

HOPKINS TOWNSHIP PLANNING COMMISSION
MINUTES FOR THE JANUARY 26, 2010 MEETING

Meeting called to order at 7:02 P.M by Chairperson Lori Castello

Roll Call: Present were Lori Castello, Tad Heft, Fred Morley, Chuck Wamhoff, Mike Timmers, Robert Hoffmaster. Members Absent: Lee Murray

Secretary Fred Morley agreed to have zoning administrator Kirk Scharphorn, Jr. take minutes so that his full attention could be turned to the public hearing for the evening.

Adoption and Amendments to agenda: None

Public Comment: None

At 7:06 P.M. the Public Hearing to consider the request of Nelson Zandbergen for a Special Use Permit to wash out livestock trailers at 1268 126th Ave. also known as permanent parcel 0310-025-012-00 was held.

Attorney Steve Mckown presented for Nelson Zandbergen. He spoke on the application that had been turned into the Township and distributed photos of the 72' x 180' building as well as copies of the zoning compliance permit issued in 2006, deeds showing ownership of the property and a 2009 and 2010 invoice for annual water discharge paid to the Department of Environmental Quality.

Mr. Mckown told the planning commission that the building was constructed in 2006 and by late 2006 the building had animals. In 2007 the D.E.Q. became involved due to Mr. Zandbergen using soap as apart of the wash. Since that time soap has not been used for this operation. The operation entails washing out manure and debris form the inside of livestock trailers. The photos that were distributed show this part of the operation. The manure and waste water are then distributed to Mr. Zandbergen's fields as well as other fields in the area.

Mr. Mckown referred to civil infractions tickets being issued under the previous Agricultural ordinance. The tickets were appealed to the Allegan County District Court and the court ruled in the Township's favor. That decision was then appealed to Circuit Court. In the time between the District Court hearing and the Circuit Court hearing they were made aware the Agricultural Zoning Ordinance had been amended. Mr. Mckown stated had the zoning administrator, township attorney and judges been aware of these amendments litigation could have been avoided.

Mr. Mckown stated that by applying for the Special Use Permit they are not admitting guilt they were here trying to resolve the issues with Hopkins Township. Mr. Mckown

then explained the parcel of property is currently 40 acres or approximately 40 acres. It is on the corner of 126th Ave. and 12th Street. 50% of the building is used for wash bays and the other 50% is used to store hay, seed, fertilizer, and cattle at times.

Mr. Mckown stated his opinion in regards to the amendments made to the Agricultural Zoning District in 2008. He was not sure of the intentions of the ordinance as it is written.

There is not a definition in the ordinance of rural enterprise. Mr. Mckown then stated that Mr. Zandbergen's current use is less intensive than items A thru I in section 5.02(2)

Mr. Mckown referred to Chapter XIIB Special Use Permits specifically section 12B.05 General Standards.

1. Be compatible with adjacent used of land: Mr. McKown stated the wash has caused no problems to neighboring properties. The parcel to the north is currently vacant. Mr. Zandbergen's father is the owner of the property to the south and the road commission and sebright products are property owners to the east of the property.
2. Be consistent with and promote the intent purposes of this ordinance: Mr. McKown stated the current use promotes Agricultural Enterprises.
3. Be compatible with the natural environment: Mr. McKown stated this use is a plus to the area environmentally. This use prevents truckers from dumping the manure on the side of roads, rest areas and truck stops.
4. Be consistent with the capacities of public services and facilities affected by the proposed use: Mr. McKown stated the current use meets the truck capacity for 12th Street.
5. Protect the public health, safety and general welfare: Mr. McKown stated the current use has no negative effect on the neighborhood. It is a benefit to the immediate community and also a benefit regionally.

Mr. McKown then addressed the planning commission in regards to the D.E.Q issue. He stated he had talked with Steve Norton from the D.E.Q several times regarding this matter. In 2007 Mr. Zandbergen was issued an ACO (Administrative Compliance Order) due to the soap being used as part of the wash operation. Every year since that time Mr. Zandbergen has paid \$1500 to the D.E.Q for what he thought was a ground water discharge permit. Actually no permit was issued due to confusion between departments within the D.E Q. Mr. Zandbergen has now applied for the COE (Certificate of Entry) permit. Mr. McKown stated Mr. Zandbergen and the Department of Environmental Equality are square as long as the COE was applied for within 60 days. Mr. Zandbergen then stated that everything has been sent in and the D.E.Q has processed his check.

Commissioner Morley asked what COE stands for. Mr. McKown stated Certificate of Entry.

Commissioner Morley asked the question of why is a permit needed from the D.E.Q.? Mr. McKown stated due most of the manure coming from offsite a permit is required. If the manure was produced on site it is exempt.

Commissioner Morley asked the question does the permit require a manure management plan. Mr. McKown stated no the Michigan department of Agriculture regulates that. There is a 150' setback from streams and wetlands.

Commissioner Morley asked if the concrete holding center ever overflowed. Mr. Zandbergen stated no that it could not happen. If the water were to get too high it would come back into the building and he has never had that problem. Mr. Zandbergen again stated there is no way for it to overflow.

Commissioner Morley asked if there are any county regulations to adhere to. Mr. McKown stated the Building Code if approved. Morley asked about Health Department Approvals. Mr. McKown stated the health department does not regulate Agricultural. Commissioner Castello asked is there a septic for a bathroom? Mr. Zandbergen stated it would be finalized 1/27/2010. Mr. Zandbergen obtained permits from the Health Department; however the project was never approved by the ACHD.

Commissioner Morley asked what other operations are in the building. Mr. McKown stated there is an office, shop, farm equipment, hay, seed and fertilizer. 50% wash bays and 50% other.

Commissioner Castello asked about a shower in the building and if Mr. Zandbergen intends to allow truckers to use it. Mr. Zandbergen stated that he used to allow for truckers to use it. They have not since this process started; however he would prefer to allow them to use the shower.

PUBLIC COMMENT: 7:40 P.M.

Ken Blaauw spoke in favor of the operation. He stated it is an asset to the farming community and manure has always been applied to fields. This is a good location for the business and it is needed for the farming community.

PUBLIC Comment Closed at 7:43 P.M.

Commissioner Castello addressed the planning commission with the question does this proposed use fit the Agricultural Zoning Ordinance.

Commissioner Heft has concerns regarding the amount of water discharge and bad soils in the area. He stated the area has problems with water run-off.

Commissioner Morley also has concerns with the amount of water being used and getting rid of the water.

Commissioner Castello read the Agricultural Zoning Ordinance. She asked does this proposed use fall under Section 5.02(2) I or J. Section 5.02(2) (I) relates to the sale of product and not service. Commissioner Castello then read Section 5.02(2) (J).

Commissioner Morley stated the difference is the listed uses do not use as much water to operate. Commissioner Wamhoff stated the listed uses are production based.

Commissioner Castello stated that these businesses directly support agriculture. This proposed use directly supports transportation.

Commissioner Castello asked what the water source on the property is. Mr. Zandbergen stated there is one well on the property.

Mr. Zandbergen stated he averaged 8 trucks per day in 2009 and the holding pit has a 200,000 gallon capacity. Each truck uses a different amount of water. If a truck comes in and the manure is frozen it is mostly labor and not much water is used. If the manure and debris is mostly liquid or soft more water is used to clean the trailer. Mr. Zandbergen stated a typical truck uses 1,000 gallons of water. Mr. McKown stated orchards, blueberries farms with irrigation systems use hundreds and thousands of gallons of water.

Commissioner Morley asked how often the holding pit is emptied. Mr. Zandbergen stated at least once a month it is spread on fields. He uses a tanker and V bottom spreader.

Commissioner Morley asked what other debris is on the trailers. Mr. Zandbergen stated sometimes wood shavings that are used for cattle bedding.

Commissioner Morley asked if there is a plan for manure management. Mr. Zandbergen stated he is currently working with the D.E.Q on a manure management plan.

Commissioner Morley made a motion to approve the Special Use Permit to wash out livestock trailers under section 5.02(2) (I). The motion was supported by Commissioner Timmer. 3 ayes 3 nays Motion Denied

Commissioner Castello made a motion deny the Special Use Permit for washing livestock under Section 5.02(2) (J) as it is not similar to other listed uses.

Supported by Heft

4 ayes 2 nays Motion Passed

Roll Call Vote was asked for by Mr. McKown

Morley: yes Wamhoff: yes Heft: yes Castello: yes Hoffmaster: no Timmer: no

Motion Approved

Motion to close public hearing on S.U.P—Motion Passed

Old Business: None

Tabled Business: Continuation of 40 acre minimum in the Agricultural District

Discussion:

1. Commission Castello stated this is not a public hearing.

Mr. Scharphorn/ Zoning Administrator gave a brief summary of the current regulations on lot size requirements within the Agricultural Zoning District. Mr. Scharphorn and the planning commission discussed options for future lot size requirements in the Agricultural Zone.

Public Comment:

Brian Kuperus stated he is against the lot size increasing and prefers the ordinance to stay the same.

Bob Arendsen spoke to keep the ordinance as it is.

Ken Blaauw asked if a house can be built on an existing 20 acre parcel if the ordinance changes to 40 acre minimums. Mr. Scharphorn stated it can be done with an approval of a Special Use Permit.

Sally Burgess stated Hopkins Township is too restrictive in the Agricultural Zone. She also has concerns of rules in the State of Michigan.

Commissioner Wamhoff stated some of the reasoning for change is that current infrastructure would not support development. Brain Kuperus stated the current ordinances already preserve farmland and are not conducive to development.

Commissioner Morley spoke on getting ideas on paper and having a work session meeting.

Commissioner Castello scheduled a work shop meeting for Tuesday March 16th 2010 at 7:00 P.M.

2. Discussion of ordinance amendments to Agricultural uses:
Motion by Heft support by Castello to table: All ayes Motion Carried
3. Billboard Ordinance: Castello made a motion to strike the Billboard Ordinance supported by Wamhoff: Ally Ayes Motion Carried

Motion to approve the minutes from the November 19th, 2009 meeting made by Hoffmaster supported by Wamhoff: All Ayes Motion Carried

Castello made a motion to nominate Commissioner Morley as secretary of the planning commission. Supported by Heft: All Ayes: Motion Carried.

Wamhoff made a motion to nominate commissioner Castello as chairperson of the planning commission. Supported by Morley: All Ayes: Motion Carried.

Castello made a motion to nominate Commissioner Lee Murray as vice chairperson of the planning commission. Supported by Hoffmaster: All Ayes Motion Carried

Public Comment:

Ken Blaauw had questions regarding the Class 1 Special Use Permit meeting that started at 6:30. Commissioner Castello informed Mr. Blaauw of the procedures of a Class 1 S.U.P.

Commissioner Morley made a motion to adjourn supported by Wamhoff: All ayes
Motion Carried

Meeting Adjourned at 9:30 P.M.

Respectfully Submitted

Lori Castello
Chairperson of the Planning Commission