

Casco Township
4512 Meldrum Road
Tel. (586)727-7524, Fax (586)727-3025
Zoning Board of Appeals
Quarterly Meeting
October 10 , 2024
7:00 PM

1. Call to Order

Chairman Mancini calls the meeting to order at 7:00 PM.

2. Pledge of Allegiance to the Flag of the United States of America

Present: S. Bishop, D. Goulston, J. Ewald, H. Mancini

Absent: J, Edwards, C. Kubacki

Jared Kunnath and his father are present to resubmit the request for a variance with a revised plan for an accessory building.

Greg Kunnath, Jared's Father is present

Penny Wallace is also present. She is the previous owner of the property and also owns adjacent property bordering the east and rear of the appellants parcel. Rolland Suess, Casco Township Building Inspector, is present at the meeting

3, Motion – To Approve Minutes

S. Bishop moves to approve the minutes of the Zoning Board of Appeals Special Meeting held September 19, 2024. D. Goulston seconds the motion.

M/C

4. Motion - to Approve Agenda

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

5. Communications –

Letter from Rolland Suess, Casco Township Building Inspector ((see attached)

The letter states that a smaller building than the 24' x 24' building in the revised proposal might better meet setback requirements. The proposed building does not.

E-mail from Jared Kunnath to Casco Township Building Department Re: Variance Request 2002-02 (see attached). The e-mail explains that a smaller

building would not accommodate a vehicle and would not be able to serve as a garage.

6. Discussion from the floor

Penny Wallace, who owns the property to the east, which is for sale, explains neither she nor a current potential buyer object to reducing the setbacks as requested in the appeal.

It is noted by Board Members that the setbacks not only serve future owners and their rights not to have buildings too close to their property lines but also health, safety, fire protection and access needs that serve property owners and the community.

It is also noted that every property does not accommodate every type of use such as every type or size of building, pond, addition or modification that is permitted in the zoning district.

This grandfathered property is unusually small and much smaller than currently required by the Zoning Ordinance. The size of the property constrains what it can reasonably accommodate.

7. Unfinished Business - Variance Request 2024-02 Jared Kunnath

In keeping with the Zoning Boards tabling of Variance Request 2024-02 on September 19, 2024 Jared Kunnath resubmitted a plan for an accessory building. The plan includes some changes in the side and rear setback variance to permit construction of a smaller 24' x24' building.

Variance Request 2024-02 Jared Kunnath

Original Variance Request:

Request for a variance to Ordinance Area, Height, Bulk and Placement Requirements for Principal and Accessory Uses to request a change from the required 35 ft set-back distance from the rear property line to 10 feet and a change from the required 15 feet from the side lote line to 6 feet for a new accessory building and to Section 65 requirements for Accessory Buildings and a change from the required 15 feet from the side lot line to 6 feet for a new accessory building and to Section 65 requirements for Accessory Buildings. The address of the property is 7942 Adair Road, Casco MI 48064. The parcel identification number is 74-12-001-4010-000, owned by Jared Kunnath.

The revised variance request details a building that is smaller 24' x24' building. However the proposed setbacks do not meet ordinance requirements and do not differ substantially from the dimensional variance originally requested.

The East side setback requested is now less and the rear setback would still be much less than that required by the Zoning Ordinance,

The Zoning Board members state that the new request still requires substantial reductions in setbacks both on the east and in the rear. The new request is for a smaller building that is still too close to the lot lines,

The new request does not attempt to minimize the setback variance request.

The Zoning Board concurs that is not appropriate to allow a building to be constructed so close to the property lines. The proximity to adjacent property could adversely impact the rights of a future owner.

Granting such a variance undermines the intent of the ordinance and its fair and consistent enforcement,

It is explained that the Zoning Board is obligated to uphold ordinance requirements even if the Board disagrees or thinks these requirements such as setbacks do not apply perfectly in every situation.

The criterion for granting a variance and defining a hardship are very specific and do not permit the Board to undermine the intent or application of the Ordinance.

Mrs. Wallace asks how could the Ordinance be changed.

There are procedures to recommend and adopt changes to the Ordinance through the Township Planning Commission, When the requirements of the Ordinance present a consistent problem the solution is not to undermine it's enforcement. The Zoning Board of Appeals is not permitted to void ordinance requirements with a variance even if it disagrees with those requirements.

This property does accommodate it's principal use for a residence and also a modest shed for storage and may accommodate a smaller accessory building that better meets ordinance requirements.

Variance Request 2024-02 and revised request resubmitted for consideration October 10 2024 are denied pursuant to the following considerations:

The Board reaffirms that the requested variance is denied for the reasons detailed in the minutes of the September 19th, 2024 Special Meeting as follows:

Original Variance Request:

Request for a variance to Ordinance Area, Height, Bulk and Placement Requirements for Principal and Accessory Uses to request a change from the required 35 ft set-back distance from the rear property line to 10 feet and a change from the required 15 feet from the side lot line to 6 feet for a new accessory building and to Section 65 requirements for Accessory Buildings and a change from the required 15 feet from the side lot line to 6 feet for a new accessory building and to Section 65 requirements for Accessory Buildings. The address of the property is 7942 Adair Road, Casco MI 48064. The parcel identification number is 74-12-001-4010-000, owned by Jared Kunnath.

1. Is the hardship directly related to the characteristics of the property?

The angle of the rear lot line and the small lot size may present a physical limitation to constructing a useful accessory building. The discussion concludes that a smaller accessory building could meet most of the setback requirements. The hardship results from the angle of the rear lot line. A conforming setback for even a much smaller structure than that described in the variance request is limited by the decreasing depth of the lot due to the angle of the rear lot line.

2, Is “hardship”, as narrowly defined in Ordinance, self created? The residence is a class A grandfathered structure and the lot size and shape is not considered a self created hardship in this case. There is an open question regarding how such a small parcel (.26 acre) came into existence.

The size and shape of the property limit the location and size of any new accessory building that meets the setback requirements of the Zoning Ordinance.

3. Would a variance create a special privilege?. Other Class A residential properties nearby have accessory buildings and an accessory building in this rural environment is normally a reasonable and acceptable improvement.

4. Would granting the variance cause any harm? The proposed 30' x 34' accessory building is too close to lot lines both side and rear. It would potentially interfere with an adjacent property owners right not to have nearby structures too close to their lot line. It is noted that a well is located not far from the property line to the east near the driveway

5. Does the variance permit a reasonable and permitted use of the property. It is lawful to improve a Class A residential property. An accessory building smaller than the proposed building may be possible that respects the property set back on the east and is only partially under the rear setback requirement on the north middle section of the property line in the rear.

6. Is the variance the minimum required to permit a reasonable and permitted use of the property. The Zoning Board agrees a variance might permit construction of a smaller building. Depending on the building's size this could require a modest variance for the setback in the middle rear of the lot due to the angle of the rear lot line.

7. Alternatives

Members of Board note that if the applicant were able acquire relatively modest strips of additional land beyond the north and east property lines such additional land could help meet the requirements to build the building he desires to build.

8. Would granting a variance infringe on the rights of others.

Since there is a drop off to the Bell River flood plane behind the property, which the applicant states is not build-able area, a variance permitting a smaller setback on the rear lot line for a smaller structure may not significantly infringe on another property owners rights.

8. New Business

H. Mancini moves to adjourn. J. Ewand seconds the motion. M/C

The meeting adjourned at 8.30 PM

The next quarterly meeting of the Casco Township Zoning Board of Appeals will be held at 7:00 p.m. on Thursday, January 16, 2024 at the Casco Township Hall, 4512 Meldrum Road.