

**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