

MINUTES

Cascade Charter Township Planning Commission
Monday, June 1, 2009
7:00 p.m.

- ARTICLE 1.** Chairman Robinson called the meeting to order at 7:00 p.m.
Members Present: Hammond, Lewis, Logue, McCarthy,
McDonald, Robinson, Sperla, Waalkes
Members Absent: Pennington (excused).
Others Present: Township Planning Director Peterson, Recording
Secretary Hern and Members of the Public.
- ARTICLE 2.** Chairman Robinson led the Pledge of Allegiance to the Flag.
- ARTICLE 3.** **Approval of the Agenda for the May 11, 2009 Planning
Commission Meeting.**
Chairman Robinson requested a motion for the approval of the
May 11, 2009 Agenda.
- Motion was made by Member Lewis and supported by
Member McDonald to approve the Agenda as presented.
Motion carried unanimously.**
- ARTICLE 4.** **Approval of the Minutes from the May 11, 2009 Meeting.**
Chairman Robinson asked if there were any corrections to the May
11th Minutes or requested a motion for approval.
- Member McCarthy noted there are several references to
“Consumers Power” beginning in Article 5 and the correct name of
the company is “Consumers Energy”.
- Member Sperla noted the word “be” needs to be removed from the
last sentence on Page 2 of the minutes.
- Page 3 in the sixth complete paragraph down to change the
wording of the beginning sentence to “...set-up for industrial
rather than residential applications...”
- Page 4 under Article 6 in the fourth paragraph, Member Sperla
proposed that the language read “...asked the language would
apply to wind turbines in both residential and industrial zoning
districts.”
- Motion was made by Member McCarthy and supported by
Member Lewis to approve the May 11, 2009 Minutes as
corrected. Motion carried unanimously.**

ARTICLE 5.

Case # 09-2967: Steve Aden

(PUBLIC HEARING)

Address of Property: 7037 Bridgewater Drive

Requested Action: The Applicant is requesting a Special Use Permit to allow the construction of a fence in the front yard taller than 4-feet high. The Applicant has requested a 6-foot tall fence.

Planning Director Peterson showed an aerial photo of the property located at the corner of Bridgewater and Riverton. The property is a corner lot so both yards that are between the house and each road are considered a front yard, which limits the fence to a height of 4-feet high. The Applicant's sketch notes they would like 6-foot high fencing in front of the house.

The Township became aware of the construction of the fence from a neighbor who had raised some concern regarding the height of the fence. After discussing the situation with the property owner, he has decided to apply for the permit for a taller fence.

The Applicant has also submitted a written report explaining their reasons for requesting a taller fence. The report is included within the Commissions' packets.

The Township has had similar requests in the past. The most recent case was for a taller fence in the front yard along Thornapple River Drive near Tassell Park. In this case, a taller fence was permitted for a portion of the road frontage and denied in another portion.

Staff reviewed the Standards when reviewing the case noting the Township became aware of the issue from a neighbor who was concerned about the additional height. This would be the only one (1) in the area with a taller fence in the front yard within the neighborhood.

Staff has also spoken with a couple of other neighbors since the Public Hearing notice was distributed and they are not in favor of the request.

The Association has also contacted the Township and submitted a letter saying they do not approve of the 6-foot fence and a copy of the letter is on the Commissions' desks.

The Township allows for fences in the front yards of home but at a maximum height of 4-feet. In driving through the neighborhood, there are two (2) other similar fences. Both fences comply with the ordinance, one fence is 4-feet high and goes out to the road right-of-way, similar to the location the Applicant desires. The

other fence is 6-feet high but does not come any closer to the road than the home, so it is in compliance. Both of these sites are corner lots.

Staff recommends that the Planning Commission deny the request for the taller fence. The Applicant can still have a fence on the property line as proposed without the fence being taller than 4-feet. Others in the neighborhood have complied with these requirements.

Member McDonald asked Planning Director Peterson for clarification regarding the fence would be on the northwest side of the property and Planning Director Peterson clarified the fence would run parallel along Bridgewater and north.

Member McDonald asked if the Applicant could install a 6-foot high fence along Bridgewater Drive and Planning Director Peterson said the fence would be limited to 4 feet along the road and could go up to 6 feet after it was behind the front of the house..

Member McDonald clarified that the front of the house is considered Bridgewater Drive and Riverton and Planning Director Peterson said that was correct and the rear is the west property line and the side yard is the north property line with two (2) fronts.

Applicant Steve Aden, 7037 Bridgewater Dr., said his main reason for building the fence is for the safety of his children and privacy.

He said they did start to build the fence prior to knowing of the Township's ordinance and also spoke to a neighbor who opposed the fence. Once they learned of their error, they went to the Township to begin the proper proceedings.

Member Lewis asked if Staff explained the fencing rules and rules that apply to corner lots and Applicant Aden said he understands them now.

Motion was made by Member Lewis and supported by Member McDonald to open the Public Hearing. Motion carried unanimously.

Staff reported that two (2) phone calls were received against the height of the 6-foot fence and the letter from the development's association was received, also opposing the 6-foot fence. One of the neighbors of the Applicant also stopped into the Township's Office opposing the fence.

Giles Courtney, 1505 Hillsboro SE and Cascade Homeowners Association Member, said the Township has outlined in its ordinances the height of fencing in the front yard to 4-feet and would like to know where that height was derived from. He also thought the reason for the extra height of the fencing was for privacy and safety but he does not understand why a 4-foot fence could not provide that for the Applicant.

Member Lewis said that the Township decided on the 4-foot height restriction since 5-feet seemed too high and 3-feet did not seem enough and the majority of the people agreed that a 4-foot high fence is sufficient.

Member Logue asked if the Association's bylaws have been included within the Commission's packets and Association President noted he had a copy of the bylaws and presented them to Member Logue.

Member McDonald noted that the Planning Commission does not rule on Association bylaws as the Planning Commission upholds and sets the Township's standards. Planning Director Peterson said that is correct and noted the Association is against the 6-foot fence.

Ron Christensen, 1463 Riverton that is located two (2) properties north of the Applicant, said he drives on Riverton frequently and the fence does not create any sightline problems as far as safety goes. In looking at the location of the fence, there are several tall pine trees that would mask a lot of the fencing along with several smaller bushes. Him and his wife support the Applicant's request to install a 6-foot tall fence.

Motion was made by Member McDonald and supported by Member Waalkes to close the Public Hearing. Motion carried unanimously.

Member Sperla noted he sees some vision obstruction concerning the driveway and a 6-foot fence. His concern is not just for vehicle safety but also for the safety of a child on a bike coming out of the driveway.

Member McDonald said that he has driven the road frequently and does not consider a 6-foot fence a serious sight issue. He noted that as you are coming from the west and moving east, there is a large buffer from where the fence will end before the road. Applicant Aden noted there is 17-feet from the road to the fence and that is a car-length.

Member Sperla noted the other issue is that there is compliance throughout the rest of the subdivision. He is concerned with setting precedence.

Member Sperla noted that there is a front yard on Riverton and the area the Applicant is looking to fence in is a play area. He views the Applicant's request as an exception when you have a corner lot such as the Applicant's and you want a secured area for your children.

Member Logue noted, the problem is, as he perceives it, is that the Township has an ordinance and the Commission's job is to uphold the ordinance and review the exceptions. He did not hear any exceptions regarding the Applicant's request. He recognizes that members of the Public have spoken in both support of the fence and in opposition of it, including the Association. There might be a safety factor regarding the 6-foot fence. There are no unusual exceptions in this case, there are a lot of corner lots within the Township and that does not make this property unique.

Motion was made by Member Lewis and supported by Member Sperla to deny the Applicant's request to allow the construction of a fence in the front yard taller than 4-feet high at 7037 Bridgewater Drive.

Member McDonald noted that the Applicant could build the 4-foot fence and questioned if the Applicant could build along the west side a 6-foot fence, is that permissible as long as it is from the front of the house and back? Planning Director Peterson said that is correct.

Member Hammond motioned to amend the current motion to reflect that a 6-foot high fence could be constructed from the front of the house and back, supported by Member Sperla.

Chairman Robinson called for the Planning Commissions' vote to deny the 6 foot tall fence in the front yard, **seven (7) in favor and one (1) opposed, motion to deny carried.**

ARTICLE 6.

**Case # 09-2968: Karol Cooley
(PUBLIC HEARING)**

Address of Property: 3404 Glenstone Ct.

Requested Action: The Applicant is requesting a Special Use Permit to allow the construction of a fence in the front yard taller than 4-feet high. The Applicant has requested a 6-foot tall fence.

Planning Director Peterson displayed the aerial photo of the property located on the west side of Thornapple River Drive

between I-96 and 28th Street. The lot is a through lot and has access to both Glenstone Drive and Thornapple River Drive.

Planning Director Peterson noted that Karol Cooley is a real estate agent representing the buyer of the property. The buyer has indicated he would like to buy the property, knowing he can install a 6-foot tall fence. This lot is defined as a through lot since it has road frontage on two (2) sides and is not a corner lot. This lot is a little different but, as such, it has to follow the rules for fences in the front yard anywhere between the home and the road and through lots are not unique.

Staff did not find any other fences in the neighborhood with the exception of a fence for a pool and a low profile split rail fence. However, a review of the Thornapple River Drive shows that the Township does have several fences along the road that are over 4-foot tall. This seems especially prevalent along the northern half of the road.

The Applicant has indicated that the reason for the additional height is to provide screening from the noise from Thornapple River Drive.

Planning Director Peterson said he did obtain a copy of the deed restrictions from the neighborhood association that is included within the Commissions' packets. The deed indicates that the Association needs to approve all fences. Staff has not received any indication from the Association granting their approval and has spoken with the Association President who said they are against the request.

It would appear that allowing the taller fence along Thornapple River Drive would be consistent with other sections of the road in the Township. However, given the fact that no others in this immediate neighbor have a fence along the road and that the Association has not approved of this request, Staff would recommend denial of the request to have a 6-foot tall fence along Thornapple River Drive.

Planning Director Peterson noted that if the Association were to approve the 6-foot high fence, the applicant's case would have merit in this particular case, but based on the information he has been presented, Staff currently recommends denial of the Applicant's request.

Member McCarthy asked what the tree screening is along the property on Thornapple River Drive, is it deciduous and Planning Director Peterson said yes. Member Waalkes noted there is a gap

between the deciduous trees and the berm with evergreens on it. The Applicant is probably concerned about the gap where you can see the house. He noted the berm could be extended by at least another 50-feet but it is very costly.

Planning Director Peterson also said that there are power lines in that area.

Applicant Karol Cooley is representing the home's buyer and who is a doctor and resides in Lansing and was unable to attend tonight's meeting.

She noted she had to quickly process this request due to the home being listed as a 'short sale'. She acknowledges that the proceedings might have been done backwards by not going before the Association first.

She also noted that she heard one of the commissioners say that an Association should not determine the Planning Commission's decision and are asking the Planning Commission to only approve the 6-foot fence along Thornapple River Drive and then they will take the rest of their request before the Association.

The seller of this home who lives next door went around and spoke with members of the Association. She obtained signatures from association members who supported the 6-foot fencing on Thornapple River Drive.

One of the reasons they are requesting a 6-foot fence is the way the evergreens just stop at the property. The developers provided protection for the surrounding neighbors but not at this property since it dips down and goes into a gully. She noted that once the 6-foot fence is installed, it will probably look like a 4-foot fence due to the gully.

If the Planning Commission approves the 6-foot fence along Thornapple River Drive, the buyer would go before the Association with his request for fencing along the side that his son-in-law and daughter live on because they have a pool and he would connect to their fence and come up for additional privacy.

The Applicant is requesting a 6-foot high fence along his property along Thornapple River Drive.

Member Lewis asked for those along Thornapple River Drive, how far back does a 6-foot fence have to be and Planning Director Peterson stated that anything between the road and the home is limited to 4 feet.

Member McDonald clarified that the proposed fence runs parallel with Thornapple River Drive and Planning Director Peterson said that is what they have talked about but we have not seen any plans.

Motion was made by Member Lewis and supported by Member Waalkes to open the Public Hearing. Motion carried unanimously.

Joe Scapini, 3370 Glenstone Ct., believes the fence would be fine and the address is Glenstone Ct., not Thornapple River Drive. It would be a shame not to have these people move in because of a fence along the back.

Chuck Miller, 6269 Glenstone Drive and Association President, said that the immediate neighbors of the buyer are the son-in-law and daughter of the buyer. They have lived in the neighborhood for many years and they know what the rules of the Association are and they should have approached the Association for a proper vote. He said that the chances are the Association would probably allow the fence. The application says that the reason for the 6-foot fence is for noise along Thornapple River Drive. He does not understand the additional requests for other fencing as noted.

He said that a 6-foot high fence will always be a 6-foot high fence regardless of how deep the hole is. The backyard does dip down in the area and maybe the buyer could plant some pine trees similar to those on the berm. The berm is aesthetic and is the reason for the prohibition of fences.

He noted that the split-rail fence Planning Director Peterson referred to belongs to Centennial Golf Course along the property line that goes right next to his home. He noted the home next to theirs does have a board fence that covers his neighbor's pool.

He believes the proper way to have handled this request would have been to go before the Association first because there is prior knowledge of what the fences can and cannot be. The Association prohibits fences because of aesthetic.

Chairman Robinson asked Mr. Miller if the Association approved the fencing and Mr. Miller said they have not, the Association only heard about the Public Hearing through a notice they received through the Vice-President who lives within the notification boundaries of 300-feet.

Member Hammond asked if this request has come before the Association and Mr. Miller said it has not.

Member Sperla asked what the history is with the Association in approving requests for fences. Mr. Miller said he is a new president and the only fencing they have are around pools and there are approximately three (3) or four (4) homes with pool fencing that is mainly blocked by the house on each lot.

Member Logue asked Mr. Miller that if the fence were to go in and be shielded by landscaping to minimize the sight of the fence, would the association approve the fencing with the landscaping condition? Mr. Miller said he cannot speak for everyone in the Association; he is not sure.

Chairman Robinson asked if the vote goes before the Association, does a board or all of the association members vote it upon? Mr. Miller said it would be put to everyone.

Member Sperla asked Mr. Miller if he had a feel for a lot of people being opposed to this request and Mr. Miller said he has only heard from those opposed to it; he has not heard from those who are for it. The association needs more than fifty percent (50%) in favor of something in order for it to be allowed.

Member McDonald asked Mr. Miller if he considers Thornapple River Drive really the backyard of the property and Mr. Miller said he does consider that the backyard and has communicated that with the neighbors.

Mr. Scapini distributed copies of signatures of those in support of the 6-foot fencing to the Planning Commission.

Chairman Robinson asked how many members are in the Association and Mr. Miller said there are twenty (20) homes within the Association. Chairman Robinson clarified that the supporting signatures is not coming directly from an Association vote and Mr. Miller said that is correct. The Association has not formally voted upon the fencing.

Member Lewis asked Planning Director Peterson that if the Planning Commission were to approve a 6-foot high fence along Thornapple River Drive and the Association were to reject it, what would happen then? Planning Director Peterson said they would not be allowed to construct the fence and would have to speak with the Association.

Planning Director Peterson said that his preference would be that the Planning Commission not make a decision tonight and table the case until the Association can review and vote upon the request. He also said that the Planning Commission could also approve the

request with the condition that the Association must vote in favor of the 6-foot high fence.

Member Sperla noted that having the Association's approval is a Township Standard and is inclined in tabling the case.

Applicant Cooley noted that if the case is tabled, they would probably lose the transaction and not sure how fast they can meet with the Association. Planning Director Peterson noted that the case could be placed on the next agenda for the next meeting on June 15, 2009 if they have Association's approval.

Chairman Robinson asked Mr. Miller how quickly the Association could review the request and vote upon the matter and Mr. Miller said they need to know what type of fence it would be and where exactly the fencing would be constructed and the vote could happen as soon as those questions are answered.

Planning Director Peterson noted that the Township would need the materials for the case no later than Wednesday June 10th.

Chairman Robinson noted that he is also favoring tabling the case until the Association has voted upon the Applicant's request for the fencing.

Member Lewis commented to the Applicant that there is no guarantee the fence will be approved by the Association. He recognizes the timeframe the realtor is up against in order to complete a short sale but the Township must uphold its ordinances. The Applicant still has some questions to answer before a decision is made. Member McDonald noted the case does have its merits with Thornapple River Drive being a noisy and busy road and that is the backyard. He believes there are good reasons for the fence but puts this into the hands of the Association. If the Applicant had presented the type of fence, the materials of the fence, the exact location and the Association said wait until the Planning Commission approved it; he believes the request probably would have been approved.

Member Logue noted that due to the current nature of the real estate market, he would not want to be a stumbling block that prevented a sale.

Member Hammond noted that regardless of how tall a fence is, it will still be noisy.

Member Lewis said he would like to see the fence location along Thornapple River Drive.

Member Hammond noted that regardless of what the Planning Commission does, the Association could still rule against the fence. Planning Director Peterson noted that one of the Township's Standards is whether or not the request violates a deed restriction, and their own deed restriction is: no fences unless approved by the association.

Member Hammond noted that there are no drawings indicating the fence's location and he would like to know where the fence will be located.

Member Logue asked the Applicant if they have any additional information regarding the fence that has not been presented this evening and Applicant Cooley said they do not.

Member Sperla motioned to table Case # 09-2968: Karol Cooley until the Association has had a chance to review and vote upon the Applicant's request for the construction of a fence in the front yard taller than 4-feet, supported by Member Lewis.

Chairman Robinson called for a roll call vote:

Member McCarthy: vote to table
Member McDonald : vote to table
Member Hammond: vote to table
Member Sperla: vote to table
Member Lewis: vote to table
Member Robinson: vote to table
Member Waalkes: vote to table
Member Logue: vote to table

All in favor with none opposed. Case # 092968: Karol Cooley tabled.

ARTICLE 7. Any Other Business.

Chairman Robinson opened the meeting for any other business. There was no other business of the Planning Commission.

Member Sperla asked if Staff had any information regarding wind turbines. Planning Director Peterson said that he will wait for the sustainability audit being done by Williams & Works before bringing that back. Member Waalkes asked if the audit would review the Township's ordinances and policies and whether they encourage or discourage sustainability practices and Planning Director Peterson said that it is an audit of the Zoning Ordinances.

Planning Director Peterson also reported that the Township has received word from the State of Michigan that as a result of the

updated Master Plan, the Department of Agriculture has approved the Master Plan that makes residents eligible for the PDR Program and information to the community will be distributed soon by the Township.

Planning Director Peterson also provided an update regarding the roundabout on Cascade Road saying that Progressive AE has been contracted to conduct a feasibility study and hopefully in a couple of months the study should be concluded.

ARTICLE 8.

Adjournment

Chairman Robinson requested a motion for adjournment.

Motion was made by Member Hammond and supported by Member McDonald to adjourn. Motion carried unanimously and the meeting was adjourned at 8:27 p.m.

Respectfully submitted,

John Sperla, Secretary

Lisa Hern, Recording Secretary