

## MINUTES

Cascade Charter Township Zoning Board of Appeals  
Tuesday, March 8, 2011  
7:00 P.M.

**ARTICLE 1.** Chairman Mel Casey called the meeting to order at 7:00 P.M.  
Members Present: Casey, Goldberg, James, Logue, McDonald  
Members Absent: None  
Others Present: Planning Director Peterson

**ARTICLE 2.** Chairman Casey led the Pledge of Allegiance to the Flag.

**ARTICLE 3. Approve the Agenda for the Zoning Board of Appeals Meeting.**

**Motion was made by Member James and supported by Member McDonald to approve the Agenda as presented. Motion carried unanimously.**

**ARTICLE 4. Approve the Minutes of the February 8, 2011 Meeting.**

**Motion was made by Member James and supported by Member McDonald to approve the Minutes as prepared. Motion carried unanimously.**

**ARTICLE 5. Case #11-3020 Mike and Michelle Gordon  
(From the Table of February 8, 2011)**

**Property Address:** 7420 Winsfield

**Requested Action:** The applicant is requesting a Variance to allow the construction of an additional accessory building on a lot of less than 3 acres.

**Member James made a Motion to take the item from the Table. Support by Member Goldberg. Motion approved unanimously.**

Planning Director Steve Peterson said there are revised drawings in the packets. The drawings show the skylights/openings in the roof on three different elevations. The south elevation is the only elevation with no opening. You also have been given a copy of a letter from the applicant explaining his rationale and his understanding of the Ordinance. The applicants' position is that with these openings it is no longer a building because the roof is no longer impervious to weather. The Planner went on to say that if the Zoning Members decide to "go down that road", we are then talking about another separate hearing. There would have to be an appeal of an Administrative decision.

Peterson stated that nothing has changed to the size of the building. The change in the plan does little to meet the standards for a variance but does provide additional rationale that would distinguish this building from others if similar variances were sought.

If you approve the request I would suggest that you base it on the facts that distinguish this building from others such as:

- The small size of the building.
- The fact that they own almost three acres.

- The “open air” construction of the building, since three sides do not have walls.
- There is about 35 square feet of open roof.

If approved I would strongly recommend the following conditions:

- The skylights cannot be covered and must be open to the weather.
- The building cannot be enclosed by wall other than what has been constructed and shown on the plans.

Chairman Casey asked if anyone had questions of Staff. Member Logue asked if there is any set aside land or common area for this subdivision. Planner Peterson answered no.

Chairman Casey asked the applicant to come forward and to answer questions for the Zoning Members. Applicant representative Larry Branscombe was present. Others also present were applicant Michelle Gordon, Jack Viersen of Viersen Properties and Jason Haywood of Signature Outdoor Concepts. Mr. Branscombe thanked everyone for allowing them to return. He explained that they did try to take into account the comments from the last meeting. They also tried to find a way to be in compliance, and at the same time maintain the aesthetics of the property.

Mrs. Gordon was apologetic and stated that she and her husband had no idea they were doing anything wrong.

Mr. Viersen and Mr. Haywood came forward to answer any other questions. Member Logue asked if the rest of the roof is a shingled surface and if shingles are impervious to weather. The applicants’ representatives responded that shingles are impervious to the weather, the openings are not.

Chairman Casey commented he had observed that nothing had been done to the existing roof as yet; there are no holes or markings as to where holes will be. The representatives replied that they are waiting on the Zoning Boards decision. Planner Peterson added that the applicant has applied for a building permit, so whatever decision is made, that is how the issuance of the permit will be addressed.

Member Goldberg commented that once you put holes in the roof, it is no longer a roof impervious to weather. Then what is the point of having a roof as opposed to a pergola...once you have put the holes in it? The representatives replied that they are trying to save the structure which is already up. The main reason the structure was built was for shade.

Member James wanted to confirm that the intent is to not have skylights or to cover the open areas in the future. The representatives of the applicant verified that the roof was for shade, not to keep the rain out. The current roof matches all the other rooflines on the property. A pergola would take away from the architectural appearance.

Member Logue asked if they had investigated acquiring more property but learned that was not an option.

Member McDonald addressed the Chairman, stating that he was ready to share his comments. He said that the property was beautiful and he assumed it was very expensive. He is concerned, however, about setting precedence. The Planner has given excellent criteria to grant the permit. Member McDonald has 6 ideas of his own that make this request unique:

1. Size of the building at 560 square feet: A Special Use Permit is not required.
2. The open air construction of the building; three sides do not have walls.
3. The large skylights being open to the weather.
4. The adjacent property owners and the homeowners association approve the structure.
5. It meets the setback requirements of the Ordinance.
6. It discretely fits in with the environment.

Member McDonald went on to say that, "as much as I don't like to, I think I would support the variance based on these several unique criteria and the conditions that Staff has recommended".

Member Goldberg added that the lot is not too far shy to accommodate another building, which is significant to him.

Member McDonald went on to say that he completely agrees with Staff that this is a building. **Because of the six unique criteria, I make a Motion that we provide the variance given the conditions that:**

- A. **The skylights cannot be covered; they must be open to the weather.**
- B. **The building cannot be enclosed by walls other than what has been constructed and shown on the plans.**

**Support by Member Goldberg.**

Member Logue stated that he is not comfortable with this "leaning off on the edge". He added that he would be more comfortable with a roof, that in and of itself, was not designed to shed water and be impervious with holes in it. If the roof design were different, such as a pergola, I'd be more inclined. As it is, I can't support this.

Member Goldberg said that if he were trying to say this was not a building, he would be of the same point of view. "But I'm saying this is a building; I just think a variance is justified recognizing that this is a building. It's justified by the other factors. I'm not defining it as not impervious, I'm simply saying it is impervious, but the holes and the other factors justify a variance."

Chairman Casey said that the building does fit in, but he is concerned about what will happen when the next owner comes along. They may want to enclose the structure and put a roof on it. The current homeowners should be obligated to let any future homeowner aware of the guidelines for that building.

**With no other discussion, Chairman Casey asked for a vote. Yes: 4 No: 1 Motion Carries.**

**ARTICLE 6: Any other business**

**ARTICLE 7: Adjournment**

**Motion was made by Member Goldberg and supported by Member McDonald to adjourn. Motion carried unanimously. The meeting was adjourned at 7:25 p.m.**

Respectfully submitted,

Tom McDonald, Secretary

Carol M. Meyer, Planning Administrative Assistant