

MILLINGTON TOWNSHIP ZONING BOARD OF APPEALS
Minutes of September 16, 2020 Meeting

Minutes of the September 16, 2020 "Zoom" meeting of the Zoning Board of Appeals to consider the request of Tri-County Aggregates to appeal the final decision of the Millington Township Planning Commission of August 12, 2020 denying a special land use application submitted by Tri-County Aggregates concerning real property located at 10222 Sheridan Road, Millington, Michigan 48746. The Planning Commission denied the applicant's request to recycle and/or process material delivered to the property from third parties and offered supplemental information that had been used in their decision making.

The meeting was called to order at 6:01 PM by Chairperson Alvin Zavitz.

Roll call was taken. Present were members Alvin Zavitz, Gary Shreve, Robert Loomis, Carol Kager, and Robert Bernard. Also present were Terry Jones, Millington Township Supervisor, Laura Genovich, attorney for the Township, Nathan Scherbarth, attorney for the Township, Robert Gilling of Tri-County Aggregates and Luann Jaruzel (10181 Sheridan Road, Millington, MI 48746), a resident of Millington Township. The MILLINGTON POLICY FOR PUBLIC COMMENTS was read aloud by Kager.

Election of Officers

- A motion was made and supported to name Carol Kager as Secretary of the Millington ZBOA. A roll call vote was taken and the motion approved unanimously.
- A motion was made and supported to name Gary Shreve as Vice-Chairperson of the Millington ZBOA. A roll call vote was taken and the motion approved unanimously.
- A motion was made and supported to name Alan Zavitz as Chairperson of the Millington ZBOA. A roll call vote was taken and the motion was approved unanimously.

Minutes

- The minutes of the September 23, 2019 Zoning Board of Appeals meeting were approved by roll call vote. Voting yes were Zavitz, Shreve, Loomis and Kager, with Bernard abstaining.

Consideration of Tri-County Aggregates appeal of the decision of the Millington Township Planning Commission denying Tri-County Aggregates a special land use permit concerning real property located at 10222 Sheridan Road, Millington, MI 48746.

(At this point, Chairperson Zavitz recused himself as a participant in the discussion due to a conflict of interest and Vice-Chair Gary Shreve conducted the meeting.)

Discussion

Attorney Scherbarth reviewed the decision of Judge of Borchard of the Tuscola County Circuit Court to remand the decisions of the Millington Township's Planning Commission and Zoning Board of Appeals for further explanation of their reasoning.

- Tri-County Aggregates' request for a special land use permit was denied by the Planning Commission in August, 2019.
- Tri-County Aggregates appealed that decision to the Zoning Board of Appeals in September, 2019, where the Planning Commission's decision was upheld.
- Tri-County Aggregates then appealed to the Tuscola County Circuit Court, where Judge Borchard remanded the case back to Millington on July 20, 2020.
- The Millington Township Planning Commission deliberated at a meeting on August 12, 2020, offered a clarification of the reasoning behind their original decision in a supplement to the record and reaffirmed their original decision.
- This meeting is being held to review the supplement offered by the Planning Commission to determine if proper procedures were followed by both the Planning Commission and the Zoning Board of Appeals in their decision making processes.

Attorney Scherbarth summarized the supplement to the record.

Township Supervisor Terry Jones asked whether a draft copy of the minutes of this meeting (not approved because there will not be a meeting of the Zoning Board of Appeals before the next scheduled court hearing in this matter) will be sufficient to be offered in court on October 7, 2020.

Attorney Genovich replied that she didn't anticipate a problem with the draft minutes.

Acting Chairperson Shreve commented that we will vote to affirm our original decision based on the supplement provided by the Planning Commission.

Citizen Comments

Luann Jaruzel (10181 Sheridan Road, Millington, MI 48746) commented via the following text message to Attorney Genovich, who read it aloud.

"The original board stated repeatedly htat (sic) NO OFFSITE materials would be brought in. The lawyer for the gravel pit agreed. It was to protect the public from unwanted and unknown substances back in 2003." "We appreciate this board being concerned too. There are at least 4 times in the meeting minutes that Mr Sayer and lawyer agreed. to this."

Mr. Gilling was asked if he had any comments to add, but there were none.

Decision

A motion was made by Acting Chairperson Shreve, and supported by Kager, to affirm the September 23, 2019 decision of the Zoning Board of Appeals to deny a special land use permit to Tri-County Aggregates, based on the supplement to the original denial of the Planning Commission, and approved by a roll call vote.

Shreve: Yes

Kager: Yes

Loomis: Yes

Bernard: Yes

The meeting was adjourned at 6:30 PM

Submitted by:

Carol Kager

Secretary

Millington Township Zoning Board of Appeals