

MINUTES

Cascade Charter Township Planning Commission
Monday, November 19, 2007
7:00 p.m.

ARTICLE 1. Chairman McDonald called the meeting to order at 7:00 p.m.
Members Present: Koessel, Lewis, Logue, McDonald, Richards, Robinson, Waalkes, MacAllister
Members Absent: Postma (excused)
Others Present: Planning Director Peterson, Recording Secretary Hern, and Members of the Public.

ARTICLE 2. Chairman McDonald led the Pledge of Allegiance to the Flag.

ARTICLE 3. Chairman McDonald requested motion for approval of the November 19th Agenda.

Member Robinson motioned for approval of the agenda as presented, supported by Member MacAllister. All in favor with none opposed, the motion carried.

ARTICLE 4. **Case # 07-2914: Jeff Dionne**
Address of Property: 2984 Thornapple River Drive
(PUBLIC HEARING)
Requested Action: The Applicant is requesting to install a fence in the front yard up to 8-feet high.

Planning Director Peterson said the Applicant is requesting a Type I Special Use Permit to install a fence taller than 4-feet in the front yard. The Township's Ordinance does allow for a fence in the front yard but it cannot exceed 4-feet high. This is the requirement for all fencing that is placed along the front of the house along the roadside.

The property is located on the south side of Thornapple River Drive just west of Leslie E. Tassel Park along the river.

The Township has granted other permits for taller front yard fences in the past though these requests are not frequent.

There are other homes in the area that have fencing in the front yards. Staff does not believe the Township has ever granted any permits for those fences, they have existed prior to the ordinance.

The Township became aware of this fencing by a neighbor who contacted the Township offices and complained about it. The Applicant has installed some fencing in front of their home. Staff visited the property and was asked to address the issues of the

fence location and its height. Staff contacted Kent County Road Commission (KCRC) regarding the road's right-of-way and the fence is on the private property but the height of the fence is the issue.

The fence that has been constructed is located on the west side of the driveway and the Applicant would like to continue with the fencing to the east side of the driveway. There is a section of fencing on the eastern end of their property where they would like the fence to be 8-feet high and the rest of it would be 6-feet tall.

The Applicant has indicated to Staff that the reason for the additional height is for noise, traffic and car lights screening from Thornapple River Drive. Most of the homes along this stretch of the road are closer to the road than permitted.

Included in Staff's report for the Commissions' consideration are the Standards when considering an increase to allowable wall height.

One of the Standards is that the additional height meets with the approval of the affected adjoining property owners. This case is scheduled for Public Hearing this evening and the property owners will have a chance to share their comments.

The additional height does not impact light and ventilation from flowing onto the adjoining properties and Staff does not believe this is an issue. There is a grading issue from where the fence would be constructed to the road edge that would make the fence appear shorter from the road.

The increased height does not create a traffic hazard and Staff does not believe this fence would be an issue. Most of the other fences in the front yards are also taller than 4-feet along this stretch of Thornapple River Dr.

The increased height does not create a fire or safety hazard and the Fire Chief has indicated that the increase in height would not create any hazards.

The increased height does not violate any known property restrictions, such as: plat restrictions, deed restrictions, covenants, etc. and the Township is unaware of any deed restrictions that would prohibit these signs.

Staff recommends that the Planning Commission grant the Type I Special Use Permit to construct a fence up to 6-feet high as measured from the grade beneath the fence in the front yard.

Planning Director Peterson has spoken with the KCRC regarding the fence and they do not have an issue with the fence height as long as it is not constructed in the road's right-of-way. If the fence is placed in the road right-of-way, the Applicant will be requested to remove the fence.

Chairman McDonald asked Staff if there were any complaints about the other fence heights that were granted and did those fence heights block any views? Planning Director Peterson said, he is not aware of any complaints from the Public regarding the fence.

Member Robinson asked for clarification, are there other houses in the area that have an 8-foot high fence and Planning Director Peterson said he did not see any that appear to be taller than 6-feet.

Member Koessel asked if Staff knows how far to the east the fence is intended and Planning Director Peterson said the Applicant shows the fence going to their east property line. Member Koessel asked if the Applicant is proposing to run the whole fence at 8-foot high and Planning Director Peterson clarified the Applicant is requesting to run 8-foot high near the last 180-foot section by the corner of the property.

Member Lewis asked if the Applicant is requesting the permit to help buffer the sound from the cars and Planning Director Peterson agreed along with buffering the headlights. Member Lewis asked if the fence would help and Planning Director Peterson said it may limit it some, it should help with the lights since the road level is a little higher.

Applicant Lisa Dionne, 2984 Thornapple River Drive, noted her husband Jeff could not attend due to being out of town on business.

Applicant Dionne said that the fence might cause some concern to their neighbors but they wish to install the fence due to some safety concerns. Their property has over 300-feet of river frontage and they are concerned with trespassers on the property trying to access the river. The property is located on a busy road and they are also concerned with their family's safety. Without the fence, the Applicants would have the road noise, safety concerns, theft concerns and the public also has a direct view of their beach and waterfront area.

The 8-foot high fence is to maintain the consistent height appearance where the downward slope is located. The fence would allow privacy for their property.

Member Koessel said that he has been past the property several times and cannot see behind the Applicant's house in going either direction. He can understand the need for fencing in front of the house but cannot see the beach area from the road and it appears there is a drop-off as the property goes closer to the river, is that correct? Applicant Dionne said they plan to install a dock and are clearing out the overgrown shrubbery and the area is becoming more visible. They would like the fencing so everyone does not see their business while outside enjoying the property. Chairman McDonald noted that the long section of the Applicant's property by Tassell Park is clearly visible as you proceed by.

Member Koessel asked in relation to the house where the dock would be built, toward the dam? Applicant Dionne said that is correct, by the lower section of the property due to the river's depth.

Member Koessel asked the Applicant if they could be happy with a 6-foot fence and do some plantings on their property to help shield people's view and the Applicant said they could be as long as the fence does not have to be erected on the hill portion of the property. Chairman McDonald clarified that Staff did report that the Road Commission will not allow the fence in the road right-of-way which may be anywhere from 8 to 18-feet back from the road. Applicant Dionne noted there was a fence that was erected some time ago and part of it is still there and Chairman McDonald noted that the Road Commission might have taken the fence down since it is within the right-of-way. Applicant Dionne noted other fences along the road that are clearly built in the right-of-way.

Chairman McDonald clarified the two (2) issues regarding the case. First there is the height of the fence, 4-feet is allowed without a permit and any additional height up to 8-feet would need approval, Planning Director Peterson said that is correct. The second issue is the Applicant wants to build the fence on the hill, and Chairman McDonald walked the area and his assumption is that the location of the fence being proposed is in the Kent County road right-of-way and the Road Commission will not permit that.

Applicant Dionne said that her husband has measured the distance from the road and has the measurements, she does not, but they would not build the fence within the right-of-way.

Planning Director Peterson showed a survey of the Applicant's property that was submitted by one of the neighbors. The survey shows the road's edge along with the right-of-way and indicates the new fence by the house that was installed. The Road Commission agreed that the fencing in this area is within the

private property and not encroaching in the road right-of-way. Planning Director Peterson also noted the road right-of-way for the portion of the fence that has yet to be constructed. Chairman McDonald noted the driveway and a tree near the drive, he believes the fence would have to be 7-feet back from the road in this area and would have to sweep out to where it is up to 17-feet back from the road and Planning Director Peterson agreed.

Applicant Dionne asked if she and her husband should contact the Road Commission regarding the fence's location and Chairman McDonald suggested they should.

Member Koessel questioned how much of the fence would be visible from the road with the slope in the property and Chairman McDonald said approximately 2 to 3-feet. Member Koessel noted that one neighbor has a 6-foot tall wood fence and not knowing the topography of this property and the exact placement of the fence, how much would be visible. Chairman McDonald said there may only be 2-feet visible but would help provide some privacy and keep dogs and children in the yard but it would not be that high when viewing from the road.

Member Logue suggested that the Applicant might want to discuss with the Road Commission a cooperative effort in grading the property for a level place to install the fencing.

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

Attorney Bill Bowie said he is representing Greg Lawton and Virginia Dusseu who own 2975 and 2982 Thornapple River Drive, two properties with one located across the street and the other next to the Applicant's property.

Attorney Bowie noted that Mr. Lawton commissioned the survey that was presented this evening. He noted that the tax parcel map is incorrect, as they often are, and the survey depicts the road right-of-way.

The Applicant's request for the permit does not include a survey or a Site Plan as stipulated by the Township. The Applicant provided an old right-of-way line for Thornapple River Dr. and the submitted paperwork did not clearly indicate where the fence would be installed. Mr. Lawton's concern is that the fence would be constructed within the road-right-of way and Mrs. Dionne has indicated that this is where they would prefer the fence. Attorney

Bowie noted the location is in the road right-of-way where the property drops off.

Attorney Bowie also provided sections of the ordinance and highlighted the three (3) applicable sections with the first being that the fence can only be 4-feet high; no fence can be within the road right-of-way and lastly, any request for additional height up to 8-feet requires all the conditions to be met including the adjoining property owner's consent and that property owner was not asked and they do not consent, they believe the 4-foot fence is adequate.

The pictures show a view of the Applicant's property from the Lawton's house across the street. The Lawton's do not have an issue with the existing new fencing that is located on the Applicant's property.

Also included in the pictures is a view if the Applicant were to be allowed to construct the additional 6-foot fencing. If the additional fencing were allowed in the right-of-way, it would block everyone's view of the river.

Attorney Bowie noted the Dionnes are concerned with people's view of their property. He believes that no one is paying attention as they are driving down Thornapple River Dr. to what is going on at their house and the 4-foot fence would be adequate.

The Dionne's also indicated their concern of trespassers on the property and the Lawton's have not experienced any problems since they bought their home approximately 15 years ago, the existing fence plus the section of fence that Mrs. Dionne indicated she would like to connect to is actually part of Mr. Lawton's fence. When speaking with the Road Commission about the fencing, they indicated that Mr. Lawton might receive a letter from them asking them to remove the fencing since it is within the road right-of-way. Mr. Lawton does not object if this fencing needs to be removed per the KCRC and what he does not want is a solid wall blocking his view of the river.

The fence that is along the side line is 5-feet in height that the Applicant wishes to connect to, this is also a chain link fence and is primarily there to keep trespassers off the property.

In the section of the ordinance that deals with Special Use Permits refers to minimizing adverse affects to the neighbor's property and a fence greater than 4-feet will adversely affect the Lawton's and they do not give their approval. Under the ordinance, they believe that the Planning Commission cannot grant approval for additional height since the neighbors do not consent.

The Lawton's believe the fence should be off the road right-of-way and since there seems to be confusion with the Dionne's as to where the right-of-way is located, they hope the Township would require the surveyor to stake the area where the fence is allowed so the Township does not have to deal with any issues once the fence is installed and that the fence should not be more than 4-feet above the grade.

Member Koessel asked that if the Applicant's built a 6-foot fence approximately 3-feet would show at the slope. Attorney Boewie said that is correct. Member Koessel noted that the Applicants could plant evergreens to help block views and the Lawton's do not have any issues with additional plantings.

Mr. Lawton added that they have been on the property for a number of years and have not had any issues with trespassing. They have a chain link fence with a gate and have never locked the gate to their property.

Applicant Dionne commented that when they were cleaning their yard, there were numerous bottles, cans and other trash that has been dumped on their property. She also found some old "No Trespassing" signs that indicate that trespassing has been a problem.

Chairman McDonald asked the Applicant if they are currently living in the home and Applicant Dionne said they are still remodeling and reside on Laraway Lake Dr. SE.

Virginia Dusseu, Mr. Lawton's wife, said people constantly throw things in their yard and they are constantly picking up bottles and other items on their property and does not believe the trash is related to people trespassing.

She also addressed the Dionne's concern with quiet in the area and noted their home is approximately 130-feet away from the road and noted that street noise is there regardless.

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

Member Koessel suggested to Mrs. Dionne that in light of the information that has been shared with the Planning Commission tonight regarding the right-of-way, he believes it would be in the Applicant's best interest to table the case until she can speak with her husband since they seem to have options that should be

discussed. He cannot tell how far the measurement is down the slope and if the Commission were to approve a 6-foot high fence on the road right-of-way, he is not sure how much of the fence would be visible, whether 2-feet or more. Member Koessel also said that he would like to see a rendering photo of what the actual fence would look like on the private property and how much is actually visible from the road, he believes not much of the fence would be visible. Chairman McDonald said Member Koessel is correct, not much of the 6-foot fence would be visible.

Member Lewis agreed with Member Koessel's comments and said he would like to see a photo showing the fence properly located and what would be visible to the Lawton's. He acknowledged the ordinance in obtaining consent from the adjacent property owners. If he were to vote tonight, the vote would be over-ridden since the neighboring property owners do not want the fence over 4-feet in height and does not have any intention of approving the Applicant's request.

Chairman McDonald asked Staff if the Township Board would review the case and Planning Director Peterson said they would not. It is important to remember there is also the issue of the new fence that has been constructed on the west side of the driveway and the Applicant needs this request for that as well.

Chairman McDonald asked if there could be a motion that approves the fence that is west of the driveway and Planning Director Peterson said that could be possible.

Member Koessel said that he did not hear the Lawton's object to the new fencing along the west of the property that has also been built and is consistent with the neighbor's fence.

Member Koessel motioned to approve the fence that has been built to the west of the drive way as it exists now, supported by Member MacAllister.

Member Lewis commented that this fence serves a purpose to block noise and lights from traffic from the house and agrees with the fencing in this area of the property.

All in favor with none opposed, motion carried.

Member Koessel motioned to table the portion of the fencing to the east of the driveway until the Applicant has had time to discuss the options available to them and provide renderings of what fencing they would like to install at both a 6-foot and 8-foot height along with a survey indicating the road right-of-

way so the Planning Commission can review the renderings to see if it blocks the view of the river or not.

Member Robinson said he would like added to the motion that the Township also consults with the Township's attorney regarding Section 5 A. Member Koeseel accepted the addition to the motion supported by Member Robinson with the addition to the motion.

All in favor with none opposed, motion carried.

ARTICLE 5.

Case # 07-2913: Doug Kochneff

**Address of Property: 2090 Thornapple River Drive
(PUBLIC HEARING)**

Requested Action: The Applicant is requesting an exception from the Private Street Regulations in order to split the property. The private road exception is required because the road does not meet the Township's current standards for a private street and the Applicant does not plan to fully upgrade the road to meet those standards.

Planning Director Peterson showed a map indicating the properties that are accessed along Steketee Woods, River Lane, and Deer Haven. Oliver Woods is a public street and Steketee Woods is a private drive running south. In referring to the Township's Street Ordinance, Steketee Woods is a private road and is considered the "start" of the private road and the other roads such as Deer Haven and River Lane, are also included as private roads.

The request from the Applicant is generated from their wish to split a parcel of property at 2090 Thornapple River Drive. The property is accessed off of Steketee Woods.

The Applicant would like to split the property into three (3) separate parcels. Because the Applicant would like to split the lot on a piece of property that has access to a private street, the Township must review if the private streets meet the Township's requirements.

In this particular case, Steketee Woods meets the Township's requirements, such as road widths and turnarounds, as a private street. River Lane is a narrower street that is approximately 12-foot wide, with no turnaround and Deer Haven is wide enough to meet the Township's requirements but does not have a turnaround.

Planning Director Peterson noted that the entire road system provides access to sixteen (16) parcels with two (2) of the parcels accessing from River Lane, three (3) from Deer Haven and sixteen

(16) from Steketee Woods, including the three (3) proposed lot splits.

Planning Director Peterson showed the Site Plan for the split parcels noting the Applicant is intending to build an extension off the existing cul-de-sac providing a new cul-de-sac at the end of Steketee Woods. The new cul-de-sac has been designed to meet the Township's requirements. The only exception being discussed this evening is that the Applicant is not attempting to improve, other than the extension, any of the other deficiencies in the road system, such as the narrowness of River Lane or the turnarounds on the two (2) side streets. The two (2) side streets are quite short in length, approximately 500 feet long and Steketee Woods is approximately 900-feet long.

One particular aspect to the Applicant's design of the new road is the road right-of-way. Planning Director Peterson indicated the a small portion of the new right-of-way is not 66 feet wide.

The Township has issued several private road exceptions in the past, most recently granting some relief to Stonington/Sudbury private roads. In all cases, the Township has gotten the road system closer to compliance than it was before but has never required the entire road to come into compliance.

Staff recommends that the Planning Commission recommend to the Township Board approval of this request including the exception to the right-of-way for the extension of Steketee Woods, with the condition that:

- 1) Either a new maintenance agreement is recorded for the extension of Steketee Woods or a separate agreement is recorded for the extension.

Member Koessel asked for clarification of the 66-foot easement for the small sections Staff referred to in their report. Planning Director Peterson said the Township's requirement is for a 66-foot wide easement and the Applicant has provided this on the extension with the exception of a very small portion where it connects to the existing right-of-way.

Member Koessel asked if there was a difference between the first plan submitted and this plan. Planning Director Peterson said the applicant did make some minor revisions to a drawing that they originally submitted.

Chairman McDonald asked how long the road is from the existing cul-de-sac to the new beginning of the circle and Planning Director Peterson said approximately 66-feet.

Member Robinson asked what happens if the adjacent property owners do not give consent to the easement and Planning Director Peterson said the Planning Commission could forward a recommendation to allow for less right-of-way.

Applicant Steve Witte from Nederveld representing Doug Kochneff who is also present this evening, said that what is being proposed is an extension to the Steketee Woods Drive from the edge of the existing pavement of the existing cul-de-sac to the center of the new of approximately 120-feet. In addressing the question regarding the length of the pavement, it is approximately 90-feet to the edge of the circle.

Steketee Woods was approved in 1978 with Deer Haven and River Lane being constructed 10-years later. The Applicant understands the Ordinance's requirement of updating private road systems if you add on but this extension's lots will not access River Lane or Deer Haven.

River Lane is 30-feet wide and provides access to one or two houses and Deer Haven that provides access to a few more houses.

Recognizing that the Planning Commission is not approving the lot split this evening, there are three (3) large lots being proposed. Some of the neighbors noted an initial plan that has been rotated a bit counter-clockwise that showed a small triangular piece that did go onto the property to the north. It is the Applicant's contention that this piece of property is within their rights as an ingress/egress easement for Steketee Woods, however, when the Applicant learned of the neighbor's concern, they rotated the pavement onto the Applicant's property to eliminate the neighbor's concern.

The plan indicates a self-imposed 50-foot side yard setback and the Township allows a 10-foot side yard setback. The plan also shows a center island in the middle of the cul-de-sac and this is a green area. There are some very large trees in the area and the pavement has been set to preserve and avoid the trees while maintaining the Township's requirements from a width standpoint.

The Applicant understands they need to provide a maintenance agreement and will do so along with going to the Health Department for a Vacant Land Evaluation.

Applicant Witte also noted that two (2) small areas that require easements are approximately 57-feet and feel this is sufficient if consent is not granted.

Chairman McDonald opened the meeting for any questions of the Applicant from the Planning Commission. No questions.

Member MacAllister motioned to open the Public Hearing, supported by Member Koessel. All in favor with none opposed, the Public Hearing was opened.

Cindy Fox of 2025 Steketee Woods Lane SE noted her property is adjacent to the Applicant's.

Her understanding is that the Applicant can develop up to two (2) homes on the property without seeking approval from the Planning Commission for a non-conforming road split. Applicant Kochneff could utilize approximately 18-feet of existing clearance for a private driveway that runs from her north lot stake to his stake. However, once the Applicant increases the density to three (3) homes, he would need to place a 22-foot wide road with a cul-de-sac to service the three (3) homes. Applicant Kochneff does not have the clearance beyond Steketee Woods to provide the required 22-foot wide road without encroaching on her property at the cul-de-sac. The drawing submitted this evening is not correct since the cul-de-sac for Steketee Woods is not in the middle of the easement as depicted, it actually goes away from her property, thus requiring the Applicant to encroach her property.

The existing agreement is for ingress and egress into the existing placement of Steketee Woods Lane, which has been in place for almost 30-years. For the Applicant to assume he can utilize that easement for his own new private development is an inaccurate assumption. Why the Planning Commission assumes the Applicant can utilize this is wrong and they should favor the property owner's granting their own easements if they support the project. Applicant Kochneff is the petitioner and should be providing reasons why he should be allowed to use her private property.

The professional survey indicates Steketee Woods Lane is 18-feet wide. She measured the width of her drive in front of her home. The flat driving portion of the road measures 15-feet 9-inches not 18-feet as indicated by the Applicant. There are many mailboxes against the 15 ft. 9 in. drive. She realizes that one or two homes could be developed without required variances to the parcel and they would maintain the 18-foot width of the drive. Placement of an additional road 22-feet wide to service only three (3) homes is out of context and character for the densely forested neighborhood. The asphalt would diminish the neighborhood's character and charm.

Ms. Fox showed a survey of the area noting the easement is currently there to provide an ingress/egress for the existing homes and not for a new development. Even though the cul-de-sac should be placed closer to her property than it actually is, it is still within the easement.

Applicant Kochneff could complain that the road is not centered to his property but none of the resident's property is centered to the road. All of the homeowners could agree to re-center the road but they do not wish to do that.

Steketee Woods is a private drive that already exists and she is allowed to use her easement as she wishes. She is entitled to placing a lighting fixture or a brick structure within that easement as the existing easement already services this paved road.

In closing, Steketee Woods Lane already provides ingress and egress to all property owners and is included in the original legal easement, anything else is subject to interpretation to the neighborhood. The Township's Planning Commission should not be ruling in matters such as encroachment on personal property.

Chairman McDonald asked if there are two (2) different maps of the area and Ms. Fox said that she has an older map and has not seen the newer map the Applicant has shown this evening prior to tonight. The new map does not depict the cul-de-sac being in the proper location of where it is actually located. The Applicant is stating that they can use the existing area around the paved road to cross onto their new road. The existing road has the current easement to service Steketee Woods not a new road.

Member MacAllister asked Ms. Fox where her driveway is located and Ms. Fox indicated their circular driveway on the drawing. Chairman McDonald asked the distance of the drive to the circular area and Ms. Fox said approximately 95-feet.

Member Koessel asked Staff if someone can erect something in an easement and Planning Director Peterson said it depends on what the easement allows. Ms. Fox also noted that the actual language regarding erecting something within an easement might be within the deed restrictions that indicate a 50-foot wide setback from all sides of the property. Planning Director Peterson said that the document provides access to this parcel to Steketee Woods and Ms. Fox noted that the Applicant already has that with the existing 18-feet.

Planning Director Peterson noted the drawing within the Commissions' packets is the one the Applicant is submitting. If

there is a discrepancy in the drawings, the neighbor should provide another survey to compare. The survey that was submitted is signed and sealed by an engineer.

Chairman McDonald noted that the map submitted within the Planning Commissions' packets is the map the Commission should base their recommendation upon.

Member Koessel commented that the Township cannot enforce plat restrictions and the only thing the Commission act upon is the ordinance.

Applicant Witte clarified that the second map that was submitted showing all the easements and the rotated road because it is exactly correct. The plan submitted was surveyed by professional surveyors and reviewed by him this is what is out there. He knows that the existing Steketee Woods Drive is not a consistent 18-foot wide as there are some areas where the grass grows closer to the pavement. Where he measured is 18-feet and it is there contention that the ingress/egress easement is for ingress and egress and there is nothing an adjacent property owner could do in erecting anything to prevent access to this site. What is being proposed is that the Applicant install the extension with higher standards than done 30-years ago.

Member Robinson noted that Applicant Witte said that a professional engineer drew the plans and Applicant Witte confirmed that to be correct along with a professional surveyor. Member Robinson said the plans are not stamped and Planning Director Peterson said he has the stamped copies.

John Holmquest of 2088 Steketee Woods Lane owns the property to the east. He noted the culvert on his property and another culvert across the way that is for natural drainage. The Applicant's drawing does not show any accommodation for the water runoff and is concerned what the Applicant's project might do to the natural drainage of the water flowing to the north and to the east.

Planning Director Peterson said that the Township's Engineer has reviewed the plan and expressed his comments to the Applicant. Applicant Witte said that based on review of the plan with the Township's Engineer, they have added a couple of holding areas along side of the road. The overflow from these areas would continue to flow in its current path and the Applicant is required by law not to increase the amount of runoff. The overflow areas are indicated on the current plan and were not shown initially since they had not spoken with the Township's Engineer when the first

plan was submitted. The Applicant will continue to work with the Township's Engineer to ensure everything is satisfactory.

Ryan VanderWoude of 7440 Deer Haven said there is an architectural committee within Steketee Woods that oversees projects in the neighborhood. Within the documentation it states that no portion of the parcels within Steketee Woods is to be used for street access. This documentation was established with Steketee Woods and indicates the residents having the deciding factor of how the parcels are used and split. The parcel being split is approximately five (5) acres and would contain three (3) lots and a private road and is forbidden in the bylaws for Steketee Woods.

Chairman McDonald noted that the Township could not over-ride a deed within the Steketee Woods development. The Planning Commission can only make a decision regarding the Township Ordinance and if there is language in the deed, the ordinance does not over-ride the deed. Member Koessel said that the property deed restrictions are what the developer would have to abide by. The members of the Association would be able to seek additional legal assistance if they oppose the project and the Applicant is not within the Association's deed restrictions. The Township would not have any role in the deed restrictions the Planning Commission's job is to adhere to the Township Ordinances.

Member Koessel motioned to close the Public Hearing. Member Robinson supported the motion. All in favor with none opposed. The Public Hearing was closed.

Chairman McDonald summarized that the Planning Commissions' decisions are made based on the Township's Ordinance and have no factor on deed restrictions of Steketee Woods. The Applicant is seeking approval of the project without making any improvements to the existing road. Staff has suggested that the additional improvements not be made. Chairman McDonald noted that Staff has recommended approval of the project with the condition of a maintenance agreement and Planning Director Peterson said that the Applicant could either submit a maintenance agreement for the new road or revise the current agreement to include the new road.

Member Koessel asked Staff that the parcel in question shows three (3) lots on it and as far as dividing the parcel into three parcels on 5-acres, the lots appear to be a little over 1 ½-acres per lot. The property as currently zoned, setting aside the Steketee deed restrictions, can be split into three (3) lots is that correct. Planning Director Peterson agreed noting the Township's minimum lot size for this area is just under one-acre. Member Koessel referred back to Ms. Fox's comment stating that three (3)

parcel split is not allowed and this language is probably included within the deed restrictions then. Planning Director Peterson believes Ms. Fox is referring to the private street regulations. Those restriction would require upgrades to the road if one split was done because the private street already provides access to more than one parcel.

Member Waalkes asked if only two (2) houses were constructed could two (2) driveways be constructed and Planning Director Peterson said that the Applicant does not appear to have the necessary frontage to construct two (2) driveways.

Member Robinson asked that if the adjacent property owners do not consent with the easements then the street extension would be narrowed to 57-feet and Planning Director Peterson said he agrees but the easement of 57-feet would only be for the two short areas indicated earlier.

Member Waalkes motioned to send a favorable recommendation to the Township Board for approval of granting the exception from the Private Street Regulations in order to split the property at 2090 Thornapple River Drive with the condition that a new maintenance agreement is recorded for the extension of Steketee Woods or a separate agreement is recorded and the exception of the right-of-way for the extension. Member Logue supported the motion from Member Waalkes.

Chairman McDonald opened the meeting for discussion of the motion.

Member Lewis noted that this is a private road and the Planning Commission has an opportunity to improve the area. It is similar to some of the non-conforming businesses the Planning Commission has reviewed. He is recognizing the fact that the Commission is passing on the opportunity to improve the two (2) roads that really need improvement based on the ordinance. There have been no members from the Public from those two streets asking for their narrow roads to be improved.

Member Koessel noted that he is sensitive to the neighborhood bylaws and since the Township cannot enforce those. Member Koessel asked if the Township's Fire Departments has reviewed the plans and Planning Director Peterson said they have and do not have any concerns with the other two streets. Member Koessel said that if the Planning Commission did require the other two (2) streets to be widened, the residents would probably be very

unhappy since no one is at the Public Hearing requesting their street be widened.

Member Robinson's concern with the request is that the developer is proposing to utilize property from the neighbors and the full 66-foot wide easement will not occur if the consent is not granted from the adjacent property owners. Planning Director Peterson said that is correct. Member Robinson also noted that the Planning Commission cannot supersede any private deed restrictions and Chairman McDonald agreed.

Chairman McDonald requested a role call vote:

Member Koessel – yes
Member Richards – yes
Member Robinson - no
Chairman McDonald – yes
Member Lewis– no
Member Waalkes – yes
Member Logue – yes
Member MacAlliser – no

The motion passed with a vote of five to three.

ARTICLE 6.

**Case # 07-2908: Paragon Development/Meijer
Address of Property: 5531/5595 28th Street**

Requested Action: The Applicant is requesting an amendment to the existing Meijer/Romano Planned Unit Development (P.U.D.) in order to include the Meijer store and the corner lot at Kraft and 28th Street.

Member MacAllister addressed the fact that her firm is working with the Applicant and requested she be reclude from dialogue. **Member Koessel motioned to approve Member MacAllister's request, supported by Member Lewis. All in favor with none opposed, motion carried.**

Planning Director Peterson indicated that today, the Kent County Road Commission does not like the access out to Kraft Avenue. Staff has discussed with the Applicant proceeding with the Public Hearing and table the case after the Public Hearing so the Applicant can address the issue with the KCRC. The Applicant is present this evening.

Member Robinson motioned to open the Public Hearing, supported by Member Waalkes. All in favor with none opposed, the Public Hearing was opened.

Chairman McDonald invited any Public Members to add their comments. No comments.

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

Member Robinson motioned to table the case so the Applicant may resolve Kent County Road Commission's concerns regarding the entrance on Kraft Avenue, supported by Member Koessel. All in favor with none opposed, motion carried.

ARTICLE 7.

Any Other Business

Chairman McDonald opened the meeting for other business. There was no other business.

ARTICLE 8.

Adjournment

Chairman McDonald requested a motion for adjournment.

Member Robinson supported by Member MacAllister moved to adjourn. The motion carried and the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Jack Lewis, Secretary

Lisa Hern, Recording Secretary