

Approved 05-18-2022

Casco Township Planning Commission  
April 20, 2022, 6 PM  
Casco Township Hall

**Members Present:** Chairman Andy Litts, Vice Chairman John Weaver, Secretary Greg Knisley, Board Representative Dan Fleming, ZBA Representative Sam Craig, Kelley Hecker, and Ryan Brush.

**Absent:** None

**Also Present:** Zoning Administrator Tasha Smalley, Supervisor Alan Overhiser, Clerk Cheri Brenner, Board Member Paul Macyuski, applicants Mary and Kevin Whiteford and their attorney Thomas Vitale, approximately 21 interested citizens and Recording Secretary Janet Chambers

1. **Call to Order:** Chairman Litts called the meeting to order at 6:00 PM
2. **Review / Approval of Agenda:** A motion by Hecker, supported by Weaver to approve the agenda. All in favor. MSC.
3. **Public Comment items Not on Agenda:** None
4. **Acknowledge / read correspondence received:** Correspondence was received from Zina and Jeff LaDuke (Attachment 2) in opposition to approval of the Special Events Venue. A letter was received from Nancy Barnes (Attachment 3), 6849 Baseline Road, in opposition to the Special Events Venue. A letter in opposition to the Special Events Venue from Tony and Aundria Quinn (Attachment 4), 60 68<sup>th</sup> Street.
5. **Approval of minutes 3/16/22:** A motion by Hecker, supported by Fleming to approve minutes of 3/16/22 with a spelling correction to Aqel's name. All in favor. MSC.
6. **Public hearing:** (Notice of Public Hearing Attachment 1)  
**Kevin and Mary Whiteford, 46 68<sup>th</sup> Street, 0302-032-028-00, Special Land Use – Special Events Venue:** (Application Attachment 5)

**Open Public Hearing:**

**Applicant present:** Chairman Litts invited Whitefords to explain their request. Kevin Whiteford and their Attorney Thomas Vitale joined the Planning Commission's table. Vitale said they have submitted SLU site plan as required. He said in his opinion it is compatible with the adjacent use of land. He said it is fairly simple and no reason not to approve everything in Section 15.03 UU 1-12. He said Whitefords have gone above and beyond to be good neighbors.

Kevin Whiteford said he bought the property August of 2018. His original intention was to use the property for private use. They have used the property for Whiteford Services, parties, and charity events. He has Allegan County Health approval as requested by Alfred Ellingsen. He checked into DEQ rules effective in 2019 and marshland issues do not come into effect unless property is over 500 sq ft. May of 2019 they started building. In October he was told he had to put a house on the property.

Hecker asked about the intended user of the Events Venue.

Whiteford said he intended to use it for friends, family and charity.

Knisley questioned the 6,000 sq. ft. building, and a building of that size having nothing to do with money making.

Vitale said the zoning ordinance says a SLU is rental space. They have not rented it out.

### **Correspondence:**

**Audience comments – for or against:** Aundria Quinn, 60 68<sup>th</sup> Street asked the Planning Commission to deny the Whiteford SLU request until such time the standards are met, there is oversight by the township in place to enforce the standards and a clear path to revoking the permit if Whitefords violate any of the conditions. Quinn stated operating hours are from 7 AM to 10 PM and asked that the property be vacated by 10:00 PM. She asked how many times the Whitefords could violate the standards before the permit is revoked. The noise ordinance is addressed in item 6 of the standards.

Quinn said she received a letter from Supervisor Overhiser on June 15, 2021. He said Section 5 prohibits noise nuisances. They are specifically concerned with amplified music, loudspeakers, and musical devices. Quinn said she has called the police several times and asked that if the noise ordinance is violated, the SLU permit be immediately revoked.

Quinn said that Standard 17.07 O requires buffering. Whiteford's do not propose buffering, screening or fencing. She requested sound and light barrier be placed on the west and north side of the property. Quinn's property line is 280 feet from the venue, not 750'.

Quinn said her husband Tony talked to Kevin Whiteford. Whiteford told him if it happens again, give him a call. They did, and it happened multiple times more.

Nancy Barnes, 6849 Baseline Rd. said she sent a letter to the township, explaining what they have been living with. They cannot even turn their own music on during a Whiteford event because they cannot hear it. When Whiteford purchased the land from Barnes' family they were told it would be a sunflower field. They are taking away from the residential AG atmosphere.

Zina LaDuke said they are 3 houses down and can't open their windows. It is continuous with 4-wheelers going up and down and noise from party events. Their family has owned the property for 87 years and she has not seen anything like this until the last 2 years when Whitefords started having their parties.

Mary Whiteford, 7258 Beverly Drive, said they have had events 6 or 7 times out of 365 days. They have ducks, had a sunflower field, one family wedding and peaceful entertaining. They try to be careful and good neighbors.

Jason Barnes asked if the events held so far were in compliance with the zoning ordinance?

Litts said a Special Events Venue comes into play when there is a monetary transaction.

Rick Willet said he is in agreement with his neighbors. The community is getting really busy. Sitting in his yard at night there is a lot of traffic, greyhound busses down the street, catering people, etc. It is zoned AG, it should be AG.

Craig asked if there were any political events planned.

Whiteford said no. Due to complaints from neighbors, he has pushed his events to other venues.

Craig asked, if granted, would Whitefords be opposed to further restrictions.

Vitale said it is not necessary to have further restrictions if they comply with conditions.

Kevin Whiteford said they have 3 garage doors. They will close the door facing the Quinns.

Weaver asked how they plan to buffer noise.

Whiteford said they planted 3' bushes and they have not grown. They will be replaced this year. They plan to burn the small bushes and put bigger trees on 68<sup>th</sup> street north of the driveway.

Litts said the ZBA has been the chosen ones put in the middle of this. The history of documented noise complaints from the neighbors is a concern. We would like to figure out a way for everyone to be happy. It is pretty clear Special Event Venues must comply with the noise ordinance. 60 decibels is pretty low, less than I am talking right now. He asked Whiteford what he would be willing to do to mitigate the noise.

Whiteford said when it became an issue, he rectified it within 30 minutes of the police giving them a report. He added there are 15 Whitefords in the area. There will be Whitefords on the property past 10 PM.

Litts said if we approve this, we are opening the door to your having events at your leisure, at whatever frequency you want.

Atty Vitale said, "Isn't that how it works? That's what you get to do."

Whiteford said there have been no citations as far as he knows.

Whiteford said the neighbors have forced them to get the SEV. That is why they are here.

Weaver asked about enforcement of the STR's three strikes and you're out policy. If a SEV does not comply with the rules, could they lose their permit?

Fleming asked if the Zoning Administrator has that ability.

Smalley said there is language about revocation. If you violate the standards, it can be revoked.

Whiteford said we can do these things, but we are being spied on and Smalley sends us letters. We are trying to work with you guys. We need to stop having letters coming from township attorneys.

Litts asked Whiteford if he had given thought to berming or mounding?

Whiteford said he is in the process now. He might get some height. The soil is not friendly to trees.

Litts said the issue is, if Whiteford had come in with a clean slate there would not have been issues. Several people have provided complaints and that gives us pause. What can you (Whiteford) do to prove you will comply with the noise issue? Granting this is opening the doors a lot of what you could do. The commission could make this worse.

Whiteford said he was not aware of a noise ordinance. Once he was he shut the doors. He said he has not exceeded the noise limits since the police visit.

Atty Vitale asked if other Special Event Venues have additional restrictions applied to them?

Smalley said July 30<sup>th</sup> she sent a letter advising them of the noise ordinance.

**Close Public Hearing – No further public comments: 7:06 PM**

15.03 UU 1-12

1. **The use shall be owner-operated, and the owner shall live in a single-family dwelling located on the same lot during operation.** There is a house on the property. Their son lives there.
2. **A special events venue shall be located on a lot of five (5) acres.** Yes, 20 acres.
3. **The use shall be licensed and inspected by the Allegan County Health Department and comply with all applicable laws and regulations regarding food service.**
4. **Hours of operation shall be limited to the hours between 7 AM and 10 PM.** 7 – 10
5. **The maximum capacity of the venue shall not exceed that established by South Haven Emergency Services (SHAES) or its successor, or applicable building code, whichever is less.** SHEAS will determine the number of people. 100+ people had to be sprinkled

6. **Amplified music must comply with Township ordinance limitations, unless a condition of the special use is to prohibit amplified music.** For reference the limit from 7 am – 10 PM is 60 decibels after 10 PM it is 53 decibels. This is the issue that draws most discussion
7. **No activity or structure pertaining to the special events venue may be located within fifty (50) feet of the public road right-of-way.** They meet setbacks
8. **No activity or structure pertaining to the special events venue may be located closer than fifty (50) feet from any dwelling unit on another lot.** They meet this.
9. **Suitable containers for rubbish shall be placed on the lot for public use and shall be properly disposed of on a regular basis to avoid overflowing and foul odor.** Trash handled
10. **Suitable restroom facilities shall be provided on the lot as approved by the Allegan County Health Department.** Provided on plan
11. **Parking shall be available on the same lot and in accordance with Chapter 18.** Parking indicated on plan.
12. **Access to the lot and the venue on the lot shall be constructed and located in accordance with Allegan County Road Commission requirements.** Access constructed permit pulled.

Hecker asked if the decibel level is measured at the property line?

Smalley said it is measured at the property line.

Fleming agreed noise is the biggest concern. Have we heard how we can guarantee it won't happen? Laws don't prevent crime. We have a noise ordinance and the special use could be revoked if violated. None of us has a clue what 50 or 60 decibels sounds like.

Weaver said 60 decibels is normal conversation sitting 1 meter apart.

Litts said to approve the request we must go over 15.02 C

1. **In addition to the standards established for specific special uses in Section 15.04, an application for a special use approval shall satisfy the following general review standards which are basic to all special uses.**
  - a. **The use is generally compatible with the intent of the Master Plan.** Yes
  - b. **The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.** Yes
  - c. **The use is or will be as a result of the special use permit, served adequately by public services and facilities, including, but not limited to roads, police and fire protection, drainage structures, refuse disposal, and schools. Adequate water and sanitary sewer facilities must be available.**
  - d. **The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of traffic, noise, smoke, fumes, glare, or odors.** This refers to the use of the area.
  - e. **The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources and energy and will be compatible with the rural nature of the Township.**
2. Refers to Section 15.03 UU

3. States the PC may impose additional conditions

Knisley read C1d (above) If we are looking at large crowds, noise and traffic could be a problem.

Weaver agreed. Noise is a big issue. Weaver said we need to see more details. Weaver said live music is about 119 decibels.

Hecker said there could be a restriction against amplified music with possibly a temporary permit for a singular event.

Brush said with the option to revoke the permit, does that mean they cannot have gatherings?

Smalley said yes. If revoked, they would not be allowed to have a SEV.

Smalley said there would need to be a public hearing to revoke the SEV. They could still have family barbeque but would still have to keep the noise down. A fundraiser is not a family barbeque.

Litts asked if there was a condition we could add that would help control the noise. Closing a door is not really a measurable plan. Something they could do to help move noise away from the neighbors like a berm.

Regardless of what you put there, the noise ordinance is still the same.

Knisley said enforcement is an issue. The neighbor made calls, but by the time they call, they have already had many hours of the noise. We have the same complaint with STRs. We need to know when and who to address.

Hecker said she is starting to have other venues brought to her attention for noise also.

Litts said a decibel meter should be taken out there and show Whitefords how far they can turn it up, and no further.

Mary Whiteford said bands or DJs bring their own amplifiers.

Fleming said when a DJ sets up, they could go to the property line and self-check.

Smalley read 15.04 B4: The Planning Commission shall have the authority to revoke any special use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable Sections of this Ordinance, or conditions of the special use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

Smalley said the noise ordinance is separate from the zoning ordinance and a violation of the noise ordinance is a misdemeanor. Each violation is a separate offence of a nuisance per se.

Knisley said with any special use properties we have discussed buffers. AT Jensen's Campground we required planting. Swimming pools have required buffers. We have done that on many other properties.

Craig said the PC should highlight the fact that if he violates the noise ordinance it will be sent back to the commission for review, highlighting the seriousness of that.

Knisley said he hates to turn his back on surrounding neighbors. It is their neighborhood too. There should be a condition put on that.

Hecker said he recognized it was too loud to the north and closed the door.

Litts said there were complaints to the west too.

Knisley said he does not know how close they are to surrounding neighbors. Usually, we require that information.

Knisley said yes, they all have to abide by the noise ordinance. In the past many Special Use Permits haven't had the early complaints like we have had here. There has been a sustained amount of correspondence. We have a lot of early data from neighbors. We already have serious concerns about the noise ordinance being violated. They don't have a good track record, plus the fact that we are making the line a little stronger. We have concerns that they might not follow the ordinance. We make one person happy at the expense of everybody else.

Litts said with Special Events in general, noise is the big thing.

A motion by Litts, supported by Weaver to approve the Special Use with conditions.

Knisley asked for clarification that the owner shall live on the property at the same time of the venue. The son currently lives there. Does that satisfy the condition?

Litts said he did not know the financial relationship between Kevin and Mary Whiteford and their son.

Discussion ensued about whether being there for the event would be sufficient.

Smalley said the owner SHALL LIVE on the property.

Litts made a motion to rescind his motion, supported by Fleming. All in favor. MSC.

Craig said they do not meet the requirements. They do not live there. They have already given a different address.

Atty Vitale said technically the home is owned by a corporation. It is not their principal residence but would be present at the time of an event.

Hecker asked if the son is part of the entity?

Kevin Whiteford said no, but an iatrical working part. Not owner.

Fleming said if we can verify, he is part of the ownership of the venue business and house, and if we find out differently, it could be revoked.

Knisley asked if there could be an oversite person living in the house?

Smalley said no. It specifies "the owner" of the venue.

Craig said if we go by what the ordinance says, we can't ok it.

Atty. Vitale said if you are willing to condition the approval that if we can prove the son who lives there is part owner of the venue.

Smalley read the definition of Owner: *Owner means a person holding legal or equitable title to a single-family dwelling. An owner may designate an agent to perform duties or receive notice under this Ordinance.* You need to verify the son is a person holding legal or equitable title to the property per UU#1.

A motion was made by Litts, supported by Fleming to approve the Special Use Permit with the following conditions:

- Must comply with Township noise ordinance during any and all events. If noise ordinance is violated it may result in revocation of the Special Use Permit as provided in 15.04 B4.
- Building permit for a change of use is required on existing building. The building permit was issued under residential purposes, special events is a commercial use.
- Must prove the Special Event Venue is owner operated and living on the property.

Roll call vote: Craig-yes; Brush-yes; Fleming-yes; Knisley-yes; Litts-yes; Hecker-yes; Weaver-yes. Motion approved. 6-0.

## 7. **New Business:**

### A. **Discuss & decision – Special Land Use & Site Plan:**

Commissioners read through Section 17.03 C Final site plan approval, with the following comments.

9. It is on drawings
15. NA
21. no signs
20. Knisley said there should be conditions to help buffer. After discussion it was determined there should be a buffer zone on the north and west borders.
25. pond trees,



27. In previous part of meeting SHAES should be involved. When he put in a barn, he had a driveway permit. Septic & Well permits have been done. SHAES has written permit with ingress and egress. SHAES is comfortable.

Whiteford said he will mention this to SHAES.

Litts said the use has changed. He will need a new inspection.

Brush asked if SHAES determines the maximum occupancy?

Smalley said occupancy is a separate part. The inspection will be to see how the fire department will gain access and whether trucks can get in and out.

Hecker asked the distance from the north and west property line.

Knisley said it looked like about 400' from the north property line to barn.

Commissioners read through 17.07 with the following comments:

- A. None
- B. Indicated services will be met. Litts asked if the septic is adequate?  
Whiteford said it is 180' x 100' would take 425 a day. He contacted Fire Department. He will be putting in a fire hydrant to service the barn at the edge of the driveway and invite the fire department to fill their tankers.
- C. The barn is existing on the site
- D. Road will loop in and out
- E. Doesn't apply,
- F. Fire Dept. needs to be done
- G. Grass parking in on plan for once paved parking is full.
- H.
- I. This is where we can ask for more trees or a berm. A buffer zone will be required at north and west property lines.
- O. Ties into item I additional screening.
- P. Have you agreed to downward lighting? Mary Whiteford said it is like that now. No lights on driveway at this time. Lights along driveway took out for winter. All lights will be decorative and shining down.
- Q. No signs on drawing.
- R. Litts asked how Whiteford is planning to cover the dumpster. It is out by the road should be behind a screen. Whiteford asked if it should be screened from the road or from the or residential. Whiteford said it was originally in parking lot and they were tearing up parking lot when they picked it up. Litts said it must be screened no less than 6' in height. Could have a door for truck driver to open and access.
- S. The permit was for a residential use. The use has changed. A building permit for change of use is required. Knisley added some things will change for commercial vs residential.
- T. Already SEV.

Litts summarized things that needed to be addressed. Buffer, screening, SHAES permit and building permit, dumpster screening.

Knisley said to protect neighbors from car lights, direct visibility and parking visibility and intended activity there must be buffering.

Brush said they should be required to maintain the woods.

Litts said 95% of the trees are on the neighbor's property. Section 3.33 Greenbelt has to come into it.

Smalley said the greenbelt between incompatible uses or dwellings could be existing vegetation on his property to provide screening. A 20' strip with one evergreen tree of 5' in height for every 10' of greenbelt.

Litts said a greenbelt would go a long way on the west side to helping. Not just an existing greenbelt. The greenbelt must be on your property.

Whiteford said there is a county drain, then neighbor's property on other side of drain. He said he will have provisional. He was going to trim it back because it is growing out of control.

Brush said the wooded spot to the west is pretty thin between the house and neighbor.

Fleming said if you are concerned with glare, the driveway curves south. Once the car is straight south, would it be enough screening. You may need headlights screened to the west near the curve. As far as Baseline and 68<sup>th</sup> Street it looks like thick woods straight north.

Hecker said they need evergreens to the north, east of pond along the north line and on the west line, west of the barn could help with sound and glare.

Whiteford said there are loads of evergreens buried in brush on both sides.

Litts said the greenbelt requirements need to be met. You need to build it out and use evergreens on the north and west.

Litts reviewed the conditions:

SHAES report of site, fire code drive and parking

Screening by dumpster facing the road

Greenbelt per 3.33, verify what needs to be added if using existing trees

Building permit for change of occupancy

Occupancy permit

Verify venue is owner operated and owner living on the lot

Hecker made a motion to approve site plan with above conditions, supported by Fleming.

Roll Call: Craig-yes; Knisley-yes; Brush-yes; Fleming-yes; Hecker-yes; Litts-yes; Weaver-yes. All in favor. MSC.

**B. Any other business that may come before the commission:**

**8. Old Business:**

**A. Continue campground / resort text amendment discussion:** Need to be prepared to come to a decision in June.

**B. If time allots, go over other amendments to work on; fire pit, etc.:**

**c. Any other business that may come before the commission:**

**9. Administrative Reports:**

**A. Zoning Administrator:** Knisley asked about signage for the golf course. There is a big dome on top of the building. Is that within what we approved. There are some fabric temporary signs. The ordinance does not allow rooftop signs.

The site plan for Leeward pool site is ready for review next meeting.

**B. Township Board representative:** Fleming said zoom meetings will stop after the 4/21/22 ZBA.

**C. ZBA representative:** Request for 20' variance at 65 Pershing was granted.

**D. Water / Sewer Representative:**

**10. General Public Comment:** Quinn said cars go by with stereos over 60 decibels. Kids can't sleep Noise is the biggest issue. She would like to see no amplification of music. She encourages them to enforce this and hopes Casco is taking this to heart. She expressed her disappointment that they were not heard.

Scott Whiteford, 5573 Parkview, said it takes \$3,500 to book a venue. They raise \$2,000 to \$10,000 not for profit. Any fundraiser would like to save money by eliminate cost of the venue. If I had a neighborhood that did that, I would be happy to hear the noise. It is a free country, and I cannot believe people are complaining. Neighbors helping out not for profits.

**11. Adjourn:** A motion by Craig, supported by Weaver to adjourn. Meeting adjourned at 9:30 PM

*Next meeting date Wednesday, May 18, 2022, 6 PM*

Attachment #1: Notice of Public Hearing

Attachment #2: Zina & Jeff LaDuke, in opposition to the SEV

Attachment #3: Nancy Barnes, in opposition to the SEV

Attachment #4: Notes from Aundrea Quinn's statement

Attachment #5: Whiteford's application

Attachment #6: Zoning Administrator memorandum re: Whiteford SLU

*Attachments Available at Township Hall upon request*

Minutes prepared by Janet Chambers, Recording Secretary