

Approved 05-02-2019

Casco Township Zoning Board of Appeals
March 28, 2019; 6 PM

Members Present: Chairman Dave Hughes, Vice Chair Matt Hamlin, Secretary Sam Craig, Trustee Paul Macyauski and Matt Super

Absent: None

Staff Present: Janet Chambers, Recording Secretary and Tasha Smalley, Zoning Administrator

Also Present: Applicant Mervyn Elliot and 5 interested citizens (attachment #1)

1. **Call to Order, Roll Call:** The meeting was called to order by Chairman Hughes at 7:04 PM, all members present
2. **Approval of Agenda:** Chairman Hughes read the agenda. Motion by Super, supported by Craig to approve agenda. All in favor. MSC.
3. **Approval of previous minutes:** A motion by Super, supported by Macyauski, to approve minutes of the February 7, 2019. All in favor. Minutes approved as written.
4. **Public comment:** None
5. **New Business:**
 - a. **Variance request Mervyn Elliot, 918 Adams Rd., 0302-062-002-13 front yard setback; request is for 33' of relief to construct a new dwelling. Required front setback is 50' from the right-of-way. Request is to be 17' from right-of-way.**
 - i. **Open public hearing:** Chairman Hughes invited Mervyn and Tammy Elliot to explain their request.
 - ii. **Applicant explain request: ZA staff report:** (Attachment #3)

Mervyn Elliott said they are currently from Battle Creek and are building a home in Casco to downsizing for retirement. They purchased a split lot in November of 2017. It is a shallow lot approximately 100' off the lake on approximately a 260' bluff. Started the DEQ who gave them a 60' building setback from the bluff and 100' setback from the bluff for septic. Then he contacted Allegan County inspector John Johnson to advise on septic. Casco got copies of the septic permit and the DEQ permit. There will be an absorption bed and there must be a certain number of feet from that to a drain tile. They are trying to determine a footprint on which they can build a house. The biggest restriction is the current 50' setback. He said his request would be typical of other houses on the road.

Discussion ensued about the road right-of-way verses the edge of the pavement. Paul Macyauski said they do not like to give variances that result in less than 25' from the pavement for a safety issue. Macyauski said the ZBA

draws the line at 25'. He explained that with less than 25' from the road edge it creates a safety hazard backing out of the drive. He recalled with a previously granted variance they took into consideration that the owner would be parking beyond the garage or in the garage.

Hughes added, with small lots of record the ZBA did not want parking on the street and that was a reason for not granting variances closer than 25'.

- iii. **Correspondence:** Chairman Hughes read a letter from Sally Koning, 1298 Fabun Road, Fennville, MI in support of Elliot's variance (Attachment #7).
- iv. **Audience comments:** None
- v. **Further discussion:** Hamlin said typically it would be 100' from the bluff and the DEQ granted a variance that took it to 60'. Hamlin asked if there was erosion control required with that variance.

Elliot said nothing was required, but they were given advise. Last year they started planting sumac and other plants. He had some bore holes done and knows the depth of where water is. Discussion ensued about erosion. Hamlin wanted Elliot to be aware with a small lot and proximity to the bluff he needs to be aware of erosion. Elliot said his brother is an civil engineer. They will have a partial basement and the rest crawl space. The water runs out of the bank in two places where there is no growth. Elliot plans to intercept those places and redirect them.

- vi. **Close public hearing:** Chairman Hughes closed the public hearing at 6:30 PM.

- b. **Discussion / decision of variance request:** Chairman Hughes read through the review Standards with comments as follows:

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 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.** *OK*
 - 2. **The variance is being granted with a full understanding of the property history.** *Yes. Mr. Elliot gave them quite a bit of 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.** *The DEQ and Health dept permits support that.*
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.** *Pre existing non-conforming lot of record is part of it.*
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.** *Shallow lot and fact that the bluff is there.*
 - 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.** *One would be the shallowness of the lot*
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.** *Actually he has done more by all his research*
8. **The variance, if granted, would be the minimum departure necessary to afford relief.** *That is about as minimum as you are going to get.*
9. **If involving a platted subdivision, that there is n practical possibility of obtaining more land and the proposed use cannot be located on the lot such hat he minimum requirements are met.** *NA. Refers to Plotted subdivision*

A motion was made by Super, supported by Craig to grant the 33' front yard variance. All in favor. Motion granted.

6. **Old Business:**

- a. **Anything that may come before the commission:** Next meeting was to be a variance request by Michael Banister, 7156 Wildwood Drive for a front yard setback for a proposed garage. Zoning Administrator Smalley said she just found out today that the meeting will be postponed. The owner wants to relocate the garage which will require it being published again.

7. **Public comment:** None

8. **Adjournment:** 6:35

Attachment #1: Sign-in sheet

Attachment #2: Notice of Public Hearing

Attachment #3: Memo from Zoning Administrator

Attachment #4: Application (3)

Attachment #5: Legal description of property

Attachment #6: Sketch of property (2)

Attachment #7: Letter in support of variance, Koning, 3/15/19




Dave Hughes, ZBA Chairman



Sam Craig, ZBA Secretary



Date



Date

Minutes prepared by Janet Chambers, Recording Secretary

Attachment #2

NOTICE OF PUBLIC HEARING

TO: THE RESIDENTS AND PROPERTY OWNERS OF CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of Casco Township will conduct a public hearing and regular meeting concerning the following matter on Thursday, March 28, 2019 at 6:00 p.m. at the Casco Township Hall, 7104 107th Ave, South Haven, MI 49090, within the Township.

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

Mervyn Elliot of Battle Creek MI has petitioned for a dimensional variance at 918 Adams Road (0302-062-002-13). Request is for 33 feet of relief from required 50 feet front yard setback. *(Proposed dwelling 17 feet from the property line/right-of-way)*

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

Tasha Smalley
Zoning Administrator
1-800-626-5964

Attachment #3

Memorandum: Casco Township Zoning Board of Appeals

Date: March 6, 2019

From: Tasha Smalley, Zoning Administrator

RE: STAFF REPORT - Variance request – front yard variance

Meeting date: Thursday, March 28, 2019 6:00pm

Applicant: Mervyn Elliot

Applicant Address: 111 Tiffany Lane, Battle Creek MI 49015

Subject Property: 918 Adams Road

Parcel #: 03-2-062-002-13

LR-A- Lakeshore Residential District

7A.03 District Regulations

Minimum lot area – 30,000 sq ft

Minimum lot width – 125 feet

Front setback – 50 feet

Side setback – 25 feet

Rear setback – 50 feet

Maximum building height 35 feet

Analysis

Property 0302-062-002-13 is a legal pre-existing non-conforming lot of record

Lot area: 97x152 (top of bluff) = 14,744 sq ft

The applicant is requesting a front yard setback variance. The applicant wishes to construct a new dwelling. Required front setback is 50 feet from ROW (or 83 feet centerline of Adams Rd). Request is for 33 feet of relief (dwelling to be 17 feet from right-of-way; 50 feet to centerline).

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 # 0302-062 - 002 - 13

P A I D
2-26-19
CHK # 3449
700-

FORMERLY

062 - 002 - 11

Contrary to the requirements of Section (s) 7A.03 of the Zoning Ordinance, upon the premises

known as 918 ADAMS ROAD and described

as: _____ (attach legal description)

The following is a description of the proposed use:

1. Name of applicant: MERVYN ELLIOTT

Address: 111 TIFFANY LN Phone: 269 660 8014

City BATTLE CREEK State MI Zip 49015

Fax: _____ MERVYNJELLIOTT@HOTMAIL.COM

2. Interest of Applicant in the premises: OWNER

3. Name or Owner: AS ABOVE

Address: _____ Phone: _____

City _____ State _____ Zip _____

Fax: _____

4. Size of property to be effected by the variance: TO PLACE HOUSE 17FT FROM ROW ON NORTHERN CORNER
(25FT FROM ROW ON SOUTHERN CORNER)
= 33FT VARIANCE FROM ROW ON NORTHERN CORNER.

5. Proposed use of building and/or premises:
NEW HOUSE

6. Present use of building and/or premises: N/A EMPTY LOT

7. Size of proposed building or addition to existing building, including height: 48' WIDE 36' DEEP 24' HIGH

8. Has the building official refused a permit? NO

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) NO

Date: 2/16/2019
Mervyn J Elliott Signature of Applicant

Notes: Incomplete applications will be returned to the applicant.

700⁰⁰

This application must be accompanied with a fee of \$ ~~250.00~~ payable to Casco Township.

ADDITIONAL INFORMATION FOR APPLICATION TO BOARD OF APPEALS

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.

NOT CONTRARY TO THE SPIRIT OF THE ORDINANCE
ROADSIDE FRONT OF BUILDING WILL BE IN LINE WITH 2 NEIGHBORING
HOUSES TO THE SOUTH: SAME VARIANCE

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

THE LOT IS SHALLOW AND RESTRICTED BY THE MDEQ SETBACK OF
60' FROM THE BLUFF AND PLACEMENT OF THE SEPTIC ABSORPTION
BEDS, WHICH REQUIRE A 100' SETBACK FROM THE TOP OF BLUFF (MDEQ)

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.

NOT A DETRIMENT

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.

NO, THIS LOT IS UNIQUELY SHALLOW AND ON THE CURVE OF ADAMS RD
REQUEST IS BASED ON IT'S OWN MERIT / NOT RECURRING

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 include:

- 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.

LOT IS SHALLOW AND RESTRICTED BY BLUFF SETBACK + ALLEGAN COUNTY HEALTH DEPARTMENT SETBACK.

- 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.

YES STANDARD MET

- 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.

N/A

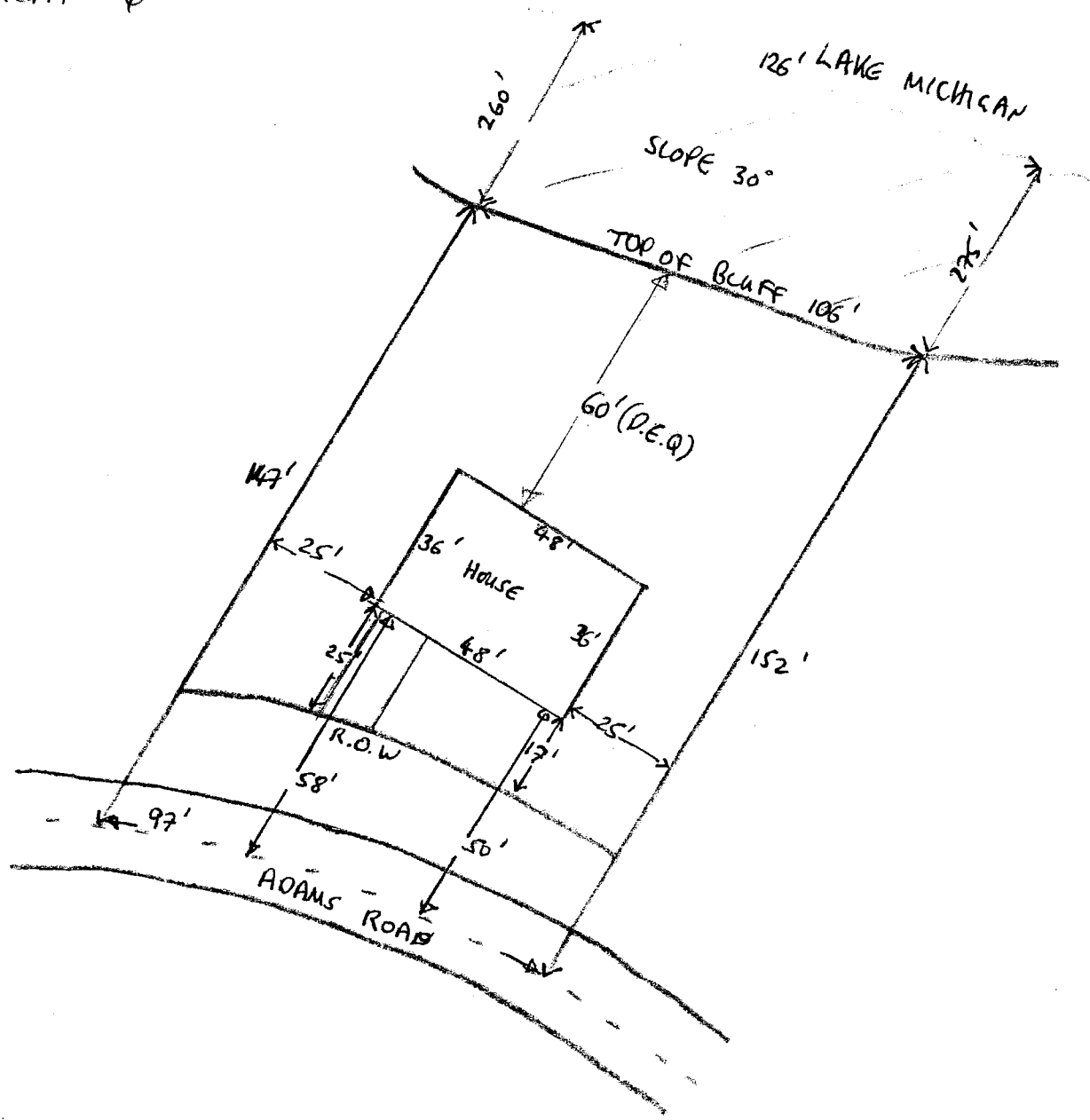
Attachment #5

02-062-002-13

918 Adams

COM E 1/4 COR TH N 565.67' TO POB TH N 57 DEG 31' W 157.2' TO INT TRAV LN LK MI TH N 13 DEG 30'40" E 82.06' TH N 13 DEG 24'34" E 24.72' TH S 55 DEG 20'16" E 175.75' TH 16.71' ALG CURV LT RAD 317.47' CHORD BEARS S 28 DEG 41'01" W 16.7' TH N 57 DEG 31' W 34.16' TH S 92' TO POB TOG /W LAND LYING BTWN SD TRAV LN AND LK MI SEC 12 T1N R17W (2018). SPLIT ON 10/30/2017 WITH 02-062-002-10 INTO 02-062-002-12, 02-062-002-13;

Attachment #6



918 ADAMS RD
SOUTH HAVEN
PLAN VIEW OF
TOP OF BLUFF

Attachment #7

1298 Fabun Road
Fennville, MI 49408

March 15, 2019

Zoning Board of Appeals
Casco Township
7104 107th Ave.
South Haven, MI 49090

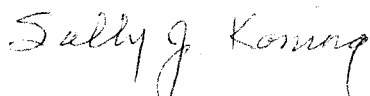
To the Zoning Board of Appeals:

I support approval of the requested variance for several reasons:

- 1) Adams Road is not a main road, but is a short secondary road.
- 2) Adams Road gets little traffic, and the traffic it does get is not high speed.
- 3) There are no homes on the opposite side of the street and never will be as that property is unbuildable.
- 4) Allowing for less setback from the road is necessary in order to meet the setback requirements from the edge of the bluff.
- 5) Setback from the bluff is important to ensure the integrity of the house on the property for many years to come, should there be erosion along the Lake Michigan shoreline in the future.
- 6) Allowing a house to be built on the property will increase the tax base of Casco Township.

I appreciate the opportunity to express my views.

Sincerely,



Sally J. Koning