

**KASSON TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING  
Monday, October 16, 2023; 7:00 pm  
Kasson Township Hall  
10988 S. Newman Road, Maple City, MI 49664  
MINUTES**

I. Call Meeting to Order/Pledge of Allegiance

Chairman Roush called the meeting to order at 7:00 pm with the Pledge of Allegiance.

II. Roll Call of Commissioners and Staff

A. Present: Jerry Roush, Chairman; Mike Lanham, Vice Chairman; Chuck Schaeffer, Secretary; Dave Noonan, Commissioner

B. Excused: Tad Carter, Township Board Rep

C. Staff: Dana Boomer, Township Clerk (acting as Recording Secretary)

Roush stated that he believes some of the audience is present due to the proposed housekeeping cabin park on Tower Road. No application for that use has been received by the Zoning Administrator, and there will be no discussion regarding the use by the Planning Commission tonight. Others in the audience may be here due to the proposed definitions for farm stands/farm markets. This was discussed at the last meeting, and it was determined by motion that no further discussion on the topic will be held by the Planning Commission. There will be no discussion on this topic by the Planning Commission tonight. All members of the audience are welcome to speak on any topic during the public comment portions of the agenda tonight.

III. Consideration of Agenda

Roush asked for a motion to approve the agenda as presented. Lanham asked for a public comment to be added before correspondence as item 3.a – this was an oversight from the draft agenda. **Lanham moved to add item 3.a, Public Comment, to the agenda, Noonan seconded. All in favor, motion carried.** Schaeffer stated that it seems that fairly frequently a Special Use Permit comes before the Planning Commission that involves noise. He would like to consider adding to the discussion on potential Zoning Ordinance changes a discussion on noise, either as a standalone noise ordinance or as an addition to the ZO section on Special Use Permits. This will be discussed as part of the Old Business Zoning Ordinance Amendments for PC Review. **Schaeffer moved to approve the agenda as amended; Lanham seconded. All in favor, motion carried.**

III.a – Public Comment

Agnes Carter submitted a letter to the Planning Commission (see attached), regarding farm stands and farm markets in Kasson Township. She summarized the letter into the record. She

wishes the Planning Commission to rewrite and update zoning ordinance language pertaining to farm markets, farm stands, retail stores and agritourism within Kasson Township.

Mary Shimek – She appreciates that the Planning Commission discussed the issue of farm stands and farm markets, and determined to no longer consider it. She would like Mrs. Carter’s statement struck from the record, as this issue is no longer being discussed.

Jerry Konczel – He went to look at the property where the housekeeping cabin park is proposed. It is a very sloping piece of land; there will need to be a lot of excavating, road building, land moving, and tree clearing needed. It sounds like there is going to be some fairly substantial removal of vegetation there.

Matt Tarsa – He owns the property abutting the east side of the property where the housekeeping cabin park is proposed. He agrees that there should be concern regarding the erosion on this property. The amount of land clearing needed will lead to vegetation die off and erosion. He is also concerned about people messing with the communications tower, which provides emergency services communication service.

Tom Wolf – He is concerned about the traffic at the proposed housekeeping cabin park. The roads are barely up to the current traffic, much less the traffic that would be generated by 40 cabins.

Barry Krull – He and his wife have a farm stand at the corner of Nash Road and Burdickville Road. That farm stand income provides part of their income, and he wants to be able to sell things grown or produced by his grandkids at the stand. He had to spend quite a bit of money to get his stand and compost operation approved by the township and MDARD, and they have had many compliments on his stand. He thinks it’s great that there are more farm stands going into the area.

Andria Bufka – She has a farm stand on Burdickville Road. She agrees with Mary Shimek, and doesn’t know why this keeps coming up, given the decision at the Planning Commission meeting last month. This was all new news to her at the Township Board meeting last week, but she has time to consider and research this over the last week. Agritourism is a good thing, and she wishes there were more farm stands in Kasson Township. There seems to be a big complaint about people buying and reselling things, but as far as she knows, the majority of the things sold at farm stands are produced in Kasson Township. This is a family squabble that is taking up way too many township resources, and she is frustrated by it. She is compliant with the ordinance and MDARD standards, and so are most of the stands in Kasson Township. She is tired of having to make public comments on this topic.

IV. Declaration of Conflicts of Interest – None

V. Approval of Minutes – September 18, 2023

Roush asked for a motion to approve the minutes of September 18, 2023 as presented. Lanham asked to have the first paragraph of Old Business changed from “farm markets” to “farm stands” in two locations. **Noonan moved to approve the minutes of September 18, 2023 as amended, Lanham seconded. All in favor (Schaeffer abstained), motion carried.**

#### VI. Correspondence Received - None

#### VII. Area Reports

A. Chairperson - Chairman Roush – no report

B. Secretary - Commissioner Schaeffer – Schaeffer reported that the technology committee met and discussed the new internet provider in the township. It appears that the committee is likely finished with discussions on topic, given the new provider. There does not appear to be anything more the township needs to explore on this topic.

C. Township Board - Commissioner Carter – absent

D. Zoning Board of Appeals - Commissioner Noonan – Noonan reported regarding the ZBA meeting for the Enduro event. The meeting was primarily a fact-finding meeting, and there will be another meeting for deliberation and decision making in approximately a month after additional materials are gathered.

E. Zoning Administrator – ZA Cypher - Cypher’s ZA reports had been previously emailed to the PC, and will be available on the website.

#### VIII. New Business

A. Leelanau Redi-Mix Initial Meeting (Renewal) – Mark McKellar, attorney for the applicant, spoke regarding the application for renewal for Leelanau Redi-Mix. There have been no substantial changes since the last approval. There are no proposed changes to the site plan, and the escrow funds are on deposit with the township. Cypher will be scheduling a site visit. A public hearing can be set for November. **Lanham moved to schedule a public hearing for the renewal of the Leelanau Redi-Mix Special Use Permit for the November 20, 2023 meeting. Schaeffer seconded. All in favor, motion carried.**

B. Parking Ordinance – The Township Board has requested that the PC consider the development of a Parking Ordinance. Roush spoke briefly with Cypher on this topic. Cypher has a number of different parking ordinances that he can bring to the Planning Commission. Roush questioned why what will likely be a police power ordinance is being discussed by the Planning Commission. Lanham suggested respectfully sending it back to the Township Board, and Cypher can provide the draft ordinances to the Board to discuss. Noonan agreed. There was consensus that this would be better discussed at the Township Board level.

#### IX. Old Business

A. Zoning Ordinance Amendments for PC Review

Cypher had previously reported there are no updates on this process, and he is currently working on the notes from the previous meeting.

The PC agreed to table the remainder of the discussion on the Zoning Ordinance amendments until November. **Schaeffer moved to table the discussion of the Zoning Ordinance until November; Lanham seconded. All in favor, motion carried.**

a. Noise

The PC had a brief discussion regarding a potential noise ordinance or inclusion of a section regarding noise in the Zoning Ordinance. Roush asked if there was information from the sound engineer on the Lively project that could be used? Schaeffer stated that there are likely noise ordinances in other municipalities that could be useful for Kasson Township; and the township that includes Pine Knob may be a good resource to use. There are a number of technical issues that would need to be discussed in such an ordinance, whether it is a police power ordinance or a section in the Zoning Ordinance.

Schaeffer asked for it to be added to the minutes to request that Carter ask the Township Board what their thoughts are on a noise ordinance, either stand alone or as part of the Zoning Ordinance.

X. Public Comment –

Jerry Konczel – Anyone using a GPS to get to the proposed housekeeping cabin park from Traverse City is going to be driving on Tower Road, and this could cause issues due to people driving too fast. He is also concerned about trespassing on neighboring properties and people messing with the communications tower.

Mike Lane – Regarding the sound ordinance exploration, the township should be very careful with this. There are a lot of technical issues that go into noise ordinances, and the township should be careful to not bite off more than they can chew.

XI. Comments from the Commissioners – None

XII. Next Meeting - Monday, November 20, 2023 at 7:00 p.m.

XIII. Adjournment

Chairman Roush asked for a motion to adjourn the meeting. **Schaeffer moved to adjourn the meeting, Lanham seconded. All in favor, motion carried.**

The meeting was adjourned at 7:43 pm.

Respectfully submitted,  
Dana Boomer  
Township Clerk

Kasson Township Planning Commission meeting – 10/16/23

I am reading this letter tonight on the advice of my attorney, "To set the record straight" in response to letters written by Mary Shimek and Sam Shimek to the Kasson Township Planning Commission.

I have been a year around resident on Shimek Road in Kasson Township for 53 years. During these years, there have been many changes within Kasson, but the fact remains that the people of Kasson Township want to protect their rural, peaceful life. This was exhibited by the results of the Kasson Township Planning Commission 2019 survey of Kasson Township residents. Recently, this has been exhibited by the public outcry of the proposed Dollar Store in a town with no stores and more recently by the proposed Enduro motor cross race track that would host races three times a year.

The township ordinance that Kasson Township currently uses was put into effect in 1997 (Probably when the only farm stand then was Shorters out on M72) and updated in 2019. During these years of growth in Kasson Township, language has been added to the Kasson Township Ordinance to monitor and protect the rural atmosphere of our township. Language has been added about fireworks, gravel pits, blight, event venues, etc. There are now at least eleven farm stands/markets/stores in Kasson Township – more than any of our neighboring townships or maybe even more than any township in Leelanau County. This is at least twice as many markets as there were when the ordinance was updated in 2019. Most of these businesses are abiding by the true nature of what a farm stand is and the MDARD/GAAMPS guidelines, which are the minimal farm stand/market guidelines. The Kasson Township Zoning Ordinance does not address the definition of farm stands or farm markets. Also, Agritourism is one of the fastest growing farm businesses in Michigan and this is not addressed in the ordinance at all.

I would like to now respond to Mary Shimek and Sam Shimek's letters in which they appear to be trying to turn a family issue into detracting from the real issue at hand – rewriting and updating outdated ordinance language that pertains to farm markets/stands/stores and agritourism within Kasson Township. I would be writing this letter no matter who opened a store on Shimek Rd.

\*You can imagine my displeasure in 2020, when people started telling us and we were reading about the "store" down in the woods at Bohemian Lavender Farm on Shimek Rd. Prior to 2020, we had been very supportive of them operating a lavender farm and selling their farm raised products. When I heard that they were selling note cards, t-shirts, tote bags, art prints, copper fish, etc., I immediately felt that our township would not allow a retail store to be run down in the woods on Shimek Rd in a forestry zoned area. Further research showed that their farm and store/shop are advertised throughout Michigan on many of the Michigan tourism and agritourism sites. Yes, I wrote letters to Greg Julian and Tim Cypher complaining about a "retail store" operating down in the woods on Shimek Rd.

\*In June of 2021, Mike Shimek placed a Bohemian Lavender sign on our property, I told him that we did not want the sign on our property. Mike said the Leelanau County Road Commission said that it could be there. We called the Road Commission and they said that unless you give permission to the person placing the sign, they cannot put signs on private property nor can signs be put in the road right away. Mike had to remove the sign from our property.

\*Also, in June of 2021, Mike Shimek said that he was going to have the blue, MDOT tourist signs placed at both ends of Shimek Rd. We called MDOT to see what the rules were on these signs and found out that they can be placed only on state highways –not county roads.

\* In July, 2022, the traffic continued to stream up Shimek Road and more articles were being written about the Bohemian Lavender Farm and their "store" and "shop" in their barn. I filed a formal complaint.

\*This past summer, our son had a building erected to be used as a farm stand on our property (this had been in the planning for eight years). It is a kit building purchased from Vermont, weighing 18,000 pounds. It was also equipped with heavy load snow rafters. Charlie Sessions, the building safety inspector stopped by and had a couple of suggestions for the professional builder that was erecting the building (The builder made the corrections). Then, Charlie's secretary called my husband and said that he (Since we own the property the building is on) had to sign a waiver that no one from the public could enter the building due to safety concerns. This was with no checklist or no explanation as to why.....So yes, I called Charlie Sessions and had a conference call with him and Amber Weber as to why a professionally put together building with extra roof supports and tie downs did not pass allowing the public to enter...no clear answers have been given. Bohemian Lavender Farm has a building that was built from hundred year old, fallen down barn wood, built by a nonprofessional builder and yet people are allowed to go into it to shop. We also discussed if he (Charlie Sessions) has inspected each farm market in which people enter in Kasson Township.

\*In August, I also called MDARD/GAAMPS and talked to the head person of this program. I asked him what could be sold at farm stand/markets and talked about rules and regulations of farm stands/markets. I told him about what was being sold at some of the farm markets up here and he wanted to come up and inspect the farm markets in Kasson Township since he was going to be up in the area inspecting some other farm markets in the county. I told him to hold off until we see if new language is put into the Kasson Township ordinance pertaining to farm markets/stands/stores and agritourism. It was his suggestion that Kasson Township enact new farm stand/market, and agritourism language into their zoning ordinance.

As a Planning Commission Board, in my opinion, I feel that you really did not do your research and dropped the ball on this whole situation by making a motion to drop all further discussion of farm markets and farm stands, and let current practice stand.

Currently this is what is in the Kasson Township Ordinance that pertains to farm stands/markets/stores. (Section 4.5.1) Agriculture permitted uses:

- I. A stand for the sale of agricultural products that:
  1. No more than one stand is allowed for each 600 lineal feet of road frontage.
  2. Adequate parking and maneuvering areas are provided to ensure safe vehicle ingress and egress and pedestrian movement within the site.
  3. The products sold on any stand are mainly grown or produced on the premises.

First of all, what constitutes a stand in Kasson Township? There is no definition given and they were probably picturing "Shorter's stand" when this ordinance was written. Then products sold on any stand are mainly grown or produced on the premises. What kind of products – agricultural, crafts, or furniture? This needs to be defined. The ordinance does address retail stores, as any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale (2.2). They address retail stores being in high density (section 4.8.1) or commercially (4.9.1) zoned areas of the township. By what the ordinance states, none of the current farm stands/ farm markets would be in compliance. Ted Gilmer ran a small retail shop by M72 and Armstrong Lake Rd and he was commercially zoned.

A few of the objectives of the Kasson Township Ordinance are:

\*To ensure that land uses shall be in appropriate locations and in proper relationships to other uses.

\*To cause and perpetuate the wise use of lands and natural resources in accordance with their character and their adaptability to development or not.

\*To eliminate the improper use of land.

In my opinion, having a retail store located in the woods on Shimek Rd does not meet these objectives. The automotive and bicycle traffic on curvy, rural Shimek Rd has increased immensely since 2020, during the already busy summer months of the year.

Let's look at a few of the ramifications of not having clearly defined zoning for farm markets/farm stands/retail stores and shops, and agritourist areas and why some of the owners of farm stands/markets in Kasson Township do not want a change in the zoning ordinance. We also need to keep in mind what the real nature of a farm stand or farm market is – to promote and sell the individual farmer's farm products...not wholesale products or nonfarm produced products.

\*Is it really fair that some of the so called farm stands are sourcing their products from other counties and stores to sell, when their neighbors are growing and selling their own products within the township. For example, Ryan Noonan is growing and selling his own pumpkins, while other farm stands in the township are selling out of area pumpkins.

\*Bohemian Lavender Farm is obtaining their honey from Benzie County to sell when a neighboring farm market is producing their own honey to sell. They are also buying soy wax and adding lavender oil to them and calling them lavender candles when a neighboring market makes their own candles from their own wax. They are also advertising and selling lavender plants that they buy from a wholesale place in Traverse City.

\*Currently there is nothing to stop a farm stand/market from purchasing items wholesale and repackaging them and selling them at their own farm stand/market as their own products.

In my opinion, by not having language to address the operations of farm stands/markets, the township is opening themselves up to having many roadside stores/shops blighting the countryside with very little control over them.

I am not going to address the slanderous words that Sam Shimek used towards us in his public letter such as; waging a war, burden of harassment, relentless harassment, dread, conspiring to weaponizing, ugliness of the situation, endure abuse, and public slander. Anyone who knows us, knows that these remarks do not characterize who we are. I do not feel that this is a family issue or it is a conflict of my interest to discuss why farm stand/market practices need to be addressed in the Kasson Zoning ordinance. To me there are right and wrong ways to run businesses in Kasson Township and they should be monitored. Yes, our son and his wife have opened a farm stand on our property and are waiting to see if Kasson Township enacts new language into their ordinance as to what they can sell at their farm stand. They have had several people contact them about selling their products at their farm stand.

In conclusion, I feel that the evidence I have presented should encourage the Kasson Township Planning Commission board to want to add more definitive language to their zoning ordinance that defines a farm stand/market and agritourism, what they can sell, and where they can be located within the township. The Kasson Township Zoning Ordinance already addresses retail stores. All farm stand/markets need be on equal footing, therefore, none of the current businesses should simply be "grandfathered in". Finally, a police power ordinance needs to be enacted to regulate the activities of the farm stands/markets and agritourism within the

township. This all could be accomplished by forming a committee with a representative (if they chose) from each of the eleven or current farm markets in Kasson Township, along with a member from the planning commission and a township board member. We all should be interested in keeping Kasson Township a rural, peaceful, beautiful township in which ordinances are followed to benefit our welfare and safety.

Respectfully submitted,  
Agnes Carter

At the Kasson Township meeting last week, one of the individuals that spoke during public comment, clearly did not understand what a police power ordinance is – here are definitions of police power ordinances and zoning ordinances.

A police power ordinance does not regulate the **“use of land,”** rather; it regulates an **“activity.”** Examples of **“activity”** include, among others, motor vehicle regulations, parking, health code, food safety, boats and marinas, blight, smoking, noise, and junk. But in these examples, the ordinances should not regulate where activities are located.

Police power ordinances, however, can be retroactive. Everyone, not just those doing new construction, may have to comply with the regulations in a police power ordinance. If the regulation of activity is in a zoning ordinance, that regulation cannot be retroactive, as no regulations within a zoning ordinance can be retroactive. Remember, however, that the regulation of land use cannot be in a police power ordinance.

A zoning ordinance, on the other hand, regulates **“use of land.”** It might also regulate **“activity,”** but if an ordinance has regulation of land use, then it must be adopted as, and called, a zoning ordinance.