

Approved 02-19-2020

Regular Meeting of Planning Commission
Casco Township
January 15, 2020, 6 PM

Members Present: Chairman David Campbell, Vice Chair and Secretary Lewis Adamson, Board Representative Judy Graff, ZBA Representative David Hughes and PC member, Dan Fleming and

Absent: Greg Knisley and Andy Litts were both ill

Also Present: Zoning Administrator, Tasha Smalley, and Supervisor Allan Overhiser and two interested citizens

1. **Call to Order:** The meeting was called to order by Chairman Campbell at 6 PM. A motion to approve the agenda was made by Fleming and supported by Hughes. All in favor. Agenda approved as written.

2. **Election of PC Officers for 2020** (Chair, Vice Chair, Secretary): A motion by Adamson, supported by Hughes to re-nominate Dave Campbell as Chairman. All in favor. MSC.

A motion by Chairman Campbell to nominate Lewis Adamson as Vice Chair. All in favor. MSC.

A motion by Campbell, supported by Hughes to nominate Andy Litts as secretary. All in favor. MSC.

3. **Interested Citizens in the audience will be heard on items NOT on the agenda and Public Correspondence received:**

Supervisor Allan Overhiser said the Fire Chief is monitoring the shoreline in Casco, South Haven Township and the City of South Haven so they can respond to 911 calls. He is watching structures that may show foundations close to the bluff and present a danger of going over, dragging electric and gas lines which could affect others. He is currently working on an old building near 109th North of Graff near Meads. They are working on getting it either moved or removed. There is a short list of houses that are close. They are monitoring for safety and inventory for possible aid.

Campbell spoke to a lady that said she is within 10' of the bluff. She was questioning the ramifications of letting it go over.

Supervisor Overhiser said it would be cheaper to take it down rather than let it go over. The homeowner would be responsible for their structure.

Zoning Administrator Smalley agreed it is cheaper to demolish rather than let it go over.

4. **Approval of minutes** of 12/18/2019: A motion by Fleming, supported by Graff to approve minutes of Dec. 18, 2019 regular meeting, with a correction on page 2 b. Township Board

Representative Report 1st sentence as follows: **There was a Board meeting on Monday January December 16th**. All in favor. MSC.

5. **Calendar review (Campbell):** There will not be a meeting on January 22nd. February 19th has nothing scheduled yet, and if nothing comes up will be the regular February meeting. There may be a Public Hearing March 18 for a Special Events Venue. If there is a Public Hearing on that day, the regular meeting would be on March 25th.
6. **Administrative Reports:**
 - a. **Zoning Administrator (Smalley) (Attachment 2):** Smalley said as of last Tuesday she will be issuing all the building permits. She said she is glad to have had the year to learn. Alfred Ellingsen is still the building inspector. Licensing classes have begun and Ellingsen has opted not to take the class to renew his license. Therefore, as of September 2022 he will no longer be licensed and will be done as Building Inspector.

Campbell asked a couple of questions about the ZA report, which brought up the following discussion:

- Smalley said there was discussion about moving a home. EAGL gave them a temporary permit. Ellingsen will issue a move permit. There is a possibility they may need a setback variance.
 - Campbell noted that the PC might consider mentioning berming fences up in the fence section of the ordinance. Campbell questioned a new huge fence West of Blue Star. He questioned what size fence would require a permit, and setbacks and height restrictions.
- b. **Township Board Representative (Graff):** No regular Board meeting since last report. There was a special meeting on Water & Sewer financing. Board approved new bonds that would potentially save \$1.7 million net. They are selling new bonds in Feb to replace old bonds in May.
 - c. **Report from ZBA representative (Hughes):** The ZBA met Dec 30th on 2 items. SH Big Sky house construction in a gated community had 2 front yards, and a deep ravine at the back. They were requesting two variances. After discussion and talking to the builder they figured out they only needed one 19.5 ft variance if they move the house to south. One variance was granted.

The second variance request was for a remodel of a home in Glenn Shores on a non-conforming lot of record on Maple Street. The owner wanted to put a 2nd story on his house. The footprint of the house did not change. Macyauski thought they did not need a variance if they were only building up within the same footprint on a non-conforming lot of record. The rest of the ZBA thought the variance was required.

Smalley said she would go the ZBA for interpretation so that something would be on record. The Process for handling an interpretation question is to go to the ZBA. Campbell said if there is a question on interpretation in the Zoning Ordinance, it should be brought to the Planning Commission, not the ZBA.

Discussion continued on the process of handling interpretation issues. Graff said the Zoning Ordinances should be clear enough that there is not an interpretation issue.

Supervisor Overhiser said if the Zoning Administrator gives her opinion and a customer does not agree, then the customer can go to the ZBA for an interpretation.

Campbell noted that there had previously been mention of differences in interpretation between Smalley and Ellingsen. He said, if there is any question about what's in the book, come to the PC.

Smalley said there is a difference between understanding and interpretation.

Hughes said apparently the ZBA doesn't have bylaws. Bylaws will be discussed at the next ZBA meeting.

Hughes said there could possibly be a ZBA meeting on Thursday, Feb. 6, regarding a home being moved in Glenn Haven Shores. Smalley said the Feb. 6th meeting might not be needed and if needed would be moved to a different day.

- d. **Water/sewer representative (Adamson):** The Water and Sewer had a meeting Jan 13th to discuss financing of the bond. It was approved and signed that night.

Campbell asked if there are financial statements and when the last official audit was done on the "old" authority?

Supervisor Overhiser said it was last done June of 2018.

Campbell said there was something mentioned about the new bonds being folded into the new SHAWSA.

Supervisor Overhiser said SHAWSA is in charge of collecting money to service the debt. Casco is still responsible for the debt.

Campbell questioned the Debt Retirement part of the bill. When is the debt going to be paid off, and what is the financial plan?

Adamson said they have a plan, but new requirements by the State and repair projects come up. It is difficult to predict what might come up. The State said they were getting grants for some of the requirements. The grants turned out to be significantly less than expected. The project will still need to be done and they must find the money for it. The old debt is going to end in 2034.

Supervisor Overhiser said the Township debt will be going to the bonds. The Comprehensive rate includes what Adamson is talking about and existing debt. They have

had good experience with growth and there is a possibility of reducing monthly debt retirement.

Adamson said we are starting to pay the township back. They are slow to move, because they seem to get caught short.

Campbell said if the average person pays \$60 a month for debt retirement and there are 600 people on water and sewer, that would be approximately \$450,000. Does the difference come from hookup fees?

Supervisor Overhiser said for cash flow reasons, Casco and South Haven Township supported each other. Casco needed 6 or 7 new homes a year.

Campbell asked with 25 new homes, did they all put in the full connection fee amount?

Supervisor Overhiser said developers do not pay the whole amount.

Bill Chambers, Casco citizen, asked if the homes on 102nd payed the 2/3 developer cost or the whole individual home cost.

Supervisor Overhiser said they paid the developer cost.

Chambers said when they started the project, they cut corners by saying there were individual homeowners, not developers, to save money, and now they are developers to get a developer price on hookups.

Supervisor Overhiser said on Lakeview, Pacific, Beach or Orchard Streets they got developer rates. It is done that way all over. When water and sewer went in on North Shore and Lake Ridge the property owners were assessed a portion of the cost and growth was supposed to pay the rest. In 2002 that was not happening. At that time, we (Casco Board) said we are not putting pipe in the ground without the developer paying for it up front.

Chambers said the developers have not paid. They are behind in taxes and not up to date on the assessments. Allegan County does not care who is behind in their taxes. Casco must pay up regardless of whether the property owner has paid Casco.

7. **Old Business:** Campbell said there needs to be a system to be more effective if someone calls to ask if a building permit has been issued. Campbell said he sent three emails enquiring about a building permit and on the third email he said, "Please consider this a complaint". If there is a question on a building permit, it should be a yes or no. He could not get an answer.

Smalley said all permits are available in Ellingsen's office. If a zoning permit is needed, she handled it. If a building permit is issued, Ellingsen has handled it.

Campbell said he came in and a building permit could not be found.

a. Water trespass (Campbell/Smalley)

i. Proposed amendment modifications (Smalley) (Attachment 3)

1. **25% lot coverage amendment per Atwood recommendation to include all impervious surfaces (i.e., driveways, decks, patios, and parking surfaces that take away from natural absorption):** Smalley said there was a reduction in text after the last meeting, so she thought about where to best put it in the ordinance. Grading and filling were in there originally. Now that it is narrowed to one paragraph, she put it under **3.30 Excavations** and added "B".

Graff said the purpose of addressing water trespass was to prevent problems.

Campbell agreed it was to protect adjacent properties as much as possible. Now it sounds like tough luck.

Smalley asked if the commission had examples of what they would like.

Campbell questioned the definition of Lot Coverage. He suggested it might be easier to go to Chapter 7 and add an asterisk after the 25% and below note that it includes accessory buildings, structures and impervious surfaces.

Smalley said Lot Coverage is used in all sections, whether residential or commercial. Currently lot coverage in commercial areas does not include parking lots. In residential areas currently driveways and patios are not included. If you are now proposing to include them, it can be in the definition. In various districts LDR, LR-A, LR-B and MDR there are lot coverage restrictions. In commercial it is 35%.

Chairman Campbell said in section 3.28 Non-conforming Lots of Record, B 1 b, it says "*the maximum coverage on all buildings shall be 25%*". When you read that you think "buildings". If you go back and read the definition of maximum coverage it would include more. Atwood said to deal with the drainage issue we should include driveways, parking pads.

Bill Chambers said the trend is to bury pipe the entire length of the property to recover property that would be ditch.

Smalley said the size of the home might need to be reduced. Or a gravel driveway as opposed to paved. Sometimes gravel drives leave gravel running into the street and it goes into the storm water.

Graff said, "What Bill describes sounds like it is not right. Isn't this all part of the final approval of the site? The problem is with drainage and somebody may not be doing it properly, something is kosher." Graff asked who would issue the permit.

Supervisor Overhiser said what Bill is talking about is correct. It is inconsistent with the Road Commission. Piping with a depression for water runoff is the way to do it.

Campbell asked about the Grade Height section.

Smalley said nobody really liked the Grade Height section, which is why she is now only proposing one paragraph. If we get the 25% part on the books, we can come back to this. It is difficult to enforce. How do we assess what it looked like before they started, and how do we know what the neighbor looked like?

Fleming said in paragraph B, when there is a rainstorm in Miami Park, which is a clay hill, water is going to run from one neighbor to the next in a downpour. If we think the lot coverage part is going to help, why do we need the paragraph. It just gives people ideas that it is going to be a nuisance.

Hughes said the 25% rule including other areas like driveways is good.

Campbell said he would be happy with the 25% thing for a start.

Smalley said it would be up to interpretation on decks, etc. It says impervious surfaces, including but not limited to...." From the beginning a homeowner will have to know what surface would go under a deck.

Campbell said if someone comes in for a building permit, the Zoning Administrator would be making the zoning decision, setbacks, minimum coverage, etc. Whatever it is, the Zoning Administrator would be approving it. Ellingsen would be doing the building codes.

Commissioners discussed how lot coverage is determined along the bluff when part of the lot has eroded. The Zoning Administrator said the property description is used when figuring lot coverage. If part of the land is eroded and useless, it is still figured in as part of the lot.

Campbell said technically on the bluff they would need an EAGL permit. When an overlay zone was discussed, people would be back 60' to 110' from the bluff. Setbacks are measured from the bluff.

Commissioners said there are new houses closer than 60' to the bluff. The Zoning Administrator said EAGL a property owner a variance. The DEQ gave them a 35' variance and the ZBA gave them a variance. Hughes said when discussing granting that variance he questioned the homeowner if they really knew what they were doing building that close.

Graff said they started with two issues. Excavation and 25% lot coverage. She would like to see some kind of text to deal with the excavation issue, but don't hold up the 25% lot coverage while the PC deals with the grade.

Campbell said to move forward on lot coverage and the Zoning Administrator could look at how other townships have dealt with the grade height issue.

Graff stated just because there is difficulty with the wording, don't throw the grade height issue out.

Fleming asked what data was used to come up with the 25%. Originally the 25% was arrived at for the purpose of density and not water runoff.

Graff said if there is going to be a motion for the 25% lot coverage, the PC should articulate in the minutes the reason for the change.

2. **Grade height cannot exceed that of adjacent properties:** Commissioners agreed further discussion is necessary on grade height.

- ii. **Vote to charge Smalley with preparation of Ordinance Amendment for public hearing.**

Graff made the following motion: To help with water runoff issues the PC will move forward on changing the lot coverage definition to include all impervious surfaces, leaving more area for water absorption. Motion supported by Adamson. Roll call vote: Campbell-yes; Adamson-yes; Fleming-no; Hughes-yes; Graff-yes. Motion carried 4-1.

b. Bylaw Revision

- i. **Amendments to the current Planning Commission Bylaws dated "2/6/2007" PC Bylaws recreated 11-01-2007 (Attachment 4)**

1. **Vote on amending Section 2F as proposed by Subcommittee:** Motion by Fleming, supported by Adamson to amend Section 2F as proposed. Campbell-yes; Adamson-yes; Fleming-yes; Hughes-yes; Graff-yes. All in favor. MSC.
2. **Vote on amending Section 2G [1] and [2] as proposed by subcommittee:** Motion by Adamson, supported by Fleming to amend Section 2G 1 & 2 as proposed. Roll Call: Campbell-yes; Adamson-yes; Fleming-yes; Hughes-yes; Graff-yes. All in favor. MSC
3. **Vote on adding Section 3F as proposed by Fleming that:** *The Planning Commission is limited by the United States Constitution from taking private property for public use without just compensation*". Motion by Fleming to add Section 3F as proposed. Motion drops due to lack of support.
4. **Vote on adding Section 4C.6 as proposed by the Subcommittee and amended by Smalley's request that the proposed report be provided in February of each**

year. Motion by Hughes, supported by Adamson. Roll call: Campbell-yes; Adamson-yes; Fleming-yes; Hughes-yes; Graff-yes. All in favor. MSC.

5. Vote on deleting Section 6 [A] [4] as proposed by Graff: Motion Fleming, supported by Hughes to delete Section 6[A] [4] as proposed by Graff. Roll Call: Campbell-no; Adamson-no; Fleming-yes; Hughes-yes; Graff-yes. Motion passed 3 – 2.

6. Vote on amending Section 7 as proposed by Subcommittee. Motion by Adamson, supported by Fleming to amend Section 7 as proposed. Roll Call: Campbell-yes; Adamson-yes; Fleming-yes; Hughes-yes; Graff-yes. All in favor. MSC.

c. Discussion and vote on scheduling a public hearing on Rental Property Fire Pit proposed ordinance amendment previously presented (Campbell) (Attachment 5): Campbell brought up the fire pits issue that had come up at a previous meeting. Campbell said it would be good timing to cover this before the next rental season. Campbell also thought it should be brought up to the board to consider including AG in the STR ordinance. There were issues with neighbors renting up to 28 people in a STR and neighbors were considering moving because of this. Campbell felt it was inconsistent to allow so many renters just because it is in AG.

Hughes said it would be more consistent if included in all districts.

Campbell said they should at least be asked to register. A motion by Campbell, supported by Hughes to have Graff ask the Board to reconsider the exemption of AG from the STR Ordinance. Fleming asked if there was a problem in AG and if it was solved? Campbell said there has been a problem, and it was not solved. Roll Call: Campbell-yes; Adamson-yes; Fleming-yes; Hughes-yes; Graff-no. Motion passed 4-1.

Discussion returned to Fire Pits (Attachment 5) under 3.39 Rentals of single-family dwellings [4]. Campbell proposed taking what is the current SHAES rules and applying them. He said his proposal simply delineates what SHAES is saying.

Discussion ensued on whether the SHAES rules should be referenced in the ordinance. The Zoning Administrator said it was difficult for her to find the SHAES fire pit regulations and would be easier if spelled out in the Zoning Ordinance.

Graff said a lot of things have reference to others. Graff said some things to consider are #1: Is it consistent to put references to other regulations in the ordinance. And #2, do we want to have to update our ordinance every time rules from other entities change.

Campbell said the Casco Ordinance already says fire pits must be 25' from a structure and would like the ordinance to include no fire pit within 25' of property lines.