the Amendment. Members in favor, 4. Opposed, 1 (Member Logue) Motion Carried. The Variance is approved.

ARTICLE 6. Any other business.

ARTICLE 7. Adjournment

Chairwoman Wilson requested a motion for adjournment.

Motion was made by Member Goldberg and supported by Member Logue to adjourn. The motion carried and the meeting was adjourned at 7:40 P.M.

Respectfully submitted,

Mel Casey, Secretary

Carol M. Meyer, Planning Administrative Assistant