

**MINUTES**  
Cascade Charter Township Zoning Board of Appeals  
Tuesday, September 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, Vaughn  
Members Absent: 1<sup>st</sup> Alternate Neal (excused), 2<sup>nd</sup> Alternate Richards (excused)  
Others Present: Planner Deem and Admin. Assistant Hern and one (1) member from the public.
- ARTICLE 2.** Member Lewis led the Pledge of Allegiance.
- ARTICLE 3.** Chairman Casey requested a motion for approval of the September 13, 2005 Agenda. Chairman Casey informed the Board that Planner Deem has advised Article 7, case of Sunrise Development, has been withdrawn from the agenda. Chairman Casey noted the Public Hearing will proceed as scheduled but Sunrise has withdrawn at this time. The agenda minus Article 7 was approved on a motion by Member Lewis and supported by Member Crawley. The motion carried, agenda approved.
- ARTICLE 4.** The Minutes of the July 12, 2005 Member Lewis requested correction in Article 2, second sentence – change 1<sup>st</sup> Alternate Lewis to “Member Lewis”. No further corrections were stated. Member Beahan motioned to approve the July 12, 2005 minutes as corrected, supported by Member Crawley. The motion carried, July 12, 2005 Minutes approved as corrected.
- ARTICLE 5.** The following were received and filed by the Zoning Board of Appeals:  
Township Board Minutes of July 27, 2005  
Township Board Minutes of August 10, 2005  
Planning Commission Minutes of August 1, 2005  
Planning Commission Minutes of August 15, 2005.
- ARTICLE 5.** **Case #05-2760: Michael Cargill**  
*(PUBLIC HEARING)*  
The applicant is requesting a variance from the front yard setback requirements at 3001 Thorncrest Dr. SE
- Planner Deem stated the applicant is seeking a variance from the front yard setback requirements. The current Zoning Ordinance requires a minimum setback of 35-feet from the front property line.

The parcel is located in an older part of the Township and most of the homes in this area are legal nonconforming and do not meet the current front yard setback requirements. The house is approximately 28-feet from the edge of the road and the house on the neighboring property is approximately 24-feet from the edge of the road.

Planner Deem noted the applicant is seeking the proposed addition consists of two (2) posts that will extend two (2) feet from the existing home and support the second floor addition. This addition would be further off the road than the neighboring property.

Planner Deem also noted the Findings of Fact that there are exceptional or extraordinary conditions that are inherent to the property in question and that do not apply to the other nearby properties in the same zoning district. The extraordinary conditions are not the result of actions of the applicant taken subsequent to the adoption of this Ordinance and any action taken by an applicant pursuant to lawfully adopted regulations preceding this Ordinance will not be considered self-created.

He also stated that such variance is the minimum variance that will make possible the reasonable use of the land, building or structure and that the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Planner Deem also said that the condition 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. 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 land.

Planner Deem summarized that this property is located in a neighborhood of legal nonconforming homes and this variance would maintain the existing neighborhood standard for front yard setbacks. These conditions are not the result of the applicant and this area was developed before the current Zoning Ordinance went into effect. This proposed addition is consistent with the characteristics of the neighborhood.

Planner Deem also said this is the minimum variance needed for this request and the grant of this variance would not be injurious to the neighborhood. This request is consistent with the

characteristics of the neighborhood and is unique due to the number of legal nonconforming homes in the area. The granting of this variance request is justified because:

- 1) The only two support posts would be closer than the existing building.
- 2) The posts will not be any closer to the neighboring property.
- 3) The request is consistent with the characteristics of the neighborhood.

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

Planner Deem also noted that two (2) neighbors have reviewed the plan and have no objections.

Member Casey asked if the applicant was present and Planner Deem stated they are. Member Casey asked the applicant if they have anything to add and Applicant Cargill responded not at this time.

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

There being no one present to speak on the matter Chairman Casey asked if Staff received any letters or phone calls regarding the containers. Planner Deem noted none received.

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

Chairman Casey questioned in the drawing the interpretation of the line that is in the bumper of the car, is that just a projection straight line that Planner Deem drew and Planner Deem is showing the addition would still be behind the front of the house and to the neighbor. Chairman Casey asked if the measurement was taken from the pavement and not the right-of-way, Planner Deem said that is correct. Chairman Casey asked if they know where the right-of-way is located and Planner Deem said not exactly. Chairman Casey asked if the applicant has a survey they would be using for the building project and Cargill noted he has an existing one but will be ordering a new one. Chairman Casey expressed his concern regarding the right-of-way and where the electrical easement is located for the overhead lines. He also noted that there

may not be an easement but if there is, a survey should be obtained noting the easement for the overhead electric lines.

Member Lewis asked if the applicant would be doing the project himself or bidding it out and Cargill confirmed he would be bidding it out. Member Lewis asked what the timeline is for the project and Cargill said he would like to begin by October 15<sup>th</sup> and finish by March at the latest. Member Lewis asked how long the applicant has owned the property and Cargill responded eleven (11) years.

Member Lewis noted the project really looks like a slam-dunk as presented and that is the way it should go, however, it is a nonconforming approved property and we've had some of these before that have been turned down with the thought of how do you ever get rid of the nonconforming approved property by having the property improved or changed. In other words, the example was that if there was a building that was nonconforming and approved because of the seniority of the building and it is tumbling down and the owner wants to rebuild it, the idea is to get everybody conforming to the new ordinance and not just maintain the old ordinance. Member Lewis believes that is a valid consideration under some circumstances. In this particular case, we are all familiar with by the river things were done entirely different than they are now and if it were just one (1) piece of property, he would recommend this project to follow the new ordinance but in this case, there are a lot of houses that fall under the same category. Member Lewis said he only submitted this information to let others know that just because it is a legally approved nonconforming that it doesn't automatically allow for nonconforming projects to be automatically redone. Member Lewis said he will be voting in favor of this particular project only because it is a neighborhood precedent of nonconforming and not only one (1).

Member Beahan agreed with Member Lewis' and his statements and in this situation the houses are in good shape and have been maintained and a two (2) foot encroachment does not present much of a problem and is also in favor of the project.

**Member Lewis moved to approve the applicant's request for a variance from the front yard setback requirements at 3001 Thorncrest Dr. SE for the reasons presented by Staff, the neighborhood already has this precedence. Member Beahan supported the motion. All members in favor, none opposed. The motion carried.**

Chairman Casey added his concern in this variance that the applicant does his due diligence. He noted the fact that the variance was approved; the applicant still has electrical and the right-of-way and presumably you have the architect and he should be aware of those concerns.

**ARTICLE 7.**

**Case #05-2738: Sunrise Development**

The applicant is requesting a variance from the Sign Ordinance to allow an off premise sign at 5700 28<sup>th</sup> Street.

Chairman Casey stated the Zoning Board understands that the applicant is working on a modification of their application and asked Planner Deem for details.

Planner Deem said the applicant has requested this be tabled tonight. Currently the applicant is seeking to create a PUD 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 15 of the Foremost Centennial Park No. 2. They are asking to have an off premise sign on the Crown Plaza Hotel site advertising their location in Centennial Park. The variance of the application is to request an off premise sign.

Sunrise is investigating the potential of using the subdivision signs that would be allowed by right. Subdivision, meaning residential or office/industrial subdivision like Meadowbrooke or Waterfall Shoppes who have identification signs at each of their entrances identifying tenants in each of their projects. Entrances to Centennial Park are at Coach, Foremost and 28<sup>th</sup> Street and what they are pursuing right now are identification signs at Foremost and 28<sup>th</sup> Street intersection that would meet subdivision sign standards. As mentioned previously, as having just an independent Sunrise sign on 28<sup>th</sup> Street, Staff would have a hard time recommending approval due to the standards that have been set. Staff feels if this were allowed, all businesses along 28<sup>th</sup> Street would have a case to have independent signs. Staff feels that by limiting identification to subdivision sign, there is some sort of control to the number of signs and consistent with other projects. Planner Deem said the Zoning Board can expect to see this at the October 11<sup>th</sup> Meeting.

He also noted there is a meeting tomorrow of the Centennial Park Association and will be discussing signage for the entire park, not just Sunrise.

Member Lewis said Planner Deem mentioned Waterfall signs and over on 28<sup>th</sup> Street and there is Target, and Target is not on 28<sup>th</sup> Street, is that sign on 28<sup>th</sup> Street part of the subdivision sign or as part of the PUD signs? Planner Deem said that when Staff wrote the PUD, they specifically had the language in there for signage. Centennial Park is one of the oldest PUD's and there was no real PUD created at that time. Member Lewis questioned if the Target sign is a legitimate example to use because the sign for Target on 28<sup>th</sup> Street is part of the sign for the PUD project, certainly not part of the subdivision ordinance. Planner Deem said it was part of the sign ordinance to allow a project sign to advertise what is within a project and uses the term subdivision because that is how it is mentioned in the sign ordinance and specifically mentions that it could be for office or industrial. Member Lewis asked if this is based off of running footage on 28<sup>th</sup> Street determines the size of the sign. Planner Deem noted that is not correct and identification signs for subdivision is allowed to be 64-square feet.

Chairman Casey questioned there are two (2) Centennial Park signs at Charlevoix, does the PUD Association control the land that Staff is proposing have the signs? Planner Deem said Staff is having Sunrise look into this because they would control the location of where their sign would be located and Chairman Casey noted Sunrise would not control the land. Planner Deem said Crowne Plaza controls the land and Planner Deem said that is correct but Sunrise has entered an agreement with Crowne Plaza. Chairman Casey said that Crowne Plaza would give Sunrise an easement and asks the question are they being granted an easement or fee simple. The PUD is legally written and everyone within the development has agreed to the conditions and here we have a loose-knit situation that we are trying to prefab and concerned that the Zoning Board does not have the right to prefab. Chairman Casey does not believe the Zoning Board can approve a sign on somebody else's property. Planner Deem said that if the owner of the land agrees to it, they can. Chairman Casey clarified that it an easement then and the Township would allow the sign by easement. Planner Deem confirmed that is correct. Chairman Casey noted that is dangerous and Member Lewis asked where does this stop then. Member Lewis said, for instance, that if he owned property on 28<sup>th</sup> Street and a business a mile back wanted to put a sign up on my property, they could do so with an easement. Chairman Casey clarified that the sign has to be located and up until now they have said the business has to have frontage on 28<sup>th</sup> Street. Planner Deem stated that Crowne Plaza is part of Centennial Park therefore it is an onsite sign for the subdivision of Centennial Park. Chairman Casey asked if this is a subdivision,

Planner Deem said yes. Chairman Casey said then it is not a PUD and Planner Deem noted that is correct. Chairman Casey said that Staff would allow it because it is a subdivision not because it is part of the PUD. Planner Deems said this is part of the project and technically, it is all part of the PUD. At the time the Park was developed, the Township did not have the ordinances they do now. Chairman Casey asked if Radio Bible on Kraft is part of the park located on Coach and Kraft, there's a big open field there and Planner Deem said it is part of the Centennial Business Park. Chairman Casey summarized that Staff's theory is they will let Sunrise have signs as long as they are within the limits of the Centennial Business Park and Planner Deem noted the sign must be within the limits of the Sign Ordinance. He also noted the variance would be for allowing the tenants of Centennial Park to have signage out on the identification sign for Centennial Park. He compared it to Target being allowed to have signage on the identification sign on Waterfall Shoppes. Member Lewis said he is having trouble understanding the term subdivision Planner Deem keeps referring to and he is calling the other one a PUD and asked if they were exchangeable. Planner Deem noted that in the Sign Ordinance the term subdivision is used for a project. Member Beahan commented that the applicant is trying to come in the back door of the ordinances and Planner Deem noted that he does not believe so because this is a unique situation and there is no place within the Township where something like this could apply. Member Beahan said he understands how Planner Deem is explaining it but he also doesn't understand how they can place the sign on someone else's property where Chairman Casey and Member Lewis are saying that would be an easement on the property. If they had noted that property at the beginning as common property that would be a different story. Chairman Casey said this may not be a good example for this since it has progressed but when Daane's (Family Fare) wanted their sign there were all types of hoops for them to get what they got. Now if somebody had developed that whole thing under Staff's situation, all those people by rights could get a sign. Planner Deem said they would not be able to, only one (1) sign at the entrance. Chairman Casey questioned if they could get their name on that one (1) sign. Planner Deem said they would not be able to because that is what the variance is for, that is why they are requesting this variance so they can have their name on the sign. Chairman Casey said he would have to think this through because he believes there will be a problem doing it this way. Chairman Casey said when people buy property on the street, you have the street and you will pay more to be on 28<sup>th</sup> Street. Now if an applicant wanted a grand opening sign or construction or limited sign introduced to a

complex, that is one (1) thing but this could be perpetuated in a lot of areas. It is avoided when done through a PUD and there is no PUD here, there was never an agreement to lock in the signs as original on 28<sup>th</sup> Street, there's no legal agreement for that. No one worried about it back then because Foremost controlled the whole thing and then they started selling off the parcels. Chairman Casey suggested when Planner Deem speaks with the applicant to let them know there is some concern and will work it out when the request is formally presented so the Zoning Board can see exactly what they think they will be doing. Planner Deem said he would speak with Sunrise. Member Lewis commented that Planner Deem believes there are three (3) entrances into the project and are they proposing to put signs at each one of the entrances. Planner Deem noted there are four (4) entrances and Staff has not received the proposal. He said what is currently being proposed is that Crowne Plaza is looking into changing their current signage into a Centennial Park sign and sign to be 64-square feet and Sunrise would like to have their name on that to identify them within Centennial Park and that is where Sunrise is at right now. Chairman Casey asked where Crowne Plaza would relocate their sign and Planner Deem noted they are looking into a different sign. Chairman Casey asked where the new sign would be located and Planner Deem believes on 28<sup>th</sup> Street. Chairman Casey asked if this were to happen, would Crowne Plaza have two (2) signs or have one and abandon the current. Planner Deem said he is not sure how Crowne Plaza will propose their signage. Member Beahan asked for confirmation that the site was originally a PUD when it was developed and Planner Deem said yes, it was written as part of the PUD. Member Beahan noted this was back in 1972 or around that time and Planner Deem confirmed it was written around that time. Member Beahan asked if the PUD would have to be amended and Planner Deem said he believes that is the route Centennial Park is pursuing and Crowne Plaza may seek creating their own PUD so that it has its own ordinance to go along with stating it is an approved hotel with setbacks and sign ordinance language but it would still be a part of the Centennial Park but not a part of the PUD. Chairman Casey summarized that the Township would have a PUD with the Crowne Plaza new sign but within the borders of that PUD we have the sign for Centennial Park and Planner Deem noted that is correct. Member Beahan asked how many buildings could go on that sign and Planner Deem noted that was being discussed at the Association's meeting tomorrow night. He also said that Staff has told the Association what they want to see from them and basically the location of the sign, what it would look like, who would be allowed on the sign, and who would be controlling the sign. Member Beahan referenced



the situation with the development where Clever Cook is and the unresolved issues there and could Centennial Park have the same situation occur. Planner Deem said that situation could be possible. Member Beahan doesn't believe that situation will be resolved and Planner Deem agreed. Planner Deem has been writing letters to her and trying not to issue a ticket but believes he may have to since they will not comply. Member Lewis said it sounds like Sunrise is trying to sneak around to get there sign and he is not happy with it. Chairman Casey noted the Township has to be careful they don't lead people up to a point and then cannot do it. He also summarized that Staff is recommending a new PUD for the hotel and Planner Deem confirmed that is correct. Chairman Casey said that the other PUD would have to be amended to exclude the hotel. Planner Deem said the Centennial Park PUD would have to be amended. Chairman Casey said there are rights the PUD gave to all tenants and now starting a separate one and logically, would want to retract those rights that are not there anymore because you would have the new PUD. Planner Deem noted that anything applied to the old PUD would not be applied to the new one and Member Lewis said the only reason they would want to make the change to the PUD would be to allow the Sunrise sign up there. Planner Deem noted it is all one (1) business park and the Centennial Park sign is still in Centennial Park. He further explained it is not like it is advertising for McDonald's down the street; they are identifying a business within the park they are in. Chairman Casey requested a motion to have the public hearing open.

**Member Lewis motioned to open the public hearing supported by Member Crawely. All in favor and public hearing open.**

Member Casey noted having no one in attendance and having the application tabled, requested a motion to close the public hearing.

**Member Beahan, with support from Member Richards, motioned to close the public hearing. All in favor, public hearing closed.**

## **ARTICLE 8.**

### **Other Business**

Member Lewis provided a quick update on Term Limitations and went before the Township Board; was presented back to the Planning Commission with an additional term and the feeling was it was a good compromise between the Township Board and the Commission. He summarized that on this Board and the Planning Commission Board you would have the opportunity to serve 3-three year terms, at the end of the three year terms could

immediately go to the other Board, meaning going from Planning Commission to the Zoning Board and from Zoning Board to Planning Commission, and serve one year there and go back to your original board. Member Lewis asked if it has been to the Township Board yet and Planner Deem noted not yet and will be before the Township Board on September 28<sup>th</sup>. Member Lewis doesn't anticipate any objections; have been trying to establish term limitations for quite some time. Member Beahan also noted Township Board was also discussing a one-year hiatus and they have eliminated that. Chairman Casey noted the people who should really want this would be Staff and Supervisor; it's a guideline and a management tool. Member Lewis noted we are changing the ordinance and that needs to be implemented by the Planning Commission, however, agrees Staff influences some of the feelings. Now that Staff seems to accept this, it will be approved.

Member Lewis also noted there is a joint meeting with the Township Boards on Thursday, October 20<sup>th</sup>; Chairman Casey confirmed his invitation. The chairperson of the Planning Commission will be chairing this meeting.

**ARTICLE 9. Member Lewis supported by Member Crawley moved to adjourn. The motion carried and the meeting was adjourned at 7:43 p.m.**

Respectfully submitted,

Jack Lewis, Secretary

JL:LH