

MINUTES

Cascade Charter Township Zoning Board of Appeals
Tuesday, December 13, 2005
7:00 p.m.

ARTICLE 1. Chairman Casey called the meeting to order at 7:00 p.m.
Members Present: Beahan, Casey, Crawley, Lewis, Alternate Neal
Members Absent: Vaughn (excused), 2nd Alternate Richards (excused)
Others Present: Planner Deem and Admin. Assistant Hern and members from the public.

ARTICLE 2. Chairman Casey led the Pledge of Allegiance.

ARTICLE 3. Chairman Casey requested a motion for approval of the December 13, 2005 Agenda. **Member Beahan noted Article 5 is a Public Hearing that is not reflected on the agenda and motioned for approval, supported by Member Crawley, of the December 13, 2005 agenda. All were in favor, none opposed. The motion carried, agenda approved.**

ARTICLE 4. **Member Lewis motioned to approve the September 13, 2005 minutes, supported by Alternate Neal. The motion carried, September 13, 2005 Minutes approved.**

ARTICLE 5. Case #05-2779 James and Deb Vickers
(PUBLIC HEARING)

The applicants are asking for a variance to split a lot into two (2) lots that do not meet the minimum lot size for the ARC Zoning District.

Planner Deem noted the property is located at 2100 Brookhaven, east of Buttrick Avenue and on the South side of Bolt Drive. The parcel size is 2.69 acres and is residential. All adjacent area land uses are also residential.

The Applicant is asking to split the property into two (2) parcels of 1.43 acres and 1.26 acres within the ARC Zoning District. Minimum lot size in the ARC is 100,000 square feet and neither of the two (2) parcels would meet the minimum lot size requirement.

Planner Deem also stated there are a few neighboring parcels that are less than 100,000 square feet in size. These parcels were created prior to 1991 when the minimum lot size was one (1) acre. The Zoning Ordinance was amended in 1991 to create the ARC Zoning District. Since the Zoning District was formed, the

minimum lot size has been 100,000 square feet. The parcel in question was created after the Zoning Ordinance was amended.

Planner Deem presented the Findings of Fact noting there are exceptional conditions or circumstances that are inherent to the property and that do not apply generally to the other nearby properties in the same zoning district and there are no circumstances related to this lot split that cannot be applied to other nearby parcels within this zoning district.

The exceptional or extraordinary conditions or circumstances are not the result of actions of the Applicant taken subsequent to the adoption of this Ordinance. The minimum lot size in the ARC has not changed since the Applicant purchased this property.

He also commented that such variance is the minimum variance that will make possible the reasonable use of the land, building, or structure and noted there is an existing home on the property and no variance is needed to make reasonable use of this land.

Another Finding of Fact is that the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare and the granting of this variance will create two (2) lots smaller than the existing lots on this portion of Brookhaven.

Planner Deem further noted 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 amend the Zoning Ordinance. He said there are no specific circumstances in this case that cannot be applied to other parcels in the same zoning district and by granting this variance will be setting precedence for allowing smaller lot sizes in the ARC. Planner Deem noted that an alternative would be to have the Township Board direct Staff to investigate the possibility of reducing the minimum lot size for parcels in the ARC. It has not been the Township Board's practice to reduce the minimum lot size for a zoning district.

The Zoning Board of Appeals shall further find 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 the land, building or structure. The reason, set forth by the Applicant, do not justify granting a variance and no variance is needed to make reasonable use of this land.

Staff recommends that the Cascade Township Zoning Board of Appeals deny this variance request due to it not meeting the requirements set forth in the Findings of Fact.

Member Beahan asked if the Township has received any other applications for property splits or if the Township has granted any others. Planner Deem noted that two (2) applications have been received within the last ten (10) years and both were denied. He also noted the Applicant purchased the property in 1995, after the 1991 Zoning Ordinance was established.

Member Lewis commented that Planner Deem did a wonderful job in supplying appropriate maps of the property and thanked him.

Chairman Casey opened the meeting for the Applicant's comments.

Applicant, Deb Vickers, noted they purchased the property in 1990 and were told at the time of purchase the land could be split and the subdivision project had begun. Planner Deem noted they attempted to split the deed and the Township denied the request. Vickers continued noting when she married they refinanced the home and added her husband's name to the deed. She has recently encountered some difficult situations and will need to live in a handicap accessible home and would like to sell the current home and build the new home on the other parcel if divided. Currently, they don't have the financial means to build the new home, thus need to sell their current home. She doesn't want to uproot the family and building next door to the current home would alleviate some of the financial demands. Vickers noted the new home would be built in the wooded section of the parcel, leaving the woods.

Planner Deem noted the Township has the property listed as one (1) property and there are no records showing two parcels.

Chairman Casey asked if anyone was present to represent the Vickers.

John Tufflemire, Director of Sammi Rae of Hope, said their program has agreed to assist the Vickers in building their new home if the parcel could be split. He has been researching deeds and descriptions of the property and has found two (2) legal descriptions but only one (1) tax bill. He continues to research dates of the documents noting he has obtained the mortgage with legal descriptions but the parcel number information cannot be

located. Tufflemire noted that if the split is done, this would provide them the opportunity to help build a handicap accessible home that Deb will need without uprooting the entire family and help them financially. He also noted the current lien is only on the property that the house is on and the split-off would create opportunity for the Vickers family to live.

Member Beahan motioned to open Public Hearing, supported by Member Lewis. All in favor with none opposed. Public Hearing was opened.

Brian Logue, 6210 Santiago Court, noted he's a friend of the Vickers and has been a realtor for over ten (10) years. He has looked at the number of houses within the district and the density and has counted nine (9) legal descriptions. He noted that the Vickers have investigated other land parcels for building the new home and other handicap accessible houses that are currently on the market and either of these options provides a financial hardship. The site they would build on would remain wooded and the money obtained in selling their current home would equate to the mortgage for the new home.

Chairman Casey asked Staff if they have received and letters or phone calls regarding this Variance. Planner Deem stated the Township has received four (4) phone calls opposed to the Variance.

Chairman Casey requested any other members of the public to speak to please come forth.

Sandy Dellemillier, 2131 Brookhaven, said she doesn't want to appear as heartless to the Vickers' situation but noted the neighbors have had continuous ground maintenance issues of their property and some of the problems still have not been corrected. She also noted the neighborhood agreed to collectively pay for the repaving of the street, that the Vickers did not financially support. She feels the neighbors shouldn't have to be continuously picking up the slack of the family and they are included within ARC's by-laws of maintenance.

Bob Laurie, 2130 Brookhaven, said he doesn't want to see anymore construction on their street. With the repaving of the road, he's seen enough and does not favor the split of the parcel.

Member Lewis motioned to close the Public Hearing, supported by Member Crawley. All in favor with none opposed. Public Hearing closed.

Chairman Casey asked if the lot has had more than one (1) parcel number and Planner Deem noted in 1991 it was assigned a new parcel number and maps were obtained from Kent County.

Member Beahan asked if the residents of the ARC were notified by mail, individually, in 1991 of the minimum lot size requirements of the ordinance or if public notices were published in local newspapers. Planner Deem responded the Township rarely sends individual notifications to residents and not sure of the practices of the Township back then. He does know the Public Hearings of the ARC Zoning Ordinance were published at least three (3) times in local papers. The development of the ARC Zoning Ordinance began in 1988 and finally concluded in 1991. A similar ordinance was instituted for residents along Thornapple Drive and residents with smaller lot sizes were forced to combine to meet minimum lot size requirements.

Member Lewis noted this is a tough call to make and understands how Applicant has gotten to this point. The ZBA (Zoning Board of Appeals) must adhere to what the Township residents want and that was decided in 1991 to have a minimum lot size of 100,000 square feet and to approve this variance would go against the ordinance. He suggested the Applicant could possibly purchase some of the surrounding land to achieve the minimum lot size requirement so the parcel could be split.

Member Lewis motioned for denial of this variance request due to it not meeting the requirements set forth; Alternate Neal supported the motion. All in favor with none opposed, Variance request denied.

Chairman Casey noted that if the lot was purchased in 1990, the owners should have been aware of the fact of the Zoning Ordinance and the parcel was well entrenched at that time.

ARTICLE 6.

Case #05-2701: Centennial Business Park/ Sunrise Development

The Applicants are asking for a variance to allow the non-office uses of Centennial Park to have signage on a proposed entry sign located at the Crown Plaza Hotel site.

Planner Deem noted this item was tabled at the September Zoning Board Meeting. Chairman Casey requested a motion this item be removed from the table. **Member Beahan motioned for removal from the table, supported by Member Lewis. All in favor with none opposed, item removed from table.**

Planner Deem stated the Applicant is seeking a variance from the Sign Ordinance to allow signage for non-office use on a proposed Centennial Business Park entrance sign. Currently the Applicant is seeking to create a P.U.D. to allow a senior assisted living facility. The proposed assisted living buildings are one story and have 76 units. This project is located on Lots 30 and part of Lot 26 of Foremost Centennial Park No. 2.

The Centennial Business Park Association has decided to place an entrance sign on the Crown Plaza Hotel Property. The sign is allowed to be 64-square feet by right with a minimum setback of 25-feet from the road and not less than five (5) feet from the property line. The proposed sign is 32-square feet and is greater than five (5) feet from the property line along 28th Street. It is also six (6) inches from the property line along Foremost Drive. The sign is approximately 37-feet from 28th Street and 30-feet, 6-inches from Foremost Drive. The minimum sign setback would place the proposed sign in a detention pond.

Planner Deem noted there are few examples of signage on 28th Street without frontage. Waterfall Shoppes and the Cascade Village Apartments. In these cases, the signage was for the project as a whole, with part of each project having frontage along 28th Street.

The Centennial Business Park Association decided that only non-office uses could have signage on their development signs. The current sign has both Sunrise and Charlevoix Fitness Club signage. He also noted the Business Park Association has recently met and approve the proposed signage at Foremost.

Staff has stated that they would support a sign along 28th Street for the entire Centennial Business Park, but not individual signs for each tenant. Staff feels that this request is consistent with this.

Planner Deem noted the following Findings of Fact 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. The Centennial Business Park was the first P.U.D. the Township

created. All current P.U.D.'s have a specific ordinance written stating what is allowed in the development; this one does not have such text. He noted had this P.U.D. been created more recently, this issue of signage would have been addressed. A recent example would be Waterfall Shoppes, this project has buildings that do not have frontage on 28th Street but do have signage on a development sign.

The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Ordinance and these circumstances are not the result of the Centennial Business Park Association.

That such variance is the minimum variance that will make possible the reasonable use of the land, building or structure and this would be the minimum variance needed to make use of this sign.

Planner Deem further noted the granting of the variance would not be injurious to the neighborhood or otherwise detrimental to the public welfare. The granting of this variance would not be injurious to the neighborhood and the Centennial Business Park has approved this sign design.

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 amend the Zoning Ordinance. Planner Deem said this is an old development that is seeking to have signage similar to what is currently being approved by the Township. It is not necessary to amend the Zoning Ordinance.

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 the land, building or structure. He noted that this request meets the Findings of Fact and this is an old P.U.D. that does not have a P.U.D. text associated with it. The Association is seeking signage similar to other developments in the Township. The variance they are asking for is the minimum needed for reasonable use of the land.

Staff recommends that the Cascade Township Zoning Board of Appeals approve this variance request due to the requirements set forth in the Findings of Fact. Staff also recommends that if the

variance request is denied, the Zoning Board set forth reasons for denial.

Member Lewis noted the immense size of the P.U.D. and its extension from Kraft Avenue to Thornhills Drive. Planner Deem noted this could be treated as underlying zoning and parcels along 28th Street are zoned B-2 along with two (2) parcels to the east that have 28th Street addresses. Member Lewis asked if this was the first P.U.D. created by the Township and Planner Deem confirmed it was.

Chairman Casey opened the meeting to the Applicant.

Laura Hester, Sunrise Development, said they are seeking the variance since the development will be located off of 28th Street and a study has been done regarding signage for assisted living, traffic flow and location. Assisted living centers experience a 40% turnover due to deaths within the community and visible signage is crucial for the development.

Hester noted the original proposed signage was to be a freestanding sign and has worked with the Business Park Association to develop the proposed sign. Hester provided slides of the assisted living facility for a better understanding of the project.

Hester also said they have tried to work a privately owned business on Charlevoix Drive regarding signage but the owner is not responding. Crowne Plaza is also seeking a variance to signage the Township should be receiving soon. She also noted Crowne Plaza has submitted a letter of agreeance to the proposed signage that is included in the Board packets.

Sunrise has met with the Centennial Park Business Association and their only request was the sign look balanced and will continue to work with the association.

Larry Fliess, a board member of the Centennial Park Business Association, noted many of the buildings are older and had to be gutted or rebuilt and Foremost owned all of the buildings. The owners of the buildings came together and formed the Business Association and endorse the sign plan being proposed. He also noted the association has hired a public relations firm for promoting Centennial Park's identity as a whole, not individual business. The association welcomes the traffic into the park this development will bring.

Member Lewis asked how many businesses are within the park and how many of the owners belong to the association. Fliess said thirty (30) owners belong to the association and ten (10) will not join.

Member Lewis asked if the easement rights have been lost, and Fliess confirmed they had been when Foremost sold the buildings.

Chairman Casey noted within the letter from the Crowne Plaza it notes the lease agreement for the signage is still being negotiated. Hester said Sunrise will enter into a lease agreement with Crowne Plaza and the details are being discussed. Centennial Park's identity will remain and Sunrise has agreed to remove the old monument sign and construct the proposed sign.

Chairman Casey questioned who controls the monument sign since it's being granted by Centennial Park but the property is on the Crowne Plaza's parcel, is this a subdivision sign? Planner Deem noted this is an old P.U.D. that does not have signage text associated with it. The Association is seeking signage similar to other developments in the Township; the variance they are seeking is the minimum need for reasonable use of the land.

Alternate Neal questioned who is responsible for the sign's maintenance and repairs. Hester said Sunrise is maintaining the sign even though they are only a tenant of the park and Crowne Plaza owns it since on their property. Planner Deem also noted that the sign is for Centennial Park but will transfer the sign in the lease agreement.

Alternate Neal asked who would be taking down the old monument sign and Hester said Sunrise has agreed to financially support the removal of the old sign and construct the new. Alternate Neal suggested the ZBA should see a written agreement of the construction and maintenance of the new sign and Chairman Casey noted the request could be a condition if approved.

Member Lewis asked if the sign is 30-feet, 6-inches from the property line and Planner Deem noted yes. Member Lewis expressed his concerns granting this variance for this development and the potential of other applications for variance from other businesses along 28th Street who do not have a 28th Street address.

Hester noted Sunrise could comply with setback regulations along Foremost Drive.

Member Beahan noted he agrees Centennial Business Association needs signage but is concerned with only two (2) tenants on the proposed sign, what if other businesses express interest in signage? Planner Deem noted the Business Park Association has limited signage to non-office use only and future applications would be handled at the Business Park Association's discretion. Member Beahan asked if changes were being made in on-building signage and Planner Deem said they would not be maximizing signage on the buildings.

Hester noted the signage is to have seniors aware assisted living is there and signage is placed on travel patterns since resident turnover is so high. Member Beahan noted that Sentinel Pointe is set back almost as far as Sunrise and they do not have signage on 28th Street.

Chairman Casey noted approving this variance might spur groups of businesses to apply to do the same. Planner Deem noted the Business Park Association would have to approve the signage and is for non-office signage only.

Fliess stated the owners of the buildings belonging to the association have reached a consensus and will endorse non-office and want traffic into the park. The association endorses this project and supports the exposure to the park.

Member Crawley noted there are lots of questions due to so many variables and asked, in aspect, if Applicant came with a new P.U.D. what would they be allowed? Planner Deem noted this application, as with others, has been considered and supported with some give-and-take noting the Applicant is seeking this variance and only constructing a sign half the size allowed; granting the variance would minimize the signage along 28th Street. A new P.U.D. would require all members of the Centennial Business Park Association to sign the P.U.D. and not all owners within the park are members. If all signatures were obtained, the Board could then re-zone the P.U.D. He also noted this variance is in line with what has been done lately and similar with what has been approved.

Alternate Neal expressed his concerns regarding other businesses within the park wanting signage on 28th Street and Planner Deem noted the Park Business Association established the signage as non-office and doesn't see this approval bringing potential problems; the Business Association supports the signage.

Member Lewis noted the approval could be made with limits noting the Applicant is seeking two (2) signs and there are five (5) entrances into the Park.

Fliess said the Centennial Park Business Association was developed in the late 1970's and cannot convince ten (10) owners to join the Association. Of the thirty (30) owners who do belong, they believe the Park's identity is important and they're not dealing with just one (1) developer but forty (40) different owners with needs and they agree to target promoting the Park as an whole entity, not just single owners. The Office Park is not on 28th Street, only a couple of the owners are. The Association is willing to work through the sign's logistics and maintenance.

Member Lewis asked Staff how a P.U.D. would be dissolved and Planner Deem noted through the Township Board and Member Lewis reiterated that they're not dealing with all the owners within Centennial Park.

Chairman Casey summarized the information:

- 1) Crowne Plaza is in agreeance with the signage on their land
- 2) The Applicant, known as Sunrise/Centennial Park will agree upon the maintenance of the signage.
- 3) The original application has been slightly amended.

Planner Deem noted the Sunrise P.U.D. will be going before the Township Board tomorrow evening and is not in conjunction with the ZBA's decision regarding the variance. He also noted the variance being requested is for individual uses on the Centennial Park sign.

Chairman Casey asked Staff for who has been speaking with the parties involved. Planner Deem noted Planning Director Peterson has been having conversations with the Crowne Plaza and he has been speaking with Sunrise and Centennial Park.

Member Beahan clarified the signage and their locations; sign will be on Crowne Plaza and sign on Charlevoix Drive and nothing on Kraft Ave., Thornhills Dr. nor Lucerne. Planner Deem noted that is correct.

Member Lewis suggested Fliess go back to the Business Association and speak with them regarding the sign limitations if approved.

Chairman Casey suggested the Association define signage for the entire park and work through the Planning Commission to define. Planner Deem noted the current P.U.D. does not allow for the Applicant to go anywhere for this variance and cannot amend with the Planning Commission due to needing each owner's signature to sign-off on the amendment to the P.U.D. and this is a very unique circumstance.

Chairman Casey asked if the Association wants the sign, could they apply at the Planning Department and if compliant, could they have the sign? Planner Deem confirmed that is correct and noted the Applicant is asking for less signage and meets the setback; they are seeking property line variance.

Member Lewis motioned for approval of a variance from the Sign Ordinance to allow ground mounted signage for non-office use business on proposed Centennial Business Park entrance sign on Crowne Plaza's property with the following conditions:

- 1) Signage is to be no larger than 32-square feet, setting precedent as far as signs with other entry signs identifying Centennial Business Park**
- 2) The signage approved are those submitted and will meet the required setbacks.**

Member Beahan supported the motion. All in favor with none opposed. Motion passed.

ARTICLE 7.

Any Other Business

Planner Deem noted Staff has no other business.

ARTICLE 9.

Alternate Neal supported by Member Beahan moved to adjourn. The motion carried and the meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Jack Lewis, Secretary

JL:LH