

REQUEST

(VAR1905) Todd and Sara Cozolino, 2025 Jackson St., are requesting to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be located in the rear yard or non-required side yard of the lot; in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-34-300-028, located at 2025 Jackson St., Georgetown Township, Ottawa County, Michigan.

HISTORY

Below is an excerpt of the ZBA minutes of March 22, 2017 when a variance was granted to allow Todd and Sara Cozolino to locate an accessory building in the front yard.

#170322-02 – (VAR1702) Todd and Sara Cozolino, 2025 Jackson St.

Moved by Greg Honderd, seconded by Tom Healy, to adopt the staff report as findings of fact and to approve variance (VAR1702) Todd and Sara Cozolino, 2025 Jackson St., to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be located in the rear yard or non-required side yard of the lot; in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-34-300-028, located at 2025 Jackson St., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance as detailed in the staff report. In addition, standard 3 and 5 were met because of the unique topography and most residents in the vicinity have homes a great distance off the road with the accessory buildings in front of the homes. Also, there are many ravines making it impossible for vehicle access. For standard 5, others have accessory buildings in the front yards, but not the required front yard and not in the required site yard, with the following conditions:

- 1) The accessory building shall meet all other ordinance requirements, including size, height, location on the lot (other than it may be in the front yard) and shall be at least 200 feet from the centerline of Jackson.
- 2) All other accessory buildings and structures (regulated by Sec. 3.4(I)) shall be removed from the site prior to the issuance of the Certificate of Occupancy.
- 3) The accessory building shall contain no residential use and no home occupation.

MOTION CARRIED UNANIMOUSLY.

RELEVANT ORDINANCE SECTION

Sec. 28.9 DECISIONS.

- (B) Unless the Board of Appeals specifies a different time limit for a variance to expire as a condition of the Board of Appeals' decision in a particular variance case, each variance granted under the provisions of this Ordinance shall become null and void unless the use or activity authorized by the variance has been fully commenced and is ongoing or unless the construction authorized by such variance has been commenced and substantial construction has occurred within one (1) year after the granting of the variance and is being carried on progressively to completion. As a condition of approval of a variance, the Board of Appeals can specify a shorter or longer variance expiration time period. If the Board of

Appeals has not specified a particular expiration time period as a condition of approval for a particular variance, the Zoning Administrator shall have the discretion and authority to extend the ordinary one-year time period contained in this subsection for good cause shown for up to one additional year as long as the request for the extension is made in writing prior to the expiration.

CURRENT SITUATION

At the March 22, 2017 meeting, the ZBA granted a variance to allow Todd and Sara Cozolino to locate an accessory building in the front yard.

The applicants applied for a building permit to construct the accessory building on March 28, 2019. As per the ordinance, the variance became null and void one year after it was granted, which means it became null and void on March 22, 2018. The Township has no record of the applicants requesting in writing a one year extension. Even if they had requested the one year extension, the date of March 28, 2019 would still have been past the one year extension. The conclusion is that the variance is null and void.

The applicants have, therefore, requested the exact same variance as the one that was granted on March 22, 2017.

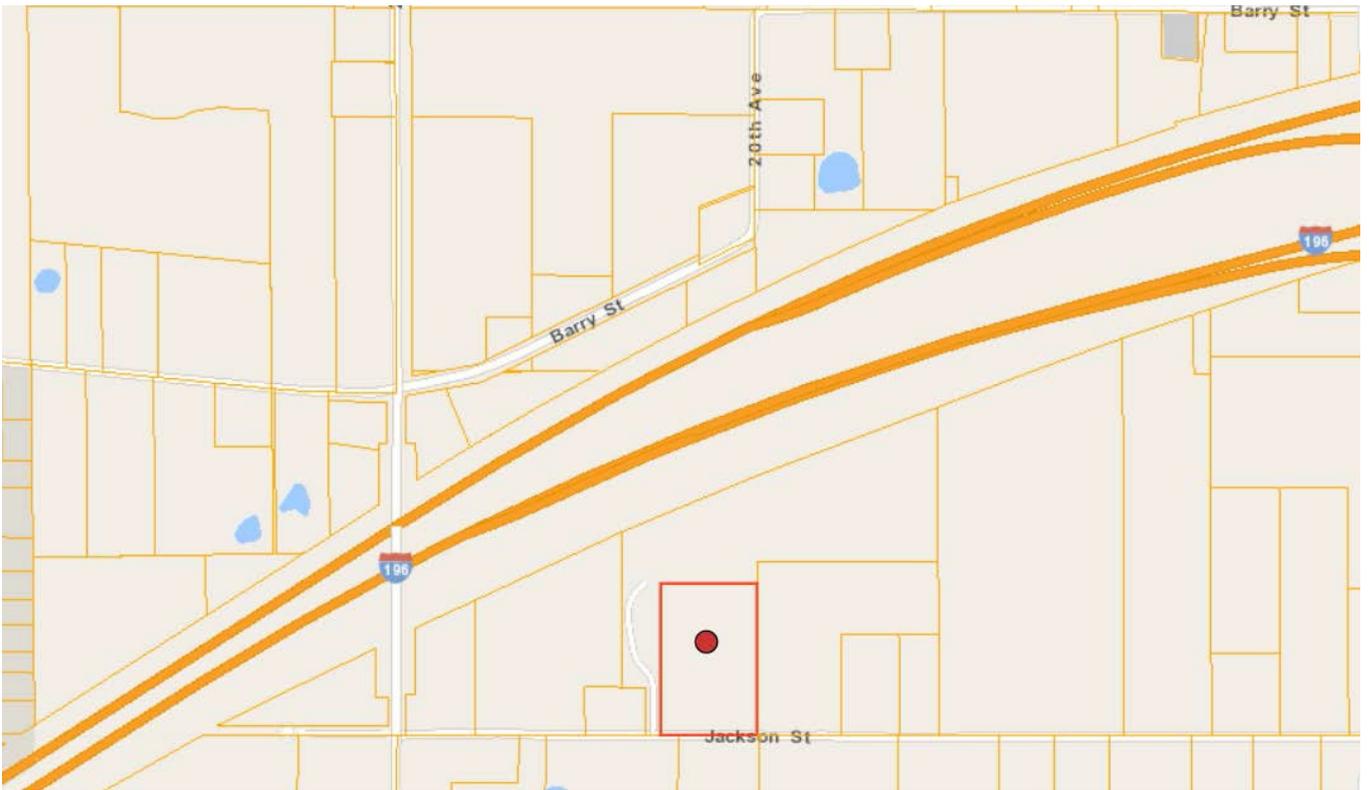
The following is the same review that was presented for the March 22, 2017 ZBA meeting and it is still valid today.

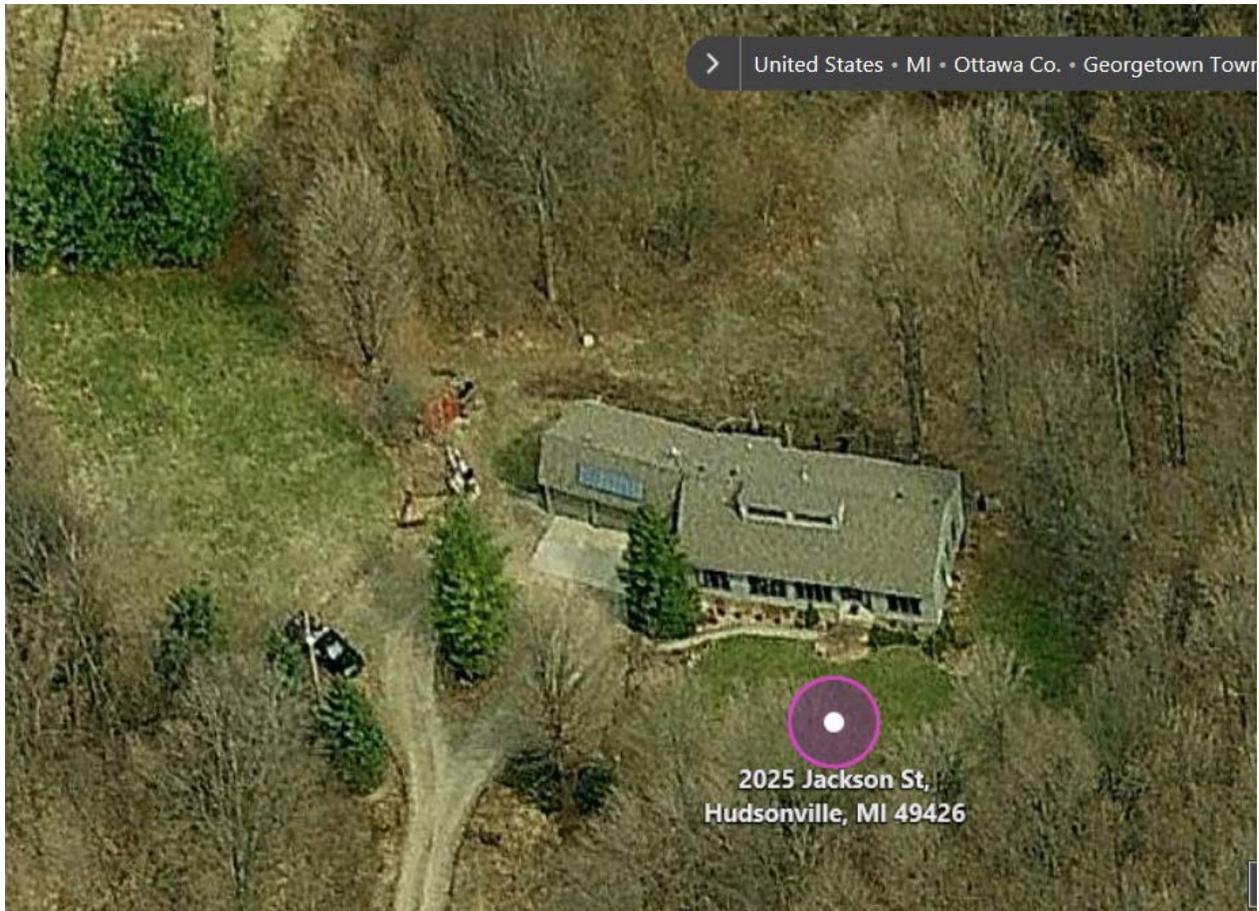
(VAR1702) Todd and Sara Cozolino, 2025 Jackson St., are requesting to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be located in the rear yard or non-required side yard of the lot; in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-34-300-028, located at 2025 Jackson St., Georgetown Township, Ottawa County, Michigan.

The applicant is requesting to construct an accessory building in the front yard (in front of the house but not in the required front yard) and the ordinance only allows the accessory building to be in the rear or non-required side yard. The reason for the request is because the lot is heavily wooded and there are elevation changes on the rear of the site.

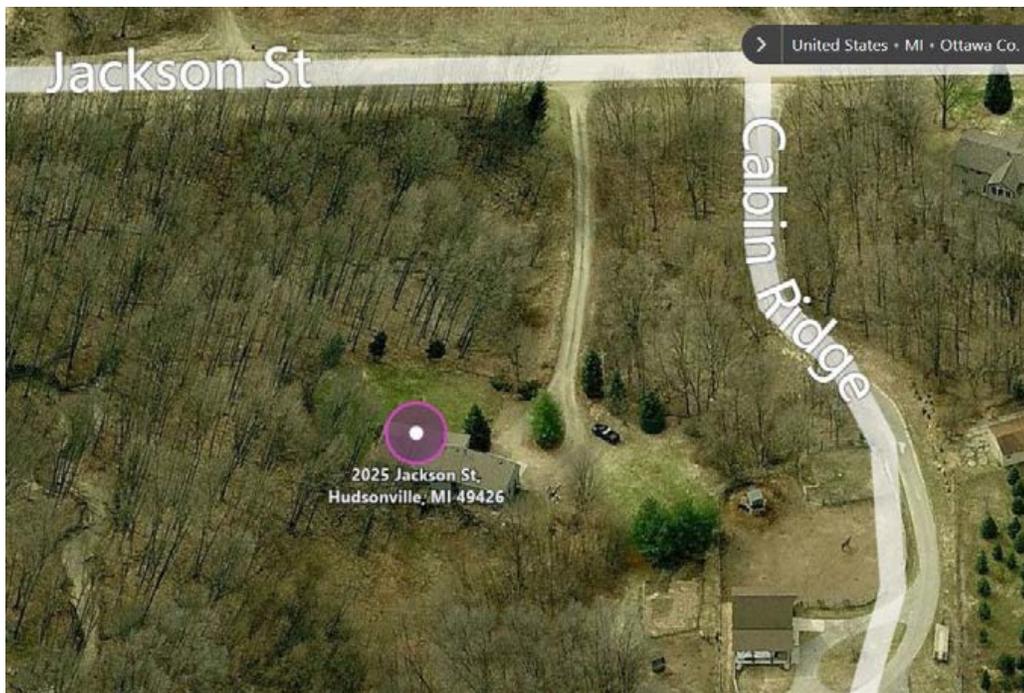
The parcel is 4.4 acres and Sec. 3.4(E)(4) allows an accessory building to have a maximum area of 1,200 square feet. The applicant has provided a sketch showing that the accessory building will be located a minimum of 230 feet from the right-of-way line of Jackson St. and 37 feet from the side lot line, behind a grove of trees. The applicant is proposing that the accessory building will be architecturally similar to the main structure.

The variance request is only to locate the accessory building in the front yard (not required front yard) and the accessory building will comply with all other ordinance regulations.





The neighboring property has a private street, approved Oct. 13, 1997, which services two parcels. See below.



DISCUSSION

In regard to allowing the accessory building in the front yard, the particular circumstances affecting this parcel are:

1. This is a 4.4 acre site with the house located about 267 feet from the right-of-way line of Jackson.
2. The accessory building will be at least 230 feet from the right-of-way line. Many trees exist between the house and the street. The accessory building will not be visible from the street.
3. A site visit revealed that there are multiple accessory building/structures on the site. A condition of approval should be added that they are removed because Sec. 3.4(I) only allows one accessory building on a site.
4. The site has elevation changes in the rear yard.

HISTORY

The ZBA has approved similar variance requests for accessory buildings to be located in the front yard (**note that ALL of these variances were granted for the accessory buildings to be located in the front yard, not the required front yard which encompasses the 40 foot front yard setback**) when the request meets the seven standards and the lot has particular elements, such as very large front yards and trees and elevation changes. **Plus, ALL the accessory buildings were proposed to be further back than the required front yard setback, helping to mitigate the waiver from ordinance requirements.**

1. At the September 28, 2016 meeting, the ZBA granted a variance for **(VAR1604) David Luurtsema**, 675 Jackson St., to have an accessory building in the front yard, based on the findings that the request has unique circumstances related to the great distance from the road, the heavily wooded lot and the elevation changes.
2. At the May 27, 2015 meeting, the ZBA granted a variance for **(VAR1507) Raymond Statema**, 9687 Bend Dr., to locate an accessory building in the front yard, based on the finding that the request has unique circumstances related to the ravines and meets the seven standards of the ordinance as noted in the staff report, with the condition that the accessory building shall meet all other ordinance requirements, including size, height, location on the lot (other than it may be in the front yard) and shall be at least 700 feet from the road right-of-way line which will put it past the narrow part of the parcel.
3. At the August 27, 2014, the ZBA granted a variance for **(VAR1405) F. Dale Valkier**, 10078 Bend Dr., to locate an accessory building in the front yard because the 7 standards of the ordinance were met, including the unusual circumstances that the lot was large, heavily wooded and affected by a floodplain and ravines and elevation changes.
4. At the December 10, 2014 meeting, the ZBA granted a variance for **(VAR1407) Gary Troost**, 5461 Kenowa Ave., Grandville, to have one accessory buildings located in a front yard, because the lot is deep and is wooded, the house was built three-quarters of the way

back on the lot, over 860 feet from the street and the rear yard has a lower elevation and a septic system and drain field.

5. At the August 28, 2013 meeting, the ZBA granted a variance for **(VAR1305) D. J. VanderSlick**, 4958 4th Ave., to have an accessory building in the front yard, because the standards of the ordinance were met and the building was a long way off the road and there were trees on the site.
6. At the June 26, 2013 meeting, the ZBA granted a variance for **(VAR1303) Steve Jongsma**, 1112 Parsons St., to have an accessory building in the front yard because of the unusual circumstances of the property such as a large lot, many trees and elevation changes.
7. At the September 26, 2012 meeting, the ZBA granted a variance for **(VAR1208) Michael Kooienga Builder**, 3984 Ivanrest, Grandville, to locate an accessory building in the front yard at 817 Parsons.

REVIEW – For locating the accessory building in the front yard.

The standards that have objectively been met are noted with an “X” in the “yes” column and the standards that have objectively not been met are noted with an “X” in the “no” column. Any standards left blank could not be objectively met or not met and therefore must be determined by the ZBA.

Variance ID		VAR1702	
Applicant		Todd and Sara Cozolino	
Address		2025 Jackson	
Request		accessory building in front yard	
Date		For March 22, 2017 meeting	
#	YES	NO	CONDITIONS (Chapter 28.11-C)
1	X		Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.
2	X		Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.
3			That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.
4	X		That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.

5			That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6	X		That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12.
7	X		That the variance is not necessitated as a result of any action or inaction of the applicant.

FINDINGS

The ZBA should determine if standards 3 and 5 are met and if they concur with the review presented.

Standard #1 - Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.

Appears to be met. The spirit of the ordinance is to regulate the size, height and location of buildings on the lot in order to provide for the orderly development of land and to set minimum standards to protect property values and prevent unsightly development. This is a rural area in nature, in fact on a dirt road, with some large lots with acreage and heavy foliage. This site is over 4 acres. The proposal is for the accessory building to be located at least 230 feet from the right-of-way line of Jackson and will not be visible from the road.

Standard #2 - Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.

Met.

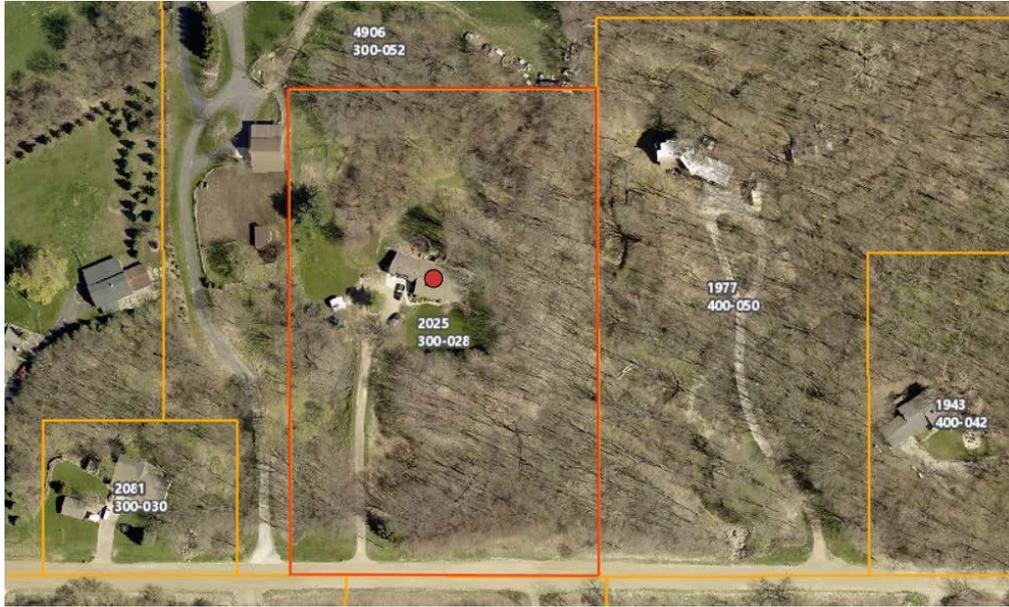
Standard #3 - That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.

The ZBA will have to determine if this standard is met. The unique circumstances that apply to this situation are related to the following:

1. The parcel is wooded and the accessory building will not be visible from the road.
2. The site has elevation changes in the rear yard.
3. The house was built over 267 feet from the road.
4. The accessory building will be over 230 feet from the road.

Standard #4 - That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.

Appears to be met. If located at least 230 feet from the road, the variance would be mitigated by the woods in the area and the distance from the street. At this location, it would not even be visible from the street.



Standard #5 - That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

The ZBA will have to determine if this standard is met. The ZBA has granted variance under similar circumstances. In addition, many of the neighboring site actually have accessory buildings closer to the road than this house.

Standard #6 - That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.

MET.

Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.

Appears to be met. The action that necessitated the variance request to be located within the front yard appears to be the location of the house on the lot over 230 feet from the road, elevation changes, and mitigating woods.

OPTION FOR MOTION

The ZBA should determine if the standards of the ordinance have been met.

Motion: To adopt the staff report as finding of fact and to _____ (approve or deny) variance (VAR1702) Todd and Sara Cozolino, 2025 Jackson St., to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be

located in the rear yard or non-required side yard of the lot; in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-34-300-028, located at 2025 Jackson St., Georgetown Township, Ottawa County, Michigan; based on the finding that the request _____(meets or does not meet) the seven standards of the ordinance. (If applicable) Specifically, standards (_____) have been _____(met or not met) and the reasons are _____,

with the following conditions:

- 1) The accessory building shall meet all other ordinance requirements, including size, height, location on the lot (other than it may be in the front yard) and shall be at least 200 feet from the centerline of Jackson.
- 2) All other accessory buildings and structures (regulated by Sec. 3.4(I)) shall be removed from the site prior to construction commencing for this accessory building.
- 3) The accessory building shall contain no residential use and no home occupation.
- 4) **Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request, which is Sec. 3.4(A) and Sec. 3.4(F).**