

Otsego County Planning Commission

Minutes 10-19-09

6:00 Call to Order

Pledge of Allegiance

Roll Call:

Commission members present: Chairman Stults, Secretary Ernst, Ms. Backenstose, Mr. Hilgendorf, Mrs. Jarecki, Ms. Nowak, Mr. Klee, Mr. Mang and Mr. Borton

Excused: Vice Chairman Arndt

Joe Ferrigan and Sharon Bolinger were also present.

Public present as listed on sign in sheet: Russ Soffredine, Stacy Jo Schiller, Barton Briley, Sanjay Singhal, Sandra Metzger, Gary Metzger, Susan Topp, Cliff Mapes, Larry Bowden, Holly Matelski, Colleen Jozwiak, Herb Russell

Consent agenda:

Motion made by Mr. Mang to adopt the consent agenda regarding a change in Committee members on the Capitol Improvement Committee. Support by: Mrs. Jarecki

Motion approved unanimously.

Approval of minutes from the September 21, 2009 meeting:

Motion made by Mr. Hilgendorf to approve the minutes with spelling corrections. Support by: Mr. Borton.

Motion approved unanimously.

Motion made by Mr. Ernst to suspend the two hour time limit. Support by Mr. Mang

Motion approved unanimously.

Public hearing:

Mr. Stults read the rules for the public hearing.

Public hearing for the proposed changes to the Otsego County Zoning Ordinance sections 18.38.1.5 and 18.38.2.1 regarding signs.

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Public comment opened at 6:07pm.

Larry Bowden asked for a copy of the proposed changes. Sharon Bolinger let him look at her copy. He stated that it was addressed very well.

Public comment closed at 6:08pm

Public hearing for the proposed changes to the Otsego County Zoning Ordinance regarding the Wind Turbine Generator sections.

Public comment opened at 6:09pm.

Mr. Ferrigan submitted correspondences that were received at the Zoning office.

Sandra Metzger addressed to commission. She requested a copy of the current ordinance. Mr. Ernst let her look at his copy.

Russ Soffredine addressed the Commission. He suggested this Commission would look favorably at allowing wind turbines in this county. He would like to have one on his property. He suggested this Commission look at other counties that do allow them.

Sanjay Singhal addressed the Commission. He suggested that they take a look at the ordinance changes and try to provide the ability to have these on smaller residential lots so as to provide this option to everyone and not just to those with larger lots.

Stacy Jo Schiller addressed the Commission. She is concerned about the provisions for small residential or small business lots. She is affiliated with a "green" historical building and they were hoping to install a vertical wind turbine on that lot as to keeping with the green nature. She is also concerned about the fall zone. On small lots, the 1 ½ times the lot size fall zone doesn't always work. Wind turbines are relatively silent compared to sounds we have to deal with everyday with the oil and gas industry. So if wind has to have a sound provision, then we need to change that provision for oil and gas also.

Mr. Stults stated that this Commission, in the past, if it were allowed to regulate the sound for the oil and gas industry it would, but the State of Michigan has seen fit to not allow us to have any control over that.

Cliff Mapes addressed the Commission. He is for God given good free clean power, the taxes are too high.

Susan Topp addressed the Commission. She has submitted a review to Commission. She wanted the Commission to be aware that there are two types of turbines, the vertical turbine and the horizontal turbine. The horizontal turbine could be the solution for the small business owner or the small property owner.

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Sandy Metzger addressed the Commission. She feels that she should be able to put up a wind turbine if she wishes.

Peter Amour addressed the Commission. He believes that the proposed changes set forth are a positive step forward and he would encourage their adoption.

Gary Metzger addressed the Commission. He is in favor of wind turbine generators.

Herb Russell addressed the Commission. He is the local dealer for wind spires. He also has a permit for putting up a wind spire on his property. He has welcomed anyone to come out to his property to view it. He was able to obtain his permit under the current ordinance because it is under the 35 foot limit. He does encourage the changes and is also concerned about being able to allow wind turbines on smaller properties.

Brad Little addressed the Commission. He has a lake front property and he doesn't see anywhere in the ordinance that addresses the setbacks on lake front properties and he thinks that should be addressed also.

Susan Topp readdressed the Commission. She explained the letter that had previously been submitted with her concerns of the changes to the ordinance.

Public comment closed at 6:32pm.

Unfinished Commission Business:

Update on guidance from the County's attorney.

Mr. Stults: The Planning commission had asked for guidance from the county attorney, Mr. Ferrigan do you want to report on this.

Mr. Ferrigan: Yes, we received that correspondence today. I have given each one of you a copy of that, the short of the letter is that the Planning Commission should ask Mr. Matelski to provide us with a reclamation plan. That was question number one.

The other question that was raised was whether the irrevocable line of credit, the reclamation money was sufficient and that is addressed in the last paragraph. He believes that the performance guarantee submitted by Northern Processing in the form of an irrevocable line of credit on May 8, 2009 is sufficient. So the process would then become that the Planning Commission would direct me to draft a letter to Northern Processing and ask them to come back before the Planning Commission. And the Planning Commission would then take the steps that the Attorney has laid out to require them to provide us with a reclamation plan.

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Mr. Stults: Thank you Joe, are there any questions from the Planning Commission members, any public comments?

Mr. Stults recognized a member of the public.

Olin Harris: I would like to know if in this site plan that he (Mr. Matelski) is going to have to submit is he going to be required to submit a map a topographical map the same as the one that he took out from Wade-Trim?

Joe Ferrigan: That would be up to the Planning Commission members as to what they require him to submit with his reclamation plan.

Olin Harris: Is he (Mr. Matelski) just going to have a written thing or is he actually going to have a site plan that actually shows the topography that shows what it's going to look like when he is done where he is going to get the reclamation soil is it going to show a setback of fifty feet from the road right of way. That's still going to be no lower than the road right of way.

Mr. Stults: Thank you, what are the Planning Commissions wishes on this subject?

Mr. Ernst: I would just like to take a minute to review the Ordinance. I thought the ordinance had some specifics on the reclamation plan.

Joe Ferrigan: He (Mr. Kazim) talks about in his letter the second page the second paragraph about, on or about November 9, 2003 Northern Processing filed a second application for a special use permit requesting a five year extension of the special use permit granted to it in 2001. The extension was due to the fact that in 2001 the Planning Commission only granted the special use permit to Northern Processing for a two year period. Accompanying Northern processing's 2003 application for a special use permit was an impact statement prepared by its Attorney Mr. Delaney. The impact statement dated November 12, 2003 of relevance to the present matter are references in the impact statement indicating that an erosion control and site restoration plan will be filed with the Zoning Administrators office. The impact statement contains no specific provisions for information relating to what a site restoration plan would consist of. Instead in broad and general language the impact statement the site will be restored, recontoured and revegetated in compliance with the requirements of the Otsego Soil Conservation District. We have not been provided with any information related to any recommendations or requirements established by the Otsego County Soil Conservation District or site restoration and erosion control at the subject property. Furthermore we have not been provided with any document that purports to be the erosion control and site restoration referenced in the impact statement submitted by Northern Processing in 2003. I gave each one of you a copy.

Mr. Ernst: Do you have a copy of the Special Use permit that was granted?

Mr. Ferrigan: Not with me.

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Mr. Ernst: attached to the impact statement there is a restoration plan.

Mr. Ferrigan: That was submitted earlier this year, that is something that was already brought forward to the Planning Commission it was submitted to us by Mr. Delaney sometime around May of 2009 you can see that is it not dated or signed.

Joe Ferrigan: back sixteen years ago when this originated, Patricia Osburn told us that they did not even have anything to do with it, they certainly do now they have some recommended guidelines and we could ask her to provide us with those recommendations from the Otsego County Soil Conservation District. And provide that information to Northern Processing and have them develop their reclamation plan.

Mr. Ernst: I would think at a minimum we would need a copy of the Special Use Permit and the conditions that were made part of that Special Use Permit, the other that would be helpful would be a copy of the ordinance that was in effect at the time the permit was granted, because those would be the conditions that they would have to comply with.

There was discussion among Planning Commission members regarding the Special Use permit.

Mr. Klee: Would Patricia write something for us?

Joe Ferrigan: I think that if I sent her a letter stating that the Planning Commission is requesting her to submit something she would do that.

There was discussion among Planning Commission members regarding the Special Use Permit.

Mr. Ernst: How do we force them to do what they have been reluctant to do for the past years?

Mr. Stults: I think if you look under article 18.25.13.3 we have some ability to say that where we are at is not accomplishing the intent of the ordinance and that would be the basis for going back to the operator Northern Processing saying you need to provide us with detail and that detail has to meet the provisions of the ordinance.

There was discussion among the Planning Commission members regarding the Special Use Permit.

Mr. Ernst: what I am trying to get at is we have somebody out there that is saying, yes I am supposed to do this but no and we are going to give him one more thing to do and we already have a proven track record of his response to written requirement and do we have the authority or does Joe have the authority to issue a citation, write him a warning letter and say that in X number of days you will receive a citation, you have failed to comply with this. You try to be polite and try to be cooperative as much as

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you can but when somebody just turns their back and ignores you have to get their attention somehow. And that's my impression here, when it come to fulfilling the requirements actually doing something to fulfill the requirements they have chosen not to comply.

Mr. Stults: I think once he has utilized all the provisions in the Ordinance including having him come back before us with a plan to meet the intent of the ordinance and if that doesn't happen then we go the citation route.

Mr. Ernst: So then notify them that they have X number of days to submit a plan and show up here with the plan in hand and following that they would receive a citation.

Mr. Stults: That would be my preferred direction because we haven't exercised everything within the ordinance to try and bring this to a resolution.

There was some discussion among the Planning Commission members regarding the Special Use Permit.

Mr. Stults: What type of a time frame should we allow our November meeting is November 16, 2009 should we have it submitted ten days before that?

Mr. Hilgendorf: The Monday before the meeting should be fine.

Mr. Stults: Would someone like to make the motion?

Mr. Ernst: I would move that in accordance with section 18.25 of the ordinance that Northern Processing be informed that they have not completed all of the requirements in particular that they have failed to supply the restoration plan and would further recommend that they be required to provide a draft plan no later than the Monday before the November meeting of the Otsego County Planning Commission and that they also be notified that they will be considered in violation of the ordinance and subject to citation if they fail to comply.

Mr. Hilgendorf: I will support.

Mr. Stults: Mr. Ferrigan are you comfortable with that motion?

Joe Ferrigan: I think it gets your point across.

There was discussion among Planning Commission members regarding the Special Use Permit.

Mr. Ernst: I would like to consider an amendment, to include a time line that would include significant milestones and a completion date.

Mr. Stults: Ok that is a motion to amend the motion.

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Mr. Ernst: Yes.

Mr. Hilgendorf: I will support.

Mr. Stults: We have a motion to amend the motion to add a requirement that a time line with dates in it for the reclamation plan to be accomplished.

Mr. Stults: Any discussion?

Mr. Mang: Just for clarification we are talking about the actual accomplishment on the ground not the plan itself?

Mr. Stults: Yes.

Mr. Stults: Ok then we will vote on the amendment to the motion to add a time line with dates in it for the reclamation plan to be accomplished.

Motion passed unanimously.

Mr. Stults: Any discussion on the original motion.

Mr. Stults: Called for a vote on the amended motion.

Motion passed unanimously.

Mr. Klee recommended that the November meeting be moved back due to the opening day of rifle hunting season being the day before the next scheduled meeting date.

Motion made by Ms. Nowak to move the regular meeting of the Planning Commission back to November 23, 2009. Support by Mr. Hilgendorf.

Motion approved unanimously. Motion carries.

New Business:

Mr. Stults set the special Site Plan Review meeting date to November 12, 2009 at 12:00pm.

Mr. Ferrigan gave an update on the inspections that his inspector has made to the gravel pits on record.

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There were multiple discussions among Planning Commission members concerning the proposed changes to the wind turbine portion of the Ordinance and the public comments made during the Public Comment portion of this meeting.

Mr. Stults requested that the WTG committee fine tune the rough draft of the proposed changes to the Ordinance and take into consideration the public comments from tonight and with the township input and return with it completed at the next regular meeting in November.

Meeting adjourned at 8:09 pm.