

**MINUTES**  
Cascade Charter Township Zoning Board of Appeals  
Tuesday, April 12, 2005  
7:00 pm

- ARTICLE 1.** Chairman Casey called the meeting to order.  
Members Present: Beahan, Casey, Crawley, Lewis, 1<sup>st</sup> Alternate Neal, Vaughn.  
Members Absent: 2<sup>nd</sup> Alternate Richards (excused).  
Others Present: Planner Deem. Admin. Assistant Thompson and those listed on Supplement #1.
- ARTICLE 2.** **The agenda was approved on motion by Member Lewis and supported by Member Beahan. The motion carried.**
- ARTICLE 3.** **The Minutes of the March 8, 2005 meeting were approved as presented on motion by Member Beahan and supported by Member Neal. The motion carried.**
- ARTICLE 4.** The Planning Commission Minutes of February 22, 2005 and March 21, 2005 were received and filed.
- ARTICLE 5.** **Case #05-2711: David Crum**  
*(PUBLIC HEARING)*  
The applicant requested a variance of eight feet to place a home 17 feet from the rear property line at 3042 Wycliffe Drive.
- Planner Deem related the parcel is zoned R2 and is .61 of an acre, or just over a half acre in size. The applicant is seeking an eight foot variance for the rear yard to place the house 17 feet from the rear yard property line. The parcel adjoins the rear of the township cemetery on the east. The lot was created in 1997 when the Zoning Board of Appeals granted approval for a platted lot split. Originally three lots were combined to make two lots. There are five findings of fact that the Zoning Board of Appeals use to review such requests. Planner Deem then went through those:
- 1) *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.* Planner Deem related in this case, the conditions can be found anywhere in the township.
  - 2) *That the exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Ordinance (any action taken by an applicant pursuant to lawfully adopted regulations*

*preceding this Ordinance will not be considered self-created).*

One of the reasons for the variance is that the applicant feels a variance is needed due to an odd shaped lot. In speaking with the applicant, the shape is due to the location of the drainfield and septic system for the parcel located on Wycliffe Drive.

- 3) *That such variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.* No variance is needed to make reasonable use. The home could be reoriented or reduced in size to meet the setback requirements.
- 4) *That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.* There is no reason to amend the Zoning Ordinance due to this request. The neighbor affected the most would be the township cemetery.
- 5) *That the conditions 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.* There is no need or reason in this case to amend the Zoning Ordinance.
- 6) *The Zoning Board of Appeals shall further find that the reasons set forth in the 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 reasons set forth in this application do not justify the granting of a variance. The previous five factors are not met due to the fact that the shape of the lot is user created and not unique.

Planner Deem recommended denial of the request.

The applicant, David Crum of 3148 Plainfield Avenue, was present. Mr. Crum presented drawings of the site. The first drawing shows where the house would be placed with a 15 foot reduction in setback. The house that is shown in dotted lines shows the vision how the neighbors would see it. The Township requirement for a 25 foot setback would necessitate slanting the house in such a way it would be even more visible into the neighbors property than as proposed. Mr. Crum related he bought and renovated the house on Wycliffe in 1997. He sold it to the people who wrote the letter in opposition to the variance. It still allows a lot of room around the three sites. Mr. Crum related he bought the property thinking it would be for a new home. The Township requires at least 1,300 s.f. for a home size. The garage would be about 24 feet from the house. Mr. Crum related he could

have used a different ranch home style. The last sheet on the handout is a survey of the property. There is a vacated street – Avon - which was given to the neighbors. He brings these things up because of Staff's statements and requirements. The property was divided and accepted as a building lot by the Township. There is a hill behind and up to cemetery. If he would build a two story house his neighbors would see two stories. That would be like looking out at a wall behind them. He feels this design fits better. He does consider the neighbors when designing a house. Staff gave him a copy of the letter in opposition to the variance from Mr. Burress. Mr. Crum related he sold the house to Mr. Burress. He offered to sell the neighbor the property but was not able to purchase it.

Member Lewis asked is this a two story house? Mr. Crum responded no, a vaulted ranch.

Member Neal asked how many square feet is the house. Mr. Crum responded between 1,300 to 1,400 s.f.

Member Beahan asked are you using stock plans or custom built. Mr. Crum related he found stock plans he liked and manipulated them a little. He extended one of the bedrooms a little bit. He could make a 22 foot garage as opposed to 24 feet.

Member Beahan asked do you live in the township now. Mr. Crum responded no.

Member Beahan asked will you live in this house when it is built. Mr. Crum responded he can't say at this time.

Member Beahan asked is it a spec house. Mr. Crum responded probably.

Member Beahan asked Mr. Crum if he was aware of limiting the house when he designed the lot. Mr. Crum responded yes.

Member Beahan related you got a variance to split it before. When you created that lot, weren't you aware of the limitations of that lot? Mr. Crum responded yes.

Member Beahan asked why are you asking for a variance when you knew the size? Mr. Crum responded the purpose of the variance is to turn it so people won't look at each others areas. Mr. Crum related I can't afford an architect.

**Member Lewis supported by Member Crawley moved to open the public hearing. The motion carried and the public hearing was opened.**

Karen MacGregor of 3010 Wycliffe related she has not met this man and hasn't seen these plans. When we bought our house ~ 1999 knew house was going to be changing but didn't know about two separate properties. Didn't know about the bike path either. Would have been happy to buy part of the lot from you. My yard backs up right next to yours. Concerned about density and what it is going to do to my property values. I work in Lowell and wanted to be closer so we moved here from Standale. Will block view. We like the view and wildlife and it is convenient. I also took pictures. Part of my concern. Mrs. MacGregor then presented the pictures.

Member Lewis related I think you should be informed again the question isn't can he build the house. The question is location of the house and size of the house. The lot has been split before you bought your house. It was split to allow a house to be built there. The question tonight is location.

Mrs. MacGregor related already granted him permission to make this lot. Been for sale all this time. No buyers for it. Hope you don't grant the variance.

Mrs. MacGregor related would like to see an architect hired so it doesn't look like built behind other houses. It can be set so it would blend in with the surroundings. That is what Frank Lloyd Wright was all about.

Chairman Casey related that is not in our jurisdiction.

Brian Estates of 7001 Cascade Road related he has been in the Township over 40 years. He is opposed to the variance. He property adjoins the property. When we start granting a variance we are going to have a hodge-podge. Questions an additional drainfield in the area. The ground is saturated right now. He is not for it. Mr. Crum responded they did a perk test two times. Five years ago and again for the variance process.

Thomas Patton is a builder and owner of 7104 – 30<sup>th</sup> Street. It is a matter of the drainfield and sewer and he was forced to hook up to the city sewer with no option which was land exchange. That cost about \$11,000. Why is this new parcel not subject to hooking up

to sewer? Mr. Crum responded there is no sewer and water in the street.

Mr. Patton related he spoke with the neighbors about that matter and was told many of the neighbors now are on septic and wells and when they fail they will be forced to hook up to sewer. They would be adjoining lots. Really I hope nothing goes in there. If this is just simply a question of how to situate the lot, if you grant him a variance and allow him to sit the house on far southeast corner of lot you might get the best appearance. That would appear less dense. In the interest of the neighborhood would like to see it developed in most ecological reasonable manner.

Bill Burress of 3024 Wycliffe related he moved into the house and bought it from Mr. Crum in December of 1999 and did not know that the lot was split. That was my own fault. I thought it was all one piece. Even after the closing, I went to him and said you forgot to give us the key to the shed. That was the first time I found out the property was split. When I saw it for sale time out and I knew. He was asking \$40,000 for the lot. I don't think that would have affected my moving but would like to see the best possible use and take time to look at best place for the house even if it takes hiring an architect. Seems like the prudent thing to do. No matter how the house sits, it is going to be looking into somebody's back yard. I would just hope instead of granting variance take another step and have somebody really look at the best way to do it.

Chairman Casey asked Mr. Burress when he closed on the house did he have a survey? Mr. Burress responded he was sure he did. Just wasn't thinking. It was December and snow all over the ground. Didn't really pay that much attention. If Mr. Crum put a lot of renovation into the house it must have really been a wreck.

Planner Deem related he received one call and letter from Mr. Burress.

**Member Lewis supported by Member Beahan moved to close the public hearing. The motion carried and the public hearing was closed.**

Member Beahan asked Staff how did they get an out building on the property without having a residence there. Planner Deem related it was there before the split occurred.

Member Beahan asked normally isn't that part of the conditions that it be removed. Planner Deem responded didn't see anything in the old lot split file noting the accessory building or discussion about it. Don't know how it got on the parcel by itself. Didn't see anything in the Minutes about it either.

Chairman Casey asked what about the site plan he presented tonight. Planner Deem responded asking for a ten foot setback now instead of eight. The house would be fifteen feet off the rear property line instead of 25 feet. Eighty two feet is what the township has.

Chairman Casey related the 1997 survey shows 82 feet plus the 22 feet. Chairman Casey asked do we have a current survey. Mr. Crum responded the survey you have there is the survey we used. Planner Deem related the minimum lot width is 100 feet.

Mr. Crum asked for two minutes to visit with Mr. Burress. Member Lewis related that is not an issue. The issue we have is to look at the ordinance and follow it. Sometimes the result in the township is favorable and sometimes it doesn't. When this property was split it met the township requirement. I appreciate the applicant's concern about visual between himself and the neighbors. Unfortunately that is not one of the conditions we have to consider. I recognize the fact that the ~ won't be important. We do have side and rear yard setbacks and have them for a reason. Whatever we do here might make it difficult to make reason why it should be done. I can build house on there with no need for a variance. Having a difficult time for a reason to support the need for a variance. Don't see any criteria that would allow me to vote for it.

**Member Lewis supported by Member Beahan moved that the request for an eight foot variance at 3042 Wycliffe be denied for the reasons given.**

Member Vaughn related he agrees with the motion to deny. He stated he wished it were different but not within our power to do that.

**The motion carried.**

**ARTICLE 6.**

**Case #05-2710: TCF Enterprises  
(PUBLIC HEARING)**

The applicant requested to have an interpretation of the Meadowbrooke Business Park PUD ordinance regarding whether a banquet facility is an allowed use.

Planner Deem related the applicant came in to the Township requesting to build a banquet facility in the Meadowbrooke PUD. Banquet facilities were not mentioned in the PUD Ordinance although restaurants are allowed, fast food restaurants are not. The applicant is asking to have their banquet facility determined a restaurant.

Chairman Casey related he did not understand the request when he read the packet.

Planner Deem related the ordinance does not define what a banquet facility is. The Zoning Ordinance defines a restaurant as: "A public eating place where food is prepared and sold for immediate consumption". Staff is having an issue of "public" portion of the definition. Someone off the street can come in and rent out the facility but not order a sandwich. The applicants are working with the hotel to allow guests to purchase a sandwich from the kitchen. In speaking with the association, they are in favor of having this use considered a restaurant. If the hotel and banquet facility were built on the same lot, this use would be allowed by right as a use incidental to the hotel. Planner Deem then went through the standards to consider before making an interpretation as found in the Staff Report.

Planner Deem recommended that the Zoning Board of Appeals find the banquet facility would be an allowed use for the following reasons: 1) banquet facilities are allowed in the same zoning districts as restaurants in the Zoning Ordinance; 2) the Meadowbrooke Business Park Association supports interpretation that banquet facilities are restaurants; and 3) when mentioning types of restaurants to exclude from this project, fast food restaurants were specifically mentioned, and not banquet facilities.

Chairman Casey related the interpretation needs to be exact as this could affect the entire Meadowbrooke PUD.

Dan Durr and Jerry Sytsma, the applicants, were present.

Member Lewis asked is there a hotel there now. Planner Deem responded no, there was one approved a few years ago.

Mr. Sytsma related the banquet facility was attached to the hotel. Now we got together when purchasing the land and other person is putting up the hotel but we couldn't connect them together. We have split the land and closed on it. The hotel person will be going before the Planning Commission on May 21 for site plan review. The property was split into lots of about five acres each. The banquet facility will be right next door to the hotel as a separate banquet facility. Mr. Sytsma related they sat down with the Meadowbrooke people and Township Staff and asked what is the most appropriate way to verify that it is an allowed use. This was determined to be the way to do it.

Member Lewis related we had an interpretation a few years ago with a car wash and gas station. We determined the car wash was part of the gas station. Member Lewis related he has a difficult time saying a banquet facility is a restaurant. He has no problem in saying a banquet facility should be an approved use.

Member Vaughn related it was approved for a banquet facility by design.

Member Lewis related a car wash could be split from the gas station and it is still a car wash. He has no problem with it being there.

Planner Deem related we should focus on definition of restaurant.

Member Beahan asked could I go there at 7:00 pm for dinner. Mr. Sytsma responded no. You would have to have a reservation. There could be a case made that a banquet facility is much like a different type of business style.

Member Lewis asked the applicants if they have a liquor license. Mr. Sytsma responded yes.

Member Lewis asked could I go in there for a drink? Mr. Sytsma responded if you rent the facility for a party you could have food and liquor.

Chairman Casey related the banquet facility allows them to restrict the hours and clientele.

Member Beahan asked who is TCF Enterprises. Mr. Sytsma responded a family owned company in the banquet business over the years. The names are confidential. Dan Durr related they have



done many restaurants in Grand Rapids and are in the banquet business right now.

**Member Lewis supported by Member Beahan moved to open the public hearing. The motion carried and the public hearing was opened.**

Planner Deem related he received some calls from neighbors in favor of having it defined as a restaurant.

**Member Beahan supported by Member Crawley moved to close the public hearing. The motion carried and the public hearing was closed.**

Member Beahan asked what is the reason the applicant is here. Planner Deem responded the Zoning Board has the responsibility of determining whether or not they meet the “public” portion of the definition restaurant definition.

Member Beahan asked if “banquet facility” was specifically listed in the Meadowbrooke PUD the applicant wouldn’t be here. Planner Deem responded correct.

Mr. Sytsma related the Meadowbrooke people wanted to pursue it this way.

Planner Deem related another possibility is to consider that this is a restaurant and have Staff make an amendment to the PUD so we don’t hold up the applicant.

Chairman Casey related an interpretation has to be properly done or when they try to finance the project they won’t have a clear use. We do want to do it right. Planner Deem related if we consider it a restaurant there would not be a use issue because it would be a use allowed by right.

Member Beahan related he is worried about the precedent.

Chairman Casey asked do we have a definition of banquet facility in the township. Planner Deem responded no. In every zoning district that we allow a banquet facility we also allow restaurants.

Member Beahan related if we amend the PUD, Meadowbrooke would have to amend the PUD part of the application. Planner Deem responded correct.

Mr. Sytsma related outside of the Meadowbrooke PUD we would have been allowed to do it.

Member Lewis related I think we should look first at the request. We have to determine whether or not the banquet facility is an allowed use. Member Lewis related he thinks it is. It is in a PUD next to a hotel where restaurants are allowed. Member Lewis related he is having a tough time looking at the banquet facility and saying it is a restaurant. He does think it is an allowed use.

**Member Lewis supported by Member Crawley moved that the interpretation of banquet facility is an allowed use in the Meadowbrooke PUD. The motion carried.**

## **ARTICLE 7. Any Other Business**

Member Lewis related he would like to discuss term limits. There has been some movement in that direction. The proposed ordinance change was given to the Planning Commission. He feels the Zoning Board of Appeals should be involved also since it also would affect them. Staff has suggested an ordinance change that says a person can have three terms on the Zoning Board of Appeals or Planning Commission and if going between the two boards you would have to stay off for a year. But, at the end of 18 years you could not serve any more. Member Lewis related he thinks term limits are wrong. Somewhere along the line it would seem a person is more important than time. If you perform your public duty and you want a reappointment then fine. A person should not be canned just because of a time frame. In the form of a compromise, it looks like a person would be allowed three 3 year terms on each board instead of the present two. There is a feeling that there are so many people in the township to serve on all these boards we should open some positions up for them. Every year people are graduating from different schools in the school of planning. Since there is an abundance of people graduating from schools of planning, maybe planners should only be employed for three years. Just because you have an abundance of people, quality is important. Past history is also important.

Member Vaughn asked if there was a problem that needed to be fixed. Member Lewis responded yes because people served their two terms and we are losing good people.

Member Vaughn related his past zoning board experience was with Grand Haven Township. He realized after serving four years he was not ready to be chairman. There were no term limits there.

Member Lewis related it is not automatic that a person would be appointed to a second term.

Member Neal related he agrees with Member Lewis 100%. There is a great number of things to learn about the functioning of this board and other boards. He does not approve of term limits.

Member Crawley related we have to do the job. Somebody who is willing to serve and does a good job time doesn't seem fair they would be limited in their service.

Member Beahan related he is a Township Board Trustee and got his start by serving on the Planning Commission and then was appointed to the Zoning Board of Appeals. There are no term limits for trustee or supervisor or clerk and treasurer. We need experience and continuity. If a member is not doing their job at the end of the term, the supervisor says you are out of there. Member Beahan related there are a number of Township Board members serving now that are past Zoning Board and Planning Commission members that have that same feeling of not being in favor of term limits. He would prefer to see no term limits instead of serving just two terms.

Chairman Casey asked if a motion is necessary on this issue.

Member Lewis related Member Beahan will report back to the Township Board. Member Lewis related he will report back to the Planning Commission.

Chairman Casey related he thought he would like to be on the Assessing Board of Review and then he got the appointment for Zoning Board. He related being on Planning Commission first would be very helpful. The progression from Planning Commission to Zoning Board of Appeals is logical.

Member Beahan related with regard to the variance request on Wycliffe tonight, he would be more willing to work with someone if they were residents of the township and were going to live there. We have to follow the findings of fact and there was no way to approve it. In looking at it now, we have an accessory building without a house. He asked what needs to be done next on that. Planner Deem related he will look into that. It is possible that it is legal non-conforming accessory building.

Chairman Casey related trash is there also.

**ARTICLE 8.           Adjournment**

**Member Beahan supported by Member Neal moved to adjourn. The motion carried and the meeting was adjourned at 8:35 pm.**

Respectfully submitted,

Jack Lewis, Secretary

JL:MJT