

**MINUTES**  
Cascade Charter Township Zoning Board of Appeals  
Tuesday, June 9, 2010  
7:00 p.m.

- ARTICLE 1.** Chairwoman Wilson called the meeting to order at 7:00 p.m.  
Members Present: Casey, James and Wilson.  
Members Absent: Trustee Goldberg (excused), Neal (excused),  
Robinson (excused).  
Others Present: Assistant to the Manager Otey, Recording  
Secretary Hern and Members of the Public.
- ARTICLE 2. Pledge of Allegiance**
- ARTICLE 3.** Chairwoman Wilson requested a motion for approval of the June 8,  
2010 Agenda.
- Motion was made by Member James and supported by  
Member Casey to approve the Agenda as presented. Motion  
carried unanimously.**
- ARTICLE 4.** Chairwoman Wilson requested a motion for approval or  
corrections of the February 9, 2010 Meeting Minutes.
- Motion was made by Member Casey and supported by  
Member James to approve the February 9, 2010 Minutes as  
presented. Motion carried unanimously.**
- ARTICLE 5. Case # 10-2994: Jacqueline Stancil  
(PUBLIC HEARING)  
Property Address: 3506 & 3508 Quiggle Ave.  
Requested Action:** The applicant is requesting a variance to  
construct a 10-foot tall fence to keep deer on their property.
- Assistant to the Manger Otey noted that the property is on the east  
side of Quiggle Ave. just north of 36<sup>th</sup> Street on approximately 30-  
acres.
- The Applicant has a white whitetail deer farm in the Mt. Pleasant  
area and would like to bring some of those deer to their Cascade  
Township property. The purpose is to protect the deer from  
predators and to separate some of the deer.
- This property is zoned ARC and the Township does not have any  
regulations regarding the number of farm animals that you can  
have on a property. However, they have indicated that they would

only have three (3) to start out with. The property does have an existing home and barn on the southern portion of the property.

The Applicant is requesting to construct a 10-foot fence, this is 2-feet taller than allowed by Special Use permission so a variance is needed. The Applicant has indicated that the State of Michigan regulates this type of activity that now requires a 10-foot tall fence. They have provided a copy of the State regulations that require 10-foot fencing.

The Planning Commission has granted a Special Use Permit for an 8-foot tall fence. This was in a residential zoned area and ironically was used to keep the deer out. Staff did not find any 10-foot tall fence requests looking back 10-years.

The property is heavily wooded around the edges of the property line and it would be difficult to see the fence for most of the year. The subdivision to the east has open space dedicated behind the homes creating a larger buffer than normal.

The Township has received some complaints regarding the condition of the property surrounding the home and while they have not been in violation of any ordinances, some of the neighbors feel that it is not in setting with the area. The property owner has indicated that they do rent the home and because of the Township regulations that do not allow a barn without a home, they keep renting it out so they do not have to remove the barn.

With a variance, there are Findings of Fact the Board needs to review.

That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question and that do not apply generally to the other nearby properties in the same zoning district.

Keeping the white whitetail deer is rather unique and coupled with the State requirement for the taller fence does create a unique circumstance that does not apply to others in the area.

That the exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding this Ordinance will not be considered self-created).

The ability to keep deer on the property is an action taken by the applicant but it is an activity that is permitted in the area and one that is consistent with the agricultural use of the property. The fact that these animals need taller fence that is required by the State to contain them is the issue.

That such variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

According to the State, 10-feet is the minimum height of fence required so it would be the minimum variance necessary.

That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Given the fact that the Township does not have other taller fence requests and that this is only being requested because the State requires taller fence for deer, it would seem like this is an isolated incident.

That the condition or situation of the specific piece of property or the intended use of the property, for which the variance is sought is not of so general or recurrent nature as to make it more reasonable and practical to attend the Zoning Ordinance.

Given the circumstances, no amendments would be necessary.

The Zoning Board of Appeals shall further find that the reasons set forth in application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of land, building or structure.

Staff recommends approval of the variance for a 10-foot tall fence as requested to contain the deer and when and if the deer are no longer housed on the property, the fence should be required to be removed.

Member James asked what the time period is for the Applicant to remove the fence once the deer are gone. Assistant to the Manager Otey said that is something the Board could determine.

Chairwoman Wilson clarified that the Township does not have a limit to the number of animals in agricultural zoning and Assistant to the Manager Otey said that is correct. Member James noted that the State has a maximum of sixty (60) deer for this size property. Assistant to the Manager Otey said that according to the State's

requirements, the property can contain either thirty (30) elk or sixty (60) deer or some combination.

Chairwoman Wilson noted that the Township has received complaints regarding the property, is this the entire property or just the area where the house is located? Assistant to the Manager Otey said that the complaints have been directed to the areas of the house and the barn not being kept up. Staff has visited the property within the last week and did not see a mess in the 30-acres for the deer.

Chairwoman Wilson asked how wooded the property is and Assistant to the Manager Otey noted that the heavily wooded area is along Quiggle Ave.

Applicant Jaqueline Stancil said she would like to clarify that the application should include elk being brought onto the property, not just the white whitetail deer.

They have a ranch near Mt. Pleasant that they home the animals but some of the animals are aging and they do not want them in the same area with the younger animals and the white whitetails are her primary concern.

There are only two (2) herds in the country as far as she knows. They started out with twelve (12) in their herd two (2) years ago and are now down to three (3) and are trying to get them into a more protected area.

They are trying to create on their farm in Cascade something positive, quiet and non-intrusive. She understands that there is frustration amongst her neighbors and would be happy to speak with them after this evening's meeting. She understands their concerns with how the property looks, it was her grandparent's and has not been farmed in over 20-years and they are trying to renovate it.

Applicant Stancil also noted that as of July 2008, the DNR (Department of Natural Resources) requires a 10-foot fence to contain elk and deer

Applicant Stancil also said that she understands the reasoning behind removing the fence if the deer are gone but it is 5800-feet of fence which is over \$40,000. There are multiple factors out of her control as to if she keeps the deer, such as the DNR does not allow them anymore, lose financial support from her husband, etc. and is looking for a stipulation to allow the fence if used for a

certain number of years consecutively or some stipulation that she would not lose her investment in the fencing.

Member James asked if the home would be a year-round home for the deer or seasonal and the Applicant said year-round home.

Member James asked if the Applicant intends to grow the herd whether through breeding or acquisition up to the DNR limits and Applicant Stancil said that is correct.

Member James asked the Applicant why she has a deer herd. Applicant Stancil said that it all started with a hunting preserve they have in Mt. Pleasant. Once they began hunting the preserve they realized they needed to remove some of the older ones and younger ones from the herd and they wanted to preserve the white whitetail deer herd. There is no money in the white whitetail deer herd; they are her passion. After losing the majority of their stock she needs to move the herd to preserve them.

Member James asked how old they are and if they are breeding stock. Applicant Stancil said there are two (2) females and one (1) male left that are breeding stock.

Member James asked what their normal life expectancy is and Applicant Stancil said in captivity up to twenty (20) years.

Member James asked how old the three (3) deer are and Applicant Stancil said she does not know, they were on the property when they purchased it two (2) years ago.

Member James asked if the preserve in Mt. Pleasant is a hunting business and Applicant Stancil said it is but the Cascade farm would be used for farming, no hunting. She inherited the farm and would like to see it go to good use. She has a situation in Mt. Pleasant and she has the property in Cascade Township but cannot necessarily use it to farm what they want because of the maximum feet allowed for fencing restriction.

Member Casey questioned if the address is correct on the application and the Applicant said it is. Member Casey said that when he drove to the area, the addresses were not in order and Applicant Stancil said that is correct. She noted that the house is on the 3506 Quiggle Ave. portion and does not own to the corner of 36<sup>th</sup> Street.

Chairwoman Wilson asked Staff if any comments from the Public were received and Assistant to the Manager Otey said that some of

the residents in the area visited the Township office asking questions but no letters or phone calls were received.

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

Leonard Iakiri, President of the Bloomington Neighborhood Association, noted that not all the homeowners received notice of the variance request though all seventeen (17) of them are represented this evening.

The Association Board surveyed the members for their feedback of the request for the variance and the majority opposed the request or has significant reservations regarding it.

The main concerns are regarding safety and security, property value impact, and the homes adjacent to the proposed fencing would have clear visibility of the fencing and it is not a correct statement to say that the fencing would not be viewable by neighboring properties.

Their other concern is that if the variance is passed, it may impact the association's quality of life in the future, allowing for other uses.

Chairwoman Wilson asked Mr. Iakiri what the concern is for safety since the Applicant is requesting a 10-foot fence to keep the animals on her property and not wander onto theirs. Mr. Iakiri said that the applicant's documentation to the State for moving these animals is their concern for poaching that is happening in Mt. Pleasant. This information is included in their application noting how poachers trespass on the property and poach the deer and they question how the owner can be responsible if not on the property.

He also noted that the animals currently on the property have provoked some act of violence that he does not have the details to but the sheriff's department was involved. Their concern is that if the deer attract poachers in Mt. Pleasant, they could attract undesirable activity in their neighborhood.

Member James asked if they believe the deer are attracting poachers or the fence and Mr. Iakiri said the deer are attracting them. Chairwoman Wilson clarified that their concern is that hunters would enter the Applicant's property and a stray bullet could hit a neighbor's house and Mr. Iakiri said that is correct. This is a neighborhood of seventeen families and there are

children. Not all of the homeowners received notification of the variance request and these are some of their concerns.

Another concern is disease the animals could carry and they are also concerned that if the deer and elk are gone, the fence would remain for no reason.

The residents are also concerned if the white whitetail deer were moved to the property, would they attract visitors to the area since they are rare.

There is concern for what other future uses would come into the area if this were allowed. The applicant currently has a hunting business in another area and they do not know if the Applicant would eventually open a hunting business on this property.

The homeowners have also expressed a concern for the chemicals and insecticides the Applicants will be using on the herd.

Mr. Iakiri also said some of the homeowners have asked what are the procedures for introducing other animals onto the property outside of the animals indicated?

Will the fence be electrified and will there be lighting on or around the fence?

How will the poaching and other predators be monitored since the owners do not live on the property and they currently have this problem in Mt. Pleasant?

How many deer maximum do the owners plan to keep on the property, State regulations note a maximum of sixty (60) are allowed. And how many deer do the owners feel the thirty-three (33) acres would support?

What are the future plans for the property? Do the owners plan to convert the farm into a ranch and open it to hunting or tourism?

Would any trees be removed to install the fence?

How do the owners plan to get rid of the dead deer and how do they plan to treat sick deer?

Chairwoman Wilson noted the questions of the neighborhood are valid. She noted that in an agricultural zoned area, the owners are allowed to bring in any type of animal and it so happens that the DNR requires a 10-foot fence for their animals. The disposal of

dead deer and use of insecticides are valid concerns but do not necessarily apply to the granting of the variance for a 10-foot fence. The Zoning Ordinance allows them to bring in these animals however the State requires the 10-foot fence that is not allowed in the Township unless a variance is granted.

In regards to how large the herd is, the Township does not have any regulations addressing that issue. They have heard tonight that the State has the regulation that the herd not exceed sixty (60). The Applicant has conditions set-forth by the State of Michigan and the Township cannot override the State's requirements.

Chairwoman Wilson said they could address the issue pertaining to the fence if it would be electrified or not, there are children in the neighborhood.

Chairwoman Wilson noted that the lighting would have to comply with the Township's requirements that it be downcast and the lighting plan would need to be submitted with the fence plan if the variance were granted.

Member Casey asked if hunting is allowed in agricultural zoning and Assistant to the Manager Otey stated that the Township does not have a hunting law and they follow the State laws that states no hunting within a certain proximity of a neighbor's property.

Member Casey noted that the area was zoned as agricultural prior to their plat being built and they are allowed to bring in animals.

Chairwoman Wilson noted that in Staff's report, there are certain Findings of Fact that need to be met and one of them is that the granting of the variance would not be injurious to the neighborhood or detrimental to the public welfare and the ZBA must keep in mind the variance, not the consequence, and the request is for a 10-foot fence and if that would be injurious to the neighborhood.

Timothy Eagle of 3255 Bloomington Hills noted that a copy of the application was included in the notice and the application specifically requests a Special Use Permit. Tonight the discussion is for a variance request and should be requesting a Special Use Permit based on their application received. He noted Township Staff had done the notation on the document in making it a request for a variance.

The homeowners are also confused as to what animals would be coming onto the property. Staff's report is based on the fact that



three (3) white whitetail deer would be brought onto the property and allowed to breed. This is the first they have heard that elk are also being brought in.

Mr. Eagle also noted that the ranch in Mt. Pleasant is a Class III Service Facility by the DNR and under the statute that governs the facilities and the operating standards prohibit the removal of a live animal from the herd. They believe that a requirement the applicant should meet is that the applicant, prior to moving the animals, file with the Township the written permission from the DNR to move the deer.

He also supports Staff's recommendation that if the deer were removed from the property that the fence come down. It is not the neighborhood's choice to bring the deer herd in and if the herd no longer exists, the fence should come down within a fixed period of time.

Mr. Eagle noted that he and his wife do not oppose the deer park and they do see that the herd attracts poachers.

The DNR also released within the past year the diseases related to captive deer and they are more susceptible to serious disease that would be brought into the neighborhood.

Member Casey noted that his form is circled for a variance and Assistant to the Manager Otey said the appropriate documentation is for a variance.

Chairwoman Wilson asked the Applicant if they have to apply to the DNR to move the herd and the Applicant said that is correct. Chairwoman Wilson said that the variance for the fence would not be granted if the State did not allow the deer to be moved.

Tom Wisner, 3439 Quiggle Ave. said that the fence would be very visible from his property.

He said he has lived on his property for thirty (30) years and the property has never been farmed during that time. They have had animals in fencing on their property in the past and animals do get out. They would like to know who is going to be responsible for the animals and the fencing on the property.

They have also had to chase out poachers from the property.

The fence would also set aside the house that has chickens and other animals running free and there should be something that the property and animals be maintained in a proper manner.

Member James asked if there is a Township ordinance requiring farm animals (goats, cows, chickens, etc.) to be contained and Assistant to the Manager Otey said the Township does not have regulations.

Chairwoman Wilson expressed concern in the monitoring of the livestock and asked if the renters could be liable. Applicant Stancil said that the tenants that are currently in the house are responsible for monitoring their own animals that are now on the property. She does not expect the livestock to stay on the property and the area the livestock is currently in would contain animals in the 10-foot fence.

Chairwoman Wilson asked the Applicant how long she has owned the property and the Applicant said three (3) years. She also noted that her grandfather farmed the property with cattle and alfalfa over 30-years ago and there was a fence around the farm.

Chairwoman Wilson asked Staff if there is anything in the ordinance that addresses the homeowners occupy the property and Staff said there is not.

Applicant Stancil said their current tenants are overseeing the property. They are preventing theft and they do plan to have someone on the property fulltime.

Her intent is to utilize the farm. They have farming equipment for the alfalfa field and a fence will be going up, it is just a matter if it will be for livestock or for the deer.

Mark Scherler is a resident of the subdivision and his house backs up to the fence. He noted there is a buffer zone as to where the fence would go and the fence would not be that intrusive.

He wonders what the definition is of a "fur bearing animal" and Staff would have to define the term next at another time.

He is also wondering if there should still be a Special Use Permit for the 8-foot fence in order to obtain a 10-foot fence variance. Member Casey noted that the Township does not have 10-foot fences and this is a variance request because it is requested by the State, an 8-foot fence would not be affective in this request.

Paul Bayar, 3269 Bloomington, noted there are coyotes in the area and can climb over a 10-foot fence. He has been hunting all of his life and does not understand why they are bringing one males and two females for breeding and as they get older, they do not breed anymore. He understands that the State allows for sixty (60) deer on the amount of acreage the Applicant has but there is only approximately thirty (30) acres of woods for the deer and he does not understand how they can sustain the maximum allowed number of deer allowed by the State on the property. He also believes that if the elk are introduced to the property with only a 10-foot fence, they could take the fence down and elk would be roaming the neighborhood.

Assistant to the Manager Otey said the request is for deer to be brought onto the property. She said the notice was published as a request to install a 10-foot fence around the property.

Mr. Bayar is concerned that elk would be brought into an area that is fenced for deer; they are a large animal.

Rich O'Keefe of Bloomington Hills noted that the Township allows for a Special Use Permit for an 8-foot fence. However, increasing the fence to a 10-foot fence would allow for deer on the property and they are not allowed since the Township does not allow for a 10-foot fence, hence the request for a variance. He does not support the variance for a 10-foot fence since the animals that need an 8-foot fence do not attract poachers and crime where a 10-foot fence containing deer and elk increases the likelihood of poachers. The extra 2-feet of fence increase the danger to the neighborhood and poachers.

Applicant Stancil clarified that the application they submitted to the State of Michigan would satisfy the DNR's standards to fencing being built to contain both deer and elk.

She also clarified that she did not submit to the State in her application that the moving of the deer is due to poachers. Poachers kill and take the deer and the deer are not being taken, they are being killed and she has more faith in the Cascade Community that they would not kill the deer.

Mr. Iakiri asked where the homeowners could go to have their questions answered regarding the number of deer and elk along with insecticides used and other questions pertaining to the herd and Chairwoman Wilson said they could have their questions answered by the DNR or by the Applicant.

John Emhoff, 3243 Bloomington Hills, noted that only half of the seventeen homeowners were notified of tonight's hearing and it seems those on the other side of the buffer zone were not notified.

In regards to the Findings of Fact, when he got a notice of the hearing, prior to the application for the farm, he was enthused for a new farm. When he read the application he was alarmed that one of the reasons she is moving the deer is due to people shooting the deer and people shoot things here too and there are homes around this property.

Chairwoman Wilson said that those notified are within the radius of 300-feet of the property owner. Mr. Emhoff said that the Association itself was not notified and there are many property owners adjacent to the property that were not notified.

Suzanne Middleton, 3516 Quiggle Ave., does not believe the area is good for deer and domestic farming is fine but for wild animals no. The area is populated with more development to come and wild animals should not be farmed in the area.

**Motion was made by Member James and supported by Member Casey to close the Public Hearing. Motion carried unanimously.**

Chairwoman Wilson noted that under normal circumstances she would not vote. Given the fact that there are only three (3) board members present tonight, a unanimous vote must be obtained therefore she is allowed to vote.

Chairwoman Wilson noted a lot of comments and concerns have been brought forth tonight and the board must focus on the request at hand, which is for a 10-foot fence variance.

Member Casey clarified that an applicant can go before the Planning Commission and request a Special Use Permit for an 8-foot fence and Assistant to the Manager Otey said that is correct. Member Casey said that the request is for a 10-foot fence because it is required by the State and is over and above the 8-foot Special Use. Chairwoman Wilson asked if the Applicant first needs a Special Use Permit for the 8-foot fence and Assistant to the Manager Otey said they need the variance for a 10-foot fence, it is over and above the 8-foot allowed under Special Use. Staff can clarify if the Special Use for an 8-foot fence is a prerequisite to the 10-foot variance request.

Member Casey noted that there is a question regarding if the neighbors received proper notice and which address was used in sending the notices. Staff will be investigating the addresses that were noticed.

Member Casey also noted that there is a question if an 8-foot Special Use Permit is a prerequisite to obtaining the 10-foot variance. Staff used the logic that a Special Use Permit would not be necessary since an 8-foot fence would not meet the State's requirements.

Member Casey said that if the variance is granted, the Board should establish a time period that the fence should be removed if the deer are no longer on the property.

Member James asked if there is any other ordinance of a time limitation for a non-conforming use and Assistant to the Manager Otey said she does not believe so. Member Casey noted that the sign to a business would need to be removed after a period of time.

Chairwoman Wilson asked how long it would take the Applicant to transfer animals to the property and Applicant Stancil said that plans need to be submitted to the DNR prior to constructing the fence and it is a lengthy process beyond their control. Once the DNR approves the move of the herd, the time is not long to physically move the deer from each farm and sixty (60) days would be reasonable once the process has been approved by the DNR.

Member James asked if they have a veterinarian for the deer yet, are there spring shots, worming? Applicant Stancil said that they do not have a veterinarian yet and worming medicine is put in their feed. They do not receive shots like a horse.

Member James asked if they were covered under the Department of Agriculture and the Applicant said yes.

Chairwoman Wilson asked if the 8-foot Special Use is required to bring animals in and Assistant to the Manager Otey said it is not a requirement to have an 8-foot fence to bring the animals in, the requests for the Special Use are primarily to keep people out and other animals out.

Chairwoman Wilson noted that the request for a Special Use is for the purpose of putting up the fence, not for what is being used on the property. She understands why this is a request for a variance.

She noted that this property is zoned agricultural, which gives it inherent rights that are not conducive to a subdivision. The property was zoned agricultural prior to the subdivision and those that develop in a zoned area are taking risks when building around agriculturally zoned properties.

In clarifying the Special Use Permit the premise is that the Township does not want fences and if you are going to construct a fence that is 8-feet high, then a Special Use is required. The Applicant is requesting a 10-foot fence, not an 8-foot fence that is allowed and she is comfortable voting on this issue without a Special Use Permit.

The Findings of Fact shows that Staff recommends approval of the variance be allowed upon the condition that the fence be removed if the deer are brought in. One issue is that the recommendation is to contain the deer and the Applicant states that she submitted another application that includes elk as well and Staff's comments only address deer being brought onto the property.

Assistant to the Manager Otey noted that according to the DNR's requirements, the fencing must meet the requirements to contain deer, elk, mule deer, etc.

Member James asked if the DNR permit is specific as to which animals are allowed or if it is a general category of animals that are allowed and Applicant Stancil said it is a general category.

Chairwoman Wilson believes a motion should be made to table the case. The Township needs to clarify the distribution of the notice to ensure the appropriate neighbors were notified.

The Board would also like to speak with Planning Director Peterson to see if he understands that the Applicant would be moving elk onto the property as all of Staff's comments referred to the white whitetail deer. She also noted that the State's permit allows for elk, deer, mule deer and various species.

**Motion was made by Member James and supported by Member Casey to table the applicant's request for a variance to construct a 10-foot fence to keep deer on the property until the next scheduled meeting.**

**The motion carried unanimously, Case # 10-2994 Jacqueline Stancil has been tabled.**

**ARTICLE 6. Any Other Business**

Chairwoman Wilson opened the meeting for any other business. There was no other business.

**ARTICLE 7. Adjournment**

**Motion was made by Member James and supported by Member Casey to adjourn. Motion carried unanimously and the meeting was adjourned at 9:00 p.m.**

Respectfully submitted,

Mel Casey, Vice-Chairman/Secretary

Lisa Hern, Recording Secretary