

APPROVED 7-9-15

**CASCO TOWNSHIP
ZONING BOARD OF APPEALS**

May 28, 2015

MEMBERS PRESENT: Paul Macyauski, Sam Craig, Josiah Jessup, David Hughes and Matt Super

ALSO PRESENT: Susan West, Recording Secretary

PUBLIC PRESENT: Jacob Clemons

Meeting was called to order by Chairman Paul Macyauski at 7:03 pm to adjudicate a request from Mark Wodarczyk, of 6377 107th Ave., South Haven, MI 49090 (Parcel # 0302-014-008-00), to grant a 16' variance from Section 5.03 which requires a side yard setback of 25 feet in the Agricultural Zone, to construct a 16' x 40' addition to an existing pole barn, to within 9 feet from the side lot line.

Chairman Macyauski asked Mark Wodarczyk if Al Ellingsen, Zoning Administrator, explained to him the required setback and that the ZBA has no authority to grant a variance unless the required Review Standards are met. Mr. Wodarczyk answered that he did not.

Mr. Wodarczyk stated that a drain ditch is located on the other side of the pole barn and therefore, he must build the addition on the East side. Mr. Wodarczyk further stated that his well is located on the Hamlin's property. Chairman Macyauski stated that he saw the drainage ditch when he viewed the property.

Super asked Mr. Wodarczyk which way on 107th is he requesting an Easement. Mr. Wodarczyk answered that the addition would be towards the open field. Mr. Wodarczyk further stated that if he were to build the addition on the other side, it would flood.

Chairman Macyauski asked Mr. Wodarczyk if he knew what Mr. Hamlin's thoughts were on the Variance. Mr. Wodarczyk stated that Mr. Hamlin has not made any statements to him regarding same. Chairman Macyauski noted that Mr. Hamlin was not in attendance at this meeting. Hughes stated that Mr. Hamlin has also not submitted any letters regarding same.

Super stated that he does not see a problem with this addition.

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 of 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. Standard Met. Lots in the AG Zone have been reduced to allow for farming in the back. Further, there is a lot of water drainage from the Hamlin's field. Chairman Macyauski stated that he believes the spirit of the Ordinance would be observed.

Mr. Wodarczyk stated that he tried to purchase land from the Hamlin's, but that it wasn't for sale, and that Mr. Hamlin does allow him to store some items on his property.

2. The variance is being granted with a full understanding of the property history. Standard Met. Mr. Wodarczyk did shed some light on the property history, including the fact that land is being farmed behind his lot and that there is a drain going through his property.

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. No – This property is located in the AG District and the neighboring land is being farmed. Standard Met.

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. Standard Met.
Not recurrent

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: Standard Met.

The drainage ditch that goes through the property is a huge issue.

Chairman Macyauski asked what is to the West and Mr. Wodarczyk answered that there is just yard to the West.

a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance.

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.

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. Chairman Macyauski stated that when living in the AG District, you expect there to be pole barns and additions to same.

7. That the variance is not necessitated as a result of any action or inaction of the applicant. Standard Met. The property was purchased with the drainage ditch already there and the neighboring property has been being farmed for years.

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

B. In addition to the above outlined standards for a dimensional variance, the Zoning Board of Appeals shall consider the following when deliberating upon a nonconforming lot in a platted subdivision case (see also Section 3.28):

1. There is no practical possibility of obtaining more land. Standard Met. Mr. Wodarczyk tried to purchase additional property from his neighbor.

2. The proposed use cannot reasonably be located on the lot such that the minimum requirements are met. Standard met.

Jessup stated that he was unable to view the property.

Craig stated that Mr. Wodarczyk can't extend to the West so he has to go East.

Super stated that if the drainage ditch was blocked, there would be a water problem.

Chairman Macyauski asked for public comment. Mr. Jacob Clemons of 676 64th St., South Haven, MI 49090, stated that he is a neighbor and that he has no problem with the variance being granted and that Mr. Wodarczyk only has one direction he can go.

Chairman Macyauski asked for any additional comments/questions from the Commissioners, and the following were made:

- A. Hughes asked if, that by extending the roof line, water runoff would cause a problem to the neighboring property. Craig stated that it would not because the neighboring property is uphill.
- B. Jessup stated that he does not see a problem with the granting of this variance and that he does not believe it would be a detriment to the area. Jessup further stated that the drain that runs through the property is a unique problem to this property. Jessup then stated that he would have liked to have seen the application for this request more fully completed. Chairman Macyauski agreed and stated that he believes that if the applications were fully completed, the meetings would run smoother and faster. Chairman Macyauski stated that he will talk with Al Ellingsen, Zoning Administer, regarding this matter because when the application is not fully completed, it makes the ZBA's job more difficult. Hughes stated that having the applications fully completed would be fairer to the applicant as well. Super agreed, but stated that the application is difficult to understand if you have never dealt with these matters before. Hughes agreed that the application is difficult.

A Motion was made by Craig, supported by Super, to grant a 16' Variance from Section 5.03 which requires a side yard setback of 25 feet in the Agricultural Zone to allow Mark Wodarczyk to build a 16' x 40' addition to his existing pole barn, to within 9' from the side lot line. All in favor. Variance granted.

A Motion was made by Super, supported by Craig, to approve the Minutes of the March 26, 2015 Meeting as written. (Hughes was not present at the March 26, 2015 meeting and therefore did not vote on the approval of same). MSC.

Regarding the April 16, 2015 Meeting, Super stated that believes it was wrong and possibly illegal to grant a 14' Variance from Section 3.28B3b (4) to allow for a 24' x 24' garage to be built. Super further stated that the Blaising's requested to build a 26' garage at the March 26, 2015 meeting. Then, at the continuation of that meeting, held on April 16, 2015, the Blaisings requested to build a 23' garage, but a Variance was granted to allow the Blaisings to build a 24' x 24' garage. Chairman Macyauski stated that the granting of the Variance was legal because the April 16, 2015 meeting was a continuation of the March 26, 2015 meeting where the Blaisings requested to build a 26' garage and that was what was noticed in the South Haven Tribune. Super stated that he believes the granting of this Variance was wrong. Hughes asked if this matter was posted in the South Haven Tribune twice. Chairman Macyauski answered that it was posted once for the March 26, 2015 meeting and that it was not necessary to repost for the continuation of said meeting. Chairman Macyauski further stated that there was nothing illegal regarding the granting of the Variance.

A Motion was made by Hughes, supported by Jessup, to approve the Minutes of the April 16, 2015 Meeting as written. MSC.

A motion to adjourn was made by Hughes and 2nd by Jessup. All in favor, Meeting adjourned at 7:43 pm.

Minutes prepared by Sue West, Recording Secretary

Paul MacyAusk
(Print Name)

Matthew Hamlin
(Print Name)

Paul MacyAusk
ZBA Chairman

Matthew Hamlin
ZBA Secretary

Date: 7.9.15

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