

Otsego County Planning Commission

Corrected Minutes for September 17, 2012/Regular Meeting

Call to Order: 6:00 pm

Pledge of Allegiance

Roll Call:

Present: Chairperson Stults, Vice-Chairperson Arndt, Secretary Borton, Mr. Brown, Mr. Klee, Mrs. Jarecki, Mr. Hartmann, Mr. Mang

Absent: Mr. Hilgendorf, Ms. Nowak, Mr. Hendershot

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

Public Present: Brenda Cross, Dave Drews, Austin & Angela Behling

Others Present: Patricia Osburn, Soil Conservation Director, Diane Purgiel, Elmira Township Board Representative

Chairperson Stults requested unanimous consent to suspend the rules of the Planning Commission at 7:45 pm to postpone items on the agenda and move to *New Business, item d. Election of Officers*.

Chairperson Stults thanked the members of the 'Assisted Living Facilities Committee' for their service and terminated the committee effective immediately. The Land Use Services Director will take responsibility of all materials.

Approval of minutes from July 16, 2012:

Chairperson Stults requested a rescission of the motion for '*Setbacks' number two (2) Mining* and a more specific revision moved under *Unfinished Business*.

Motion made to approve minutes by Secretary Borton; Seconded by Mr. Mang.

Motion approved unanimously.

Ms. Nowak arrived 6:05 pm

Consent Agenda: None

Public participation for items not on the agenda:

Brenda Cross stated she had filed a complaint with the Otsego County Board of Commissioners concerning building inspectors seeking out violations; also stating they are not enforcement officers and feels the County should hire an enforcement officer for that purpose specifically.

Public Hearing: Austin & Angela Behling/PSPR12-003 Agricultural Equipment Auction
Parcel #060-020-300-005-03/#060-020-300-005-04
2379 Flott Rd (New Property Address Issued)
Elmira, MI 49730
Elmira Township/Section 20 T31N R4W

Applicants not present; Agenda moved forward to *Unfinished Commission Business*.

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Unfinished Commission Business:

Vice-Chairperson Arndt made a motion to rescind the previous meeting's motion regarding '*Setbacks*' to clarify language; Seconded by Mr. Klee.

Motion rescinded unanimously.

Vice-Chairperson Arndt made the following motion to revise the language concerning '*Setbacks*'; Seconded by Mr. Brown.

A motion to keep the current setback requirement of fifty feet (50) minimum from any adjacent property line or road right-of-way line as stated in Section 18.25.8.1.

Motion approved unanimously.

- a. David Drews: PZ11-240 Maitland/A&G Vacation Properties LLC, Master Deed review.

Secretary Borton made a motion to accept the Master Deed as submitted by Mr. Drews for the three (3) unit site condominium in Section 29/Bagley Township; Seconded by Mr. Hartmann.

Motion approved unanimously.

- b. Mining: Patricia Osburn discussion on criteria for issuing a mining permit near water

~~Patricia Osburn, Otsego County Soil Conservation Director, stated a Soil Erosion Permit was required when more than an acre of soil is disturbed on a commercial site or any site is within five hundred (500) feet of any lake, stream or body of water. She contacted the Department of Environmental Quality (DEQ), and they stated there was not a set formula for determining the distance. It was a site-by-site determination as to the quality of the water leaving the property and the impact the disturbance would have on the body of water in question. An engineered document could be required to prove quality.~~

Patricia Osburn, Otsego County Conservation District Director, stated a Soil Erosion Permit is required if the project is within five hundred (500) feet of a lake or stream; or the area of disturbed soil will be over one (1) acre, irrespective of the distance to water. With respect specifically to gravel mining, Ms. Osburn contacted the state Department of Environmental Quality (DEQ) to ask them if there is a state minimum requirement for proximity of gravel mining to water. She stated DEQ told her there is not a set formula for determining distance. She stated she was told that site-by-site determinations are made as to the likely effects of mining on the quality of water leaving the property and the impact the disturbance would have on the body of water in question. A site plan would be required of the applicant that would consist of protective measures that would protect the waters of the state.

Mr. Ferrigan stated the Soil Erosion Permit and Special Use Permit would run the same length of time and renewal would be simultaneous upon approval.

Chairperson Stults stated the Otsego County Board of Commissioners set the fees for the permits.

Chairperson Stults suggested members look at other Zoning Ordinances pertaining to '*Distance from Water*', consider how to address the subject and requested its addition to next month's agenda.

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Mr. Ferrigan suggested members write down any additional ideas, input or motions in reference to the Ordinance language and bring to the next meeting.

Applicants arrived; **Public Hearing** addressed.

Public Hearing: Austin & Angela Behling/PSPR12-003 Agricultural Equipment Auction
Parcel #060-020-300-005-03/#060-020-300-005-04
2379 Flott Rd (New Property Address Issued)
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Public Hearing Opened: 6:42 pm

Angela Behling stated her and her husband, Austin had filed a Special Use Permit for the property identified and the primary use would be farmland/hay use; the farm equipment auction was a secondary use. She stated they would hold approximately one (1) auction a month, the majority during the spring and fall months, and the entrance for the auction yard would be off Flott Road. They also planned to open a fruit and vegetable stand on M-32. She stated they had presented their case to Elmira Township and had received approval with a list of conditions.

Mr. Ferrigan read two (2) letters received from adjacent property owners opposing the Agricultural Equipment Auction. He also read the correspondence from Elmira Township Planning Commission recommending the Special Use Permit with contingencies listed.

Diane Purgiel, Elmira Township Board representative, commented on a typographical error and stated the contingencies were the Township's intent to prevent the property from becoming unsightly and to address safety issues. The Township was not aware of any opposing letters.

Public Hearing Closed: 6:59 pm

Advertised Cases: Austin & Angela Behling/PSPR12-003 Agricultural Equipment Auction
Parcel #060-020-300-005-03/#060-020-300-005-04
2379 Flott Rd (New Property Address Issued)
Elmira, MI 49730
Elmira Township/Section 20 T31N R4W

Mr. Behling proceeded to answer questions from Planning Commission members. He stated the previous leased auction site was now the owner's responsibility to maintain and did not want to be responsible for its appearance. He also stated they had plans to install a fence along the north side of their property and a berm along M-32. They have plans to construct a barn for storage of any equipment held over for future auctions. Mr. Behling stated he would contact the Otsego County Road Commission and Sheriff's Department. Mr. Behling said if need be, he would be responsible for gravel and/or dust control along Flott Rd during auction times. They also felt the Township Board's contingencies were agreeable.

Mr. Ferrigan presented the following Exhibit List and General Finding of Fact to the Planning Commission:

Exhibit List:

Exhibit #1: Application for case PSPR12-003 and site plan submitted by Applicant
Exhibit #2: Otsego County Zoning Map Effective Date March 20, 2010
Exhibit #3: Otsego County Zoning Ordinance Effective March 20, 2010/Amended May 2012
Exhibit #4: Copy of Land Contract/Consent Letter
Exhibit #5: Public Hearing Notice

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<i>Exhibit #6:</i>	Letter to Elmira Township Planning Commission Dated August 30, 2012
<i>Exhibit #7:</i>	Letter dated September 14, 2012 from Elmira Township Planning Commission
<i>Exhibit #8:</i>	Map and list of parties notified
<i>Exhibit #9:</i>	Receipt # 01201427 dated August 29, 2012
<i>Exhibit #10:</i>	General Finding of Fact/PSPR12-003
<i>Exhibit #11:</i>	Specific Finding of Fact/PSPR12-003
<i>Exhibit #12:</i>	Staff recommendations
<i>Exhibit #13:</i>	Copy of July 31, 2012 proposed meeting minutes with ZBA decision
<i>Exhibit #14:</i>	Letter dated September 14, 2012/Donald Francis/Burdo Family/Neighboring Land Owner
<i>Exhibit #15:</i>	Letter/Jackie Chagnon/Neighboring Land Owner

General finding of fact:

1. This is a proposal to allow an Agricultural Equipment Auction. *Exhibit #1*
2. The property is located in an AR Zoning District. *Exhibit #2*
3. The proposed use is permitted as a comparable use subject to special conditions in the AR Zoning District. *Exhibit #3 , Exhibit #13*
4. The property is currently under the ownership of Austin and Angela Behling. *Exhibit #4*
5. The Public Hearing Notice was published in the Herald Times on September 1, 2012. *Exhibit #5*
6. The requirements of Article 24 of the Otsego County Zoning Ordinance have been met. *Exhibit #6, Exhibit #7*
7. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #8*
8. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 16.7) *Exhibit #3, Exhibit #13*
9. The required fees have been collected by Otsego County Land Use Services. *Exhibit #9*
10. The site plan requirements of Article 20 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #10*

The Planning Commission based their decision on the following Specific Finding of Fact criteria:

Specific finding of fact:

FINDINGS UNDER ARTICLE 16:

- A. The proposed use is one listed as a special land use for that district in which said use is proposed to be located.
1. The standards of the district in which the special land use is to be located are fulfilled.
- HAS – HAS NOT BEEN MET**
- B. The proposed use will not involve uses, activities, processes, materials or equipment that will create a substantial negative impact on the natural resources of the county or the environment as a whole.
1. Summarization or outline, of the proposed development including area of the site, the number of lots or units, and the density, and related information as applicable.
 2. Description of any hazardous substance or polluting materials to be used, stored, or produced.
- HAS – HAS NOT BEEN MET**
- C. The proposed use will not involve uses, materials, processes, or equipment that will create a substantial negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odor, or the accumulation of scrap material that can be seen from the highway or adjoining land owned by others.
1. Adequate allowance shall be made for vehicles to park, enter, and exit the use safely, and there shall be no visibility impediments to drivers created by signs, buildings, land uses, plantings, etc.
 2. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means.
 3. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
 4. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.
- HAS – HAS NOT BEEN MET**
- D. The proposed use will be designed, constructed, operated and maintained so it will not diminish the opportunity for surrounding properties to be used and developed as zoned.
- HAS – HAS NOT BEEN MET**

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- E. The proposed use will not place demands on fire, police, or other public resources in excess of current capacity.
HAS – HAS NOT BEEN MET
- F. 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
- G. If the proposed use includes more than 15,000sf of impervious surface then the following Storm Water management systems must be employed:
1. Preserve natural drainage characteristics of the site and enhance aesthetics of site.
 2. Employ storm water disposal through evaporation and infiltration where possible.
 3. Shall not discharge storm water directly into wetlands or surface waters in order to minimize erosion hazards and prevent sediment delivery to natural and/or impounded waters of the County. Storm water discharges must not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or water course, or result in increased flooding stream bank erosion, or water pollution.
 4. Shall not increase the quantity or rate of discharge from the site based on 25 year storm criteria and shall insure that all storm water conveyances on the land surface are designed to transport storm water at a non-erosive velocity. Removal of storm waters shall not adversely affect neighboring properties or the public storm drainage system, or increase off-site sedimentation. Storm water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in paved areas.
 5. Design the storm-water management system using DNR standards.
 6. Identify the party responsible for maintenance of the storm water system.
- HAS – HAS NOT BEEN MET**
- H. The proposed use shall comply with all Specific Standards required by the Zoning Ordinance.

HAS – HAS NOT BEEN MET

FINDINGS UNDER ARTICLE 18:

SECTION 18.10 FENCING

Open Storage areas of any use shall be fenced and screened

18.18.5 Screening of unsightly areas: The open storage of any equipment, vehicles and all materials including wastes, shall be screened from public view, from public streets, and from adjoining properties.

HAS – HAS NOT BEEN MET

SECTION 18.19 LIGHTING, OUTDOOR

Outdoor light fixtures are electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include search, spot and flood lights for buildings and structures, recreation areas, parking lot lighting, landscape lighting, billboards and other signs (advertising or other), street lighting, product display area lighting, building overhangs and open canopies.

All outdoor lighting fixtures including pole mounted or building mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as low level lawn lights, shall be subject to the following regulations:

18.19.1 Lighting shall be designed and constructed in such a manner:

18.19.1.1 To insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property,

18.19.1.2 That all light sources and light lenses are shielded,

18.19.1.3 That any light sources or light lenses are not directly visible from beyond the boundary of the site,

18.19.1.4 That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

18.19.2 Lighting fixtures shall be a down-type having one hundred (100) percent cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test. A United States flag, Michigan flag or a flag of a veteran's organization chartered by the United States Government shall be allowed to have light illuminating them from below

18.19.3 There shall be no blinking, flashing, or fluttering lighting, including changes in light intensity, brightness or color, except that lights may be controlled by a dimmer which can be periodically adjusted for conditions and signs as allowed in 18.38.2.1. Beacon lights are not permitted except where required by law.

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18.19.4 No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

18.19.5 Decorative lights during holiday seasons shall be allowed.

18.19.6 Modification of these outdoor lighting standards may be permitted by the Zoning Board of Appeals for temporary uses of not more than ten (10) days per year, following these provisions as closely as possible.

HAS – HAS NOT BEEN MET

SECTION 18.21 LOADING AND UNLOADING (OFF-STREET)

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be computed separately from the Off-Street Parking Requirements and shall be provided as follows:

18.21.1 Within a B1 or B2 District, loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per front foot of building.

18.21.2 Within an I District, loading spaces shall be laid out in the dimensions of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with durable and dustless surface. All spaces in I Districts shall be provided in the following ratio of spaces to floor area:

HAS – HAS NOT BEEN MET

SECTION 18.27 PARKING

There shall be provided in all districts at the time of erection or enlargement of any main building or structure or use, automobile off-street parking space with adequate access to all spaces.

18.27.1 Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

18.27.2 Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

18.27.3 In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Zoning Board of Appeals may grant an exception by reducing the total number of spaces required.

18.27.4 The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on required off-street parking lots.

18.27.8 For those uses not specifically mentioned in the Off-street Parking Schedule, requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.

18.27.9 Entrance drives to the property and off-street parking area shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District.

HAS – HAS NOT BEEN MET

SECTION 18.38 SIGNS AND BILLBOARDS

Accessory Signs - In B1, B2, B3 and/or I Districts may be permitted at the rate of two (2) per use, except that at least one (1) sign shall be affixed to or be within two (2) feet of and be parallel with the wall of the main building. One (1) sign may be a freestanding or pylon sign.

1. Signs mounted on and parallel with the wall of the main building shall not exceed a total area of 2.5 feet times the length of the mounting wall.
2. Freestanding signs intended for local or passerby traffic shall not exceed a height of twelve (12) feet measured from the average grade at the base of the sign to the top of the sign. No freestanding sign shall exceed an area of thirty-two (32) square feet and no such sign shall be longer than three (3) times its width.
3. Pylon signs, designed and intended to attract traffic from a major expressway or highway, are approved but shall not exceed a height of thirty-five (35') feet and must be constructed and mounted by approval methods set forth in the State Construction Code provided they meet the Airport Zoning Ordinance standards.

Placement of Signs and Setbacks

Signs in any zoning district must be placed at least ten (10) feet back from any right-of-way or lot line.

HAS – HAS NOT BEEN MET
NOT APPLICABLE

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SECTION 18.41 SPEAKERS AND SOUND DEVICES, OUTDOOR

Uses requiring outdoor speakers, outdoor public address systems or similar sound devices shall not be permitted without the written consent of the Planning Commission who shall determine that no public nuisance will be established and that no unreasonable adverse impact will fall on an adjacent property. The Planning Commission may require the installation of various screening and landscaping to minimize the impacts of such speakers on adjoining properties.

HAS – HAS NOT BEEN MET

SECTION 16.8 - 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.

- 16.8.1 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.
- 16.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.
- 16.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

The Planning Commission placed the following conditions on Special Use Permit PSPR12-003:

1. Auction items will not be delivered sooner than fourteen (14) days prior to the auction date and must be removed within fourteen (14) days after the auction date. Any remaining equipment shall be screened from public roads and adjoining properties.

Agenda moved to *New Business: Election of Officers* at 7:45 pm. (See Page 8)

Advertised Cases continued at 7:51 pm.

2. The property owners will coordinate with the Otsego County Sheriff's Department for traffic safety measures on auction days.
3. The hours of operations for the Agricultural Equipment Auction will not begin before 8:00 am and will end by 10:00 pm.
4. Property owners will institute dust-control procedures pertaining to auction days as necessary.
5. Auctions will be limited to eight (8) times a year and no more than two (2) days in duration.

Mr. Mang made a motion to adopt the five (5) conditions to the Special Use Permit; Seconded by Mr. Brown.

Motion approved unanimously.

Secretary Barton made the following motion to approve Special Use Permit PSPR12-003 with the adopted conditions; Seconded by Mr. Klee:

A motion based upon all evidence provided to the Otsego County Planning Commission including:

1. Applicant provided information including the application, site plan, site-plan compliance checklist and narrative describing the proposed use.
2. General finding of fact for PSPR12-003
3. Specific finding of fact for PSPR12-003

And that PSPR12-003 is approved with the five (5) conditions.

Unfinished Commission Business (cont):

- c. Forest Recreation set back requirements: **Postponed**

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- d. PC-2003-09-CH-SUP Northern Processing final report: **Postponed**
- e. Planting buffer/Section 18.18 approval of revised Table I: **Postponed**

New Business:

- a. Definition of Agriculture or Agricultural Use: The ZBA has requested a clarification on the wording, "An Agricultural building does not include a building used for retail trade." (See ZBA minutes 7-31-2012 meeting) **Postponed**
- b. Request from ZBA: Section 9.2.4 Livestock Auction Yards require a minimum of ten acres (10) with a minimum width of six hundred (600) feet; Section 18.20 requires a minimum of forty acres (40) site size. The request is for the Planning Commission to draft language that has corresponding language in both sections of the zoning ordinance. (See ZBA minutes 7-31-2012 meeting) **Postponed**
- c. Request from ZBA: The ZBA has requested the Planning Commission revise Section 18.1.3.1 to clarify the maximum amount of accessory building allowed. (See ZBA minutes 7-31-2012 meeting) **Postponed**
- d. Election of Officers:

Agenda moved to *New Business: Election of Officers* at 7:45 pm.

Chairperson:

Mr. Borton nominated Mr. Stults; Mr. Klee nominated Mr. Arndt; Nominations closed
Mr. Stults elected Chairperson.

Vice Chairperson:

Mr. Arndt nominated Mr. Hartmann; Mr. Hartmann nominated Mr. Arndt; Nominations closed
Mr. Arndt elected Vice Chairperson.

Secretary:

Mr. Klee nominated Mr. Borton; Nominations closed
Mr. Borton elected Secretary.

Secretary Borton made a motion to continue the *Advertised Cases* at 7:51 pm; Seconded by Vice Chairperson Arndt.

Motion approved unanimously. (See Page 7)

- e. Re-appointment of members with expiring terms. **Postponed**

Reports and Commission Member's Comments:

Mr. Ferrigan stated he had received a copy of *Otsego County's Capital Improvement Plan*. He will mail copies for review and place it on next month's agenda.

Adjournment: 8:18 pm

Christine Boyak-Wohlfeil, Recording Secretary

Ken Borton, Planning Commission Secretary