

**REGULAR MEETING OF CASCO TOWNSHIP
PLANNING COMMISSION
July 11, 2018, 7 PM – 9 PM**

Members Present: Vice Chairman David Campbell, Secretary Lewis Adamson and PC members Greg Knisley, Dan Fleming, Judy Graff and Dave Hughes

Absent: Chairperson Dian Liepe is excused

Staff Present: Janet Chambers, Recording Secretary

Also Present: Supervisor Overhiser, and approximately 12 interested citizens (Sign-in Sheet Attachment #1)

1. **Call to order and review of agenda:** The meeting was called to order at 7:00 PM by Vice Chair David Campbell, as Chairperson Liepe was absent due to a family illness. Two items were added to agenda: Graff added an item 9C under Unfinished Business asking for an explanation of discrepancies between the 2014 and 2016 versions of the Zoning Ordinance. Fleming asked that an item be added as #10 New Business, B Other, concerning something of public record in the minutes.
2. **Opening comments by PC members:** Graff stated, after missing the June meeting she read the minutes and was appalled about what she read regarding what the Zoning Administrator was doing. First, he is using his own judgement in many occasions. For example, he is using his judgement to follow building codes that allows 40' tall and 3 story buildings, not our Zoning Ordinance which is 35' and 2 ½ stories. Second, he is using his own judgement measuring height. Building Codes say average of three sides, our Zoning Ordinance say measure from the front. Our Zoning Administrator uses "Average Grade". In the minutes it states several times that the Zoning Administrator uses his opinion based on his experience. Third, in the minutes the Zoning Administrator said he doesn't like using the word "stories" as a measurement of height. In my opinion as a Planning Commission member the action by the Zoning Administrator is wrong. Graff said she will have comments concerning this under the new business section.

Another comment Graff had, also pertaining to items she read in the June minutes was regarding a statement by Supervisor Overhiser on page 11. Graff read from the minutes, "*Overhiser said in the special assessment district they assumed 100% of the cost.*" Graff stated this is correct. It is a board requirement that property owners affected by a special assessment absorb all the cost. Graff continued reading from the minutes, "*They had expectations of how much profit they could get. Not a small \$75,000 house. They want larger houses and larger value houses.*" Graff said she wants to make sure the Planning Commission understands that the Casco Township Board has never discussed any aspect of property owner profits nor approve any partnership to support profit expectations. Graff said she wanted to make that very clear.

Knisley said he would like to reiterate. His bullet points are almost the same as Graff's comments on what he reread in the June minutes. Ambiguity should not exist, but the fact is we do have ambiguity in how the Zoning Ordinance is administered by Ellingsen; what the intent of the regulations are; how things are being done off the cuff; and how Ellingsen wants to do them.

Knisley questioned whether the homeowners are grandfathered in, concerning the height ordinance, from the time they purchased the property; or are they under the current zoning regulations? Knisley recalled there had been discussion that things were decided years ago. Knisley said he does not have a record or history of what took place or a specific contract specifically addressing certain properties in the lots of record. Are their multiple zoning books, where if you buy property right now you can say "When I bought the property it was this way? Or, I bought the property with certain expectations of building so tall, and now there are new restrictions. Knisley asked if they get to go back to what zoning was when they bought the property, which was the point with the Supervisor. With water and sewer, it is the same way. When we put it in is it based on their return of investment? If they are buying a property and decide to put in water and sewer, that is a public utility, and he doesn't think we say, "Are they going to get their money back on water and sewer if the zoning ordinance changes?" Would those properties have been allowed to go ahead with well and sceptics, or were they not buildable until water and sewer went through? Are we discussing how much property owners are going to get back on their properties?

3. Public comments on items not on agenda:

Maureen Perideaux said she talked to the PC last year about water runoff, the ditches and drain commission. She said she felt the township is negligent in protecting existing owners with what is going on with new building. She provided a photo (Attachment #2), taken today (7/11/18) of a property going in on Lake View depicting the new foundation. People are coming in to build and heaping up soil, and water is all running off onto the neighbors. There is no plan for mitigation of the water. Then they come in and pave. If your property is lower, you are stuck with all the water from their property. This could be called water trespass. People are having foundation issues. Perideaux is next to one of the Allegan County drains and her pump is running all the time. She has replaced 3 pumps in 10 years. She is pumping out most of the neighborhood because it runs onto her property. Last week the road commission had to clear out a drain because water was coming across the road from the north side and flooding property on the south side. The township needs to be cognizant when someone comes in for a building permit, not only what are the plans, but what are they doing with elevations and what are they doing about water runoff. Miami Park is a wetland. The top four feet is mostly clay. We don't have land that absorbs the water. We really need a plan in place that protects homeowners from water damage and foundation problems. It is a problem and is getting worse every time a new house comes in. The Road Commission's response was, "they are using the road for a gutter." People who are only there in the summer don't see the winter freezing and then the spring thaw. Perideaux said she implores the PC to put requirements into place, when someone comes in with a new building plan they show the elevation and the water runoff plan. Campbell asked, "When the county came out and cleaned the drains, were they the open trenches?" Perideaux said it was the

open ditches. Campbell asked if, when the water comes across the road, does it go into any vacant lots? Perideaux said the water is going into vacant lots, creeping up into her neighbor's front yard, then onto her property. It needs to be part of the plan, when someone gets a building permit. It is not fair to dump the water onto innocent property owners.

Fleming responded to Perideaux. He did not want Perideaux to have expectations that Casco could do anything to help her. Fleming did not think Casco addresses this unless they (a builder) come in with a special use.

Campbell said he feels it is important that the PC talk about it and document it. Maybe this is something we should require. Campbell said it would appear to him that if a developer came in we would consider runoff, so maybe this is something we should explore, especially with the platted subdivisions. Campbell added they have the same issues in Glenn Shores.

Perideaux added there is no regulation on this. You regulate the percent of a lot that can be built on, you regulate height of a building and other regulations. This is not an unreasonable thing to look at, especially when it has a detrimental impact on existing buildings and neighbors.

Campbell said, we do setbacks, we do heights, we do other requirements, why not grade?

Graff said it should be discussed and Ellingsen should be present to tell the PC how he handles it. I assume that single family dwellings have building permits so what does he (Ellingsen) check, what does he follow up on. Once we learn what we need to learn, we need to determine if the zoning ordinance is effective, if there is a hole in it.

Hughes said, runoff should be considered when you are granted a building permit. It should be part of the discussion.

Knisley said they cannot just elevate their property and dump it on others. If water runs across your property, you cannot elevate your property and dump it on others.

Adamson said, that's the Drain Commission's job, that's not us.

Graff said, that's one aspect of it, but we need to discuss what **we** can do and how **we** can help our property owners.

John Barkley had a commented on Perideaux's problem. When Barkley consulted with Ellingsen about erosion and control, Ellingsen put him in touch with Allegan County Erosion Control expert, Nate Maxwell. Nate came out and gave him advise about erosion blankets and said they had to be placed around all new construction. Nate had to review and authorize that. When we see violation of Allegan County Erosion Control, we should probably consult Mr. Maxwell. He suggested Perideaux ask Maxwell to come out and give her some advice.

Hughes asked if this was for all new construction. Barkley said, yes, any new construction.

Graff said if this is a county function, and Ellingsen does building permits, obviously there should be a connection there. Graff asked Barkley Maxwell's title.

Barkley said he is our Allegan County Erosion Control permit person. He comes out and reviews erosion control.

Campbell said in Perideaux's photo they have the erosion blankets up.

Perideaux said a week and a half ago the property was at the level of the road and they brought in multiple dump trucks full of dirt to build the property up and now the runoff is a problem.

Campbell agreed runoff is the point.

Barkley had a second comment related to further understanding of costs associated with zoning actions taken by the PC some time ago. Even though the township, in its recent budget, has not recognized incremental increase in policing actions, Barkley believes that the township has recognized the increased administrative costs due to short term rentals, budget item 401, in the amount of \$24,073 and asked that this be verified for him.

4. Approval of minutes of June 2018 regular meeting: A motion was made by Fleming, supported by Knisley, to approve the minutes of June 6, 2018 Regular Planning Commission meeting. All in favor. Minutes approved as written.

5. Report from Township Board representative Judy Graff:

There was an annual meeting, which was an update from all the township committees for the last year. Topics from the June Board meeting included:

- the new budget, (which resulted in a 3rd meeting set up for budget approval)
- Update on rentals, there are 100 registered rentals, which is posted on website, fines will be imposed for unregistered,
- Beach stairs at Casco Preserve have been repaired.
- There was discussion on 1st Street beach stairs, which will probably be replaced
- The Board signed an engagement letter for auditors to do the township audit
- Approval of replacement of the police car

Knisley asked Graff if the list of registered short-term rentals could be listed alphabetically by street rather than in the order they were registered. It would be easier for residents who don't know the exact address to look up a rental on a street by process of elimination. Graff will bring it up at the next board meeting. This is all new and they are just trying to keep it updated.

6. Report from ZBA representative Dave Hughes: There will be a ZBA meeting July 19th regarding interpretation by the Zoning Administrator regarding land division in

Miami Park. Hughes added the Casco Township attorney has written an opinion and will also attend that meeting. A party has 5 lots and there is a dispute as to how they can be divided. Hughes said there is plenty of width to split it in half. The lots are contiguous lots under one owner he wants to divide it in half. There is a question as to lot width requirements. There will also be a ZBA meeting in August, either the 7th or 16th. Hughes has not received information about that meeting yet. The meetings will be at 7:00 PM.

7. Report from Water / Sewer representative Lou Adamson: Adamson said they have signed documents for SHAWSA and are official as of July 1st. The Sewer & Water Authority (Authority) will have to meet to make a few payments but should not have to meet monthly. Future reports by Adamson will be on SHAWSA meetings. They met their connection goal for the year. They only needed 17 ½ but have 24. They are collecting debt retirement from 40 new hookups, because subdivisions get a 1/3 break which makes it look like less. We are way over our projection again, so finances are doing well, they will be able to make bond payments. SHAWSA finally signed the last papers last night, so it is officially transferred over. SHAWSA will be making all the decisions.

Graff said the Authority will still have to authorize payments.

Adamson said the Authority will call special meetings when they need to authorize payments. Hopefully once or twice a year.

Campbell asked if the Authority has any kind of budget program, projecting cash flow, etc.

Adamson said "No". The goal has been to get transferred over to SHAWSA.

Campbell asked about the debt the Authority has to the township. We have the 24 hookups and 40 debt retirements, \$700 or \$800 from each one of them, which has been going on for a number of years, so it seems cashflow ought to be something you are paying attention to, and how to use it.

Graff agreed with Campbell, if you are going to pay the bonds, you must be sure month by month you are getting all the cash in.

Campbell asked, given all the numbers we have heard about being ahead of the curve, is there a plan for repayment to the townships?

Adamson said no, because for the last year we have been concentrating on transferring over to SHAWSA. We are now on SHAWSA, so we should be able to concentrate on it now.

Campbell asked if now the whole combination group will be looking at debt repayment for Casco and South Haven Townships?

Adamson said we will be looking at reducing debt retirement.

Campbell asked if all the cash is being rolled into SHAWSA and the whole group will be deciding.

Adamson said that has not been figured out. We're still collecting all the money. We must figure out how we are going to be paying them and that logistic has not been figured out. There is no planning until we figure out how to do all that.

Graff said those decisions should be made by the old Authority, because they are responsible for paying the township debts. All the debts, not only bonds but payment back to the township. The old Authority needs to lay out some procedure, which they haven't done yet, on what revenue is coming in that applies to our bond payment; so that the cash coming in every month, so that month by month the old Authority knows that yes, we have our payments lined up and any excess is still the responsibility of the old Authority. Not the new SHAWSA.

Adamson said we have not even determined who is paying Ross Stein yet. We had split it 50/50, but now that we are under SHAWSA, we really can't exist without him, but you must remember, they have made some mistakes too. They went by the calendar year. They found out the attorneys did not like that, then they had to come back and change all of our documents to fiscal year. What a mess, so no, nothing is straightened out. Even though we have gone over (to SHAWSA) it is still far from figured out.

Graff said one last comment, we lent the Authority money. That is a decision for the Authority and the Boards. It is not a decision for SHAWSA at all.

Adamson said, it is a decision **just** for the Authority when they want to pay the Townships back. The Board can put pressure on them, but they do not have to respond, because they can say, "We are going to reduce debt retirement.", but Adamson said he didn't foresee that. He sees us getting rid of that 6% loan.

Graff said the township boards will have opinions, if not authority over the old Water & Sewer Authority, it is in the townships interest in a lot of different ways, what happens to that excess money, including the depreciation and replacement costs.

8. Report from Alfred Ellingsen, Zoning Administrator: Campbell said Ellingsen called and left a telephone message saying he would not make meeting tonight. On the message Ellingsen told Campbell he had no additional input for building height discussion. Ellingsen did mentioned he is planning on retiring as early as October. They are in the process of looking for someone to work in this capacity. On the phone message Ellingsen questioned the New Business, item A on the agenda, and who put it there.

Campbell stated he put it on the agenda. After reading through the minutes over the last month Campbell thought it was appropriate to have this discussion and hoped Ellingsen would have been here to participate. In the phone message Ellingsen pointed out that he reports to the Board, not the Planning Commission. Campbell

stated regardless, we are the ones making recommendations on zoning and I think it is appropriate that we have this discussion tonight. It might be helpful, if we are going to have a new Zoning Administrator and Building Inspector, to consider meeting with him one time to get a feel for him. That is not our call but might be appropriate to consider.

Hughes asked what the procedure is for new hires. Campbell said he does not know, but obviously as Ellingsen pointed out, he reports to the Board. The Board will have that discussion, it may have already started. Hughes asked if there might be a committee made up of different parts of the township.

Campbell said, if need be, you can get someone from the Michigan Township Association so many days a week until he is replaced. Some townships don't have a Zoning Administrator, you go to Allegan County and get a permit.

Knisley said some townships go to Allegan where they have a pool of inspectors and administrators for townships that are not large enough to handle that much business.

Campbell said his opinion is that Casco should have a dedicated person with everything that's going on. It should be built into the budget, that is part of the fees for permits.

Graff agreed. Graff said it is interesting to her that Ellingsen said he reports to the board. To Graff's recollection with her years on the board, Ellingsen has never come to a Board meeting and asked for feedback or approval or anything. Graff assumed he reported to the Supervisor.

9. Unfinished Business:

A. Building Height ZO amendment:

1. Discussion of Township Board's request for reconsideration: Campbell summarized where we are. The PC submitted an amendment proposal to the Board and it came back to the PC asking for an explanation, and we have heard some of the points that were raised in the letter we received. It is time to decide on our response to the Board.

Knisley said this discussion brought up some things that are handled differently. As far as how we measure things it puts a lot of ambiguity, when two different people come up with different answers. Knisley stated Ellingsen said he is using Average Grade, and sometimes he does things according to his own opinion rather than what the zoning says. The building code says one thing, the zoning says another. That issue of how we are determining the height of a building obviously is a contentious issue with people, that must be addressed. There can only be one way we measure it. The formula should be exact. In a 35' space, you could actually put a 4-story building with a flat roof. If we have a 35' height, or 2 ½ story, which ever is less we are back to the discussion. How are we going to get this back to only one way of measuring? Someone said they could have a 16' ceiling. Someone said if the garage is on the main floor, should that be measured as living space? Should that be considered a story?

Campbell said the height is a separate issue. There are two issues. One is the definition about height, it doesn't have anything to do with average grade. I think we need to address this. This proposed amendment is dealing just with the historically platted subdivisions, and we came up with a reference point for the roof. That is another question. This document, the proposed amendment dated 3/23/18, (Attachment #3) has to do with the historically platted subdivisions. We might say that this should apply everywhere, but right now we are dealing with the historically platted subdivisions because it has been compartmentalized from the beginning. There are two issues here, one is north of 107th with no water & sewer, and then south. This is very specifically dealing with the historically platted subdivisions. Campbell's position is that the PC should deal with that and then move on to changing heights for other areas and would go through the whole public hearing thing. Campbell's interpretation of the letter from the Supervisor was people who paid for the water & sewer were looking at a different standard. People made the investment under the guidelines that were different. Should they be held to the new standards?

Knisley said regarding the return on an investment with something someone thought was one way; are there building permits in process, has somebody submitted plans to build? Or, is this a situation where someone said one of these days we want to build, and they want to build whatever they want.

Campbell said, "The point being, if you look at the minutes, Ellingsen said this gets you to a smaller height of a house and I was interpreting that from his comments. I think it is changing particularly in that area."

Adamson said he did not think that's why the board kicked it back. He thought they kicked it back because of the 2 ½ story, not the 35'. Adamson said he never heard Overhiser object to the 35', he only objected to the 2 ½ story. Adamson asked why they are trying to dictate 2 ½ story? They do want to dictate the top height to the peak of the roof is 35'.

Hughes agreed. It should be 35' and not dictate the number of stories.

Campbell said the measurement we put here (the recommended amendment to the board) is different than the book.

Adamson said he likes the measurement "Average grade to the peak". Adamson suggested going with 35' but drop the number of stories. It should be to the top of the shingle, and does not care about chimneys or cupolas, just the top of the peak.

Fleming asked if we are trying to improve the view. People will start building 35' homes with flat roofs.

Campbell said we do not deal with anybody's view.

Adamson said it already state that chimneys and cupolas are not included. But he does want to take the average grade of all four sides. The only thing he doesn't want in there is 2 ½ stories.

Campbell said there are flat roofs in these areas.

Fleming asked what the concern with height is?

Graff said, because more than 2 ½ story homes are going up. That's where we got into the whole problem of how are we measuring height and what rules are you going to? Should there being restrictions on historically platted lots, or everywhere? At one point, we were going to deal with everywhere, then we said no. We have a proposed amendment we presented, and the only thing in Overhiser's letter says, "height restrictions".

Campbell said to look at page 4 in the Zoning Ordinance the definition of Building Height says:

The vertical distance measured from the average grade to the highest point of the roof surface if a flat roof;

We already have that covered, we say 35'. It goes on to other types of roofs, but the point is, if someone wants to build a flat roof, 35' is it. If they want to build a peak roof, then it is the ½ way point of the roof, that gets you to 40' or 45'.

Campbell said this is specifically for the historically platted subdivisions. We can go into the reasons the master plan listed because of we were looking to keep the smaller heights that most of the homes in the historically platted subdivisions currently have.

Adamson said he thinks we should go back to the old chart (Attachment #4). The chart says, "height limit".

Graff said it is not stated that way in every district in our book. It says *or*, our book does not address stories at all.

Adamson said it did, in the draft it says, "lesser of". That's what I would like taken out. On page 2 of the draft document, 1 e. I would like it to be 35' maximum. Thirty-five feet would do what we are trying to accomplish.

Campbell said in the June minutes, Ellingsen said, when we started talking about height, 35' trumps the number of stories, so that's what he is using, and the number of stories does not matter.

Knisley asked if that was specifically historically platted subdivisions. Campbell said, no, I take it to be on anything.

Hughes asked if they are thinking north and south of 107th? They agreed it is both. Hughes agreed number of stories does not matter. 35' is 35'.

2. Rational for proposed amendment for Historically Platted Subdivisions:

Knisley said his rationale for the zoning change is it took ambiguity out of the picture.

Adamson said his reason was to make the average finished height what they want because there were too many definitions from the Zoning Administrator. The second reason was to make a very definitive number for building height. We have come up with a way that it works for every roof type. We simplified everything. Adamson said that was his objective in doing this. We had too many people making different decisions on the same thing.

Campbell said, since it is specifically for historically platted subdivisions, and we look at the Master Plan we specifically dealt with historically platted subdivisions and issues with development of those in the current environment. On page 9 and 10 of the Master Plan it is covered.

Campbell said if we wrap this (the historically platted subdivisions) up, one way or another, and we decide to look at other districts, we can do that as a separate amendment.

Hughes said page 9 & 10 justifies and rationalizes our reasons for 35'. We always want to support the Master Plan. This paragraph explains our reasons for historically platted subdivisions north and south of 107th.

Fleming asked to explain how going from mid-point to the peak, what are we accomplishing. If we are creating an ordinance to promote flat roofs, how does that help?

3. Planning Commission response to Township Board:

Adamson made a motion to resubmit the proposed draft amendment of 3/23/18 with the following changes on page 2:

3.28 B 1 e: **the maximum height of all buildings shall be the lesser of thirty-five (35) feet. or two and one-half (2 ½) stories.**

And on page 3:

3.28 B 3 b 7: **The maximum height of all buildings shall be the lesser of thirty-five (35) feet. or two and one-half (2 ½) stories.**

The motion was supported by Hughes.

Graff questioned if this is specifically for the non-conforming lots of record.

Campbell said the other districts could be discussed at a separate time.

All in favor. Motion passed.

The rationale is mainly the support of the Master Plan and to make everything uniform in the historically platted subdivisions, which are shown on the map titled **Casco Township Historically Platted Small Lot Developments, dated May 9, 2005**, in the Master Plan.

Master Plan Pages 9 & 10: **HISTORICALLY PLATTED SMALL LOTS**

An existing condition that significantly influences the future direction of portions of the Township is the presence of pre-existing platted subdivisions that fail to meet even the most liberal standards for conventional development. Many of the lots within these older plats are unacceptably narrow, making development congested and potentially hazardous for the residents. Several issues arise as a result of these plats. Among them are the ability to build on those lots that are currently undeveloped; the potential density if all lots are developed; compatibility of such development with surrounding land uses; the ability to replace existing homes with new and larger ones; health concerns due to the lack of public sewer; and safety concerns related to fire protection.

While such projects would not be permitted under current land use regulations, their presence must be recognized and the use of those lots must be accommodated to a reasonable extent.

Fleming added that his rationale for his yes vote was because taking out the 2 ½ stories is less restrictive.

Campbell said he will talk to Ellingsen about writing up the new proposed amendment to present to the board.

Graff asked if taking out the 2 ½ stories is a significant enough change to require a public hearing.

Commissioners were not clear about the need for a public hearing, and if it is necessary, the recommended zoning change would have to be submitted at a later Board meeting.

Fleming stated that Overhiser wanted the PC to look at the financial ramifications.

Campbell said the *Casco Township* Board must deal with those kinds of things. Unless we are charged with specific financial things. The board made the decision on extension of payments and in the end, it will be their call.

B. Lighting Amendment – next steps: Dian indicated she was going to do some refreshing and present it tonight, but that is not going to happen. Campbell said the lighting amendment had been drafted and it was pulled out of the building height amendment. Campbell said he will try to dig that up and look at it at the

next meeting to see if we want to run with it and have a public hearing as soon as it can be scheduled.

Graff said she wanted to see if the latest draft was reviewed with Maureen Perideaux because she was the one who brought it up in the first place, and there was some discussion about whether it was in residential districts. We said that it would be reviewed with Maureen. Graff asked Perideaux if anyone had reviewed it with her. Perideaux said no one had reviewed it with her and the last she heard of it, it excluded residential districts, which defeated the purpose.

Campbell said he thought it had been modified, but that would be the purpose of reviewing it at the next meeting. There would be a public hearing and the PC will have copies for review. There will be public comment at the end of that meeting. The public hearing would be later.

Hughes said the latest document was dated February 1st.

- C. Graff's request for an explanation of the discrepancy in the 2014 and 2016 Zoning Ordinances.** Graff stated she reported the discrepancies several times and has not heard back, so she has no idea what, if anything, has been done.

Adamson asked who is charged with that? Is it the Zoning Administrator?

Graff said she has no idea. It should be whoever maintains the Zoning Ordinance and keeps it up to date.

Graff said at the April 11th meeting, she brought up differences between the 2014 version and the 2016 version of the Zoning Ordinance in the existing platted subdivision section. There were several references within those minutes of the errors.

Campbell said the PC members should review the April 11th minutes and ask Chairperson Liepe to cover that at the next meeting. Campbell asked Graff to have bullet points concerning this. Graff said it would be the 5th time she is bringing this up, with no sense of responsibility from anybody and she is tired of it.

10. New Business:

A. Discussion of Zoning Ordinance administration, interpretation

and enforcement: Ellingsen wondered who put on agenda, and again Campbell said it was him. Campbell said there is no question that Ellingsen reports to the board and not to the PC. He is an important component to the PC's process. Campbell said he relies on Ellingsen's judgement because he is a professional and knows more about it on the technical side. What does the Zoning Ordinance mean? Ellingsen said he has to make judgements and he can understand that. But he gets into building codes, which are different than zoning. It seems there are some issues we need to talk about.

Graff said the Zoning Administrator should be enforcing the Zoning Ordinance. Our premises as PC members is the Zoning Ordinance is the guideline. If something else is more restrictive and he must follow it, great. It is a benefit to our township. But if something else is more open than our zoning ordinance, then why do we have a zoning ordinance. If there is judgement he is making frequently, then what is wrong with the Zoning Ordinance that should be changed. We are all looking at this as our standards that we fairly evaluate for everybody without showing favoritism. That's what standards are. The Zoning Ordinance is a standard. That's what allows us to evaluate a request that we are involved in, in an equitable fashion. I would think the Zoning Administration's responsibility would be the same thing because we don't see everything. We just see the big things. That's why I was shocked with all the opinions. Oh, I do this, I do that, I use my judgement. Judgement is based upon experience, but these are our standards. We hold hearings on it. We do a lot of analyses. We have public hearings. The Board approves it. What is a standard in here, and what is not a standard. I don't get it.

Knisley stated Ellingsen said he is not the Zoning Board. He just enforces the ordinance. We were asking for advice about building heights and we were getting conflicting statements. Instead of helping us steer this to a good conclusion he says he is just there to implement.

Graff said, then he should be implementing.

Adamson asked Hughes what the ZBA does. Hughes said the ZBA uses the ordinance to either approve or deny a request for a variance. It is all based on the ordinance. There are times you might need to interoperate it because of the way the language is written, but it is pretty much black and white. There are other considerations, such as hardships, couture of the land, and that kind of thing.

Adamson said he thinks that is what Ellingsen does. I don't think he does this carte blanche, but I do think he does the same thing the ZBA does. He gathers his knowledge and uses it in the best interest of everybody. Adamson said if we don't want him to do that, we need to make that stipulation. We can't do that to the ZBA, nobody can, but we can with the Zoning Administrator. Adamson said he doesn't think we want to do that.

Knisley said, Ellingsen is an asset. We need him as that asset.

Adamson said if he is doing something we don't like, we should ask why he is doing it, because we may need an amendment change. Same thing with the ZBA. If we are approving a lot of variances, we need to do a change. If Ellingsen is doing something like that, there is an issue we need to address. It should come from him, but if it is not, we need to bring it up.

Campbell said the point was this first definition here. We modified the definition because he said it was a better one to use with his professional opinion. It would

have been nice if 3 years ago he would have come in and said there's a better definition. Then, we go through the process and make the change.

Adamson said we used to have ZBA meetings all the time when he was on the ZBA, and we were approving most of them. We decided we needed to make ordinance changes to address this.

Campbell said he was not involved when changes were made to cut down on things brought to the ZBA. There is a ZBA and if someone owns 60 acres and wants to put up a house that is 40', why shouldn't he come to the ZBA and get a variance. That doesn't mean we need to change the standards.

Hughes said, we look at things case by case. You don't have to change everything because of one single case.

Campbell said it would be appropriate that the board know that we had this discussion as to where we fit in the process. Some things seem like we ought to hear about earlier. Campbell said he would probably be at the board meeting and he would be happy to jump in if asked.

Graff said she thought Campbell should do that, because she did not hear the PC conclude anything.

When there are changes that are substantial changes to the zoning ordinance in terms of interpretation the PC should be aware of that. There is no question that Ellingsen has reasons he has not been able to participate as much in the last year.

Knisley said they should take the 2 or 3 pages from the minutes about building height, where they were trying to get average grade streamlined or say this is the correct standard. After the meeting, we are going in circles.

Campbell said he agrees. He said Graff summarized these 4 pages, as Knisley recommended, as part of the difficulty. I think Graff captured it.

Graff asked what the PC is asking the board to do?

Campbell said, make Ellingsen aware. Do we want to continue dealing with the situation where the PC is not aware that changes have been made? The interpretations that impact this document (Zoning Ordinance). If, like Ellingsen said he reports to the Board, then the Board should know it.

Graff said informing is one activity. What do we think should be done about it?

Fleming said if there is an issue, and we find out something is being administered differently than what the Zoning Ordinance says, we need to bring it to the Zoning Administrator and discuss it. Whether it is Ellingsen or the next Zoning Administrator. Take it on a case by case basis and discuss it. We had a lengthy discussion at the last meeting, but it was very confusing too. There were a lot of

things touched on that never got to the final point of the issue. If there is a problem, lets find the exact problem and see if it is reoccurring and then deal with it.

Campbell said there is another issue here. We need to discuss among ourselves, maybe looking at the bylaws, responsibilities. We could be allocating among ourselves. The next time the book is updated, the Chair or Vice Chair should be working with Ellingsen, or whoever is the Zoning Administrator, to get the document and review it to make suggestions. I think this time there were some suggestions we would like to have had. We need to be more proactive.

Graff said this is what she thought New Business A was all about. We started dealing with this in January when all 7 of us did not have the same version of the Zoning Ordinance. Here we are in July saying, what do we do about it. We need to make a decision as a Planning Commission, what do we need to function properly, and that needs to be presented to the board. All we are doing is talking about it. I don't see it as an action item on any agenda. It is not being given any purview by us. Graff is being asked to bring this back, the 5th time, changes and errors that she has seen documented in various minutes. For what? To talk about it again for another 5 months without doing anything about it.

Adamson said that is because there is no mark we are working for. We just go by the seat of our pants, whatever comes up. Adamson said he agrees the PC needs to be more proactive on the agenda. He doesn't get the agenda until a couple of days before each meeting to prepare and know what they will be talking about, much less do research. We are not prepared when we come in here. We should know what we are going to plan for next month and we should be prepared, and we are not. We are at fault.

Hughes said this has extended decision making for the last year, which should have taken a couple of months.

Adamson said, this light thing we have been talking about for 6 months or longer. That is an easy slam dunk to do. We all agreed on it. We need to get more organized on all of it.

Graff said she feels the next meeting should be dedicated to how are we going to get organized and what are we going to require of support staff supports us. Just dedicate it.

Adamson said it would be well spent time.

Graff said people will say we put off lighting. Maybe it should be a special meeting. It needs to be a dedicated time.

Campbell said let's tell Chairperson Liepe that we need a special meeting in September.

Graff asked why we are saying September? It is July 11th.

Campbell said in August we will be dealing with other things.

Graff said, a special meeting. Is it important to us or not?

Campbell said we should get our calendars together and take a look. If you want a special meeting at the end of August or 1st of September, good luck. Campbell said he would not be here.

Graff said not all of us will be here for every meeting.

Campbell said he would be happy to put an agenda together for the next has to be a minimum of two weeks' notice.

Graff said she would volunteer for Campbell, Liepe and herself sit down and prepare an agenda, so it would not be just one point of view. We have talked for several years about looking at the by-laws.

Campbell said he would talk to Liepe and come up with something and get a special meeting in September. Graff said there has to be a 17-hour minimum notice on the door. Everyone agrees we should have an organizational meeting.

Hughes said we just made a modification on the ordinance amendment, one thing we talked about was average grade, is that average grade for non-conforming lots of record, or average grade for the whole township?

Campbell said that is the average grade for the whole township, because the 2nd part B is just for 3.28.

B. Other items: Fleming Public record that needs to be addressed.

Fleming said something came up at a previous meeting. He is not necessarily wanting an answer, just a concept. It goes back to the meeting where Campbell said "We have a right to use property as we purchased it." This is in PC minutes of 4-11-2018 Public Hearing. Fleming said, "I believe it is important that a statement that expresses such a fundamental property right, entered into the public record, should be followed, in the public record, with some explanation as to it's validity and source lest we be perceived as being arbitrary in the administration of our duties." He does not necessarily need an answer tonight, but he wants confirmation from the rest of the board, does that make sense? Is the concept of a statement that is made that expresses fundamental property rights, we deal with property rights, and it is entered into the public records, somebody 20 or 50 years from now reads that and says this is what they believed. I think it is important that we have an explanation or say that it was misspoken or retracted or explained somehow.

Graff asked for an example of what Fleming is talking about to help us understand.

Fleming said yes. I would like an explanation of where that light comes from.

Campbell said he must have made a sentence in some context that he does not recall, but whatever the context, we can go back and cover it as part of our organizational meeting. I could refer you to the document I handed out that says when you are dealing with zoning, there is going to be disagreements. Just read the document I handed out. How many times have we heard people make statements as to what people thought. That is their interpretation. That doesn't mean we as a Planning Commission. Good point, we can get back to that.

C: Campbell said he wants to hand out a chart, Section 4.07 Schedule of Regulations (attachment #4), the chart from way back when that was omitted from the book. Campbell said he thinks it is important that the PC get into a discussion about the chart. Everything on this document applies universally across all the districts. We have made a modification tonight if the board decides to adopt it. This could be a good starting point for future modifications.

11. Public comments:

John Barkley asked, if the chart is no top secret, he would like to get a copy. Campbell said it is in the minutes from 2 months ago. He said he is not going to hand it out tonight.

Chris Barczyk said he has been attending all of the meetings for the last several years and heard about the intent of changing the historically platted communities building height. Barczyk said if you keep the ordinance as written it is more restrictive than what the PC has just written. Changing the average grade, you are looking at 4 or 5 stories. Macyauski agreed with Barczyk at a previous meeting. Homes that are on a slope with this change will be allowed to be taller buildings. You just raised the height of the buildings. Barczyk cautioned the PC and offered to explain further if you are looking to take it Casco wide, many community have own restrictions. Encourage you to ask and I will explain how that will happen. Campbell said the PC has heard different views of this and has made their decision.

John Weaver from Miami Park said there is so much interest in Miami Park and helping it grow. Maybe you should ask people who live in Miami Park. Lots of people like what is there, some don't. You should ask the people who live there.

Debbie Weaver said she would like to add to what he said. If you are talking about being consistent within Miami Park, a few years ago there were 17 houses, now there is about 70 houses. So, if you are trying to be consistent, you might want to take a walk and see what is there now. Based on reasoning you gave. Why would you care about specifically measuring in a specific way in Miami Park and not the rest of the community.

John Fallon from Miami Park said he agrees with Mr. Weaver. He went online to a Casco website in reference to building heights and renting and all the other things that are going on. It says homes are being built for commercial uses, 3-story condos, hotels. It says most of those houses are being built for commercial uses. One of those homes is his. He does not rent, he does not plan on renting. This is my home. Someone took pictures and put it on a website and called it a hotel. So, I think if they ask people who live in Miami Park what they use their home for. Campbell asked if that was on the *Casco Township* website. Fallon said he does not know. Campbell said he finds that unlikely.

Debbie Weaver said it is a Save Casco website. Campbell said the point is it is not the *Casco Township* website. Campbell said he understands, but that is between Fallon and the website owners.

12. Closing comments and adjournment:

Motion by Graff supported by Knisley to adjourn. All in favor. Meeting adjourned at 9:20 PM.

Next Meeting:

Wed., August 8, 2018 7PM..... Regular PC Meeting

Attachment #1 -- Sign-in sheet

Attachment #2 – Photo of erosion and water issues provided by Maureen Perideaux

Attachment #3 – Proposed Ordinance Amendment of 3/23/18

Attachment #4 – Section 4.07 Schedule of Regulations Chart

Minutes prepared by Janet Chambers, Recording Secretary

Attachment
2



CASCO TOWNSHIP
ALLEGAN COUNTY, MICHIGAN
Zoning Text Amendment Ordinance
Ordinance # _____

AN ORDINANCE TO AMEND THE CASCO TOWNSHIP ZONING ORDINANCE; TO AMEND SECTION 2.02, DEFINITIONS – A TO AMEND DEFINITION ‘AVERAGE GRADE’; TO AMEND SECTION 2.03, DEFINITIONS – B TO ADD DEFINITION ‘BUILDING HEIGHT, NONCONFORMING LOTS OF RECORD’; TO AMEND SECTION 3.28.B, NONCONFORMING LOTS OF RECORD TO INCLUDE LANGUAGE PERTAINING TO BUILDING HEIGHT.

CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN HEREBY ORDAINS:

Section 1. Amendment of Section 2.02. Section 2.02 – Definitions – A is amended to amend the following defined term to read as follows:

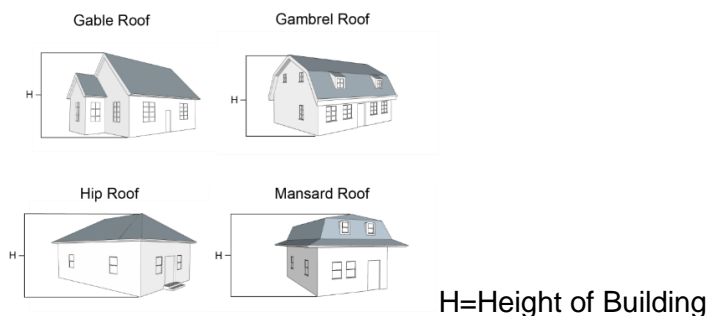
AVERAGE GRADE

A reference plane representing the average of the finished ground level adjoining the building at all exterior walls.

Section 2. Amendment of Section 2.03. Section 2.03 – Definitions – B is amended to add the following defined term in alphabetical order:

BUILDING HEIGHT, NONCONFORMING LOTS OF RECORD

The vertical dimension measured from the average grade of the building, to the highest point of the roof, parapet wall, or other uppermost part.



Section 3. Amendment of Section 3.28.B. Section 3.28.B – Nonconforming Lots of Record is amended to reads as follows:

SECTION 3.28 NONCONFORMING LOTS, USES OR STRUCTURES

B. Nonconforming Lots of Record.

1. A single lot of record is not contiguous with another lot or lots under the same ownership. Where a single lot of record (in existence at the time of the adoption or amendment of this Ordinance) does not meet the minimum requirements for lot width, lot depth or lot area, that single lot of record may be used for any purposes permitted by the zoning district in which the lot is located, provided that:
 - a. the minimum lot width shall be fifty (50) feet;
 - b. the minimum lot depth shall be one hundred (100) feet;
 - c. the maximum lot coverage for all buildings shall be twenty-five (25) percent;
 - d. the setbacks for the main building shall be a minimum of:
 - (1) Twenty-five (25) feet for the front setback.
 - (2) Twenty (20) feet for the rear setback.
 - (3) Ten (10) feet for each side setback; and
 - e. the maximum height of all buildings shall be the lesser of thirty-five (35) feet or two and one-half (2 ½) stories.
2. Where the setbacks cannot be met on the nonconforming lot, the owner may request a variance from the Zoning Board of Appeals under Chapter 20.
3. Contiguous Nonconforming Lots in Common Ownership
 - a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they meet the following:
 - (1) Are in the same or similar ownership.
 - (2) Are adjacent to each other or have continuous frontage.
 - (3) Individually do not meet the lot width or lot area requirements of this Ordinance.
 - b. In the case where several contiguous nonconforming lots must be combined the resultant buildable lot or lots shall satisfy the following standards:
 - (1) Minimum lot width of sixty (60) feet;

- (2) Minimum lot depth of one hundred (100) feet;
 - (3) Maximum lot coverage for all buildings shall be twenty-five (25) percent;
 - (4) Front setback of twenty-five (25) feet;
 - (5) Rear setback of twenty (20) feet;
 - (6) Side setback of ten (10) feet;
 - (7) The maximum height of all buildings shall be the lesser of thirty-five (35) feet or two and one-half (2 ½) stories.
- c. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot, width and area requirements.

Section 4. Effective Date. The foregoing amendment to the Casco Township Zoning Ordinance was approved and adopted by the Township Board of Casco Township, Allegan County, Michigan on _____, 2018, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on _____, 2018, which date is eight days after publication of the Ordinance as is required by Section 401 of Act 110, as amended, provided that this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

Allan Overhiser,
Township Supervisor

Cheryl Brenner,
Township Clerk

CERTIFICATE

I, Cheryl Brenner, the Clerk for the Township of Casco, Allegan County, Michigan, certify that the foregoing Casco Township Zoning Text Amendment Ordinance was adopted at a regular meeting of the Township Board held on _____, 2018. The following members of the Township Board were present at that meeting: _____
_____. The following members of the Township Board were absent: _____. The Ordinance was adopted by the Township Board with members of the Board _____ voting in favor and members of the Board _____ voting in opposition. A copy of the Ordinance or a summary was published in the _____ on _____, 2018.

Cheryl Brenner, Clerk
Casco Township

CASCO TOWNSHIP
ALLEGAN COUNTY, MICHIGAN
Zoning Text Amendment Ordinance
Ordinance # _____

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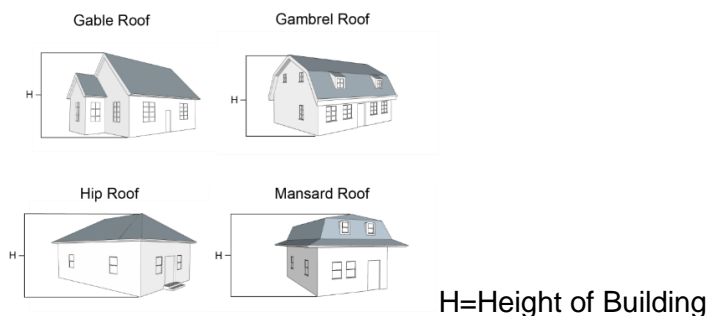
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Cheryl Brenner, Clerk
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