

## MINUTES

Cascade Charter Township Planning Commission  
Monday, August 19, 2013  
7:00 P.M.

**ARTICLE 1.** Chairman Sperla called the meeting to order at 7:00 p.m.  
Members Present: Hammond, Lewis, McCarthy, Mead, Pennington, Sperla, Williams .  
Members Absent: Waalkes, Robinson  
Others Present: Planning Director Steve Peterson, Members of the Public

**ARTICLE 2. Pledge of Allegiance to the flag**

**ARTICLE 3. Approve the current Agenda.**

**Motion was made by Member Pennington to approve the Agenda. Support by Member Mead. Motion carried 7-0.**

**ARTICLE 4. Approve the Minutes of the August 5, 2013 meeting.**

**Motion was made by Member Lewis to approve the Minutes. Support by Member Hammond. Motion carried by vote 7-0.**

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

There was no one wishing to speak on non-agenda items.

**ARTICLE 6. Case #13-3147 – David & Carol Penninga**

**Public Hearing**

**Property Address:** 7101 Windcrest Street SE

**Requested Action:** Special Use Permit to install an addition to existing chain link fence allowing a fence in the side and rear yard of about 7 feet high.

Planner Peterson stated that the Township received a complaint regarding a fence that was over the 6 ft. limit. Upon investigation, it was determined that the neighbor to the west at 7083 Windcrest had constructed a similar fence. The property at 7083 Windcrest is the second public hearing of the evening. They are really one and the same but we have to hold separate public hearings. We have to have two separate decisions but I will talk about both of them at the same time. In talking to the owner and the neighbor, the fence has been in place for some time. A couple of the issues are that the fence is taller than 6 ft. in both the back and side yards and has to have Planning Commission permit. The vertical posts for the additional height fence were placed on the outside of the existing chain link fence; our requirements for fences in Cascade Township require that any exposed vertical support posts must be on the inside of the

fence. Even if the permit was to be denied or they limited the fence height to six feet they would still need to move the support posts to the inside. There was also an issue with a horizontal board at the bottom that was placed to act as a retaining wall. There is a grade difference there from east to west. The board was placed on the outside of the fence. The neighbor removed the board. It doesn't have anything to do with the fence regulation as the fence requirements deal with the vertical support posts be on the inside. The Applicant indicated they put the additional wire fence to keep deer out of the yard. We did permit an 8 ft tall fence on Steketee Woods which is a ½ mile to ¾ ste mile north from this property in the front yard. It is a black plastic fence that is eight feet tall, but is one fence, not two as is the case here. Pictures have been provided of the fence by the Applicant. The only requirements or limitation for fences in the residential zoning district other than the vertical support posts being on the inside of the fence, are you can't use barbed wire, you can't electrify the fence. The standards for the conditions for the Special Use Permit are before you. The impact on the neighbors is most obviously the neighbor to the east as the most impacted by the fence. I did hear from the neighbor who lives east of the complainant, Joan Vanderploeg, and she did not have a problem with the additional height of the fence. I have indicated there is little impact on the neighbors except the ones that live immediately east of the fence. The neighbor to the East has a large wooden screening on their deck and it would be very difficult to see this fence from the inside of the house. It is visible from the back yard and adjoining properties. The other impacts would be light and air, traffic and fire hazard. There are no impacts in these areas. The Fire Chief inspected the site and did not find any issues. I did not find any deed restrictions that would prohibit this type of fence in the neighborhood.

My recommendation is that you approve what they are asking for which I am estimating at about 7 ft. The applicant did request 8 ft, which is the maximum that you can permit, but given that the fence is already there , that we simply permit what is already out there today.

Chairman Sperla requested the applicant come forward to speak on the request. Carol Penninga, 7101 Windcrest Street SE, stated that she has lived at the property for 38 years. In the 38 years the deer have become more aggressive and have started jumping the current fence. They have begun eating our landscaping and we have concern for our dog.

Chairman Sperla asked if the applicant realized or was aware that there was a fence ordinance in Cascade Township,

Ms. Penninga stated that they were not aware that there was an Ordinance and that they are willing to change the posts to the inside of the fence.

Member Lewis asked if there was a grandfather clause to make the fence permissible. Planner Peterson stated that there is no basis in this case as the Township has not changed the ordinance.

Applicant stated that the addition to the fence has only been in place since December. The original fence has been there for years.

Member Mead asked if the fence is between 7083 & 7101 Windcrest and if center fence between the properties could be removed for a more aesthetic look.

Applicant stated that it could be removed.

Chairman Sperla asked if it was possible to install a new fence that would meet the height that they were requesting without adding the additional fence to the top of the existing fence.

Applicant thought that this fence did not block the view where a wood fence would block the view.

Chairman Sperla requested a motion to open the meeting to a Public Hearing.

Member Williams made a motion to enter Public Hearing. Member Lewis supported. Motion carried 7-0.

Chairman Sperla requested anyone to come forward that has a comment on the permit.

Diane Schneider, 7115 Windcrest spoke. She clarified her site view of the fence from her adjoining property. Pictures were presented that showed her site view of the fence from her property. The concern is the many types of wood that are being used. The fence is not viewable from the applicant's yard because of the landscaping and bushes. There are gaps in the fence that could be injury hazards to deer or children. I have left my gate open since this has become an issues and I have not had any deer damage to my yard. After they were notified that a special use permit was needed they continued to construct the fence without the permit. A fence that is 92 inches is not harmonious or compatible with the existing character of the surrounding area. Of the 11 houses in the neighborhood; 5 have 4 ft fences, 1 has a 6 ft and 5 have no fence at all. None have landscaping that appears ravaged by deer. My yard has had some deer damage but nothing that is permanent. The applicant's yard has always been very plush. The DNR stated that it is very rare that a deer would attack a dog. The impact the structure added to my property is that my house is now for sale. They stated they would deduct from the sale price the cost of a fence.

Chairman Sperla asked if the fence was replaced with an aesthetically pleasing 7 ft fence would she be happy with the fence.

Ms. Schneider said that a 7 ft. fence aesthetically pleasing would be fine.

Greg Hinkle, 7100 Windcrest stated that deer just ate the flowers out of our window boxes. They are also eating out lilies. They are able to jump our 4 ft. fence and eat our landscaping. I have no objections to the Penninga's building the fence.

Ronald Kamp, 7068 Windcrest stated that we definitely have a deer problem. My hosta's are eaten and our burning bushes have been stripped. I have a six foot high fence and have seen them jump the fence.

David Penninga wanted to point out that 96 inches is 8 ft so it would cover our 92 inch fence.

**Member Lewis made a motion to close the public hearing. Support by Member McCarthy. Motioned passed 7-0.**

Chairman Sperla asked for comments. Member Lewis asked if there was a special screening that could be used on the fence. Is there a possibility that we can request the type of screening so that it is less visible to the neighbors.

Planner Peterson stated that the fence they are using blends in.

Chairman Sperla stated that there is a product that is a lot more appealing than what is currently in place. I think these fences are in a closed in area and would not like it around my home. I find the different fencing materials unattractive. I would not be opposed to a taller fence but I am opposed to the way this has been constructed. Maybe the solution could be to put a nicer fence on the neighbors side that is opposed.

Member Mead stated that the lack of uniformity is not pleasing. The fence needs to be uniform as the gapping is also an issue. The current 4 ft. chain link fence could be replaced with a 7 ft fence but there would obviously be cost involved.

Member Hammond stated that a 7 ft fence chain link in a small space will not be as visibly appealing. The fence needs to be something that fits with the size of the lot and be visually appealing.

Member Williams agrees that as the fence is objectionable by the neighbor needs to give the neighbor a sense of privacy and be visually appealing.

Member Lewis stated that we can't make it cost prohibitive to homeowners.

Chairman Sperla stated that he feels that some accommodations should be made for the neighbor that is opposed. The other sides can remain as the neighbors are not opposed.

Planner Peterson stated that the vote needs to be clear from a procedure standpoint. If we are not in favor of what they are asking, they could limit the fence to 6 ft. They could just chop the fence at 6 ft. The only permit that is needed is for the additional fence above 6 ft. If you want a board fence on the opposing property line you need to state it or the Applicant could chop the fence at 6 ft.

Member Lewis asked how the fence is impacting the Schneider Residence.

Planner Peterson stated that there is one shared property line.

Member Mead stated that we need to base our vote on what the application states, which is height, not type of fence. There are so many directions this could go with fencing materials, height, one lot line , we need to vote on leaving fence as is or they can become conforming or present another option.

Member Pennington stated that we cannot at this point change the material with this application, all they are requesting is the height change. If we reject the application they have the opportunity to come back with new material in a new application.

Member Mead stated that we are in a difficult position as the applicant did not know they need a permit but has already spent the money to create the fence.

Chairman Sperla stated that the current financial outlay is not sufficient to warrant agreeing to the fence as it does impact the neighbor in an objectionable manner.

Planner Peterson suggested that the request be tabled giving the applicant 30 days to come up with a fence idea for the type and height of the fence.

**Member Pennington made a motion to table the Special Use Permit 13-3147 requested by David & Carol Penninga, 7101 Windcrest and request that the applicant and neighbors come together to resolve the issue of height and uniformity and re-present the solution to the Board. Member Mead supported. Motion carried 7-0.**

**ARTICLE 7. Case #13-3148 – Goltz Family Trust**

**Public Hearing**

**Property Address:** 7083 Windcrest Street SE

**Requested Action:** Special Use Permit to install an addition to existing chain link fence allowing a fence in the side and rear yard of about 7 feet high.

Chairman Sperla requested any comments from the applicant.

Melody Goltz, 7083 Windcrest Street SE stated that there is a hill on one side of her property that is higher than the current fence and that additional height is needed to keep the deer from jumping the fence.

**Member Lewis made a motion to table Special Use Permit 13-3148 requested by the Goltz Family Trust, 7083 Windcrest Drive SE based on the same conditions of the previous case. Member Hammond supported. Motion carried 7-0.**

**ARTICLE 8. Case #13-3145 – Harold Cornelisse**

**Public Hearing**

**Property Address:** 8773 Running Deer Lane

**Requested Action:** Special Use Permit to construct a new 1,440 sq. ft. accessory building.

Planner Peterson stated this is a 10 acre parcel and they are requesting a 1,440 sq. ft two story building with 720 sq ft. on each level. It is not a heavily populated area and meets all requirements for setbacks. Applicant will match the building to the house for conformity. We did not receive any feedback from the notices that were sent. I recommend the request is approved as presented.

Harold Cornelisse, 8773 Running Deer Lane stated that the building will conform to the style of the house. The lower level will be the same level as our walk out basement.

Chairman Sperla asked how close the garage will be to the neighbor's home.

Applicant stated that it would be about 100 feet to the property line and another 130 feet to the neighbor's house. The neighbor is also considering a garage for this area.

Chairman Sperla asked if the applicant had another accessory building. Applicant does not.

**Member Pennington moved to open the public Hearing. Member Mead supported. Motion carried 7-0**

Chairman Sperla requested comments.

Robert Lautenbach Jr., 8765 Running Deer Lane, stated that he feels that this will be a good fit for the neighborhood.

**Member Hammond moved to close the public hearing. Member Lewis supported. Motion carried 7-0.**

Member Lewis stated that this is an excellent plan. It provides 1440 sq ft. of storage of incidentals and only takes up 700 sq ft. of ground.

Member Lewis stated that the size of the lot supports the size and proportion of the land and home.

**Member Lewis made a motion to approve the Special Use Permit 13-3145, to construct a 1,440 sq. ft. accessory building on the property of 8773 Running Deer Lane. Motion Mead supported. Motion carried 7-0.**

**ARTICLE 9. Case #13-3146 – Kraft & 28<sup>th</sup> Street Associates**

**Property Address:** 5557 28<sup>th</sup> Street

**Requested Action:** Site Plan addition and modification of Building B.

Planner Peterson stated that Exhibit B shows the changes that are being requested. The addition is designed to accommodate a pick-up window on the back side of the building. The request is for the addition but could accommodate the pick-up window. I am suggesting you not approve the pick-up window at this time.

Member Lewis stated he is concerned about traffic in the area. Adding the addition is probably feasible but is it feasible with the pick-up window.

Planner Peterson stated that a big fast food restaurant would not fit and by adding the addition it will limit what can actually fit into the space.

Chairman Sperla stated that he would not approve the window on the north side of the building. Also, cleaners and others use pick-up windows but we cannot determine what type will be used. I will be willing to approve the addition but not the window.

Member Mead asked if there is adequate parking for the addition.

Planner Peterson stated there is plenty of parking depending on what goes in. The biggest parking requirement is for fast food restaurants so it will depend on use.

Member Williams stated that parking at Qdoba is at a premium and you have to park in the Verizon lot as overflow. There is no exit from that side of the building which causes serious traffic flow problems.

Chairman Sperla requested comments from the Applicant.

Chad Barton of Cherry Street Capital and owner of the property stated that at a previous meeting we had a conceptual plan for this site which you approved at that meeting. We already had Verizon as a tenant at that time of that meeting. At the prior meeting there were issues with site for traffic concerns for a fast food restaurant. We turned down Wendy's based on your concerns. I feel that once the credit union site is complete, the easier our site becomes. I feel that once that site is built, the overall traffic flow will improve.

The parking has been moved against the building which increased parking by six spaces and removed foot traffic from the drive paths. A one way has been created and will be well marked with islands prohibiting wrong way traffic. We are not looking at a typical fast food restaurant. A drive-up window is needed for a softer use tenant such as: Jimmy Johns, dry cleaner, bank etc.

Chairman Sperla stated that the traffic pattern is not a natural path for drivers to take and will most likely cause confusion for drivers.

Member Mead stated that the area gets really congested and what is the likelihood of a tenant with a drive-thru?

Mr. Barton stated that there is a large demand for drive-thru windows in this area. They still need the parking requirement even though they are not planning on putting in a McDonald's or Wendy's.

Member Williams agrees with John in that the parking is already congested and adding a one way would make it confusing in this configuration.

Mr. Barton asked if they were to make the road one-way would that help the situation and would it be up to code?



Planning Director Peterson stated that the township does have allowances for one-way traffic. The Commission would have to see the plans for that but Mr. Barton could make it a one-way drive.

Member Mead raised concerns about the garbage trucks being able to get in and out efficiently if there is a one way drive.

Mr. Barton has those trucks scheduled to come at 4 a.m.

Member Williams raised the concern that the lower driveway exit funnels traffic to the south on Kraft. When you're coming from the north it's easy to turn left in the drive that is strictly for southbound Kraft traffic.

Member Lewis stated that two other businesses in the area have taken their Y entrance and exit out because they did not work well for traffic control.

Member Mead wondered why Mr. Barton wants this and why he doesn't want to keep the buffer between vehicular traffic and the entrance. If there is a drive-up window it could be a projection off the building and not in this particular area.

Mr. Barton stated that they had moved the building exit to the east so that people walking out of the building are not walking onto the sidewalk and out into the lane.

Member Mead raised concerns as to where the utility hookups would be. It might be better to have a 5-6 foot sidewalk and then if there was a drive-thru to create a small addition to the back side of the building to accommodate a drive-up as opposed to driving up to a 25 foot long wall.

Mr. Barton stated that architecturally that would not work. They have used very good materials and finishes and that would take away from what's there. They could do something with the concrete lines if the township wanted more space. As for the utility hook-ups they have worked very hard to have those hidden and create interior rooms and not have them right where people would be walking out.

Planning Director Peterson cleared up any misunderstanding by stating that the Commission did not approve the drive-thru the first time. The Commission approved the site plan, knowing the applicant would need to come back to add drive-thru. If it ends up being a pick-up window it does not have to come back to the Commission for permission. However, if it is a drive-thru it does. That's essentially what the Commission approved the last time Mr. Barton was here.

Member Lewis wondered if the Planning Commission approves what was approved before with an expansion, he wants to see it come through the Planning Commission rather than have it be an administrative decision.

**Member Lewis made the motion that the request at 5557 28<sup>th</sup> Street SE, for a site plan addition and modification of Building B would be approved with the exception of the drive-thru window that is shown on the plans return to the Planning Commission for the final approval of the drive-thru window. Member Mead seconded. Motion carried 7-0.**

**ARTICLE 10. Any other business**

Member Lewis asked the Chairman if the fence situation at 7083 and 7101 Windcrest Street, SE, would be a good case for a Fence Viewer which goes back to the 1800's. Planning Director Peterson stated that he didn't think the issue was the location of the fence, but the type of fence.

Discussion occurred regarding when 28<sup>th</sup> Street construction would be finished. Planning Director Peterson stated that it is contracted to be finished by late November but that they may be running ahead of schedule. Sidewalk work will still need to be finished after the road construction phase.

**Article 11. Adjournment**

**Member Lewis made motion to adjourn. Member Hammond supported. Motion carried unanimously 7-0. The meeting was adjourned at 9:05 pm.**

Respectfully submitted,

Karen McCarthy, Secretary  
Ann T Seykora, Planning Administrative Assistant