

CASCO TOWNSHIP, ALLEGAN COUNTY
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Zoning Board of Appeals of Casco Township will conduct a public hearing and regular meeting concerning the following matters on Thursday October 20, 2022 at 7:00 p.m. at the Casco Township Hall, 7104 107th Ave, South Haven, MI 49090, within the Township.

PLEASE TAKE FURTHER NOTICE that the items to be considered at said public hearing include the following:

Bowhead Land Group (William Deary) of South Haven MI has petitioned for a variance at V/L (300 Block) 74th St (0302-075-011-10) for a 6ft fence in required front yard. Required fence height in the required from yard is 3ft; request 3ft of relief.

Any other business that may come before the zoning board of appeals

PLEASE TAKE FURTHER NOTICE that the application packets can be reviewed at the Casco Township Hall during regular business hours at 7104 107th Ave, South Haven or by contacting the Zoning Administrator for an electronic copy 1-800-626-5964 mtsalleghan@frontier.com

PLEASE TAKE FURTHER NOTICE that written comments may be submitted to the Township Clerk at the Township Hall, by mail, to address below, or email to the zoning administrator mtsalleghan@frontier.com. All written comments must be submitted no later than 5:00pm the day preceding the public hearing (*Wed Oct 19, 5pm*).

Casco Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the hearing upon seven (7) days' notice to the Casco Township Clerk.

Cheryl Brenner
Casco Township Clerk
7104 107th Ave, South Haven MI 49090
269-637-4441

Tasha Smalley
Zoning Administrator
1-800-626-5964

CASCO TOWNSHIP
Casco Township Hall
7104 107th Ave. South Haven MI 49090
ZONING BOARD OF APPEALS
Agenda
Thursday October 20, 2022 7:00PM

1. Call to Order, Roll Call
2. Approval of agenda
3. Public comment (non-agenda items)
4. New Business
 - a. Bowhead Land Group (William Deary) of South Haven MI has petitioned for a variance at V/L (300 Block) 74th St (0302-075-011-10) for a 6ft fence in required front yard. Required fence height in the required from yard is 3ft; request 3ft of relief.
open public hearing
Applicant explain request; ZA staff report
correspondence
audience for / against comments
any further discussion
close public hearing
Discussion / decision of variance request
5. Old Business
 - a. anything else that may come before the ZBA
6. Public comment
7. Approval of previous minutes – Aug 22, 2022
8. Adjournment

**Casco Township Zoning
Board of Appeals
August 22, 2022, 7 PM**

Present: Chairman Matt Hamlin, Vice Chair Paul Macyauski, Alex Overhiser, Matt Super and Dian Liepe

Absent: Secretary Sam Craig

Also Present: Zoning Administrator Tasha Smalley, Applicants Kevin Stufflebeam of Allegan and Robert King of South Haven, Recording Secretary Janet Chambers

1. **Call to Order:** The meeting was called to order by Chairman Hamlin at 7 PM for the purpose of hearing variance requests by Kevin Stufflebeam and Robert King. (Notice of Public Hearing Attachment 1).
2. **Approval of Agenda:** A motion by Macyauski, supported by Super to approve the agenda as presented. All in favor. MSC.
3. **Public comment:** None
4. **New Business:**
 - A. **Kevin Stufflebeam of Allegan MI has petitioned for dimensional variances at 58 North Shore Dr. N. (0302-450-001-00) to demo and construct a new home. Required front (First St.) setback 25 feet; request is 15 feet of relief (to be 10 ft. from property line). Required side setback is 10 feet; request is 5 feet of relief (to be 5 ft. from north line). Required waterfront setback is 200 ft.; request is 37 feet of relief (to be 163 ft. from OHWM)**

Open public hearing at 7:03 PM.

- **Applicant Explain request, ZA staff report** (Attachment 2): Tim VerStrate, builder was present to represent Stufflebeam for his 3 variance requests. They are requesting to build 10' from the First Street side. The existing house is only 1' 9" away from the lot line. The request for 37' of relief on front and the home would be it in line with or behind other houses on the north side and slightly closer than homes on the south side of his property. On the North side the new home would be 5' further back than the current home. The proposed home would be a smaller footprint than existing house.

Smalley said there is a right-of-way for local traffic. The paved portion ends and there is a foot path for beach access.

Macyauski said he read the applicants answers to the standards and felt they did a very good job.

- **Correspondence:** Chairman Hamlin read a letter from Julie Cowie, 7376 101st Ave., in objection to building closer to shoreline than the 200' required setback. (Attachment 3)

Chairman Hamlin read a letter from Eric Schlanser, 45 North Shore Dr. N., in opposition of variance requests. (Attachment 4).

- **Audience for / against:** Sheri Trisberg Ippel who lives next door said they had a fire and her mother who is wheelchair bound was in the house. The fire truck had trouble finding them and Mr. Hayes told them where to go. Firemen told her if it had taken 5 more minutes her parents would be gone. Ippel wanted to know exactly what is being proposed.

Macyauski said the variance request would not impede the right-of-way.

Patrick McKearn, North Shore Drive, said he agreed with Julie Cowie's letter. He said he lived here for 30 years and 2 years ago he saw the highest water levels. Multiple properties were above the previous high-water mark. People were putting in revetments. Walking the lakeshore is not as beautiful with all the revetments. It is not necessary to be that close to the water. There is plenty of land. The 200' setback is for a good reason. Who are we to 2nd guess that decision.

VanStrate said the property to the north is about the same distance to the lake as the proposed home would be. The house beyond that is closer to the lake than the applicant is proposing. He said he understands the concern about erosion, but this is a unique piece of property. They still have a walkable beach. The variance is not going to affect erosion. The proposed house is farther back than the existing. Emergency vehicles will still be able to get through. The home will not impede the easement.

- **Any further discussion:** Macyauski said this is in a non-high-risk erosion area. Macyauski said the required 200' setback does not make sense in the non-high-risk erosion areas.

Dian Liepe said having been on the PC and having a love for Casco Township; she feels people ought to be able to do what they want with their property, but also must have rules. Liepe recalled going to the county park when there was a lot of beach there. Then it was gone. No one can say when it will happen again. Are there other things we can consider, like possibly 3 stories. Going up higher to stay within the boundaries. They put up fence close to the walkway and with shrubbery on the other side you can hardly walk through. Liepe said she likes the idea of a smaller footprint. She said she is concerned about the 37' variance request. A 17' variance was granted for a pool, but 37' is a lot. Liepe said she thinks there is a reason for having the 200'. Maybe having an unattached garage would help lessen the setbacks.

Close public hearing at 7:22 PM.

- **Discussion / decision of variance request:** Chairman Hamlin read through the standards taking comments from commissioners
 - 1) **Granting the variance will not be contrary to the public interest and will ensure that the spirit of the Ordinance is observed.** Consistent with neighborhood. Yes
 - 2) **The variance is being granted with a full understanding of the property history.** The proposed building setbacks are greater than the existing setbacks Like many other lots on the lakeshore. The property is an awkward in shape.

- 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.** Consistent with neighborhood. They are decreasing the footprint of the home on lot rather than increasing. It is not a high erosion area.
- 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 practical or recurrent in nature.** They have a small, unusual lot constricted by an easement and the lake.
- 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 property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances include any of the following:**
 - A. **Exceptional narrowness, shallowness, or shape of a specific property on the date of this ordinance.**
 - B. **Exceptional topographical 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.** Several hardships, narrow, an easement for public access.
- 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.** Will allow them to stay consistent with the neighborhood. Further back from the lake than home to north and south.
- 7) **That the variance is not necessitated as a result of any action or inaction of the applicant.** Not a result of action by applicant.
- 8) **The variance, if granted, would be the minimum departure necessary to afford relief.** Yes.
- 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.** No possibility of obtaining more land.

A motion by Super that because the applicant met the standards to grant variance requests; supported by Overhiser. Roll Call Vote. Liepe—no; Super—yes; Macyauski—yes; Overhiser—yes; Hamlin—yes. Variance granted with a 4-1 vote.

- B. **Robert King of South Haven MI has petitioned for a variance at 1191 Oak St. (0302-181-309-00) to construct a 4.5 ft. fence in required front yard. Required fence height in the required front yard is 3 ft.; request of 1.5 feet.**

Open public hearing at 7:39 PM.

- **Applicant Explain request, ZA staff report** (Attachment 5): Robert King said he is at the end of a cul-de-sac with one neighbor to the left. Behind the property is a creek and a hill 10' from the back of his home. There is not room for a fence back. The fence would not border the neighbor's property. There is not a whole lot of room for a 25' setback. King showed his pictures of what the fence would look like. It is an open fence and will not obstruct views. The fence is to keep his dog on his property.

Liepe said she drove by, and it is a quiet place with dense woods. The proposed fence is nice looking and will not obstruct vision.

- **Correspondence:** None
- **Audience for / against:** None
- **Any further discussion:**

Close public hearing at 7:48 PM.

- **Discussion / decision of variance request:** Chairman Hamlin read through the standards taking comments from commissioners
 - 1) **Granting the variance will not be contrary to the public interest and will ensure that the spirit of the Ordinance is observed.** The fence is nice looking and will not obstruct vision.
 - 2) **The variance is being granted with a full understanding of the property history.** He needs the fence to keep his dog out of the road.
 - 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.** Agreed it will not. The fence will be professionally installed.
 - 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 practical or recurrent in nature.** They are not. Could change ordinance to say see through fence should be ok.
 - 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 property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances include any of the following:**
 - A. **Exceptional narrowness, shallowness, or shape of a specific property on the date of this ordinance.**
 - B. **Exceptional topographical 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.**

Hill & River in back and no room in back yard to keep dog in.

- 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.**

Neighbor has same fence.

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

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

Yes

- 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.** NA

A motion by Macyauski, supported by Overhiser, because the applicant met the standards, a motion to grant the variance request. Roll call vote: Liepe-yes; Super-yes; Macyauski-yes; Overhiser-yes; Hamlin-yes. Variance granted 5-0.

5. **Old Business:** None

6. **Public comment:** None

7. **Approval of previous minutes** – A motion by Super, supported by Overhiser, to approve minutes of June 16, 2022. All in favor. Minutes approved as presented.

8. **Adjournment:** Meeting adjourned at 7:53 M.

Attachment 1: Notice of public hearing

Attachment 2: Application and Zoning Administrator report for Stufflebeam variance request

Attachment 3: Correspondence from Eric Schlanser, 45 North Shore Dr. N., in opposition of Stufflebeam variance requests.

Attachment 4: Letter from Julie Cowie in opposition to Stufflebeam variance.

Attachment 5: Application and Zoning Administrator report for King's variance request

Attachments available at Casco Township Hall upon request

Minutes prepared by Janet Chambers, Recording Secretary

Memorandum: Casco Township Zoning Board of Appeals
Date: September 28, 2022
From: Tasha Smalley, Zoning Administrator
RE: STAFF REPORT - Variance request – fence height

Meeting date: Thursday October 22, 2022 7:00PM

Owner: Bowhead Land Group – William Deary/Kylyn Mead
Mailing Address: 899 Enfeild St, Boca Raton FL 33487
376 74th Street, South Haven MI 49090

Representing: William Deary

Subject Property: V/L 74th Street (300 block)
Parcel #: 0302-075-011-10

LR-B - Lakeshore Residential District B

7B.03 District Regulations

Minimum lot area – 30,000 sq ft / **s&w 12,000 sq ft**

Minimum lot width – 125 ft / **s&w 85 ft**

Front setback – 50 feet / **w&s 30 ft**

Side setback – 25 feet / **w&s 15 ft**

Rear setback – 40 feet

Maximum building height 35 feet

Lot coverage – 25%

Analysis

Property 0302-075-011-10 is a legal conforming parcel of record
Lot area: 9.78 acres; 393x1526 (strip 19x294 across street)

Fence:

6 feet in height solid privacy fence along 74th Street within front setback, front setback is 30 feet; 23ft from right-of-way (53 feet from centerline). The request is 3 feet of height relief. The fence has already been constructed, in error.

*3.32B a fence may not exceed 3 ft in height within any required front yard setback (front yard setback is 30 ft)

Request from 3.32Fence #B for a fence that exceeds the height of 3 feet; fence height request is 6 feet; 3 feet of height relief.

Per application: the fence was erected to protect the property from casual entry of people/children. The owner lives just down the street at 376 74th Street.

pd chz # 1128
@ 700-
D.S.

Casco Township Zoning Board of Appeals

7104 107th Ave., South Haven, MI 49090 Zoning Administrator: 269-673-3239

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: <u>Fence (after the fact)</u>	Convert:
Alter:	Parcel #: <u>0302-075-011-10</u>

Contrary to the requirements of Section(s) 3.32 FB of the Zoning Ordinance, upon the premises known as V/L 74th St and described as: see attached (attach legal description)

The following is a description of the proposed use:

Name of Applicant (if different from the owner) _____

Address _____ Phone _____

City _____ State _____ Zip _____

Email _____

Interest of Applicant in the premises:

Name of Owner(s) BOWHEAD LAND GROUP (WILLIAM DEARY FOR KYEIN MEND)

Address 376 74th Street Phone 517-740-3000

City South Haven State MI Zip 49090

Email WILLIAM@WILLIAMDEARY.COM

Approximate property dimensions, size 9.82 ACRES

Proposed use of building and/or premises FENCE HAS BEEN INSTALLED. REQUIREMENT

Present use of building and/or premises IS 63' FROM ROAD CENTERLINE. FENCE

Size of proposed building or addition to existing building, including height WAS INSTALLED AT 53' FROM ROAD CENTERLINE.

Has the building official refused a permit? N/A (Facing 74th Street)

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

Since a variance cannot be authorized by the Board of Appeals unless it finds reasonable evidence that all of the following conditions exist, it is imperative that you give information to show that these facts and conditions do exist. (Reference Section 20.08 of the Zoning Ordinance for additional requirements).

1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of the Ordinance is observed.

SEE ATTACHED.

2. The variance is being granted with a full understanding of the property history.

SEE ATTACHED

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.

SEE ATTACHED

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 practical.

SEE ATTACHED

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 property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances include any of the following:

- a. Exceptional narrowness, shallowness or shape of a specific property on the date of this ordinance.
- b. Exceptional topographical 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.

SEE ATTACHED

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.

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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.

SEE ATTACHED.

Kylyn Mead

members of
Bowhead

Signature of Applicant & Owners (all owners must sign)

Date 9-12-2022

Note: Incomplete applications will be returned

(Father) William Deary
(daughter) Kylyn Mead
members of
Bowhead

CASCO TOWNSHIP ZONING BOARD OF APPEALS

Information provided for pages three and four of:

APPLICATION TO THE ZONING BOARD OF APPEALS TO AUTHORIZE A VARIANCE FROM THE REQUIREMENTS OF THE ZONING ORDINANCE.

Property: 74TH STREET SOUTH HAVEN, MICHIGAN

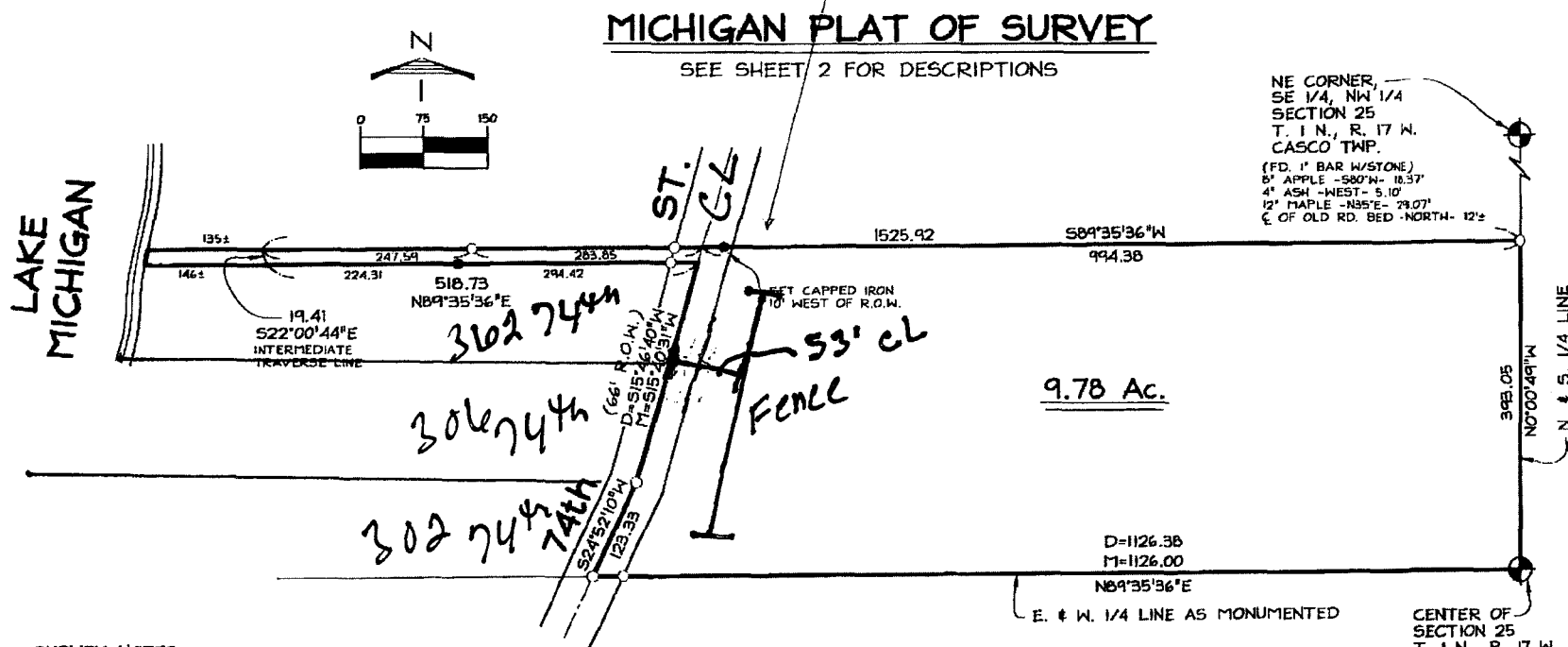
Owner: BOWHEAD LAND GROUP, LLC

1. Granting variance will not be contrary to the public interest. The fence was installed within the 63' of Road Centerline, (at 53' from Road Centerline). The fence is 10' closer to road centerline than permitted. The fence is "out" of all right of way requirements.
2. Property History is and will be consistent. Property has been vacant and will remain vacant. Property is a not planned for residential development. Paths were cut for use permitting family to ride ATV on property, (Owners ONLY).
3. Variance will not cause a substantial detriment or improvement to property. The fence was installed to serve as a significant improvement to the property. Specifically, the fence was installed to serve in the best interests of the public. The fence does and will continue to prohibit the public from entering property. (Owner does not want anyone to use paths and get hurt.)
4. Variance request does not create a general regulation for those conditions that are reasonably practical. Most of the fence (approximately 270' of total 300') cannot be seen from road. The fence is hidden for public view and covered by trees and vegetation.

Property: 74TH STREET SOUTH HAVEN, MICHIGAN

Owner: BOWHEAD LAND GROUP, LLC

5. There are practical difficulties to carry out regulation. PLEASE NOTE, DIFFICULTY HAS BEEN CREATED BY THE OWNER. The fence was installed within the 63' of Road Centerline, (at 53' from Road Centerline). The difficulty is:
 - a. Requires the removal of additional Trees and substantial Vegetation. The "LINE" wherein the fence was installed was selected to facilitate minimal removal of trees and minimal destruction of existing Vegetation.
 - b. Economic challenge
6. The granting of the variance serves the substantial property rights possessed by other properties in the vicinity. The fence prohibits trespass and is in best interest of general public.
7. The Variance is not necessitated by any action or inaction. The variance is requested by the Owner AFTER-THE-FACT. This request is being made for reasonable consideration by the CASCO TOWNSHIP ZONING BOARD OF APPEALS
8. The variance is a minimum departure necessary to afford relief. The request is of a 10' distance to the road centerline. The fence is 53' from the road centerline. If a need in the future the Casco Township Zoning Board has reason to require the fence be removed and repositioned outside the 63' Road Centerline, the OWNER will agree to move the fence if requested.
9. If involving a platted subdivision... Not applicable.



SURVEY NOTES:

- 1.) THE RELATIVE POSITIONAL PRECISION OF EACH CORNER IS WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING.
- 2.) BEARINGS ARE REFERENCED TO PREVIOUS SURVEYS IN THE AREA.
- 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR THE ENTITIES AND/OR INDIVIDUALS NAMED IN THE CERTIFICATION. ANY REUSE WITHOUT WRITTEN VERIFICATION AND ADAPTATION BY THE LAND SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USERS SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE LAND SURVEYOR.

LEGEND

FOUND IRON	○
SET IRON	●
MONUMENT	⊙
RECORDED	- R
MEASURED	- M
PLATTED	- P
Decided	- D

DWN. BY J. MITCHELL SCALE 1"=150'

CK. BY _____ DESC. BY _____ CK. BY _____

BOOK _____ FILE _____ PAGE _____ FILE _____ REV. _____

The above survey complies with public act 132 of 1970.
Act 288 of Michigan public acts of 1967 as amended by
public act 501 of 1997 should be checked to see that
any property conveyance does not violate that act.

MITCHELL & MORSE LAND SURVEYING

A DIVISION OF MITCHELL SURVEYS, INC.

234 VETERANS BLVD.
SOUTH HAVEN, MICHIGAN 49080
OFFICE: (269) 637-1107
FAX: (269) 637-1907

CLIENT

DATE 8-31-2020 JOB NO. _____ SHEET 1 OF 2

BEING IN THE NW 1/4 SEC. 25 T. 1 N. R. 17 W.

CASCO TWP. ALLEGAN CO., MICHIGAN

Sec. 3.32. - Fences.

- A. Fences shall not be constructed in any public right-of-way.
- B. Unless provided for elsewhere in this Ordinance, a fence may not exceed a height of three feet within any required front yard setback area, or a height of seven feet in any other area. For waterfront lots, a fence may not exceed a height of three feet within any front or rear yard setback area, or a height of seven feet in any other area.
- C. Fence height shall be measured from average grade within five feet of the fence on the ground to top of fence.
- D. Razor wire is prohibited in the Township.
- E. In the case of a double frontage (through) lot in any residential district, a fence up to seven feet in height may be erected in the rear yard, as determined by the Zoning Administrator, but shall not block clear vision for area driveways or roadways.
- F. Fences used to enclose vacant land or land used for agricultural purposes may be erected within any yard, provided that any fence over four feet in height shall be not greater than 50 percent opaque.
- G. Fences used to enclose vacant land or land used for agricultural purposes may be erected within any yard, provided that any fence over four feet in height shall be not greater than 50 percent opaque. Fences used for agricultural purposes shall not exceed eight feet in height.

(Ord. No. 031819-3, § 3, 3-18-2019; Ord. No. 111620, § 2, 11-16-2020)