

Approved 03/19/2020

Casco Township
Zoning Board of Appeals
Monday, December 30, 7 PM

Members Present: Chairman Dave Hughes, Secretary Sam Craig, Board Representative Paul Macyauski and Commissioners Matt Super and Matt Hamlin

Absent: None

Also Present: Applicants Rob Bodkey and Nate Stafford of South Haven Big Sky LLC and builder Matt Zomerlei, Applicant Mark Duval, and Zoning Administrator Tasha Smalley

The meeting was called to order by Chairman Dave Hughes at 7 PM for the purpose of hearing two applicant's requests. All were present.

A motion by Super, supported by Hamlin, to approve the agenda. All in favor. Agenda approved as written.

A motion by Super, supported by Craig to approve minutes of October 17, 2019. All in favor. Minutes approved as printed.

Super said, regarding the last ZBA meeting, the applicant requesting a variance for a pool should not have been granted. The building permit should never have been issued for that house.

The first variance request was from South Haven Big Sky, 519 Little Sable Drive, 0302-525--00 front yard setback request is for 19.5 feet of relief to construct a new single-family dwelling. (Application Attachment #1)

The Applicants Bodkey and Stafford presented their request. Bodkey and Stafford explained as shown on the site map, the property is eaten up by a ravine on the east and south sides. The problem was realized when they looked at the 50' setbacks required in the RR district, it would push the house back too close to the ravine and would take additional support, increasing cost and taking up valuable back yard space. It was also discovered that the private road is 10' to 13' west of center, possibly because the original developer did not want to take down trees. Measurements were taken from the property line. The applicants have a buyer that would like to build now.

Bodkey said another issue is all other developments in that area with water and sewer are medium density. He said he might be asking for a zoning change in the future.

Macyauski pointed out that medium density was on the east side of Blue Star. The utility hookups were set up for low density lots, therefore a future zoning change to medium density, thus smaller lots, would mean present hookup spots may not line up with smaller lots, increasing cost.

Bodkey said he would be interested in medium density because of lesser setback requirements. Each parcel would remain the current size. They have no plans to replat.

Hamlin asked if there would be setback problems in every lot in the subdivision. Bodkey said the lot in consideration today is the major problem lot.

Stafford added there may be three other lots that have issues. The main issues on this lot is Ravine on two sides and two front lot lines.

Chairman Hughes read a note from Jeanne and Max Van Zoeren in support of the variance requests. (Attachment #2)

Macyauski said he felt there should be a better answer from the applicant on Standard #1.

Stafford said it was because there are two front yards and the ravines.

Macyauski suggested moving the house south 10'. The issue with the slope is less intrusive as you go south, requiring only one variance.

Hamlin said the ZBA's concern is safety, esthetics and good of community.

Macyauski said it is the job of the ZBA to minimize variances to the least necessary to do the job.

Chairman Hughes read through the applicants' responses to the standards, inviting comments from commissioners.

Standard #1 Granting the variance will not be contrary to the public interest and will ensure that the spirit of the Ordinance is observed. Discussion ensued about the interpretation of "Spirit of the Ordinance".

Discussion ensued about Spirit of the Ordinance. Commissioners said "health, safety and welfare of the community" is what the spirit is.

Smalley said applicant wants a single-family home, that is allowed, there are topographical issues with the lot in question, therefore they need a variance.

Chairman Hughes continued through the rest of the standards and commissioners found the applicants answers sufficient.

A motion by Macyauski to grant a 20' relief for the front yard facing Little Sable Drive. Setback will be 30' from the required 50'. Motion supported by Hamlin. Hughes – yes, Craig – yes, Macyauski – yes, Super – no, Hamlin – yes. Variance granted by vote of 4 to 1.

The second variance request was by Mark Duval, 7114 Maple (0302-181-299-00) front and side yard setback; request is for 13' and 5' of relief to construct a 2nd story addition.

Duval was invited to explain his need for a variance. Duval said the 2nd floor is not very usable. By raising the west wall and bringing in light and opening the floor space the upstairs will be more useable.

They need a new roof, and this would be the time to raise the wall. At some point they are hoping to add a garage, which would involve land fill or a variance.

Macyauski asked if they would be staying within the same footprint. Duval said yes. Macyauski recalled wording in the ordinance that allowed the Zoning Administrator to approve the building permit without a variance. Other commissioners did not recall this.

Zoning Administrator Smalley said non-conformity and maintenance gives some relief, but she interpreted the ordinance to mean no variance is required if they are not adding cubic volume. Smalley said by adding cubic feet, you are adding to the non-conformity.

There was no correspondence or public comment. The public portion of the hearing was closed at 8:10 PM.

Chairman Hughes read through the standards. Commissioners found applicants answers sufficient.

A motion by Hamlin, supported by Super to approve a 5' relief on the side yard setback, and a 13' relief on the front yard setback. All in favor. Variances granted.

Smalley read 3.24 G, which says the ZA determines if it does not extend the life of the con-conforming structure. Smalley will bring this to the Planning Commission for interpretation and/or clarification.

Macyauski said if the variance was not necessary, the applicant should get a refund.

Hamlin questioned the road frontage requirement when splitting off lots in AG. Commissioners agreed the 250' lot width may be excessive and something the PC should discuss.

Smalley said the ZBA is required to have bylaws and does not. Smalley provided commissioners with an example of bylaws (Attachment #4) for them to look at and discuss at the next meeting. Smalley will come up with sample bylaws.

Chairman Hughes said, regarding the last ZBA meeting with a variance request for a pool, he would not have voted for a motion restricting against STRs, except with only 3 members present, the variance would not have passed without a unanimous vote.

The meeting was adjourned at 8:30 PM.

Attachment #1: South Haven Big Sky Application

Attachment #2: Letter of support from Zoeren

Attachment #3: Duval Application
Attachment #4: Example of ZBA Bylaws

Minutes prepared by Janet Chambers, Recording Secretary

Dave Hughes

Dave Hughes, ZBA Chairman

Sam Craig

Sam Craig, ZBA Secretary

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