

Approved 6-14-2021

CASCO TOWNSHIP  
ZONING BOARD OF APPEALS  
Monday, May 24, 2021; 7:00 PM

**Present:** Chairman Matt Hamlin, Vice Chair Paul Macyauski, Secretary Sam Craig, and Alex Overhiser  
**Absent:** Matt Super  
**Also Present:** Zoning Administrator Tasha Smalley and Recording Secretary Janet Chambers and applicant Basel Aquel, and 7 interested citizens.

1. **Call to Order & Roll Call:** The meeting was called to order at 7 PM by Chairman Hamlin.
2. **Approval of Agenda:** A motion by Macyauski, supported by Craig, to approve the agenda as presented. All in favor. MSC.
3. **Public comment (non-agenda items):** None
4. **New Business:**
  - A. **Variance requests by Basel Aquel, vacant lot at 700 Blue Star Highway (02-063-005-10) for: #1: A new private road with variance from required 66' to 33' to serve 4 parcels. And #2: Required front yard setback from 50' to 25'. (Notice of Public Hearing Attachment #1)**

Public Hearing opened at 7:03 PM.

1. **Applicants explain request; (Attachment #2 Application) ZA Staff report:** (ZA report Attachment #3): Basel Aquel, owner of the property and Rich Blofm, Aquel's builder were present. Aquel said his lot is 150' wide by 1300' deep. He would like to split his property into 4 parcels. He is requesting both road width and front yard setbacks. He will plant trees, fix the bluff and put in stairs. Each would be nice custom homes. He would like a 25' variance to the required 50', resulting in a 25' setback. He would like a 33' variance to the required 66' road width resulting in a 33' private road.
2. **Correspondence:** Correspondence from 4 residents were read. First was from Sam Rovit in opposition to the variance requests, 2<sup>nd</sup> was from Abigail MacKenzie in opposition to variance, 3<sup>rd</sup> was from Joan Stack in opposition to variance, and the 4<sup>th</sup> letter was from Rev R Adams also in opposition to the request. (Attachment #4 four letters)
3. **Audience for / against comments:** Tom Storr, 743 Blue Star Hwy, said the developer would like to make money. Web Young tried this a few years ago and was turned down.

The lack of density in the rural area housing is why he likes living there. Storr said it is the wrong idea to put 4 houses in there. Aquel is not a resident. Storr has been there for 44 years and hates to see this happen.

Bill Chambers 7340 Lake Ridge Road said he does not care if the variance is granted or not, but as a Casco resident, he said he is concerned about the private road. Chambers read Section 3.26 G Design requirements: #2 All private roads shall have a recorded permanent easement with a minimum width of at least 66 feet. The easement shall also expressly permit public or private utilities to be installed within the easement. And #6 Any private road which terminates at a dead-end shall have a means for vehicle turn-around either by use of a cul-de-sac, with a minimum road surface radius of 2 feet, or by a continuous loop private road system, both of which must be constructed in accordance with the standards set forth in this Section and approved by the South Haven Area Emergency Service (SHAES).

Tom Tucker, 726 Blue Star said he is against the variances. He said it is a really bad idea to build 4 houses on the 150' strip. He said he can't believe Casco would do this to the zoning codes. To diverge from the ordinance this much is terrible. You can't go to the IRS and say you are in the 26<sup>th</sup> bracket and want to pay 13%. He said he can't believe anybody would ask this much for variances. He added driving north closer to 107<sup>th</sup> you see neat lawns, nice houses, and woods. It would look bad to see 4 houses jutting out toward the lake. Tucker said it is getting more and more expensive to build in Casco. The drain assessment cost is more than his first Chicago apartment. If the variance is granted it would have a negative effect on property values.

4. **Any further discussion:** Macyauski said he struggled with the application. Standards are something everyone must meet. The ZBA tries the best they can to answer the standards. It took 3 years to write the ordinances. Historically non-conforming lots were something we worked on. We looked at lot area, lot width and setbacks. The Lakeshore A & B were looked at. Lakeshore B has water and sewer, so they have 25' setbacks. Without water and sewer all the others have 50' setbacks. He asked Aquel if he plans to have water and sewer.

Aquel said he is not going to have water and sewer.

Macyauski said he has looked over the plans and tried to find a way to make it work with less variance. He asked what the setbacks would look like if all lots were equal? Macyauski said he does not see a 50% relief on the road width. He added there are regulations that create private roads. SHAES and the PC would have to approve the road.

**B. Discussion / decision of variance request:**

**Sec. 20.08. - Review standards for variances.**

**A. A dimensional variance may be allowed by the ZBA only in cases where the ZBA finds that ALL of the following conditions are met:**

- 1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed.** Granting variance will not be contrary.
- 2. The variance is being granted with a full understanding of the property history.** Macyauski said he has a full understanding of the property. With a 150' lot width, he could not create a lot ratio of 1 to 4. This would be a problem all along Blue Star.
- 3. Granting the variance will not cause a substantial detriment to property or improvements in the vicinity or in the district in which the subject property is located.** It would be detrimental. Macyauski asked what utilities would be underground. Aquel said he would have electric and natural gas.

Tom Tucker said natural gas does not go out that far.

Aquel said natural gas does come to his property.

- 4. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.**

Chairman Hamlin said granting the variance could create a precedence that would bring more people in, which is what a person in the audience was concerned about during public comment.

- 5. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions include any of the following:**

- a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance.**

**b. Exceptional topographic conditions.**

**c. By reason of the use or development of the property immediately adjoining the property in question.**

*d. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.*

**6. That granting the variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.**

Macyauski said it would not affect other's property rights.

Overhiser asked if there has ever been a variance granted for the width of a private road?

Discussion ensued about requirements of shared drives vs private roads. Members said a shared drive would be for only 2 homes.

**7. That the variance is not necessitated as a result of any action or inaction of the applicant.**

**8. The variance, if granted, would be the minimum departure necessary to afford relief.**

Discussion ensued about options to reduce the amount of the variances, including minimum size of houses, minimum road width that would allow less setback variance.

**9. If involving a platted subdivision, that there is no practical possibility of obtaining more land and the proposed use cannot be located on the lot such that the minimum requirements are met.** Macyauski asked who owns property to south.

Chairman Hamlin said Thomas Obrien owns a 150' wide parcel.

Aquel said if he bought it would want to build on both sides with the road through the middle.

Discussion ensued about how building on both sides of a private drive would work to gain back some of the setback.

Macyauski discussed the possibility of postponing the decision. If a decision is made tonight, the applicant would not be able to come back for a different request for a year.

Smalley said if the request is different, the applicant could come back.

A motion by Macyauski to deny the request due to lack of evidence to support the standards for Residential A. Supported by Craig. All in favor. Variance denied.

**5. Old Business:**

**A. Anything else that may come before the ZBA:** Meeting on June 14 for setback variance.

6. **Public Comment:** None
7. **Approval of previous minutes – April 29, 2021:** A motion by Macyauski, supported by Hamlin, to approve minutes of April 29, 2021. All in favor. MSC.
8. **Adjournment:** 7:50

Attachment 1: Notice of Public Hearing  
Attachment 2: Application  
Attachment 3: Zoning Administrator Report  
Attachment 4: Correspondence

Minutes prepared by Janet Chambers Recording Secretary