

Otsego County Planning Commission

Approved Minutes for October 20, 2014

Call to Order: 6:00 pm by Chairperson Hartmann

Pledge of Allegiance

Roll Call:

Present: Chairperson Hartmann, Vice-Chairperson Jarecki, Mr. Borton, Mr. Hilgendorf, Mr. Brown, Ms. Nowak, Mr. Klee, Mr. Hendershot, Mr. Mang, Ms. Corfis

Absent: Mr. Arndt

Staff Present: Mr. Schlaud, Ms. Boyak-Wohlfeil

Others Present: Erma Backenstose, Otsego County Commissioner

Public Present: Jon Crane, Mike Mason, Jackie Mason, Phil Mason, Jean Nowicki, Lou Ann Olsen, Chester Township Supervisor, John Ernst

Consent Agenda: None

Approval of minutes from: September 15, 2014

Mr. Mang requested the Zoning Ordinance term for a '~~Permitted Special Use~~' (*Permitted Use Subject to Special Conditions*) be corrected where needed according to the recorded minutes.

Motion made to approve minutes corrected as needed by Mr. Hendershot; Seconded by Mr. Brown.

Motion approved unanimously.

Other: None

Public participation for items not on the agenda: None

Unfinished applicant business: None

Public Hearing:

1. *C&W Consultants working with the Otsego County Road Commission
247 Old State Rd Gaylord, MI 49735/090-017-100-005-00
PSUP14-003-request to locate a three hundred foot (300') Verizon Wireless
lattice tower with equipment shelter/property located in a FR/Forest Recreation
Zoning District*

Public Hearing Open: 6:04 pm

Chairperson Hartmann stated Verizon Wireless was requesting to locate a three hundred foot (300') tower in Otsego Lake Township on property owned by the Otsego County Road Commission.

Jon Crane, civil engineer and attorney of C&W Consultants, representing Verizon Wireless, stated he was there to answer any questions.

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Chairperson Hartmann asked Ms. Corfis for Otsego Lake Township's report stating the Township had recommended it.

Nora Corfis, Otsego Lake Township representative, stated the township held two (2) meetings. The first meeting led to unanswered questions and at the second, Mr. Crane was present and addressed their concerns for colocation on the existing tower as opposed to new construction. She stated Mr. Crane explained the new three hundred foot (300') tower would give them additional coverage from six (6) to seven (7) miles up to nine (9) miles along with an upgrading in the signal from 5G to 8G, stating the existing one hundred sixty foot (160') tower did not allow the desired coverage. American Tower had been notified of the proposed construction and Mr. Crane expressed concerns over the overly high rental rates currently being charged by them. Ms. Corfis stated the Planning Commission members' questions were satisfied and voted to pass the recommendation onto the County.

Chairperson Hartmann asked if the range of the proposed new tower would cover Michaywe, stating it was a dead zone.

Mr. Crane stated they were well aware of that fact and yes it would.

Mr. Hendershot questioned if it was an Omni-directional or directional antenna.

Mr. Crane stated the antenna would be three (3) sectors, 360°; each antenna being sectorized.

Mr. Hendershot stated he lived in Wilderness Valley and already had a booster and an antenna and only received marginal service.

Mr. Crane stated that was one of the areas Verizon was looking at to increase service.

Mr. Mang questioned the regulations from the Federal Aviation Administration (FAA).

Mr. Crane stated a FAA application would be submitted upon approval of the tower. The FAA did not like the paperwork before it was approved.

Mr. Schlaud questioned the time frame of the project.

Mr. Crane stated they had hoped to start this fall but because of the time of year it would probably be spring before the project was begun.

Ms. Nowak questioned the proximity to I-75 stating she thought there was room to move the tower to the east, further away from the interstate.

Mr. Crane stated the towers were designed to withstand very high winds *and* ice buildup and they had worked with the Otsego County Road Commission on placement, moving it easterly would place it on a severe grade.

Public Hearing Closed: 6:16 pm

Chairperson Hartmann read Article 19, *Exhibit 13* Specific Findings of Fact. (*SEE ATTACHMENT #1*)

Motion made by Mr. Hilgendorf to approve Special Use Permit PSUP14-003 Verizon Wireless Communication Tower upon approval by the Federal Aviation Administration (FAA); Seconded by Mr. Hendershot.

Motion approved unanimously.

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2. *Earthwork Enterprises Inc/Mike & Jacki Mason
Dreffs Rd/McCoy Rd Gaylord, MI 49735
031-016-300-005-00/032-180-000-006-00
PZSUP13-00-request to continue an expired mining operation/property located
in an AR/Agricultural Resource FR/Forest Recreation Zoning District*

Public Hearing Open: 6:22 pm

Chairperson Hartmann stated the second public hearing pertained to a request for an extension of a mining permit.

Mr. Mason introduced himself, his wife, Jackie and brother, Phil stating they were interested in extending their mining operation for an additional five (5) years. The removal of the remaining gravel should be finished within the five (5) year extension.

Mr. Schlaud stated a letter had been received that morning from a neighbor, Heidi Savage, who could not attend the meeting but had some concerns of the mining process.

Chairperson Hartmann read the letter aloud. (*SEE ATTACHMENT #2*)

Mr. Mason responded to comments in the letter apologizing for working beyond the expiration date. He stated he was busy and had forgotten about the expiration date. He stopped work when Land Use notified him of the time frame. He also stated he had a problem with his barbed wire fence being cut and four-wheelers riding across his property, so he started placing the roots and stumps along the property line to keep them out. He stated at the Township meeting he was asked to remove the roots and did not have a problem doing that. He stated white pines had already been planted over the years along the Savage's property and the mining process would be moving to another part of the property in the near future.

Chairperson Hartmann asked for Chester Township's report on the mining issue.

Frances Nowak, Chester Township representative, stated conditions had been set on the approval of the permit at the Township meeting as follows:

1. Remove the tree root berm that is presently there at the gravel pit that abuts the Savage property.
2. Install an earth berm and plant trees along with or adjacent to the berm to cut down on the noise and visibility. This is to be done immediately.
3. The Masons (Earthworks Enterprises Inc) must stop all activity (work) at the gravel pit site until properly permitted.
4. The hours of operation at the gravel pit should be 7:30 am to 5:00 pm, Monday through Friday.
5. No weekend or holiday hours of operation at the gravel pit.

She stated they felt an earth berm with trees planted would be a deterrent to the four-wheelers and would also act as a filter for dust and noise. The Township also felt 'No work on Saturdays' was a blessing to everyone.

Mr. Mason stated the equipment was approximately nine hundred feet (900') away from the Savage's property, over a ridge and behind some trees already.

Mr. Klee stated he did not think an earth berm would keep any four-wheelers out and would probably add to the fun.

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Mr. Borton stated he did not think Mr. Mason should have to go through the expense of a berm. The neighbors were not complaining about trespassing on their property. Mr. Mason placed the roots and stumps there to keep the machines off his own property.

Lou Ann Olsen, Chester Township Supervisor, stated the definition of a berm was a form of insulation and the existing berm does not provide that. She stated they were not trying to stop Mr. Mason's operation; they were just looking out for everyone involved.

Mr. Mason stated he would remove the roots and stumps and replant some of the existing trees from his property. He had no problem with the hours of operation.

Mrs. Olsen requested there be a timeline stating what and when this was to be completed.

Mr. Mason stated he would be finished with the front section in approximately two (2) years and could reclaim that within three (3) years.

Public Hearing Closed: 6:47 pm

Chairperson Hartmann questioned Mr. Schlaud as to his opinion.

Mr. Schlaud stated the performance bond submitted was in the amount of \$3000, expiring in December of 2015. He stated according to the Zoning Ordinance, it was up to the Planning Commission to decide if that was a reasonable amount. He stated the property did need to be fenced in some manner. He questioned Mr. Mason on the length of the time his equipment was actually processing.

Mr. Mason stated the processing itself went on maybe two (2) weeks to build a stockpile and was then moved out until the stockpile was depleted. The processing part of it would only be three (3) to four (4) weeks total for the duration of the permit. The equipment is not on the property running continuously.

Mr. Mang questioned if everything required within the extensive revision of the mining section had been submitted by the applicant.

Mr. Schlaud stated the new mining section had been presented to Mr. Mason when application was submitted. After sometime, the applicant had supplied what was required to the best of his ability and stated in his opinion, the required information was submitted.

Phil Mason stated he was responsible for the actual processing of the gravel pit. He had gone through the mining section provided, stating the language was pretty straightforward. He then submitted written documents and presented examples of past and present reclaimed sections.

Chairperson Hartmann stated the list of requirements to be placed on the special use permit should be drawn up.

Mr. Schlaud suggested starting with the list of five (5) items submitted by Chester Township, *Exhibit 11*. The Otsego County Planning Commission conditions are as follows:

1. Remove the tree root berm that presently abuts the Savage property
2. Plant trees along property line to cut down on noise and visibility; Completion by June 1, 2015
3. The Masons/Earthworks Enterprises Inc must stop all activity/work at gravel pit site until properly permitted
4. Hours of operation are 7:30 am-5:00 pm, Monday through Friday; no weekends or holidays

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5. Special Use Permit PSUP13-000 expires five (5) years from this date-October 20, 2019
6. A soil erosion permit must be obtained before operation begins

Motion made by Mr. Klee to approve Special Use Permit PSUP13-000 with the conditions listed; Seconded by Mr. Brown.

Motion approved unanimously.

Unfinished Commission Business:

1. Otsego County Master Plan

Mr. Hilgendorf stated the Committee had met once more and finalized their additions. The revised Master Plan had been emailed to all the members and he encouraged everyone to look it over. He stated there had been some text additions and deletions along with the data and statistic updates to the tables and was now ready to be sent out for input.

Mr. Mang stated a section on the Prime Forestlands was left out of the 2009 Master Plan but had been added, along with a map. A recreation component had also been added with a section on the Groen Nature Preserve, including a map that had not been available in 2009, along with a non-motorized trail map for bikers/pedestrians throughout the County.

Chairperson Hartmann stated he was pleased with the end result and thanked all involved for their work.

Motion made by Mr. Brown to accept the additions, deletions and updates of the Master Plan and be sent to surrounding entities as required for input; Seconded by Mr. Mang.

Motion approved unanimously.

2. RR/Recreation Residential amendment/Township input

Mr. Schlaud stated there had been response from some of the townships thus far and this item would more than likely be on November's agenda.

New Business:

Mr. Schlaud introduced John Ernst and asked him to inform the Commission members of the upcoming case he was working on.

Mr. Ernst stated he was working with Wolverine Power as a consultant and they were optioning property in Elmira Township to be conditionally rezoned to B3/Business, Light Manufacturing for a proposed power plant. He stated three (3) of the properties were currently zoned AR/Agricultural Resource and the fourth (4th) was B2/General Business. He stated a press conference was scheduled for the following morning.

1. Election of Officers

Mr. Hartmann nominated for position of chairperson by Mr. Hilgendorf; Seconded by Mrs. Jarecki
Vote unanimous.

Mrs. Jarecki nominated for the position of vice chairperson by Mr. Mang; Seconded by Ms. Nowak
Vote unanimous.

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Mr. Arndt nominated for the position of secretary by Ms. Nowak; Seconded by Mr. Brown
Vote unanimous.

Mr. Hartmann elected chairperson
Mrs. Jarecki elected vice chairperson
Mr. Arndt elected secretary

2. Expiring Terms
 - a. Arndt
 - b. Klee
 - c. Nowak

Mr. Burt will contact members with expiring terms inquiring of their reappointment as members of the Otsego County Planning Commission.

Reports and Commission Member's Comments:

1. Otsego County Parks & Recreation report

Vice Chairperson Jarecki stated the County had received several comments opposing the proposed name change to the Community Center and it was now being reconsidered. The repairs to Libke Field were finished and it was hopeful the parking lot would be filled in before winter. Irontone Springs was still in need of repairs on the east-ridge and the back roads required some cleaning up.

She stated the Groen Nature Preserve Committee was being asked to discuss the possibility of organizing a run as a fundraiser for Mary Kay Sklarczyk out in Johannesburg and the two (2) Halloween weekends at the County Park were a big success.

2. Leading Effective Board Meetings/Zoning Training

Adjournment: 8:00 pm by Chairperson Hartmann

Christine Boyak-Wohlfeil, Recording Secretary

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ATTACHMENT 1:

FINDINGS UNDER ARTICLE 19:

- 19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
HAS - HAS NOT BEEN MET
- 19.7.2 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.
HAS - HAS NOT BEEN MET
- 19.7.3 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
HAS - HAS NOT BEEN MET
- 19.7.4 The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.
HAS - HAS NOT BEEN MET
- 19.7.5 The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
HAS - HAS NOT BEEN MET
- 19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
HAS - HAS NOT BEEN MET
- 19.7.7 If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity or rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.
HAS - HAS NOT BEEN MET
- 19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.
HAS - HAS NOT BEEN MET

SECTION 19.8 - CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

- 19.8.1 Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.
- 19.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.
- 19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

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ATTACHMENT #2

October 18, 2014

Otsego County Planning Commission
Gaylord MI, 49735

RE: Earthwork Enterprises Inc./Mike & Jacki Mason
Dreffs Rd/McCoy Rd Gravel Pit
Special Use Permit
Our Property - Chester North T30N * R2W
SW1/4 of NW 1/4 of Sec. 16

Dear Planning Commission,

Thank you for placing the information in this letter on record. We are the property owners of the 40-acres directly north of the current gravel pit in question.

Normally we would be present for this meeting – as we have been for all key meetings like this in the past 16 years, however short-notice work/personal obligations are preventing us from attending this 10/20/14 meeting.

We purchased the property in 1996. I am from Gaylord (GHS Class of '84) – and we have already received the quote to put the road in from North Central Excavating. We have the floor plan to build this retirement home (Mr. Mason will say “they’ve been saying that - - but we were not ready to retire 18 years ago and never intended to build 18 years ago, this was always about the dream). We are ready. But we are not going to build next to a Gravel Pit.

BRIEFLY:

1. We initially supported the original 1998 SUP. It was supposed to be for three years. Mr. Mason said there was “only six months of gravel in there.”
2. At the 2001 extension Mr. Mason estimated “only” another 13,500 yards of gravel needs to be mined.
3. Since then there has been Sixteen (16) years of “activity”, and numerous reasons put before this committee about why additional Special Permits have to be issued.
4. Now there is the Michigan Zoning Enabling Act that allows businesses like Earthworks to say, “We need the resources and you have to put resources before people’s retirement homes and nice quiet property that they invested in.”

Fine. We get it. But we ask that in light of a history of repeatedly representing goals for the mining operation that did not happen (in and done), and a history of operating without a permit (1991 – see attached, same property; 2014.) Please consider:

REQUESTS:

1. Require that **adherence to the Operational Rules of the Special Use Permit** are the responsibility of Earthworks/The Mason’s. (At the Township meeting Mr. Mason said that it wasn’t *his* fault that he was operating beyond the permit date because the Planning Commission should have notified him that it had expired.)
2. At the Township meeting Mr. Mason committed to completing operation of the West Pit and moving to the East Pit by “X” date. We would like that to be **documented**.
3. **Clarification that a gate/fence is not dead tree roots.** At the Township meeting the approval was given provided that the “berms” and “gates/fence” that Mr. Mason is using on the north end along our property line be removed. This is currently a row of dead tree roots. We would prefer barbed wire fencing, like the rest of the area has. We request that this also be a condition of the SUP, if granted.
4. **The Township did not approved Saturday operation.** The SUP requests it, “depending on weather setbacks”. **Our request is to not allow it.** This is apparently going to be an ongoing business and not a “Special Use”, and apparently Mr. Mason will have an eternity to mine all of the “six months of gravel” that he stated exists in this land. Why not grant the surrounding residents time to enjoy their homes?

Thank you for your time.
Respectfully,

Barry & Heidi Savage