

Approved 5-24-18

Casco Township Zoning Board of Appeals

August 10, 2017 @ 7:00 PM

**Members present:** Chairman David Hughes, Sam Craig, Matt Hamlin,

**Absent:** Paul Macyauski, and Matt Super

**Also Present:** Barbara Jerue, applicant

**Staff Present:** Janet Chambers Recording Secretary, Alfred Ellingsen, Zoning Administrator

The meeting was called to order at 7:00 PM.

A request from Barbara Jerue, 6331 109th Avenue Pullman, MI 49450 for a variance from Section 5.03, which requires a minimum lot width along a public road of 250 feet in the Agricultural Zone. The applicant wishes to divide a 73.8 acre parcel into two 36.9 acre parcels, one of which has 250 feet of road frontage (Parcel A) and the other has only 128 feet of road frontage (Parcel B). Therefore, the variance request is 122 feet. The parcel in question is located on the north side of 109<sup>th</sup> Avenue (Parcel #0302-011-006-00) between 62<sup>nd</sup> and 64<sup>th</sup> Streets in the Agricultural Zone.

Chairman Hughes read the Description and Purpose of the Agricultural District:

#### **SECTION 5.01 DESCRIPTION AND PURPOSE**

The purpose of this zoning district is to promote the goals of the Master Plan by preserving the agricultural character of lands within the Township, maintain the integrity of agricultural areas, minimize public service costs, preserve a maximum of open space, and control the intrusion of non-farm uses.

This zoning district is intended primarily for agricultural uses and associated agricultural activities which are protected under the Right to Farm Act, Public Act 94 of 1995, as amended. A limited number of non-farm residences may be appropriate where land does not hold a great deal of agricultural value, will not conflict or interfere with existing agricultural operations, or where the property owner has found it desirable to sell a portion of land owned for income or use by family members. Careful consideration will be given to environmental concerns related to groundwater quality and other related issues due to the limited ability of the Township to provide public services. All uses permitted within this zoning district shall be conducted with due consideration for the potential effects which may result from authorized agricultural uses, in accordance with, the Michigan Right to Farm Act.

Barbara Jerue was invited to explain her request. Jerue's sister, Marjorie Jerue, Stanwood, Michigan, was interested in selling their family farm. Barbara Jerue wanted to keep the farm, so they divided the property into two 36.9-acre parcels. This resulted in one parcel having 250' road frontage (Parcel A) and the other having 128' road frontage (Parcel B). Her sisters ½ (Parcel B) was sold to Ryan Brush and is being farmed.

Chairman Hughes asked Ellingsen about previous discussion on property division in the AG district. Ellingsen recently had issues with people interested in dividing their property for family to build homes. Ellingsen is going to draw up a letter to the Planning Commission to consider options to accommodate similar requests. One option could be for a common or shared drive to be considered as road frontage. Currently, private drives do not count as road frontage.

Concerning the Jerue property, Ellingsen said Parcel A is conforming, Parcel B is non-conforming. The division has been done and the variance request is after the fact. The division conflicts with the State Land Division Act.

Chairman Hughes stated the owner of Parcel B is the person the ZBA should be talking to.

Chairman Hughes led discussion through Section 20.08

## **SECTION 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. **Only public interest would be owners who have followed the 250'.**
  2.      The variance is being granted with a full understanding of the property history. The property is a family farm. **It has been rented for farming by Ryan Brush in recent years.**
  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. **The property is surrounded by mainly farmed land and woods.**
  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 Hughes asked Ellingsen what percentage of Casco is Agricultural. Ellingsen said it is 60+%.**
  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: **Due to homes that existed prior to the 1986 Land Division Act, there is not enough road frontage to divide the property into two 250' road frontage lots.**
    - 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. **Other properties are in compliance with the 250' frontage rule.**
  - 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.
- B. In addition to the above outlined standards for a dimensional variance, the Zoning Board of Appeals shall consider the following when deliberating upon a nonconforming lot in a platted subdivision case (see also Section 3.28):
- 1. There is no practical possibility of obtaining more land.
  - 2. The proposed use cannot reasonably be located on the lot such that the minimum requirements are met.

Hughes said this is a situation where another individual is responsible for the 128' piece of property. The option for the ZBA is to approve or not, but the decision must be unanimous because there are only three ZBA members present. Craig said he is not comfortable approving the variance.

A motion made by Craig, supported by Hamlin to deny the variance request. All in favor. MSC.

Ellingsen will contact the attorney to find out what the next steps will be.

A motion was made by Craig, supported by Hamlin to approve minutes of the June 5<sup>th</sup> ZBA meeting.

A motion was made by Craig, supported by Hamlin to adjourn. Meeting adjourned at 8:00 PM.

Minutes prepared by Janet Chambers, Recording Secretary

*Dave Hughes*  
\_\_\_\_\_  
Dave Hughes, ZBA Chairman

*Sam Craig*  
\_\_\_\_\_  
Sam Craig, ZBA Secretary

8-10-17  
\_\_\_\_\_  
Date

8/10/17  
\_\_\_\_\_  
Date

**CASCO TOWNSHIP**  
**NOTICE OF PUBLIC HEARING**

The Casco Township Zoning Board of Appeals will hold a public hearing Thursday, 10 August 2017 at 7:00 pm at the Casco Township Hall at 7104 107<sup>th</sup> Ave., South Haven, MI 49090 to deliberate the following request for a variance from the requirements of the Casco Township Zoning Ordinance:

A request from Barbara Jerue, 6331 109th Ave., Pullman, MI 49450 for a variance from Section 5.03 which requires a minimum lot width along a public road of 250 feet in the Agricultural Zone. The applicant wishes to divide a 73.8 acre parcel into two 36.9 acre parcels, one of which has 250 feet of road frontage and the other has only 128 feet of road frontage. The parcel in question is located on the north side of 109th Avenue (Parcel #0302-011-006-00) between 62nd & 64th Streets in the Agricultural Zone. Therefore, the variance requested is 122 feet.

This is an "after the fact" request since the division has already been accomplished last year without Township approval, deeds recorded, and one parcel already sold to an individual.

The Zoning Board of Appeals may modify any of the variance requests to comply more fully with Section 20.08 and to make findings based upon competent, material and substantial evidence.

The applications and any pertinent information may be viewed at the Township Hall at 7104 107<sup>th</sup> Ave., South Haven, MI 49090 during regular office hours. Written or faxed comments may be made to the address above or numbers below and oral comments may be made in person at the hearing. Necessary and reasonable aids for disabled persons will be made available with sufficient notice to the Clerk.

**Cheryl Brenner**  
Clerk  
Phone-269/637-4441

**Alfred J. Ellingsen**  
Zoning Administrator  
Fax-269/639-1991

(Please place in the South Haven Tribune for publishing on 9 July 2017)

ZONING BOARD OF APPEALS - CASCO TOWNSHIP  
7104 107<sup>th</sup> Ave., South Haven, MI 49090 (Ph.-269/637-4441; Fax- 269/639-1991)

Application to the Zoning Board of appeals to authorize a variance from the requirements of the Zoning Ordinance.

TO THE ZONING BOARD OF APPEALS:  
Request is hereby made for permission to:

Extend \_\_\_\_\_ Use \_\_\_\_\_  
Erect \_\_\_\_\_ Convert \_\_\_\_\_  
Alter  \_\_\_\_\_

Parcel # 0302-011 - 006 - 00  
0302-011 - 008 - 00

Contrary to the requirements of Section (s) \_\_\_\_\_ of the Zoning Ordinance, upon the premises known as \_\_\_\_\_ and described as: \_\_\_\_\_ (attach legal description)

The following is a description of the proposed use:

1. Name of applicant: Barbara Jerue  
Address: 6331-109th Ave Phone: 269-236-5453  
City: Pullman State: MI Zip: 49450-9644  
Fax: \_\_\_\_\_

2. Interest of Applicant in the premises: owner

3. Name or Owner: Barbara Jerue  
Address: 6331-109th Ave Phone: 269-236-5453  
City: Pullman State: MI Zip: 49450-9644  
Fax: \_\_\_\_\_

4. Size of property to be effected by the variance: \_\_\_\_\_

5. Proposed use of building and/or premises: \_\_\_\_\_

6. Present use of building and/or premises: \_\_\_\_\_

7. Size of proposed building or addition to existing building, including height: \_\_\_\_\_

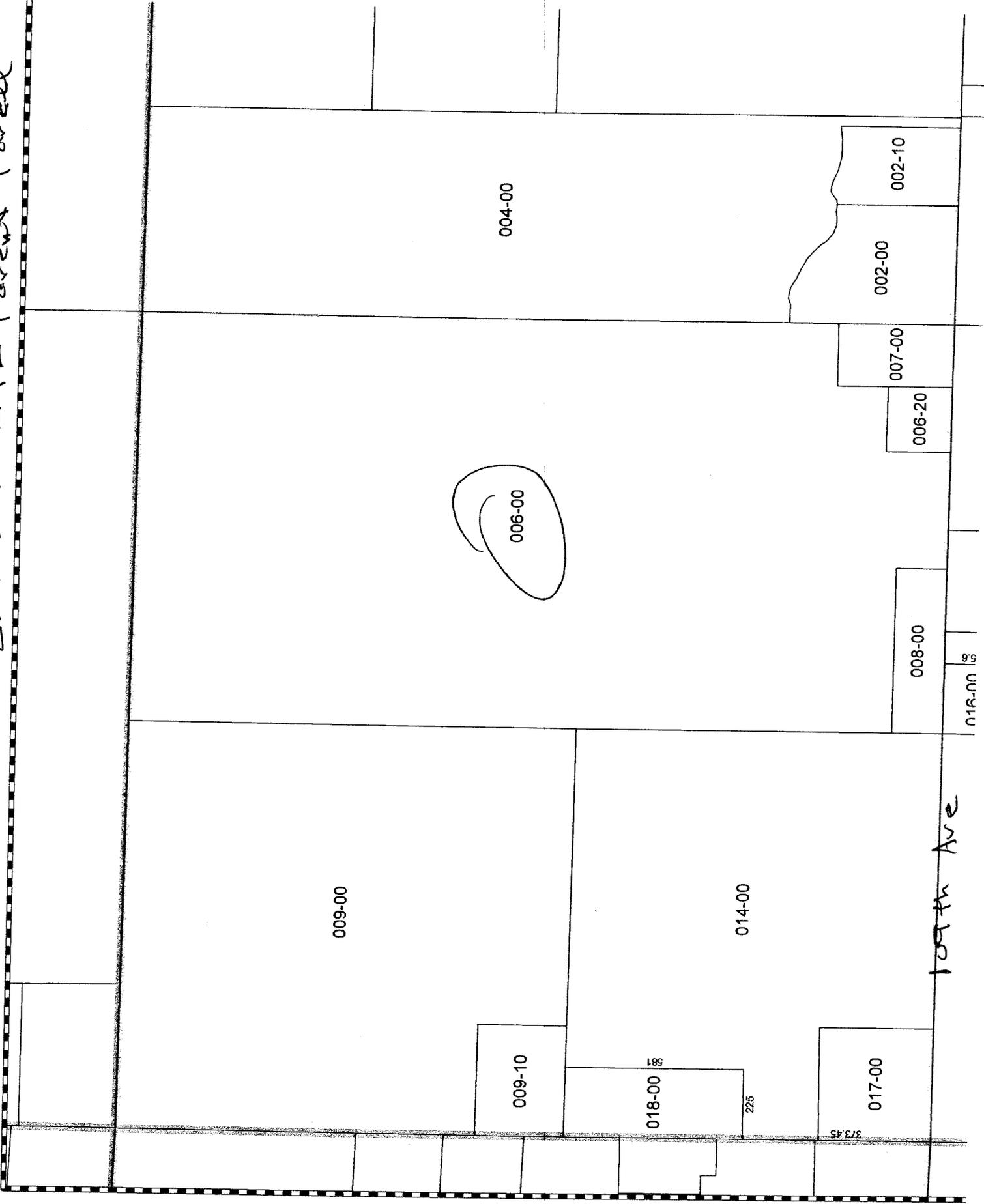
8. Has the building official refused a permit? \_\_\_\_\_

9. If there has been any previous appeal involving the premises; state the date of filing, nature of appeal and disposition of same: (use separate sheet) \_\_\_\_\_

Date: 6-7-17  
Barbara J. Jerue Signature of Applicant

Notes: Incomplete applications will be returned to the applicant.

Exhibit A1 - Parent Parcel





**BOUNDARY SURVEY**

**FURNISHED DESCRIPTIONS:**

PARCEL A, B AND C: ( 006-00 )  
 SECTION 11, TOWN 1 NORTH, RANGE 16 WEST: THE EAST ONE-HALF OF THE NORTHWEST QUARTER EXCEPT: THE SOUTH 165 FEET OF THE WEST 528 FEET; ALSO EXCEPT: THE SOUTH 275 FEET OF THE EAST 200 FEET; ALSO EXCEPT: COMMENCING 200 FEET WEST OF THE CENTER OF SECTION; THENCE WEST 208.75 FEET; THENCE NORTH 208.75 FEET; THENCE EAST 208.75 FEET; THENCE SOUTH 208.75 FEET TO THE POINT OF BEGINNING. ALSO EXCEPT: COMMENCING AT A POINT ON THE NORTH AND SOUTH QUARTER LINE OF SECTION 11 TOWN 1 NORTH, RANGE 16 WEST, WHICH IS 275 FEET NORTH OF THE CENTER OF SAID SECTION; THENCE WEST PARALLEL WITH THE EAST AND WEST QUARTER LINE 200 FEET; THENCE NORTH PARALLEL WITH THE EAST AND WEST QUARTER LINE 100 FEET; THENCE EAST 200 FEET PARALLEL WITH THE EAST AND WEST QUARTER LINE; THENCE SOUTH 100 FEET ALONG THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION TO THE POINT OF BEGINNING.

PARCEL D: ( 008-00 )  
 COMMENCING AT THE SOUTHWEST CORNER OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWN 1 NORTH, RANGE 16 WEST; THENCE NORTH ALONG THE EIGHTH-LINE 10 RODS, THENCE EAST PARALLEL WITH THE HALF SECTION LINE 32 RODS; THENCE SOUTH PARALLEL WITH THE EIGHTH-LINE 10 RODS; THENCE WEST ALONG THE HALF SECTION LINE 32 RODS TO THE PLACE OF BEGINNING. SUBJECT TO EASEMENT FOR HIGHWAY ALONG THE SOUTH SIDE THEREOF. TOWNSHIP OF CASCO, COUNTY OF ALLEGAN, STATE OF MICHIGAN. SUBJECT TO BUILDING AND USE RESTRICTIONS, RESERVATIONS, AND EASEMENTS OF RECORD.

**PROPERTY LINE ADJUSTMENT DESCRIPTION:**

PARCEL C: ( PART OF 006-00 TO BE JOINED TO 008-00 )  
 COMMENCING AT THE WEST 1/4 POST OF SECTION 11; TOWN 1 NORTH, RANGE 16 WEST, CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN: THENCE SOUTH 89°29'05" EAST ALONG THE EAST AND WEST 1/4 LINE, 1314.94 FEET; THENCE NORTH 0°06'41" EAST, ON THE NORTH AND SOUTH 1/8 LINE, 165.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 0°06'41" EAST, 35.00 FEET; THENCE SOUTH 89°21'05" EAST, PARALLEL WITH SAID EAST AND WEST 1/4 LINE, 528.00 FEET; THENCE SOUTH 0°06'41" WEST, PARALLEL WITH SAID 1/8 LINE, 35.00 FEET; THENCE NORTH 89°21'05" WEST, 528.00 FEET TO THE POINT OF BEGINNING.

**PROPOSED LAND DIVISION DESCRIPTION:**

PARCEL A: ( DIVISION OF 006-00 )  
 COMMENCING AT THE WEST 1/4 POST OF SECTION 11; TOWN 1 NORTH, RANGE 16 WEST, CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN: THENCE SOUTH 89°29'05" EAST, ALONG THE EAST AND WEST 1/4 LINE, 1314.94 FEET; THENCE NORTH 0°06'41" EAST 200.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 0°06'41" EAST, 2095.95 FEET; THENCE SOUTH 89°57'13" EAST, 711.03 FEET; THENCE SOUTH 1°33'38" EAST, 2305.01 FEET TO THE EAST AND WEST 1/4 LINE; THENCE NORTH 89°21'05" WEST, ON SAID 1/4 LINE, 250.32 FEET; THENCE NORTH 0°06'41" EAST, PARALLEL WITH THE NORTH AND SOUTH 1/8 LINE, 200.00 FEET; THENCE NORTH 89°21'05" WEST, PARALLEL WITH SAID EAST AND WEST 1/4 LINE, 528.00 FEET TO THE POINT OF BEGINNING.

**NEW OVERALL DESCRIPTIONS AFTER LINE ADJUSTMENT AND DIVISION:**

PARCEL B: ( REMAINDER OF 006-00 )  
 COMMENCING AT THE WEST 1/4 POST OF SECTION 11; TOWN 1 NORTH, RANGE 16 WEST, CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN: THENCE SOUTH 89°29'05" EAST, ALONG THE EAST AND WEST 1/4 LINE, 2093.26 FEET TO THE POINT OF BEGINNING; THENCE NORTH 1°33'38" WEST, 2305.01 FEET; THENCE NORTH 89°57'13" WEST, 711.03 FEET TO THE NORTH AND SOUTH 1/8 LINE OF THE NORTHWEST 1/4 OF SECTION 11; THENCE NORTH 0°06'41" EAST, ON SAID 1/8 LINE, 324.97 FEET TO THE NORTH SECTION LINE; THENCE SOUTH 89°17'05" EAST, ON SAID NORTH LINE, 1309.71 FEET TO THE NORTH AND SOUTH 1/4 LINE; THENCE SOUTH 0°00'20" EAST, ON SAID 1/4 LINE, 2244.42 FEET; THENCE NORTH 89°21'05" WEST, PARALLEL WITH THE EAST AND WEST 1/4 LINE, 200.00 FEET; THENCE SOUTH 0°00'20" EAST, PARALLEL WITH SAID NORTH AND SOUTH 1/4 LINE, 166.25 FEET; THENCE NORTH 89°21'05" WEST, 208.75 FEET; THENCE SOUTH 0°00'20" EAST, 208.75 FEET TO THE EAST AND WEST 1/4 LINE; THENCE NORTH 89°21'05" WEST, ON SAID 1/4 LINE, 128.17 FEET TO THE POINT OF BEGINNING.

PARCEL C & D COMBINED: ( NEW 008-00 AFTER LINE ADJUSTMENT FROM 006-00 )  
 COMMENCING AT THE WEST 1/4 POST OF SECTION 11; TOWN 1 NORTH, RANGE 16 WEST, CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN: THENCE SOUTH 89°29'05" EAST ALONG THE EAST AND WEST 1/4 LINE, 1314.94 FEET TO THE POINT OF BEGINNING; THENCE NORTH 0°06'41" EAST, ON THE NORTH AND SOUTH 1/8 LINE, 200.00 FEET; THENCE SOUTH 89°21'05" EAST, PARALLEL WITH SAID EAST AND WEST 1/4 LINE, 528.00 FEET; THENCE SOUTH 0°06'41" WEST, PARALLEL WITH SAID 1/8 LINE, 200.00 FEET; THENCE NORTH 89°21'05" WEST, 528.00 FEET TO THE POINT OF BEGINNING.

**SURVEY CERTIFICATE:**

I, RAYMOND E. MOORED, PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, HEREBY CERTIFY THAT I HAVE SURVEYED THE PARCEL OF LAND DESCRIBED AND DELINEATED HEREON; THAT SAID PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE SURVEY AS PERFORMED BY ME; AND THAT THERE ARE NO ENCROACHMENTS OTHER THAN THOSE AS SHOWN ON THE SURVEY; AND THAT THE RATIO OF CLOSURE IS WITHIN THE ACCURACIES AS REQUIRED IN ACT 288 OF PUBLIC ACTS OF 1967. THIS SURVEY COMPLIES WITH THE REQUIREMENTS OF SECTION 3, PUBLIC ACT 132 OF 1970. ACT 591 OF MICHIGAN PUBLIC ACTS OF 1996 SHOULD BE CHECKED TO SEE THAT ANY CONVEYANCE DOES NOT VIOLATE THIS ACT. FURTHERMORE, THE SURVEYOR'S SIGNATURE AND SEAL MUST BE ORIGINAL AND BE ANY COLOR OTHER THAN BLACK. OTHERWISE, THE PLAN MUST BE ASSUMED TO BE AN UNAUTHORIZED COPY AND COULD CONTAIN ALTERATIONS. THIS CERTIFICATION SHALL ONLY APPLY TO ORIGINAL COPIES.

10/28/16  
 DATE: \_\_\_\_\_ Raymond E. Moored P.S. # 26463

CLIENT: BARBARA JERUE  
 DATE: 12-14-15 JOB NO.: 15-1204

LOCATION: CASCO TWP., ALLEGAN CO.  
 SECTION: 11, TOWN: 1N, RANGE: 16W

**MOORED LAND SURVEYING, LLC**  
 240 MONROE STREET Telephone 1-269-673-6402  
 P.O. BOX 291 Fax 1-269-673-8192  
 ALLEGAN, MICHIGAN 49010



Revised 10-28-16

**LEGEND**

- SET IRON
- FOUND IRON
- PLAT MON.
- M MEASURED DIST.
- R RECORDED DIST.
- FENCE

74-1001/724 4597

BARBARA J. JERUE  
6331 - 109TH AVE.  
PULLMAN, MI 49450-9644

DATE 6-14-17

PAY TO THE ORDER OF Cause Termination \$ 250.00

Payable  
Account  
Closed on back.

Two hundred fifty dollars 00/100 DOLLARS

**CHEM**  
CPUS

 **CHEMICAL BANK.**  
ChemicalBankMi.com

MEMO

Barbara Jerue MP

SPECIALLY PRINT