

Casco Township  
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Web Site: cascostclair.com

Zoning Board of Appeals  
Special Meeting  
May 24, 2018  
7:00 PM

**Call to Order**

**Present:** D. Allagreen, S. Bishop, D. Goulston, A. Inson, H. Mancini, S. Pankiewicz

Chairman Pankiewicz calls the meeting to order at 7:00 PM with the Pledge of Allegiance.

**Motion – To Approve Minutes**

D. Allagreen moves to approve the minutes of the Special Meeting of the Zoning Board of Appeals held May 17, 2018. S. Bishop seconds the motion. M/C

**Motion - to Approve Agenda**

D. Goulston moves to approve the agenda as submitted. S. Bishop seconds the motion. M/C

**Reports from Committees**

none

**Communications**

none

Supervisor Ruemenapp is present as well as Jeremy Scott Chambers, who lives nearby on Palms Road. Mr. Chambers states that he is concerned about his ability to continue to hunt safely and legally on the back of his property if a new residence is built toward the back of the nearby parcel owned by the Mr. Mazure.

Zoning Board Members recognize his concern and state that the township could not deny a building permit for residence in a location permitted under the Zoning Ordinance for this reason.

**Variance Request – 2018-2**

**Motion – to open public hearing**

S. Bishop moves to open the public hearing. H. Mancini seconds the motion. M/C

Mr. Joseph Mazure, 7863 St. Clair Highway, Casco, MI 48064 request a variance to the location requirements for accessory buildings in Section 13.04, Paragraphs 2, 4 and 7 of the Zoning Ordinance to build a home behind existing accessory buildings on parcel #74-12-102-1005-000.

Mr. and Ms. Mazure are present at the meeting.

Mr. Mazure states that the property is large enough to accommodate locating the residence toward the back of the property locating the residence between the existing buildings involves limitations on the design of the residence both practically and aesthetically and the grade necessary for drainage would not be possible.

Approved  
July 12, 2018  
Daniel Boudreau  
Secretary

He would like to locate the residence so the view from both sides of the house would not look out on an accessory building and have a grade that suits the home design and provides adequate drainage.

D. Allagreen states that it would be helpful if a plan of the home were available since it is not clear what type of home is planned.

S. Bishop notes that there is a drain in the rear of the property and asks why locate the house so far back which could limit options for building or replacing accessory buildings in the future.

D. Goulston states that residents in the area experience drainage problems and submitted pictures to the Township documenting the problem in the past.

Mr. Mazure states he plans to improve existing buildings and locate the house in a way that takes advantage of the rural atmosphere since the size of the parcel makes this possible. This is the reason for building his new home in the Casco Township.

He states that the accessory buildings are serviceable, would be costly to replace and he wants to keep, maintain and use them.

D. Goulston states that building the house in a location that does not require a variance looks possible from the drawings submitted with the request. He states that although the buildings existed behind a residence that was removed, the existing buildings constitute a self created hardship by definition. ZBA members have been advised in training many times that self created hardships do not provide an adequate justification for granting a variance.

D. Goulston states that requiring the tear down of serviceable buildings to locate a residence further from the road seems unnecessarily burdensome. He suggests that a justification that does not undermine the requirements of the Zoning Ordinance is needed to justify a variance that allows the residence to be located behind the accessory buildings.

He reads background information from the Michigan State Extension service summarizing the implications of court decisions in Michigan regarding a "self created hardship" and a variance request.

Being 'self-created' includes actions of the current property owner and actions of all previous owners. So, the applicant may not have caused the problem leading to a variance request because a previous owner did so, but it still considered 'self-created' and would preclude granting a variance. Even submitting an application for a dimensional variance to encroach into the side yard setback by two feet for construction of an addition is a self-created situation (i.e. he/she created the need for the variance by designing the request that is now before the ZBA.

Zoning Board Members comment they would like to see Mr. Mazure able to keep existing buildings and do not think it reasonable to force their destruction to meet the particular requirements that are a problem in this situation, but members do not want to undermine enforcement of the Zoning Ordinance.

Supervisor Reumenapp suggests that granting a variance to build a residence up to 250 feet from the road would provide a solution that allows reasonable and permitted use of the parcel in keeping with the character of the neighborhood. Such a variance would permit full utilization of existing of legally constructed accessory buildings that currently comply with Zoning Ordinance requirements.

He notes that the removal of the old home on the property and building of a new residence with an appropriate setback from St. Clair Highway result in greater conformity. He emphasizes that the buildings in question currently comply with the ordinance and were legally constructed.

#### **Motion - to close public hearing**

D. Goulston moves to close the public hearing. S. Bishop seconds the motion. M/C

#### **Motion - to grant variance**

D. Goulston moves to grant a variance to the requirements of the Casco Township Zoning Ordinance Sections 13.04 Paragraphs 2, 4, and 7 to permit a home to be constructed behind existing accessory buildings with a setback of not more than 300 feet from St. Clair Highway. The construction must meet all other legal requirements including those of the Zoning Ordinance. D. Allagreen seconds the motion. M/C

**Reasons for granting variance - Appeal – 2018-2**

The variance is granted for the following Reasons:

- 1) Granting the Variance leads to greater conformity to the Zoning Ordinance with respect to residence road setback requirements than would exist without a variance. The new residence will be in conformance to the setback requirements for St. Clair Highway in contrast to the former residence removed from the parcel.
- 2) Granting the variance permits a grade for drainage for the new residence that would otherwise be impractical without removing existing structures. The drainage problem does not constitute self created hardship but results from natural factors.
- 3) Granting the variance will result in a residence and accessory buildings in keeping with the character of residences and accessory buildings in the neighborhood.
- 4) Granting a variance that is less than the requested 430 feet behind accessory buildings in the plan submitted with the appeal provides substantive relief and addresses a drainage issue that is not a self created hardship.
- 5) The variance permits reasonable, continued and legal use of existing serviceable structures that were legally constructed and are not currently in violation of the Zoning Ordinance.
- 6) Although the residence could be located between the accessory buildings to meet ordinance setback requirements, the accessory buildings located to the side of a residence would result in a violation of the square foot limitations for accessory buildings in a side yard and would result in the barn too close to the residence for animals and/or require applications for additional variances. Further, building between the existing buildings would present practical difficulties for making the grade necessary to address the drainage issue.
- 7) Requiring strict conformance to the requirements of the Zoning ordinance is unnecessarily burdensome requiring destruction of one or more structures that are serviceable, were constructed legally, are in keeping with the rural character and neighborhood.
- 8) A lesser relaxation of Zoning Ordinance than requested for the distance of the residence from the road behind the accessory buildings addresses the preponderance of factors that make a variance appropriate in this particular situation. These factors include: preservation of existing legally constructed structures which are currently in conformance with the Zoning Ordinance, legal continued use of these serviceable structures, solving drainage problems and avoiding the necessity of additional variance requests for retaining and fully utilizing existing structures.
- 9) No useful purpose would be served by requiring strict adherence to the requirements of the Ordinance with respect to the location of accessory buildings behind the residence given the preponderance of unique considerations presented with this variance request.

D. Allagreen seconds the motion. M/C

**Motion to Adjourn**

D. Goulston moves to adjourn at 8:40 p.m. H. Mancini seconds the motion. M/C