

ZONING MINUTES
Cascade Charter Township
Zoning Board of Appeals
Tuesday, October 14, 2014
7:00 P.M.
Cascade Library Wisner Center
2870 Jackson Avenue SE

ARTICLE 1. Chairman Casey called the meeting to order at 7:00 P.M.
Members Present: Berra, Casey, Hammond, McDonald, Neal
Members Absent: Cousins
Others Present: Planning Director Steve Peterson

ARTICLE 2. Chairman Casey led the Pledge of Allegiance to the flag.

ARTICLE 3. Approve the Agenda.

Motion made to approve the Agenda by Member McDonald. Support by Member Hammond. Motion carried 5-0.

ARTICLE 4. Approve the Minutes of the September 9, 2014 Meeting.

Motion made by Member McDonald to approve the Minutes of the August 12, 2014 Meeting as written. Support by Member Berra. Motion carried 5-0.

ARTICLE 5. Acknowledge visitors and those wishing to speak to non-agenda items.

No visitors present wished to speak to non-agenda items.

ARTICLE 6. Case # 14-3209 John Shipley
Public Hearing

Property Address: 7373 Biscayne Way

Requested Action: The Applicant is requesting a variance to allow the construction of an additional accessory building on a lot of less than three (3) acres, with three (3) other existing accessory buildings.

Planner Peterson introduced the case by showing the commissioners a drawing he had made to show where the existing buildings are that weren't labeled. Peterson labeled them A, B, C. The new building is located off to the side of the house which is indicated on the site plan. Peterson found out about this after the fact when the Assessing Department notified him of the additional building. The applicant is working through the process by first getting a Special Use Permit because the building's larger than 832 sq. ft. The Planning Commission did approve that. One of the conditions was for the applicant to go to the Zoning Board of Appeals and get a variance if they wanted to keep all the other buildings. The applicant has indicated they're going to take building C down so then there would be a total of three (3) accessory buildings. One (1) accessory building is allowed per three (3) acres. For the first three (3) acres you'd get one accessory building, for the next three (3) acres you'd get a second accessory building. This has been in place since the late 1980s.

Planner Peterson listed other options the applicant has. The applicant could remove two (2) more accessory buildings to be in compliance. The applicant could acquire additional property. The applicant's property is about 2½ acres and would need to be over three (3) acres to have a second accessory building. The applicant could do a combination in between – get some more property and take down one (1) building - then he'd be allowed to have two (2) accessory buildings. The applicant has already pursued acquiring property to the north which isn't an option. Planner Peterson stated there was ability to the west to get additional property of half an acre. Peterson stated this afternoon the applicant's neighbors came to the township to discuss this project with him. They're not willing to sell any property so property acquisition is not possible.

Looking back at other variances that have been granted since 2001 we've had a few that were similar to this request. In 2007 we allowed for five (5) accessory buildings on a 2½ acre lot. This was an old farm on Buttrick and they were dividing the property and not adding additional buildings. They agreed to take down the largest building but there were several smaller buildings. As a building was removed, it brought the Applicant closer to the ordinance. In this case by removing building C the project is status quo. In 2011 we approved a variance for a shade structure for a pool which allowed two (2) accessory buildings on less than three (3) acres. We did allow for a fourth accessory building on a 90 acre parcel. The acreage allowed for a fourth building on a property of that size. It's important to let you know we've received an application for next month for someone who went through the planning process and agreed to take down a second building but now they want to keep the original accessory building.

I didn't find anything that made this project unique. I did want them to explore the option of buying more property which has proven to be impossible. The only other option is to remove a building to get closer to compliance with our standards. If the variance is approved it needs to be outlined how this variance is unique so we can distinguish it from others in the future.

Member McDonald stated one option suggested no longer exists, so the only options left would be to combine A & B or remove all the other structures on the property. The issue is that the garage is detached making it an accessory building. It was already non-complying and if we can't get total compliance we try to at least improve the non-conformity issues by removing existing structures.

Member Berra asked what the other accessory building were used for. Planner Peterson stated building A is a wood working shop and building B is tool storage. They're 600 and 500 sq. ft. respectively.

Member Hammond stated that if the Applicant removed all the old accessory buildings he would be in compliance whereas if he removed one he would still be non-compliant. Planner Peterson stated this was correct.

Chairman Casey asked the Applicant to come forward with any comments.

John Shipley, 7373 Biscayne Way came forward as the Applicant.

The original buildings were built in the mid 80's. The new building was supposed to be a turn-key operation with Meekhof lumber handling the permits. The new building

houses antique military vehicles that are provided to American Legions and VFW Posts for parade use. This building replaces the vehicles parked in the yard with tarps covering them. Building A is a full wood shop and building B is a pole barn containing my yard equipment. The distance between Building A & B is three (3) feet apart in distance and could be easily combined if that is what the Zoning Commission mandates. I attempted to purchase property around me and was unable to do so. When this process is completed I'll have the building department make sure the building has been built to code.

Member Berra asked if any neighbors had talked to him about the property. Mr. Shipley stated his neighbors stop him regularly to ask how things are progressing. They're aware of the situation and supportive of the situation.

Chairman Casey asked if the contract Mr. Shipley signed with the contractor stated the homeowner was responsible for obtaining necessary permits. Mr. Shipley stated the contractor was responsible for all permits.

Member McDonald made a motion to open the Public Hearing. Support by Member Hammond. Motion passed 5-0.

No one wished to speak at the Public Hearing.

Motion by Member Hammond to close the Public Hearing. Support by Member McDonald. Motion passed 5-0.

Member McDonald stated that because the accessory buildings on the applicant's property are 30+ years old, the ordinances the township had then regarding these buildings weren't put in place or enforced until approximately the last 20 years when Cascade's density increased and the ordinances became more important. He stated if the applicant was willing to take down building C by December 1, 2014, work with the building department and by code get building A and B attached together by December 1, 2014, that would do away with one (1) building and bring the project closer to the ordinance. He stated the applicant has worked with his neighbors, has his neighbors support, and received no complaints in 30+ years. The applicant has tried to mitigate the violation of the ordinance by looking to acquire more property. This would reduce the number of buildings from four (4) to two (2).

Member Hammond stated this would get the applicant closer to the precedent set 5-10 years ago. In the project the applicant brought before the Zoning Board of Appeals then he wanted to reduce the number of buildings to bring the property closer to the ordinance. In that particular case the applicant's house had extra buildings and they took the larger building down with the understanding the new owner would maybe take the other buildings down too.

Member Casey stated there are extenuating circumstances here. There's no excuse for not reading the fine print but you need to understand the contracting side of the business. Somebody else didn't follow through for you. So now you're in a situation where the business is no longer in business. Getting any benefit from that side isn't available for you. He would be in favor of the applicant taking building C down and combining buildings A and B into a single building. This leaves two (2) accessory

buildings on the site which brings the applicant closer to the ordinance, but out of compliance with the ordinance.

Member Casey stated his concern is whether or not buildings A and B can be combined. Maybe this should be tabled in order to find out. If they're not combined then what happens? Member McDonald stated if that happened the applicant's request would be denied. He believes the applicant will follow through and the township will enforce the policy. Member McDonald stated the applicant's request could be made contingent on whether or not buildings A and B can be combined and reporting back to staff.

Member McDonald asked Planner Peterson if it made sense to table this request until information is available on whether or not buildings A and B can be combined. Or should this request be denied or approved tonight. Planner Peterson stated with what has been discussed tonight this request does not necessarily need to be tabled. Peterson stated removing building C and combining buildings A and B per building code by December 1, 2014, would be the condition. If the applicant can't meet that condition the building either has to be removed or the applicant has to come back in front of the Zoning Board of Appeals to re-hear the case.

Motion by McDonald to allow the variance for constructing the additional accessory building on this lot provided building C is removed, building A and B are combined per code by December 1, 2014, so the site is closer to compliance; also, take into account that buildings A, B and C have been there approximately 30+ years. Support by Member Hammond. Motion passed 5-0.

ARTICLE 7. Any other business

There was no new business.

ARTICLE 8. Adjournment

Motion by Member McDonald to adjourn the meeting. Support by Member Hammond.

Respectfully submitted,
Bill Cousins, Secretary

Ann Seykora/Debra Groendyk
Planning Administrative Assistant