

CASCO TOWNSHIP PLANNING COMMISSION
REGULAR MEETING
February 15, 2023
6:00 PM
Casco Township Hall

1. Call to order
2. Review / Approval of Agenda
3. Public Comment - items **NOT** on the Agenda (please keep comments to 2 minutes)
4. Acknowledge/read correspondence received
5. Approval of minutes:
 - a. 1/18/23 meeting
6. Public hearing –none
7. New Business:
 - a. Any other business that may come before the commission
8. Old Business:
 - a. Continue fire pit text amendment
 - b. Continue 3.28 projection into yards text amendment
 - c. Cisco, 68th Street, Sand Mine SLU – discussion, Impact study, reclaim bond, road maintenance and bond, other...
 - d. Any other business that may come before the commission
9. Administrative Reports
 - a. Zoning Administrator
 - b. Township Board representative
 - c. ZBA representative
10. General Public Comment (2 minutes each)
11. Adjourn

Next meeting date Wednesday March 15, 2023 6:00PM

Draft

Casco Township Planning Commission
Regular Meeting
January 18, 2023, 6 PM

Members Present: Chairman Andy Litts, Board Rep. Dan Fleming, Secretary Greg Knisley, Ryan Brush, , Dian Liepe, and Kelly Hecker

Members Absent: Irene Wood

Also Present: Zoning Administrator Tasha Smalley, Clerk Cheri Brenner, Paul Macyauski, Supervisor Alan Overhiser Victoria Villwock, Shelly & Peter Brown and Recording Secretary Janet Chambers

1. **Call to order:** Meeting was called to order by Chairman Litts at 6:06 PM
2. **Review and approve agenda:** A motion by Hecker, supported by Litts, to approve agenda. All in favor. MSC.
3. **Public comment:** Peter Brown, 7087 107th, asked the Planning Commission to allow smaller homes than the ordinance currently allows. There are many reasons to make this change, from smaller homes being a smaller carbon footprint, to taking of land, to cost of homes, demographic availability. He asked where the 1,000 sq ft. minimum came from. Millennials cannot afford a big home. This would have nothing to do with trailers. There is an architectural loophole with length and width if you want to avoid trailers.

Litts thanked Brown and said this is something the PC could discuss.

4. **Correspondence:** An email from Victoria Villwock, 68th Street, dated 1/11/2023 to Chairman Litts, concerning the Cisco's sand mine. She has witnessed trucks entering and leaving the property where the proposed sand mine is located. (Attachment 1)

Another email was received from Hailey King, another neighbor, dated 1/12/23. King also saw Busscher trucks coming and going from the proposed sand mine. (Attachment 2)

Knisley asked if there something that prohibits them from hauling sand from the mine prior to approval.

Smalley said there may be a limited amount that could be hauled out before a permit is required.

Supervisor Overhiser said he believes up to 20,000 yards might be permitted.

Smalley said she has already sent a cease-and-desist letter.

5. **Approval of minutes of 1/18/23:** A motion by Fleming, supported by Liepe, to approve minutes of 1/18/23. On the first page *Irwin Watson* should be *Irwin Weston*. Also where "*Davis ?*" is written, it should be "*Davis Coombe, 70th Street.*" All in favor. Minutes approved with the two changes.
6. **Public Hearing** – none

7. **New Business:**

- a. **Election of officers:** After a short discussion a motion was made by Liepe and supported by Fleming to elect Andy Litts as Chairman, Kelly Hecker as Vice Chair, and Greg Knisley as Secretary. All in favor. MSC.
- b. **Any other business that may come before the commission:** Knisley asked if there was an approved calendar? Smalley provided Knisley with a copy.

8. **Old Business**

a. **Continue fire pit; 3067 IFC, Kelly update with SHEAS:**

Smalley provided a draft copy and discussion ensued. After much discussion, commissioners agreed that the proposed text should be changed to the following:

3.43 **Recreational** outdoor burning in residential districts (RR, LR-A,. LR-B, LDR, 3.28B lots)

A. An **Outdoor recreational** wood burning device is subject to the following:

1. **Size of three (3) ft wide, by two (2) ft. high**
2. The burning of trash, rubbish or garbage is prohibited.
3. The burn device shall not be less than twenty-five (25) feet from any structure or building or combustible materials and shall have a fifteen (15) foot setback from any property line.
4. The burn shall be in full compliance with all other regulations set forth by SHAES (South Haven Area Emergency Services or any successor organization) as of November 1, 2017, or as amended.

Section B on gas burning devices will be as printed on the 1-18-23 draft.

- b. **Cisco, 68th Street, Sand Mine SLU – discussion, keep going over requirements:** Smalley said she has received the \$5,000 escrow check. She was notified the impact study is done. The applicant will have a cost of reclamation so they can determine the bond.

Commissioners would like to see the language prior to the next meeting so they can look it over.

Smalley said she has requested the documents from the applicant and will forward it to PC members when she gets them.

Litts asked that commissioners read Chapter 21 of the Michigan Guide to Planning and Zoning. It lays out the background and how mining has been viewed, potential issues, as well as rights of the landowner. It gives history of challenges townships have dealt with.

Litts said there are several concerns the Planning Commission will need to consider when deciding on the sand mining. We are working based on the ordinance and leverage it gives us to protect everybody. A few areas we need to discuss is frequency, timing, concerns of kids on the route.

Smalley offered to make a check list of items the PC needs to cover.

The impact study is specifically on natural features like drainage and other consequences of removing the sand.

Litts said the PC could, after seeing the impact study, make a motion to hire a consultant to represent Casco.

Knisley said the PC needs to look at things that are not covered by the impact study. There is a broader impact such as roads, residents, kids, neighborhood, etc. We might hire our own consultant to look at their impact study and the broader impact.

Litts said Craig Atwood stated the roads in Casco are not constructed for commercial traffic.

Discussion ensued on how to enforce the agreement. How do you make sure the proper routes are used or frequency of trucks is followed.

Litts said this would be an agreement, met by both parties. If rules are not followed, there could be a revocation of the agreement. Logs of everything hauled out of the sand mine must be kept. Also, neighbors will let you know if they are violating rules.

Litts said he feels strongly that the PC needs to get a response to the cease-and-desist letter Smalley sent. The PC has acted in good faith, not aggressive or argumentative. They have been asked to stop and have not. It is like a slap in the face to the whole PC group. Several commissioners agreed.

Smalley will follow up on the cease-and-desist letter.

Commissioners discussed frequency of trucks. Options would be to regulate size of trucks and/or number of trucks.

Commissioners discussed which would be hardest on the roads, heavier loads, or more frequent loads. How do we grant the permit with the intent of reviewing how they have abided by the rules at the end of the year, when we already have proof they are not abiding by the ordinance.

With the owners using only 50% of the sand, how do they enforce the other ½ of trucks that is theirs, do they enforce the route or frequency?

Litts said it would come down to the loading equipment. They they must log everything they haul out.

Litts said his concern is that the PC has not gotten an updated narrative of what has been covered. It should not be up to the PC to organize all that stuff. That should be on them. Litts said he has been rereading the narrative and could not find anything about the mine being smaller.

Discussion continued about whether a quarterly report will be enough or if they should give Casco a weekly report. Will trucks show up unannounced? Will trucks be by appointment? Who will audit the operation?

Litts said commissioners need to have some consensus on items that the PC will action on. The narrative must be updated. Litts will send Smalley a list of things he would like included in the narrative.

Smalley will make a checklist to keep track of things we need, and gather information required in the ordinance.

Brush said the narrative might change with the impact study.

Hecker said in Chapter 21 of Public Act 113 prohibits a township from not allowing sand pits.

Smalley said you cannot be so prohibitive they cannot get approval and does not believe Casco's Ordinance is too prohibitive.

Discussion ensued about what would be reasonable or unreasonable conditions to apply, or what reasons could result in turning down a permit. Smalley said property value is an example of what would not be a reason for denial. If the project would drain a pond or wetlands, that would be a reason for denial. Two trucks a day as opposed to 10 trucks a day would be an example of an unreasonable condition.

Litts asked if commissioners wanted to have the township attorney at the next meeting?

Commissioners said that might be a good idea at some point. Commissioners should have their questions ready if the attorney is asked to attend a meeting.

Smalley said if we put reasonable restrictions on the project and they don't agree, that is up to them.

- c. **3.28 projections into yard:** Smalley said 3.23 D is very confusing. Her first thought was to separate it into D, E, & F. It gives relief to required setback if you have these things. She added a side setback and removed the setback on the lake side based on PC's discussion at the last meeting.

Fleming asked if the change was for logic and reason, and not just a number to throw out there.

Smalley said she added a lesser setback for random things other than the house. She added EAGL does not regulate swimming pools or beach stairs, regardless of whether it is a high-risk erosion area or not. Currently a pool setback is 65 ft from bluff or 200' from the OHWM, whichever is greater.

Hecker said Miami Park is a sensitive area. She said she came across studies from multiple entities and said activity from runoff storm water that doesn't get funneled the way it should go hits a clay layer and erodes.

Smalley asked if it would be irresponsible of Casco to allow someone to put a pool too close to the bluff?

Smalley will come up with a draft to bring to the next meeting.

Litts said he would like to cover the amendments at the next meeting leaving the sand mining to discuss last because sand mining will be a longer discussion.

- d. **Any other business that may come before the commission:** Fleming said, regarding an earlier comment about the sand miners working without a permit being like a slap in the face, we should consider whose face we have already slapped. The Constitution says we cannot take someone's land without compensation. It is against the Constitution. Zoning is against the constitution. When we are sworn in as PC members, we agree to uphold the Constitution.

9. **Administrative Reports:**

- a. **Zoning Administrator:** Smalley said she heard from Mike Baker he has the impact study and the cost for reclamation ready and will send it to her. She will have it to Commissioners before the next meeting so they will have time to look over it.
- b. **Township Board of Representative:** Last meeting they discussed the lawsuit on the Leeward Pool in a closed session with the attorney.
- c. **ZBA Representative:** There was no ZBA meetings

10. **General Public Comment:** Victoria Villwock said she has concerns if approval for the sand mining goes through conditions set by the township for hours or number of trucks will be disregarded, just as they are disregarding a cease-and desist letter. She watched 4 trucks come and go and a neighbor watched trucks come and go on a separate day.

11. **Adjourn:** Meeting was adjourned at 8:37.

Attachment 1: Email from Victoria Villwock, 1/11/23, Re: Cisco's sand mining without a permit

Attachment 2: Email from Hailey King, 1/12/23, Re: Cisco's sand mining without a permit

Attachments available at the township hall upon request

Next meeting date Wednesday February 15, 2023, 6 PM

For 2-15-23

Current

3.43 Fire Pits in Residential Districts (also 3.39 Short-term rental, 3.28B1#5)

A fire pit shall not be less than twenty-five (25) feet from any structure or building or combustible materials and have a setback of fifteen (15) feet from a property line. The maximum size shall be three (3) feet wide by two (2) feet high, and be in full compliance with all other regulations set forth by SHAES (South Haven Area Emergency Services or any successor organization) as of November 1, 2017, or as amended.

Proposed

3.43 Recreational outdoor burning in residential districts (RR, LR-A, LR-B, LDR, 3.28B lots)

- A. Outdoor recreational wood burn is subject to the following:
 - 1. The maximum size shall be three (3) feet wide by two (2) feet high.
 - 2. The burning of trash, rubbish or garbage is prohibited.
 - 3. The burn shall not be less than twenty-five (25) feet from any structure or building or combustible materials and shall have a fifteen (15) feet from a property line.
 - 4. The burn shall be in full compliance with all other regulations set forth by SHAES (South Haven Area Emergency Services or any successor organization) as of November 1, 2017, or as amended.
- B. Outdoor recreational gas burn is subject to the following:
 - 1. The burning of trash, rubbish or garbage is prohibited.
 - 2. The burn device shall not be less than ten (10) feet from a property line.
 - 3. The burn shall be in full compliance with all other regulations set forth by SHAES (South Haven Area Emergency Services or any successor organization) as of November 1, 2017, or as amended.

Current text

Section 3.23 Projection into yards

- A. Architectural features may project a maximum of four feet into a front or rear yard setback area, but shall not project into the side yard setback.
- B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on three sides, unenclosed, and uncovered and project six inches or more above the surrounding grade:
1. May project a maximum of ten feet into a front yard setback area.
 2. May project a maximum of 15 feet into a rear yard setback area.
 3. Shall not project into a side yard setback area.
 4. An open deck or patio less than 30 inches in height may be five feet from any side or rear property line.
- C. If these structures are permanently enclosed on any side or covered in any manner they shall be considered part of the main building and shall comply with the setback requirements of the main building.
- D. Yards, projections into. Notwithstanding other provisions in this Section, outdoor stairways shall be permitted, to allow access over natural features such as dunes or wetlands, if all applicable State regulations are satisfied, whether or not the stairways are connected to the principal building on the lot. A storage area, not used for human habitation, shall be permitted under such stairway or deck, even if the storage area includes walls and a roof. Stand-alone accessory structures such as decks, pools, and gazebos, as well as storage sheds with less than 225 square feet, are permitted in the waterside front yard of waterfront lots.

Proposed

- A. Architectural features may project a maximum of four feet into a front or rear yard setback area, but shall not project into the side yard setback.
- B. Porches, patios, decks, balconies, and similar structures which are open on three sides, unenclosed, and uncovered and project 6 inches or more above the surrounding grade:
1. May project a maximum of 10 feet into a front yard setback area.
 2. May project a maximum of 15 feet into a rear yard setback area.
 3. Shall not project into a side yard setback area.
 4. An open deck or patio less than 6 inches in height may be 5 feet from any side or rear property line.
- C. no change
- D. Outdoor stairways may be permitted, to allow access over natural features such as dunes or wetlands, if all applicable State regulations are satisfied, whether or not the stairways are connected to the principal building on the lot. Stairways to lake Michigan shall not be closer than 5 feet to side property line. Stairway or walkway not to lake michigan shall not be closer than 5 feet to side or rear property line.
- E. A storage area, open or enclosed, not used for human habitation, may be permitted under a stairway or deck or on a deck and shall not exceed 225 sq ft and not be closer than 5 feet to side property line.
- F. Stand-alone accessory structures, not connected to a stairway, under 225 sq ft such as a shed, deck, gazebo, pergola are permitted in the water front yard. Structures, shall not be closer than 5 feet from side property line. Structures over 225 sq ft use 3.07G for side setbacks.

References to a pool should be moved to 3.16C

- C. The outside edge of the pool wall shall meet the side and rear yard setbacks of the zoning district in which it is located. Swimming pools shall not be located in the required front yard, except on waterfront lots, the pool may be in the required waterside yard. The waterside setback for properties in the High Risk Erosion is as regulated by EGLE. The waterside setback for properties not in the High Risk Erosion is ??
(65 ft from the bluff? 100ft OHWM? Average setback of existing structures within 200ft on each side? No number?)