

APPROVED 5-28-15

**CASCO TOWNSHIP
ZONING BOARD OF APPEALS
March 26, 2015, 7:00 PM**

MEMBERS PRESENT: Paul Macyauski, Sam Craig, Josiah Jessup, Matt Super

EXCUSED: David Hughes

ALSO PRESENT: Alfred Ellingsen, Zoning Administrator and Susan West, Recording Secretary

PUBLIC PRESENT: John Brush, Thomas and Janice Blaising, Eileen Mead, Julia Sherwood, Chris Carr and Robert Heath

Meeting was called to order by Chairman Paul Macyauski at 6:58 pm to adjudicate three different variances from the requirements of the Casco Township Zoning Ordinance.

Request 1: A request from John Brush, 6578 111th Ave., Fennville, MI 49408 acting as agent for **Thomas Blaising**, 8195 Waterwood Dr., Kalamazoo, MI 49048, to grant a variance from Section 3.28B3b(4) which requires a front yard setback of 25 feet in a platted subdivision in the Lakeshore Residential A zone. The applicant wishes to construct an attached garage to an existing dwelling at 912 Adams Road, South Haven, MI 49090 (Parcel #0302-470-011-10) to within 9 feet of the road right-of-way.

Chairman Macyauski invited John Brush to explain the request for a variance. Mr. Brush stated that the Blaisings would like to build a garage with a living area above onto the existing home that has been there for approximately 75 years. The house is currently 35' from Adams Street. Mr. Brush further stated that if the variance is granted, the garage will be 9' from the edge of Adams Road. Mr. Brush also stated that the property owners have already talked to the utility company regarding moving the utility pole and that they understand that the cost of same would be paid by them.

Super asked if the building of this addition would have any negative effect on the neighbors. Brush answered that he does not believe this addition would be a detriment to the neighboring properties and that the neighbors would basically have the same view that they currently have and that only one tree would need to be removed.

Super asked if the addition would have any effect on traffic on Adams Road and Brush answered that it would not.

Super stated that since he was unable to personally inspect the property, he would like to hear comments from Ellingsen. Ellingsen stated that the electric pole would have to be moved. Ellingsen also stated that the addition could not be built in the back towards the Lake. Further, Ellingsen stated that this is a request for a large variance.

Chairman Macyauski asked what the speed limit is on Adams Street. Ellingsen stated that it is 25 mph.

Chairman Macyauski stated that A 1 of Section 20.08 – Review Standards for Variances, includes the need for safety and that if this addition is built, it would barely allow for a car to get off the street. Mr. Brush stated that the driveway would not be changed.

Mr. Brush stated that there is not enough room on the other sides of the home to build a two car garage. Chairman Macyauski asked if the Blaisings would consider building a one car garage. Super stated that a one car garage wouldn't really allow for a living area in the second story, but that 9' from the road is very close.

Chairman Macyauski asked for public comment. Julia Sherwood, of 916 Adams Road, South Haven, MI 49090, stated that she owns the property to the North of the Blaisings, Mrs. Sherwood stated that she read some of the rezoning ordinances that were done around 1997 and asked for clarification on the wording that now states that the front yard of a home is the side that faces the Lake. Ellingsen stated that this is incorrect and that homes along the Lake have two front yards and no backyard.

Mrs. Sherwood asked if there was a drawing of the proposed addition available that would show the elevation on the south side. Mr. Brush stated that there is not. Mrs. Sherwood then stated that she believes that a two story addition to the home, so close to the road, would appear to be huge and would not be in accordance with the spirit of the neighborhood. Sherwood further stated that she believes a one story garage would be more eye pleasing.

Janice Blaising stated that she and her husband have discussed this proposed addition with their neighbors, Robert and Susan Boucek, (who were given a variance approximately 3-4 years ago for the side yard requirements) and Eileen Mead and that they do not have a problem with the addition being built. Mrs. Blaising also stated that they need more room if they are going to live in this home year round and that they have tried to plan the addition so as to minimize the effect on their neighbors.

Ellingsen stated that most people are concerned when a neighbor wants to build on the Lake side of the property rather than the street side. Ellingsen further stated that the roof line of the addition will be the same as the home.

Chairman Macyauski stated that the Planning Commission worked for over a year to make this a fair Ordinance and that a 16' variance is extreme. Also, the home is already close to the road.

Eileen Mead, of 900 Adams Road, South Haven, MI 49090, stated that they hired John Brush to build their garage and that she recommended him to the Blaisings. Further, Mrs. Mead stated that she would have no problem with the building of this addition.

Chairman Macyauski asked that a note from Alfred and Sally Koning stating that they have no objection to the variance requests be attached hereto as Attachment 1. This note is dated March 11, 2015 and is written at the top of a copy of the Notice of Public Hearing regarding this matter.

Chairman Macyauski stated that he believed the answers on the application for this variance were not accurate, i.e.: in #1, it states that the trees and utility poles would remain where they are, but that it would be impossible for them to remain where they are. Mr. Brush stated that the application was done before the final plans were made and that he and the Blaisings are still working on ideas that would give the addition a more "pleasing look".

Super stated that the decision that is made tonight regarding this request will have an effect down the road and that he understands that there are homes in this area that people can't live in year round without making changes to them. Chairman Macyauski stated he believes that there are not too many lots in this situation and that each variance request is treated according to its own merit.

Mr. Brush asked what number would be more equitable than the 9' regarding the distance from the road. Chairman Macyauski stated, that in his personal opinion, cutting the addition in half would help. Chairman Macyauski further stated that by cutting the addition in half, it would be 22' from the road right-of-way.

Mr. Brush asked for comments from the other Board Members. Jessup stated that he would be in favor of granting a variance, but that a 35' variance is too much. Mr. Brush asked Jessup what he thought the maximum variance granted should be and Jessup responded that with the home already being closer to the road than the neighbors, he

believes an 18' variance might work. Craig stated that he believes it is a bad idea to have a bedroom only 9' from the road.

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. **Chairman Macyauski stated that he believes safety would be an issue and that being able to get cars off the road is important and that in this case, the home itself would be too close to the road.**

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

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.

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.

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.

7. That the variance is not necessitated as a result of any action or inaction of the applicant. **Chairman Macyauski stated that the Blaisings are requesting a two car garage rather than a one car garage.**

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.

A motion was made by Jessup, supported by Craig, to grant Thomas Blaising a 7' variance from Section 3.28B3b (4). With Jessup and Craig voting in favor, and Macyauski and Super voting against, the Variance was denied.

This request was not properly adjudicated and will therefore be tabled and continued on a later date.

Request 2: A request from **Margaret Hunter**, 2524 Lomond Dr., Kalamazoo, MI 49008 to approve a variance from Section 7A.03 and 3.10, which requires a front yard setback of 50 feet from the road right-of-way (ROW) and from Blue Star Highway. The applicant wishes to obtain an after the fact variance for a 6' x 9' addition previously constructed to the existing house which would be 20 feet from the road ROW. The property in question is located at 810 Blue Star Highway, South Haven, MI 49090 (Parcel #0302-062-026-00) in the Lakeshore Residential A (LR-A) zone. If this variance is granted, an after the fact Building Permit would also be issued.

Chairman Macyauski stated that per the Zoning Administrator, Chris Carr, of 822 Pioneer Road, Kalamazoo, MI 49008, will be acting on behalf of Margaret Hunter at this meeting. Chairman Macyauski invited Mr. Carr to explain the request for a variance. Mr. Carr stated that Ms. Hunter had a 9' x 6' addition built on her small cottage home along the front of the house, flush with the existing covered porch. Mr. Carr further stated that an addition could not be built in the back due to a swampy area located 16' from the home and that the addition could not be built to the North because that is where the septic is located.

Chairman Macyauski stated that it is a small cottage and that the addition has already been built without getting a variance. Further, Chairman Macyauski stated that the addition does not extend out past the front of the house.

Chairman Macyauski asked why Ms. Hunter did not get a building permit. Mr. Carr stated that he had advised Ms. Hunter that he did not believe it was necessary to obtain permits out in this area.

Chairman Macyauski asked for public comment and there was none. Chairman Macyauski asked if there were any questions or comments from the Board and there were none.

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. **Standard met**
2. The variance is being granted with a full understanding of the property history. **The home is already 20 feet from the road right-of-way**
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. **Standard met**
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. **Standard met**
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. **It is an exceptionally narrow lot**

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. **Standard met**

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

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

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. **Standard Met**

2. The proposed use cannot reasonably be located on the lot such that the minimum requirements are met. **Standard Met**

A motion was made by Super, supported by Craig, to grant an after the fact, 30' Variance from Section 7A.03 and 3.10 for the 6' x 9' addition previously constructed to the existing home. All in favor. Variance granted.

Request 3: A request from **Robert Heath**, 205 62nd St., South Haven, MI 49090 (Parcel #0302-025-015-30) to approve a variance from Section 5.03 which requires a front yard setback of 50 feet from the road right-of-way (ROW) and Section 3.07D which does not allow detached accessory buildings in the required front yard in the Agricultural Zone. The applicant wishes to

obtain an after the fact variance for a 30' x 40' pole barn currently under construction to within 25 feet from the road ROW. If this variance is granted, an after the fact Building Permit would also be issued.

Chairman Macyauski invited Robert Heath to explain his request for a variance. Mr. Heath stated that he needed an after the fact, 25' Variance for a 30' x 40' pole barn that was built on his property. Mr. Heath further stated that the pole barn is 58' from the center of the road.

Chairman Macyauski stated that this property is a corner lot (the corner of 62nd and 102nd) and that the driveway is on 62nd. Further, Chairman Macyauski stated that the next house down is closer to the road than this pole barn.

Super asked if this pole barn has any negative effects on the neighbors and Mr. Heath stated that it does not.

Craig stated that he believes this pole barn does not bother anyone, but that it also does not fit the required standards and that a permit for construction was not obtained. Chairman Macyauski stated that the Zoning Board does not have to consider that a permit was not obtained.

Craig stated that this is a large variance, but that the property is not located in a subdivision.

Super stated that he believes that there is not a problem with the pole barn.

Chairman Macyauski asked if there was any public comment and there was none. Chairman Macyauski asked if the Board Members had any comments or questions and they did not.

Mr. Heath stated that the utility poles prevented him from building the pole barn on the 102nd side of the property and that the septic tank is located in the back.

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. **Standard met**

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

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. **Standard Met**

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. **Standard Met**

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. **Standard Met**

b. Exceptional topographic conditions. **Standard Met**

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

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

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. **Standard Met**

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

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

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. **Standard Met**
2. The proposed use cannot reasonably be located on the lot such that the minimum requirements are met. **Standard Met**

A motion was made by Super, supported by Craig, to grant an after the fact, 25' Variance from Section 5.03 and an after the fact Variance from Section 3.07D for the pole barn previously constructed on the property. All in favor. Variance granted.

A motion was made by Craig, supported by Jessup, to approve Minutes from the February 19, 2015 meeting. (Super was not at the February 19, 2015 Meeting and therefore did not vote on the acceptance of same). MSC.

A motion to adjourn was made by Macyauski and 2nd by Jessup to adjourn. Meeting adjourned at 8:24 pm.

Minutes prepared by Sue West, Recording Secretary

Attachment 1: Note from Alfred and Sally Koning dated March 11, 2015 and is written at the top of a copy of the Notice of Public Hearing

We have no objection to any of these variance requests.

Sally J. Koning
3-11-15

Alfred Koning
03-11-15

CASCO TOWNSHIP

NOTICE OF PUBLIC HEARING

The Casco Township Zoning Board of Appeals (ZBA) will hold a public hearing **Thursday, 26 March 2015 at 7:00 pm** at the Casco Township Hall at 7104 107th Ave., South Haven, MI 49090 to adjudicate the following requests for a variance from the requirements of the Casco Township Zoning Ordinance:

1. A request from **John Brush**, 6578 111th Ave., Fennville, MI 49408 acting as agent for **Thomas Blaising**, 8195 Waterwood Dr., Kalamazoo, MI 49048 to grant a variance from Section 3.28B3b(4) which requires a front yard setback of 25 feet in a platted subdivision in the Lakeshore Residential A zone. The applicant wishes to construct an attached garage to an existing dwelling at 912 Adams Road, South Haven, MI 49090 (Parcel # 0302-470-011-10) to within 9 feet of the road right-of-way.
2. A request from **Margaret Hunter**, 2524 Lomond Dr., Kalamazoo, MI 49008 to approve a variance from Section 7A.03 and 3.10 which requires a front yard setback of 50 feet from the road right-of-way (ROW) and from Blue Star Highway. The applicant wishes to obtain an after the fact variance for a 6' x 9' addition previously constructed to the existing house which would be 20 feet from the road ROW. The property in question is located at 810 Blue Star Highway, South Haven, MI 49090 (Parcel # 0302-062-026-00) in the Lakeshore Residential A (LR-A) zone.
3. A request from **Robert Heath**, 205 62nd St., South Haven, MI 49090 (Parcel # 0302-025-015-30) to approve a variance from Section 5.03 which requires a front yard setback of 50 feet from the road right-of-way (ROW) and Section 3.07D which does not allow detached accessory buildings in the required front yard in the Agricultural zone. The applicant wishes to obtain an after the fact variance for a 30' x 40' pole barn currently under construction to within 25 feet from the road ROW.

If requests #2 and #3 are granted, after the fact Building Permits would also be issued.

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 107th 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
Casco Township Clerk
Phone-269/637-4441

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

(Please place in the South Haven Tribune for publishing on 8 March 2015)

Paul Macyanski

(Print Name)

Samuel Craig

(Print Name)

Paul Macyanski

ZBA Chairman

Samuel Craig

ZBA Secretary

Date: 5. 28^{pm}. 15

Date: 5/28/15