

Milton Township

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Planning Commission

Members: Jeremy Clanton, Richard Hebard, Ron Jureziz, Sandra Redman, Diane Shields, Kelly Sweeney and Sharon Ward

Minutes for December 12, 2011 Meeting

Call to Order: 6:31 P.M.

Roll Call: All members were present

Agenda: No changes made

Approval of the Minutes: Approved as presented

Public Comments: None

Zoning Administrator's Report: None

Township Board Members Report: None

Zoning Board of Appeals: None

Old Business:

1) Conditional Use for the Weaver landscaping service

Deliberations on this Conditional Use continued from the December 5, 2011 meeting. The first deliberation was to arrive at a final list of conditions that the Planning Commission wished to place on this particular Conditional Use. After discussion a consensus was reached on the following list:

- 1) A limit of 3 full time employees and 1 half time employee and the owner
- 2) A limit of 2 buildings which are already present
- 3) No customers are to be seen at this site
- 4) No business signs are to be place on this site
- 5) No burying of landscaping debris is to be permitted on this site
- 6) Burning of landscaping debris is to be limited to no more than 2 times per year.
- 7) Start up for the mowing operations will be restricted to 7:00-8:30 A.M absent any weather delays
- 8) Completion for the mowing operations will be restricted to 5:00-7:00 P.M. absent any weather delays during the day.

- 9) The Zoning Administrator will be allowed to inspect the property without notice or search warrant.
- 10) It is agreed that any wooden pallets will be stored by the pole barn and not in the fields.
- 11) All operations will be in compliance with the DNR regulations.
- 12) Composting of organic material obtained from the mowing operation will be confined to an area no larger than 1 acre and must be set back 100 feet from all property lines.
- 13) Snow plowing operations will be permitted at times dictated by the weather.

Mr. Bob Rupchock has complained that the granting Mr. Weaver this Conditional Use permit would be in **direct conflict** with the following Milton Township Zoning Ordinances: Section 1.02A, 1.02F, 1.02J, 1.02I and 1.02K. The Planning Commission considered each of potential violations in detail as Mr. Rupchock stated them in his complaint.

- 1) Section 1.02A specifically, public health, safety and general welfare. The Commission members reviewed the staff report factors in favor #1-5 & 8 and voted 7-0 that there was no conflict with Section 1.02A.
- 2) Section 1.02F specifically preserving agricultural land, i.e. the landfill. Five members of the Planning commission inspected this property and could find no evidence of a landfill furthermore the owner has agreed not to bury and mowing materials on the property. As such the members voted 7-0 that they could not find a conflict with this section of the Ordinance.
- 3) Section 1.02J conserving the taxable value of the land, i.e. landfill next door. As noted in # 2 above the Planning Commission members who walked the property could find no evidence of a landfill and the owner has agreed not to bury any materials from his mowing operation in the future. The members by a 7-0 vote found that they could find no conflict with this Section of the Ordinance.
- 4) Section 1.02I protecting against fire, explosion, noxious fumes and odors, dust, smoke, glare, noise and other hazards and nuisances in the interest of public health, safety and general welfare. The two areas of specific complaint were the smoke from burning and the noise from the pickup trucks and the occasional clanking of the gates of the trailers carrying the mowers. First Milton Township does not have a burning ordinance so technically the owner could burn as much as he wishes, however he has agreed to burn anything from his landscaping business no more often than 2 times per year. The amount of noise produced appeared to the members to be minor however again the owner has agreed to limit the times at which his trucks will come and go. The members voted 7-0 that there was no conflict with this Section of the Ordinance.
- 5) Section 1.02K elimination of nonconforming use. Under the definitions used in the Milton Township Zoning Ordinance there has never been a nonconforming use on this property. Since there was no nonconforming use violation the members voted 7-0 to find that there had been no conflict with this section of the Ordinance.

Under Section 14.05 of the Milton Township Zoning Ordinance in order to make a decision on a Conditional Use the Planning Commission must review the circumstances and facts of each proposed use and must apply these circumstances and facts to five conditions set forth in this Section of the Ordinance.

- A) Will be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance. Landscaping services are a permitted use in the Rural Residential Zoning District and Mr. Weaver has made multiples concessions to attempt to answer any neighbors concerns.
- B) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity. From Batchelor Road it is impossible to tell that there is a landscaping business located at this address. Five members of the Planning Commission toured the property and found the construction to be harmonious and the property to be maintained in excellent condition.
- C) Will be served adequately by essential public facilities and service, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that persons or agencies responsible for the

establishment of the proposed use shall be able to provide adequately any such service. There is a Township road, Bertrand Road, which is maintained by the Township and has a most recent traffic count of 279 vehicles a day and this road should have no problem servicing four pickup trucks. Because of the nature of the drive being winding through a woods, concern was raised whether a fire truck could reach the house and the storage buildings. The Planning Commission was assured that the road had been designed to accommodate vehicles such as fire trucks.

- D) Will not be hazardous or disruptive to existing or future neighboring uses. Since this property could be used for a pig farm or a chicken farm as a permitted use it would be hard to claim that the proposed use of this property for a landscaping service would be more disruptive than a pig farm or a chicken farm.
- E) Will not create excessive additional requirements at public cost for public facilities and services. The members could not envision any additional services that would be required for a landscaping service.

After a review of the above five required standards for approval of a Conditional Use, the Planning Commission by a roll call vote approved the application for a Conditional Use for a landscaping service at 70667 Batchelor Road by a 7-0 vote.

2 Discussion of Master Plan

Responses from eight surrounding agencies or municipalities have been received. The responses from St. Joseph County, Ontwa Township, the city of Niles and Berrien had no changes to suggest. Howard Township reported that they did have a Planning Commission and had a Master Plan and those changes have already been made in the Master Plan. Niles Township also reported that Howard Township had a Planning Commission and a Master Plan. The Cass County Planning Commission reported several typos that had not been previously recognized and these were acknowledged and will be corrected. The Southwestern Michigan Planning Commission returned a seven page prototype report in which they registered multiple concerns. However, since this standard report is used for cities as well as rural townships a number of the noted concerns did not apply to this rural township. In addition there were several issues that this Township may wish to establish as long term goals and address in future Master Plans.

Kelly reported that there would be a charge of about \$1,000 to complete the Master Plan.

New Business: None

Board Member Comments: None

Announcements: None

Time of adjournment: 9:20 P.M.

Respectively submitted,



Ron Jureziz, Secretary

Approved On: January 9, 2012