

Approved 10/25/2021

CASCO TOWNSHIP
ZONING BOARD OF APPEALS
Monday, August 2, 2021; 7 PM

Present: Vice Chair Paul Macyauski, Secretary Sam Craig, Matt Super and Alex Overhiser

Absent: Chairman Matt Hamlin

Also Present: Zoning Administrator Tasha Smalley, Recording Secretary Janet Chambers and applicant Robert Hubbard of Chicago, IL, and 7 interested citizens

1. **Call to Order, Roll Call:**

The meeting was called to order by Vice Chair Paul Macyauski at 7:05 PM.

2. **Public comment (non-agenda items):** None

3. **New Business:**

- A. Variance request from Robert Hubbard, 78 Pershing, 02-603-010-00, requesting front and side setbacks. Applicant is requesting of 5 ft. of relief from front yard setback and 5' of relief from the side yard setback.

Open public hearing:

1. Applicant explain request: Robert Hubbard said he applied to EGLE to build on wetlands. EGLE requested he first apply to the township for a variance to minimize impact to the wetlands by building closer to the edge of the wetlands.

Macyauski stated that the ZBA's responsibility is to see that the welfare and safety of Casco's residences are met.

Matt Super said Hubbard should know that a drainage project was done in that area, and Super's portion alone was \$87,000. Flooding has been a problem in the area and continues to be a concern.

Hubbard said the land is low quality wetlands and has been used as a dumping ground. He is willing to enhance the property. Hubbard said from EAGLs perspective, saving the wetlands is not the priority. EAGL requested that Hubbard try getting a variance first, and they will proceed with his application to build on the wetlands after hearing Casco's decision, either way.

Discussion on the drainage system put in the area previously and current drainage problems ensued.

2. **Audience for / against comments:** Al Green, 87 Pershing, said Pershing is a north-south street with both ends uphill and water meeting in the middle at the wetlands. If a house

is built 5' from the street or in the middle, it will impede the flow of water from the east to the lake. Green added the water flow was never cleared so water could flow properly. There is already buildup toward Washington.

Super said the drain commission put in drainage from Jensen's RV Park to the end of Jensen's, west to Adams, then Lincoln and crossing Washington. It was very costly to the property owners and the property owners aware of flooding problems and protective of it.

Green added the drain commission has never taken care of what they did. They were going to pave Pershing, the same as Washington, but ran out of money.

Tricia Hennessy, 83 Pershing, said she had to put a French drain all around their house and tie it into the drain system.

Macyauski asked where the French drain is discharged.

Hennessy said they had to tie into the drain system themselves. She added there are 4 new homes in the drain area.

Super said we are stuck between a rock and a hard place. If the County drain did not address all the water problems, Casco cannot help. He added he sympathized with the applicant.

Smalley said a new house is being built in the area but is not in the wetlands, and the setbacks are being met.

Jeremy Lasseigne, 89 Lincoln, said his property goes through to Pershing. His property is the last on Lincoln. Lasseigne said he has been in real estate for 20 years. He finds it odd to ask the public to pay for a person's lack of due diligence. The ordinance was in place, and the property known to be wetlands when Hubbard purchased it. The property has been for sale for years and eventually sold at a tax sale. The township is not obligated to fix his deal gone bad. It was a "too good to be true" deal.

Jeremy Lasseigne said as far as item 9 in the standards (no practical possibility of purchasing more land) there was land across the street recently sold for \$85,000, other lots in the area sold for \$75,000, \$85,000 to 90,000, and another sold for \$40,000.

Molly Lasseigne added the new house on the \$40,000 lot was on "upland" and they conformed to the ordinance setbacks.

Green said, if allowed, there are 4 other lots with the same issue, property owners will feel there is a precedence set.

Macyauski said all applicants are looked at individually. The ZBA does not go by precedence. Macyauski added EGLE requirements are incredibly limited. He understands Hubbard had meetings with EGLE, but there are no signed documents from EGLE as part of the applicants notes.

A resident noted that the street is only 30' wide. Most are 40 or more. Pershing has no shoulder. All neighbors are going to be impacted.

Smalley said EGLE asked him to come to the township first. That is why he has not been issued a permit by EGLE yet.

Molly Lasseigne said she has been there for 15 or 16 years. The costal wetlands are approximately 5 acres. The whole area and lay of the land have a very high ground water table. A wetland serves as a sponge in an area where there is much need of drainage. Wetlands are important to the neighborhood.

4. Any further discussion:

Macyauski reviewed correspondence. Jack Napoli, 75 Pershing wrote a letter (Attachment 5) opposing the variance. Qadree & Troy Holmes, 80 Pershing wrote a letter (Attachment 6) in opposition to the variance and asking for a water mitigation plan, and a letter (Attachment 7) from Carol May also in opposition of the variance. An emailed (Attachment 8) from Sherry Joe Woods, 78 Pershing, was also in opposition to the variance.

Close public hearing: The public hearing was closed at 7:40.

B. Discussion / decision of variance request: Macyauski went through the standards taking comments from commissioners as follows:

1. The parcel does not predate the ordinance, thus the applicant's Standard 1 answer is not true.
2. Standard met
3. If a 5' variance was granted, the home would still be in wetlands. Macyauski said it would be better to build in the middle of the wetlands, leaving a perimeter where water could flow.
4. Granting would not be changing the total area of the wetlands impacted.
5. Exceptional topography is true
6. Not met. Applicant should work with EGLE.
7. Not met. The ordinance was in place when applicant purchased the property
8. Yes, this would be a minimum, but minimum is too much
9. NA, no property adjacent that is not in wetlands

Overhiser said he agrees with the commission's answers to the standards.

Craig said he did not understand why EGLE is basing their decision on the ZBA's decision.

Macyauski said the standards of EGLE are not as strict as Casco's ordinance. An example is Casco's standard is to build 200' from the bluff in high erosion areas. EGLE says 60'. He said he does not understand why EGLE is requesting Casco grants a setback variance first. Macyauski recommended Hubbard sit down with EGLE and see if he can work something out with them. The ZBA's responsibility is to deal with the impact on health and safety. Standards of Section 20.08 have not been met.

A motion by Super, supported by Craig to deny the variance request due to lack of evidence to meet the Standards of Section 20.08. Roll call vote: Macyauski-yes; Craig-yes; Super-yes; Overhiser-yes. Motion passed by a vote of 4-0. Variance denied.

5. **Old Business:**

- A. **Anything else that may come before the ZBA:** A tentative meeting date was set for August 23rd for a shared driveway, contingent upon application being received by August 4th to allow time for public notice.

6. **Public comment:** None

7. **Approval of previous minutes June 14, 2021:** A motion by Super, supported by Craig to approve minutes of June 14, 2021, as printed. All in favor. MSC.

8. **Adjournment 8:10**

Attachment 1: Public Notice

Attachment 2: Zoning Administrator Memorandum

Attachment 3: Application (3 pages):

Attachment 4: Plan by Weaver Consultants Group

Attachment 5: Letter from Jack Napoli, 75 Pershing, in opposition to variance

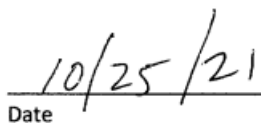
Attachment 6: Letter from Qadree & Troy Holmes, 80 Pershing, in opposition to variance

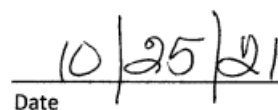
Attachment 7: Letter from Carol May, 7415 Washington, in opposition to variance

Attachment 8: An email from Sherry Joe Woods, 78 Pershing, in opposition to variance


Matt Hamlin, ZBA Chairman


Sam Craig, ZBA Secretary


Date


Date