

## MINUTES

Cascade Charter Township Zoning Board of Appeals  
Monday, October 12, 2009  
7:00 p.m.

- ARTICLE 1.** Chairwoman Wilson called the meeting to order at 7:00 p.m.  
Members Present: Casey, Trustee Goldberg, McDonald, James and Wilson.  
Others Present: Planning Director Peterson; Recording Secretary Hern and Members of the Public.
- ARTICLE 2.** **Pledge of Allegiance**
- ARTICLE 3.** Chairwoman Wilson requested a motion for approval of the October 12, 2009 Agenda.  
  
**Motion was made by Trustee Goldberg and supported by Member James to approve the Agenda as presented. Motion carried unanimously.**
- ARTICLE 4.** Chairwoman Wilson requested a motion for approval or corrections of the July 14, 2009 Meeting Minutes.  
  
**Motion was made by Trustee Goldberg and supported by Member Casey to approve the July 14, 2009 Minutes as presented. Motion carried unanimously.**
- ARTICLE 5.** **Case # 09-2976: Arthur Bird (PUBLIC HEARING)**  
**Property Address: 5644 Whitneyville Ave.**  
**Requested Action:** The Applicant is requesting a variance to construct a new accessory building closer to the front lot line than permitted.  
  
The property is located on the north side of a private drive approximately 1/3-mile east of Whitneyville Ave; the east side of Whitneyville Ave and 60<sup>th</sup> Street.  
  
The Applicant is requesting permission to construct a new accessory building on his property. This building is proposed to be located between the private road and the home. This is defined as a front yard.  
  
Provided the required front and side yard setbacks are maintained, accessory buildings may be located in the front yard under the following provisions:

- A lot in which the topography of the property makes it impossible to construct the building in the rear or side yard, or extensive grading and tree removal is required which would significantly change the landscape and views of the neighborhood if required to locate the building in the rear or side yard.
- A lot in which the property owner would have to drive over a drain or septic field in order to access the garage.
- A lot in which the accessory building is setback a minimum of two hundred (200') feet from the Right-of-Way.

The Applicant has proposed to build the garage 117-feet from the Right-of-Way; 200-feet is the standard.

There is a possible option to the building's location and it could be moved closer to the home. It appears this might be possible but would require tree clearing and it might not achieve a noticeable difference to the others in the area.

There are other accessory buildings in this neighborhood. One appears to be in the front of the home, the others appear to be at the side of the homes. Although a couple of them that are in the side yard, appear to be even closer to the road than the proposed building.

Staff has found similar cases as this one dating back to 2001. Of the five (5) cases Staff found, the Township has approved three (3) and denied two (2). The cases that were denied appeared to have reasonable alternatives and copies of the minutes reflecting the cases are included within the Boards' packets.

If approved, this project would not require approval from the Planning Commission since the building is not more than 832-square feet.

Staff included in their report the Findings of Fact noting that the property is heavily wooded and has some topography challenges that limit where a building can be constructed.

These actions were not created by the Applicant.

It does appear that it might be possible to move the building closer to the home to reduce the amount of variance necessary. However, this might not achieve much beyond reducing the number.

There are other buildings closer to the road and in front of homes on this street. Although this building would be in front of the

home, it is hidden from view by the elevation difference from the road as well as the vegetation on site.

Staff recommends approval of the variance given the fact that the building is located a good distance away from the road, it has an elevation difference that would make it difficult to see, it is heavily wooded which will also make the building difficult to see. The building also appears to meet the intent of the front yard accessory building section and other buildings in the neighborhood are closer to the street than the one proposed.

Chairwoman Wilson asked if the northwest corner of the lot has a clearing where the building could be constructed. Planning Director Peterson said there is a small area in that corner that could potentially work.

Chairwoman Wilson noted there is other accessory buildings in the area and Planning Director Peterson said that is correct and they meet the Township requirements.

Applicant Arthur Bird said the building would be used to store additional vehicles and for storage.

The northwest corner is more wooded than it appears on the site map. He considered building the accessory building in the corner but would have to extend his driveway and he was concerned that it would affect his neighbors on the north.

Trustee Goldberg asked if the building would be solely used for storage and personal use and Applicant Bird said it would be utilized for storage and his wood hobby.

Trustee Goldberg asked if the Applicant would be installing utilities in the building and Applicant Bird said he plans to install electricity only.

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

Planning Director Peterson reported that the Township did not receive any phone calls or letters from the Public concerning the project.

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

**Motion was made by Trustee Goldberg and supported by Member Casey to approve the applicant's request for a variance to construct a new accessory building at 117-feet from the Road-Right-of-Way at 5644 Whitneyville Ave. The motion carried unanimously.**

**ARTICLE 6.**

**Case # 09-2980 Tony Blaskis  
(PUBLIC HEARING)**

**Property Address: 3589 Tuscany Drive.**

**Requested Action:** The Applicant is requesting a variance to construct a new accessory building closer to the side lot line than permitted.

Planning Director Peterson said the property is located at the east end of Tuscany on approximately  $\frac{3}{4}$ -acres.

The Township became aware of the situation after a neighbor came in to complain about the location of a new accessory building in the neighborhood. Planning Director Peterson visited the property and contacted the property owner and informed him that he would either have to move the building or get a variance to keep it in its present location.

The building is under 200-square feet so no building permit is required, but you do have to be a minimum of 10-feet off from the side property line. The building is approximately 5-feet off the side property line.

The Applicant has indicated that he had checked with his neighbors and they did not object to where he was locating the building. Staff informed the Applicant that regardless of whether the neighbors approved the building's location; it still needs to meet the Township's minimum 10-foot setbacks.

The property does have some challenges due to the location of the septic system, storm water drainage and a large drop off. These constraints make it difficult to locate a building on the property that meets the Township's requirements.

This project will not require approval from the Planning Commission since the building is not more than 832-square feet.

Staff has researched similar ZBA requests back to 2001 and found that the Township has had two (2) side property line variance requests for accessory buildings. These cases are:

- 2922 – approved a side yard variance to locate this building closer to the I-96 Right-of-Way.
- 2808 – approved a variance allowing an addition to a detached garage for a very small variance of approximately 1-foot.

Staff has provided the Finding of Fact within their report:

The rear of the property has large drainage easements and a significant drop-off. The location of the septic tank system, storm water system and topography make it difficult to locate a building on the property that meets the Township's requirements.

It appears that this is the minimum variance necessary. The only other option is to locate the building on the northeast side of the home. Although this side is also subjected to a severe drop off and would be very difficult to access.

This case seems like an isolated incident given the circumstances.

Staff recommends approval of the variance given the size of the building, the amount of variance the Applicant is requesting and due to the site constraints.

Trustee Goldberg noted a letter within the Boards' packets that suggested that the building could be constructed under the deck, is this feasible? Planning Director Peterson said he did not review the area under the deck to see if this is a possibility.

Member McDonald asked how big the building is and Planning Director Peterson said 10-feet by 16-feet.

Applicant Tony Blaskis said his air conditioning unit is under the deck. He did have his builder review the area under the deck as a potential area for the building and due to the air conditioning and the height under the deck being approximately 4-feet tall; it is not feasible to put the accessory building in this area. He had two (2) licensed builders review the area under the deck and both opposed in doing so due to the air conditioning system and the low-head room.

Chairwoman Wilson asked the Applicant if he had spoken with his neighbors regarding the building and its location. Applicant Blaskis said he had spoken with the Lockwood's and surrounding neighbors who were all supportive. He poured the cement foundation of the building and left it for one (1) week without any construction of the building and he did not hear from the neighbors

regarding any issues. Once he started constructing the walls and roof, he heard the neighbors had some issues.

Applicant Blaskis noted that he currently has a small two-stall garage and he plans to use the building for his children's toys, bikes and storage.

He also noted that he could not build the accessory building in the back of his lot due to a slope that services the neighbors' for their water run-off and drain system.

Applicant Blaskis distributed photographs showing the watershed and slope; the shed is approximately 100-feet from the neighbor's lot line.

Member Casey asked who owns the fence between his property and the Lockwood's and Applicant Blaskis said the Lockwood's do.

Member Casey asked if the roof of the accessory building has an overhang and Applicant Blaskis said it would have a 6-inch overhang. Planning Director Peterson noted that the Township measures from the property line to the wall of the building.

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

Jim Lockwood, the Applicant's neighbor, said he does not want any conflicts with Applicant Blaskis. His main concern is what he sees from the front door of his home and views the Applicant's house. He feels the sight of the new building would be injurious to the property should he decide he would like to sell his home.

Mr. Lockwood also expressed his concerns in the legal easement in relation to his driveway in case he should, one day, want to enlarge his driveway.

Mr. Lockwood highly supports the Applicant building his accessory building under his deck.

Member Casey noted that it is doubtful that constructing the building under the deck is practical. He also noted that the easement goes to the fence on the property line and questioned if a contractor would be able to work around the fence to construct the accessory building? Applicant Blaskis said the contractor is working around the fencing and is not disturbing it.

Trustee Goldberg noted that Mr. Lockwood's biggest objection to the building is that it is visual from his home and he asked if landscape screening would help? Mr. Lockwood said he is not opposed to landscaping to cover the visual sight of the building. He did note that there is only 4 1/2 –feet between the accessory building and the fence.

Joel Goldberg, 8647 Laurel Ridge Drive S.E., said he lives behind the Lockwood's and uses the driveway in question. He feels empathy with the Blaskis' in looking for expansion as he built his own shed years ago.

Mr. Goldberg said he and his wife do not have any feelings regarding the accessory building one way or the other; it does not bother them. They do, however, have concerns regarding their safety and rely on the sheriff drive-bys that patrol their home in case of fire or other emergencies and believes the building will block seventy-five percent (75%) of the sheriff's sight line during a drive-by.

Member McDonald asked if landscaping were installed and blocked the view, would Mr. Goldberg be upset and Mr. Goldberg said no.

Applicant Blaskis said he would be happy to install landscape screening to block the view of the accessory building as there is roughly 5-feet of land he could plant bushes and small trees.

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

Member Casey asked how high a wood, privacy fence could be constructed and Planning Director Peterson said that the Township allows a 6-foot high fence.

**Motion was made by Trustee Goldberg and supported by Member McDonald to allow for a variance to construct a new accessory building closer to the side lot line than permitted at 3589 Tuscany Drive on the conditions that:**

- 1) Mutually agreed upon plantings/landscaping be installed by Applicant Blaskis to help block the view of the building from the Lockwood's.**
- 2) The Applicant and the neighbors try to reach an agreeable landscaping solution within one (1) week and if unable to**

**do so, Township Staff will determine the appropriate plantings.**

**All in favor with none opposed. Motion carried.**

**ARTICLE 7.**

**Any Other Business**

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

**ARTICLE 8.**

**Adjournment**

**Motion was made by Trustee Goldberg and supported by Member James to adjourn. Motion carried unanimously and the meeting was adjourned at 7:53 p.m.**

Respectfully submitted,

Mel Casey, Vice-Chairman/Secretary

Lisa Hern, Recording Secretary