

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 Monday, August 2, 2021 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:

Robert Hubbard of Chicago IL has petitioned for dimensional variances at 78 Pershing (0302-603-010-00) to construct a new home; required front setback is 25ft; request 5ft relief; required south side setback is 10ft; request 5ft of relief.

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

PLEASE TAKE FURTHER NOTICE that the application packet can be reviewed at the Township Hall during regular business hours of regular business days at 7104 107th Ave, South Haven.

PLEASE TAKE FURTHER NOTICE that written comments will be received from any interested person concerning the foregoing by the Township Clerk at the address set forth below, during regular business hours of regular business days or by mail to the Township Clerk at the address set forth below, up to the date of the hearing and will also be received by the Zoning Board of Appeals at the hearing.

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. Individuals with disabilities requiring auxiliary services should contact the Casco Township Clerk at the address or telephone number listed below.

Cheryl Brenner
Casco Township Clerk
7104 107th Ave, South Haven MI 49090
269-637-4441
cascoclerk@gmail.com

Tasha Smalley
Zoning Administrator
1-800-626-5964
mtsalligan@frontier.com

**CASCO TOWNSHIP
ZONING BOARD OF APPEALS**

Agenda

Monday August 2, 2021 7:00PM

Casco Township Hall
7104 107th Ave. South Haven MI 49090

1. Call to Order, Roll Call
2. Approval of agenda
3. Public comment (non-agenda items)
4. New Business
 - a. Variance request Robert Hubbard 78 Pershing 02-603-010-00 front and side setback; front 5ft of relief and side 5ft of relief
 - open public hearing
 1. Applicant explain request
 2. correspondence
 3. audience for / against comments
 4. any further discussion
 - close public hearing
 - b. 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 June 14 2021
8. Adjournment

Draft

CASCO TOWNSHIP
ZONING BOARD OF APEALS
Monday June 14, 2021; 7:00 PM

Present: Chairman Matt Hamlin, Vice Chair Paul Macyauski, Secretary Sam Craig, and Matt Super

Absent: Alex Overhiser

Also Present: Zoning Administrator Tasha Smalley and Recording Secretary Janet Chambers and applicants James & Cecilia Reynolds and 4 interested citizens.

1. **Call to Order, Roll Call:** The meeting was called to order by Chairman Hamlin at 7:15 PM.
2. **Approval of Agenda:** Motion by Super, supported by Macyauski, to approve agenda as presented. All in favor. MSC.
3. **Public comment** (non-agenda items): None
4. **New Business**
 - A. **Variance request James Reynolds, 880 Blue Star (02-062-009-10), side yard setback; north 15 ft. of relief and south 20 ft. of relief; from required 25 ft. (Public Notice Attachment 1)**

Open public hearing

1. **Applicants explain request and ZA staff report:** (ZA Report - Attachment 2) (Application Attachment 3) James Reynolds, thanked the ZBA for having the hearing and Smalley for educating himself and his wife. They have had 50' to 60' loss of property to erosion. They generally live in Casco from April to October. They would like to build a 30' wide home on their 45' lot, the existing house is 38' wide. The house was built by the Casey family (Grandparents of Cecilia Reynolds) 74 years ago. James and Cecilia Reynolds are the 3rd generation since 1947. Cecilia showed photos of when the house was built by her family in 1947.

Macyauski asked if they are moving the existing house, or rebuilding? Reynolds said they considered moving it but decided not to. Their existing house is 38' wide on a 45 ft. lot, which if they moved it, would be even closer to the lot line. In 2017 the stairs were still there, in 2018 stairs were lost to erosion. When they closed the cottage in October of 2020, they had 30' between the house and bluff. They returned in the spring to find only 10'.

Macyauski inquired about the reason for the shape of the lot (a bump out on the Northwest).

Reynolds explained 60 years after the Casey family bought the property, the neighbor came to them and said he is about to sell his property and part of the Casey home was on his property. He said the new owners may ask Casey to move his house off the property. They settled out of court by purchasing a 15' strip of property from the neighbor on the north property line at the west end. Reynolds said he plans to have the back of his house in front of the neighbor's house, so they do not sit as close to each other.

Macyauski said he was leaning toward Section 3.28 of the ordinance for this.

Smalley said it is not a platted lot. It is a meet and bounds type lot.

Macyauski said under 3.28 it would still not be conforming.

2. **Correspondence:** A letter was received in support of the variance from Julie Cowie and Wil Hart. A letter from Carolyn Slone was received, also in support of the Reynolds variance (two letters Attachment 4). Slone added in her correspondence that she would like to see the house closer to the lake to keep more distance between the houses because of fire hazard.

Macyauski asked if Reynolds would be agreeable to an approval contingent upon having his house a minimum of 15' closer to the lake than the lake side of home to the south.

Reynolds said he wants to move away from the lake as far as possible, but 15' was reasonable. To the south of Reynolds is Casey (cousin of Cecilia Reynolds). Another concern of Slone is that the variance not be a blanket variance.

Macyauski said it would not be a blanket variance. The decision reached on the variance would only apply to the applicant's property only.

Hamlin said there needs to be enough room for a fire truck between houses.

Craig asked if Reynolds plans to remove the existing home.

Reynolds said his plan is to remove the existing house before beginning construction of the new home.

Craig said he would like another condition of approval to be the removal of the existing house.

3. **Audience for / against comments:** None
4. **Any further discussion:** Macyauski said Reynolds had accurately answered all the Standards in 20.08. Commissioners all agreed standards had been met.

Close public hearing at 7:40 PM

- B. **Discussion / decision of variance request:** Because the standards have been met, a motion was made by Macyauski to grant the variance requests of 15' relief on the north side yard setback and 20' of relief on the south lot line, contingent upon a minimum of 15' between the west side of the new construction and the west face of the southern home; and contingent on the existing home being removed before construction of the new home begins. Motion was supported by Super. All in favor. MSC

5. **Old Business:**

A. Anything else that may come before the ZBA: A variance request will be coming for property on Pershing. It is on wetlands and EGLE said if they could get a variance from Casco to build in an area to the edge of the wetlands it would impact the wetlands less. The property is on a platted lot of record. They are requesting 20' in front and south side 5' from required 10'. Monday, July 26th was discussed as a possible date.

B. Public Comment:

C. Approval of previous minutes -May 24, 2021: A motion by Macyauski, supported by Super, to approve minutes of May 24, 2021. All in favor. Minutes approved as presented.

D. Adjournment at 7:55

Attachment 1: Public notice

Attachment 2: ZA Report

Attachment 3: Application & Drawing

Attachment 4: Correspondence, 2 letters in support

Minutes prepared by Janet Chambers, Recording Secretary

Memorandum: Casco Township Zoning Board of Appeals
Date: July 16, 2021
From: Tasha Smalley, Zoning Administrator
RE: STAFF REPORT - Variance requests – front and side setback

Meeting date: Monday August 2, 2021 7:00PM

Owner: Robert Hubbird
Mailing Address: 10600 S Drew Chicago IL 60643

Subject Property: 78 Pershing
Parcel #: 0302-603-010-00

LDR- Low Density Residential District

8.03 District Regulations

Minimum lot area – 20,000 sq ft / s&w 10,000 sq ft
Minimum lot width – 100 feet / 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

3.28 Nonconforming lots, uses, or structures

B3b Min lot width 60 feet
Min lot depth 100 feet
Max lot coverage 25%
Front setback – 25 feet
Side setback – 10 feet
Rear setback – 20 feet

Analysis

Property 0302-603-010-00 is a legal non-conforming lot of record
Lot area: odd shaped: 175x228

Proposed New Residence

Front – 20 feet
North side 100+ feet
South side – 5 feet
Rear – 100+ft

Applicant is requesting relief from Section 3.28B3b (4) front setback 25ft; request is 5ft of relief; and side setback 10ft; request is 5ft of relief.

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: Single Family Residence	Convert:
Alter:	Parcel #: 02-603-010-00

Contrary to the requirements of Section(s) 3.28 of the Zoning Ordinance, upon the premises known as 78 Pershing Ave., South Haven, MI and described as: LOTS 9 TO 18 INC BLK 3 NORTH SHORE MANOR SECS 35 & 36 T1N R17W (attach legal description)

The following is a description of the proposed use:

Name of Applicant (if different from the owner) Robert G. Hubbard
Address 10600 S. Drew
Phone 773-988-5420
City Chicago State IL Zip 60643
Email myhouse1920@yahoo.com

Interest of Applicant in the premises:

Name of Owner(s) Robert G. Hubbard
Address 10600 S. Drew
Phone 773-988-5420
City Chicago State IL Zip 60643
Email myhouse1920@yahoo.com

Approximate property dimensions, size approximately 175' x 228'

Proposed use of building and/or premises Residential House

Present use of building and/or premises Empty Lot

Size of proposed building or addition to existing building, including height 30' x 60' x 30'

Has the building official refused a permit? No

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.

The lots on the parcel pre-date the ordinance, lots are 35' x 114'. The spirit of the ordinance of set back lines is to provide a measure of distance and privacy for neighbors (adjacent property holders). Due to the wetlands on the property and to minimize the wetland impact, the spirit of the variance is not being contradicted. The adjacent south property is a vacant lot. The structure will retain less than 25% of the total low coverage.

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

From my understanding, the property was owned by Favreau Roy Martin for almost 20 years. Mr. Martin passed away about 11 years ago. His wife, Mrs. Martin forgot about the property and did not pay the taxes on it for multiple years. Prior to losing the property to the State of Michigan, I purchased the property from her in 2019. I had EGLE conduct a wetland delineation of the property in 2020. EGLE determined that 0.91 acre of the property is wetland. I hired an Environmental Consultant to apply for a Joint Application Permit with EGLE to build a single family residence on the property with minimal impact to the wetlands.

For at least 20 years the property has been used as a dumping ground. During 2020, I have pulled the following items out of the property (I am sure there is more trash that needs to be removed from the property):

- garage door
- at least 15 metal brackets 10 feet long
- at least 6 car tiers
- over 150 golf balls
- 20 to 30 garbage bags of trash were removed from the property.

EGLE is requesting that I prove that I have exhausted all feasible outcomes to minimize wetland impact by applying for a variance. Below is the copy of the email from EGLE requesting to see if the township will approve a variance to further minimize impact to wetlands.

From: Combs, Jason (EGLE) (combsj8@michigan.gov)

To: myhouse1920@yahoo.com

Date: Monday, May 10, 2021, 07:40 AM CDT

Good morning Dr. Hubbard,

As discussed on the phone last week, it appears there are feasible and prudent alternatives to either avoid or at least further minimize wetland impacts from your proposed project that need to be explored. Regarding onsite alternatives, these include seeking a zoning variance with the Township to maximize the use of upland, which is predominantly adjacent to Pershing per the results of the WIP wetland delineation. If there are any questions, please let me know.

Thanks, Jason Combs, Water Resources Division, Kalamazoo District Office

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 variance will not cause a substantial detriment to the property because it will minimize wetland impact and provide opportunity to enhance wetlands. Furthermore, the variance will not cause a substantial detriment to the vicinity.

Part of the Joint Permit Application process with EGLE, was a public hearing. Only 3 public comments were submitted during EGLE's public hearing. All three public comments from the Joint Permit Application were addressed and resolved with EGLE with the proposed building location on the parcel.

The following responses were provided to the three comments received by EGLE in February 2021 during the public notice period.

1. Commenter – Quadree & Troy Holmes

Commenter has concerns regarding the proposed wetland fill impact being located 29 feet away from the property boundary with the neighboring parcel located to the north. The revised proposed location of the house is fill is now 83 feet from the northern property boundary and less fill is being used. Surface grade outside of the proposed impacted area slopes downward to the west not north. Well-drained granular structural fill will be used for the development. Measures being taken to reduce erosion during construction include straw bale barriers, silt fencing, erosion control blankets, and phased construction scheduling. Additional measures to reroute surface drainage or installation of drainage structures could lead to additional impacts to the wetland given the minimal fill area surrounding the house.

2. Commenter - Mark Kolas

Commenter has concerns regarding the drawings provided as part of the initial permit application and the omission of the 30' right-of-way of Lincoln Avenue that has not been constructed yet. The attached drawings have been updated to include the right-of-way of Lincoln Avenue. Most of the 30' right-of-way is not located in a wetland and has been filled in the past for the future road. The wetland located on the Property excluding the 30' right-of-way is 0.84 acres.

3. Commenter - Allegan Conservation District

Commenter has concerns with the "substantial" areas of fill outside of the house and driveway that include a pool. Commenter recommends these areas of fill be removed. Permit applicant has removed the pool and relocated the house to further minimize the amount of fill on the site as previously described.

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.

No. Request is based on its own merit and not recurring. The lots on the parcel pre-date the ordinance, lots are 35' x 114'. Furthermore, I believe based on the wetland delineation conducted by EGLE, the proposed building location will minimize impact to wetlands, maximize upland, and provide opportunity for wetland enhancements.

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.

The variance is being requested to preserve and enhance the wetlands on the property. The wetland delineation is dictating the location to construct a single family residential property to minimize impact. Additionally, the variance is being requested as a result of the narrowness of the upland between the south and front setbacks. Lastly, the lots on the parcel pre-date the ordinance, and the lot size of 35' x 114' is driving the location of the single family residential property.

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.

Correct. Properties within Allegan County have been granted similar variance requests to move residential properties closer to side and/or front setbacks. The requested variance moves the structure closer to the side (south) and front (east) setbacks; Without the variance the owner would not be able to provide a single family residential building and enhance the current wetlands on the parcel.

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

Correct. The lots on the parcel pre-date the ordinance, lots are 35' x 114'. I have done nothing to impact the variance and brought the property as is.

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

Correct. The variance would be the minimum departure necessary to minimize impact to wetlands and afford relief.

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.

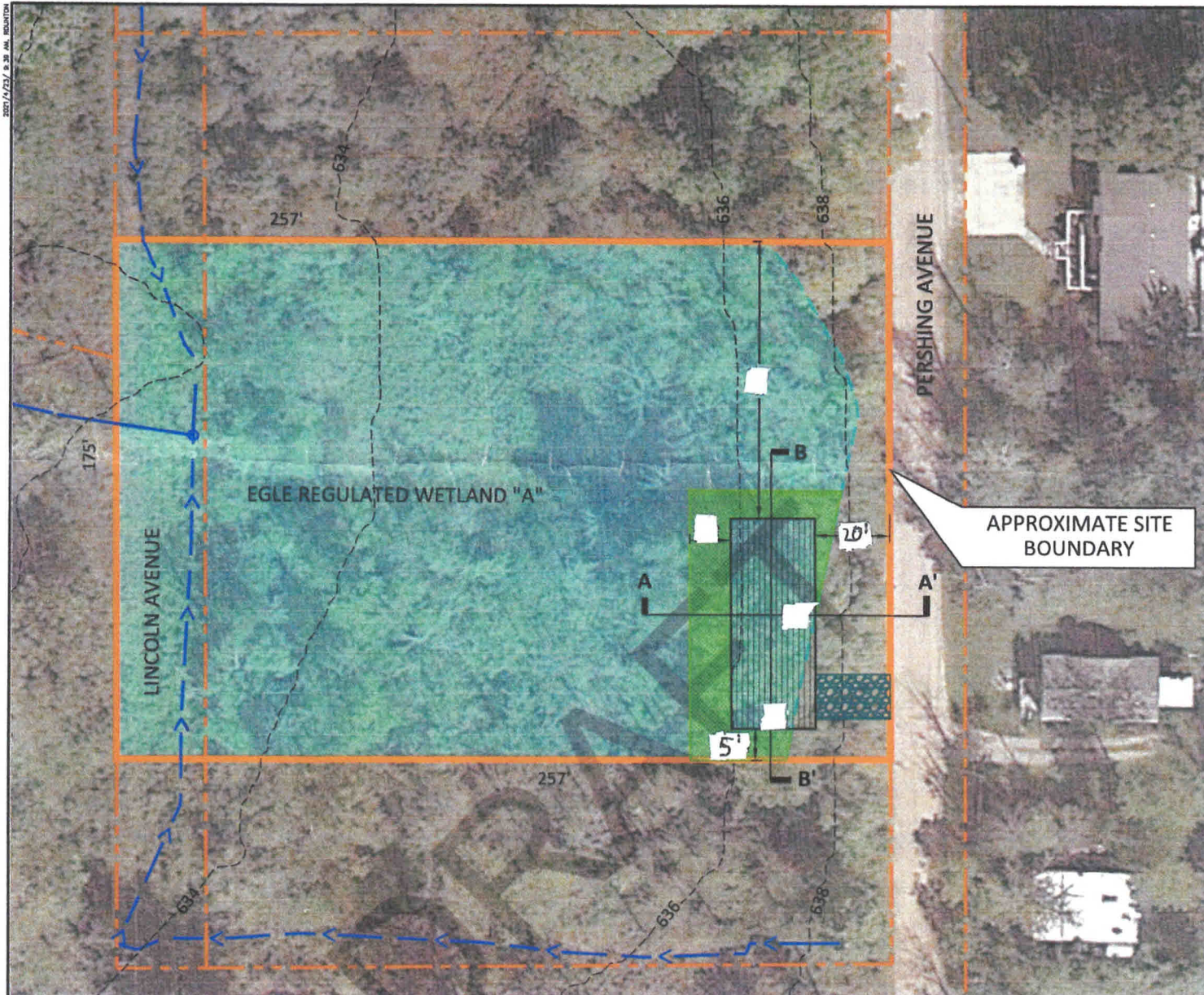
Not applicable. Not involving a platted subdivision, there is no practical possibility of obtaining more land, and in order to minimize wetland impact the proposed use cannot be located on the lot such that the minimum requirements are met.

Signature of Applicant & Owners _____
(all owners must sign)



Date 5-28-21

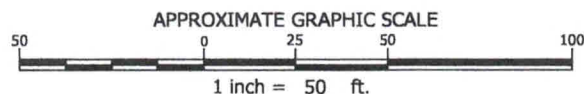
Note: Incomplete applications will be returned.



LEGEND

- APPROXIMATE SITE BOUNDARY
- APPROXIMATE NEIGHBORING PROPERTY BOUNDARY
- APPROXIMATE DRAINAGE DITCH
- APPROXIMATE GROUND CONTOURS (PER ALLEGAN COUNTY GIS, UNTIL FURTHER SURVEY IS CONDUCTED)
- APPROXIMATE WETLAND AREA (0.91 ACRES - PER EGLE WETLAND ID REPORT DATED SEPT. 17. 2020)
- PROPOSED HOUSE
- PROPOSED CONCRETE PAVEMENT
- PROPOSED LANDSCAPE AREA/GRASS SOD

PROPOSED DESIGN LAYOUT
AREA OF IMPACT TO WETLAND:
APPROXIMATE VOLUME:



SOURCE: IMAGE ADAPTED FROM GOOGLE EARTH IMAGERY DATED APRIL 2017.
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PREPARED FOR:

DR. ROBERT HUBBIRD

PROPOSED IMPACTED AREA LAYOUT

34 PERSHING STREET
SOUTH HAVEN, MI

REUSE OF DOCUMENTS

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FIGURE 3