

Minutes ZBA Meeting May 6, 2025

The meeting was called to order by Robert Benard at 6:01 PM

Roll Call: Present were Robert Benard, Nathan Ptaszenski, Matt Opperman, Carol Kager, and Emory Close. Absent and excused were Kassie Burns and George Moore.

Seating of Alternates: A motion was made by Benard, supported by Ptaszenski, to seat Alternate Close in the absence of Burns. Motion was unanimously approved. Close was seated.

The Pledge of Allegiance was recited.

Approval of Meeting Agenda: A motion was made by Opperman to amend the agenda to include under Public Hearings a and b, by adding "Conflict of Interest" between I and II. Supported by Kager. The motion was unanimously carried.

Approval of April 24, 2025 Meeting Minutes: A motion was made by Kager to amend the minutes of the April 24, 2025 meeting to reflect that Close and Opperman attended a two hour training session on Renewable Energy. Supported by Ptaszenski.

A roll call vote was taken: Ptaszenski: Yes, Opperman: Yes, Kager: Yes, Close: Yes, Benard: Yes. Motion Carried. The minutes were accepted as amended.

Identify the Millington Township Policy for Public Comments

Public comments

- Ed Maschke questioned the validity of **both** appeals, as the motion made at the 3/17/25 Township Board meeting to appeal the two Planning Commission decisions were made by Luanne Jaruzel, who has a conflict of interest on matters pertaining to the Gravel Pit. He also questioned whether Robert Benard had a conflict of interest. Mr. Benard provided the township attorney's opinion that there is no indication of conflict of interest. Mr. Maschke also questioned why several members of the Planning Commission were denied their request to be placed on tonight's agenda.
- Doyle Pletcher also questioned the issue of conflict of interest and read the indicators that determine a conflict of interest.

Old Business: None

New Business: None.

A motion was made by Close to close the the regular meeting and open the Public Hearing re: the Special Land Use Permit granted relating to Parcel: 016-035-000-0100-10. Supported by Opperman. Roll call vote: Ptaszenski: Yes, Opperman: Yes, Kager: Yes, Close: Yes, Benard: Yes. Motion carried.

Noticed Public Hearings

- a. **Appeal by Millington Township Board of the Planning Commission's February 10, 2025 decision of a commercial special land use permit relating to Parcel 017-035-000-0100-10, Tri-County Aggregates, 10222 Sheridan Road, Millington, Michigan**

Opperman recused himself from both Zoning Board of Appeals Public Hearings, as he was part of the two Planning Commission decisions that are being appealed at this meeting.

- I. Seating of Alternates: Close had already been seated as an alternate in the absence of Burns
- II. Conflict of Interest Consideration

and A discussion as to a possible Conflict of Interest on the part of Robert Benard, as he had, at the September 2019 and October 2024 Planning Commission meeting dealing with a Special Land Use Permit request of Tri-County Aggregates, entered a statement into the 2019 and 2024 minutes. Note was made of the fact that since his statements were limited to the necessity of following the ordinances, it did not constitute a Conflict of Interest.

A motion was made by Kager, and supported by Ptaszenski to include Benard as part of the Hearing without a Conflict of Interest.

A roll call vote was taken: Ptaszenski: Yes, *Kager* Yes, Close: Yes, Opperman: No, Benard: Abstain. Motion carried.

III. Public Comments

Submitted letters were read from Lorraine Martin and William Stebbins

William Stebbins: On June 17 Or 19, 2024, he heard three very loud explosions which could only be attributed to dynamite in his opinion. Dust is a problem.

Ina Male: Agrees with the content of Mrs. Martin's letter; ordinances should be obeyed. The Township Board and Supervisor cannot change ordinances.

Lucinda Jensen: She was at the February 10, 2025 meeting when the Special Land Use Permit was approved. Tri-County Aggregates wants Commercial activity, which is not permitted. The ordinance is not being followed. Rules should be followed.

* Ed Maschke: (Speaking as a member of the Planning Commission) States that the Planning Commission "feels that we are within our discretion to approve this SLUP."

Steve Ley: Agrees with the Appeal. The parcel in question is in the area zoned A/R, which does not allow commercial activity.

Matt Opperman: (Speaking as a member of the Planning Commission) Cited that Sheridan Road is classified as a Class A road. He referenced Planning Commission meetings held in May, June, and July of 2007 that, at the discretion of the Planning Commission "neighborhood type businesses" are allowed in the A/R district.

It was noted by Ms. Kager that the 2007 planning commission minutes that mentioned "Kager" as a board member referred to Richard Kager, her late husband & not to herself.

I. Presentation by Property Owner or Designee:

Jamie Nisidis appeared on behalf of Tri-County Aggregates. She gave a very brief overview of the STATEMENT OF POSITION SUBMITTED BY APPELLEE TRI-COUNTY

* Ed Maschke provided documentation from the township attorney giving the planning commission discretion prior to the decision on the Special Land Use Permit.

AGGREGATES. One copy of the written portion of the statement was delivered to the ZBA just prior to the start of the meeting. The written statement attached.

In Ms. Nisidis's overview, she stated that...

- a. Robert Benard had a reasonable appearance of a conflict of interest.
- b. Luanne Jaruzel had a conflict of interest as she is a member of the Planning Commission.
- c. The permit had been approved multiple times and was therefore "grandfathered."
- d. The Planning Commission had discretionary powers to affirm the Special Land Use Permit.
- e. There was no expiration date on the Site Plan dated 2007.

omit

Ms. Nisidis then handed the "Statement of Position submitted by Appellee Tri-County Aggregates" to Ms. Kager to be added to the minutes of this meeting. (It was noted by Ms. Kager at this time that exhibits submitted by Ms. Nisidis that were records of Planning Commission decisions from 2007 that included a mention of "Kager" as a voting member of the Planning Commission referred to the late Richard Kager.)

Presentation of Zoning Administrator:

Tammy Daenzer gave an outline of the Township's Appeal of the Planning Commission's approval of a Special Land Use Permit to Tri-County Aggregates:

- a. A background and summary of the Appeal: Resale of materials is not permitted in the AR district per Millington Township Ordinance 4.03.
- b. Resale of materials is only permitted through a Special Land use Permit in the Commercial District per Millington Township Ordinance 10.03.
- c. An approved quarrying operation is not a license for resale of materials This activity is confined to the Commercial District.
- d. There is a possible conflict with the Michigan Zoning Enabling Act in several areas:

Violation of Legislative Intent and Due Process (MCL 125.3201(1)).

Improper Expansion of Zoning Authority (MCL 125.3502(1)).

Bypass Ordinance Enforcement Requirements (MCL 125.3504)

Ms Daenzer requested the ZBA to decide on the following:

- a. Whether the sale of sand and other materials is a remitted use within the AR District, either by right or by special approval.
- b. Whether the Planning Commission's decision to grant a Special Land Use Permit for this activity exceeded the authority granted under the Millington Township Zoning Ordinance and the Michigan Zoning Enabling Act.

A copy of Ms. Daenzer's report is attached.

ZBA Discussion and Action

The ZBA discussed the issue of whether Ms. Jaruzel's motion to appeal the Planning Commission's decision was a valid one as she is a Planning Commission member.

The ZBA also discussed the permitted uses in the AR district as either permitted by right or by special approval and determined that resale of sand and other material is not permitted by either method according to the Township Ordinances. The 2020 Ordinance, the 2002 Ordinance, and 2006 amendment were reviewed, indicating the expiration dates of site plans and revocation of previous Ordinance documents.

A motion was made by Kager, supported by Ptaszenski, to postpone to a future meeting the decision of the Zoning Board of Appeals in order to gather more information as to a possible conflict of interest related to Luanne Jaruzel.

A roll call vote was taken; Ptaszenski: Yes, Kager: Yes, Close: Yes, Benard: Yes. The motion was carried.

A motion was made by Close, supported by Ptaszenski to close the special hearing and return to the Regular meeting.

A roll call vote was taken: Ptaszenski: Yes, Kager: Yes, Close: Yes, Benard: Yes. The motion was carried.

A motion was made by Kager, supported by Benard to open the Public Hearing related to the reclamation plan approved by the Planning Commission regarding Parcel: 017-035-000-0100-10

A roll call vote was taken: Ptaszenski: Yes, Kager: Yes, Close: Yes, Benard: Yes. Motion Carried

a. Appeal by Millington Township Board of the Planning Commission's February 10, 2025 decision of a reclamation plan related to mining operations at Parcel 017-035-000-0100-10, Tri-County Aggregates, 1022 Sheridan Road, Millington, MI

- i. Seating of alternates : Close had already been seated as an alternate in the absence of Burns.
- ii. Conflict of Interest Consideration: A discussion as to a possible Conflict of Interest on the part of Robert Benard, as he had, at the September 2019 and October 22024 Planning Commission meetings dealing with a Special Land Use Permit request of Tri-County Aggregates, entered a statement into the September, 2019 and October, 2024 Planning Commission minutes. Note was made of the fact that since his statements were limited to the necessity of following the ordinances, they did not constitute a Conflict of Interest.

A motion was made by Kager, supported by Close that Benard does not have a conflict of interest in this matter. A roll call vote was taken: Ptaszenski: Yes, Kager: Yes, Close: Yes, Benard: Abstain.

- iii. Ed Maschke: Speaking on Behalf of the Planning Commission provided some history of the Site Reclamation Plan. His commentary is attached
Lorraine Jensen inquired whether the additions to the property were included in the request. The answer was this appeal is being made over Parcel 017-035-000-0100-10 as mentioned earlier.
Matt Opperman: Re:2006 variations in site plan should be corrected to 2007 site plan; #s 8,10, and 11 were removed. Permit dated 7/16/07 was granted for 10-15 years. Not one written complaint was lodged against TCA under the tenures of the last three supervisors.

iv. Presentation by Petitioner or Designee

Jamie Nisidis appeared on behalf of Tri-County Aggregates. She gave a very brief overview of the STATEMENT OF POSITION SUBMITTED BY APPELLEE TRI-COUNTY AGGREGATES. Written statement attached.

In Ms. Nisidis's overview, she stated that...

Robert Benard had a reasonable appearance of a conflict of interest.

Luanne Jaruzel had a conflict of interest.

Mr. Gilling of Tri-County Aggregates has been cooperative.

The Special Land Use Permit for Tri-County Aggregates was approved on September 9, 2024.

This issue is not properly before the Zoning Board of Appeals.

v. Presentation by Zoning Administrator: Tammy Daenzer, the Township Zoning Administrator:

Ms. Daenzer stated that there is no doubt that a new reclamation plan is needed.

The Planning Commission cannot approve something that doesn't yet exist.

The Planning Commission approved the Site Plan of February 10, 2025, and the Appeal was filed by the township on February 21, 2025, clearly within the 30 day window allowed for filing an appeal.

vi. ZBA Discussion and Action:

The Zoning Board of Appeals discussed the issue of the validity of the proposed appeal in light of the motion to appeal was made at a Township Board meeting by a member of the Planning Commission who had previously voted on the same issue as a Planning Commission member, was not permissible and constituted a Conflict of Interest

A motion was made by Kager, supported by Ptaszenski, to postpone to a future meeting the decision of the Zoning Board of Appeals in order to gather more information regarding a possible conflict of interest relating to Luanne Jaruzel.

A roll call vote was taken: Ptaszenski: Yes, Kager: Yes, Close: Yes, Benard: Yes. Motion carried

A motion was made by Ptaszenski to close the public hearing, and return to the public meeting, supported by Benard. A roll call vote was taken: Ptaszenski: Yes, Kager: Yes, Close: Yes, Benard: Yes. Motion carried.

The public meeting resumed at 8:32PM

Opperman returned to his seat

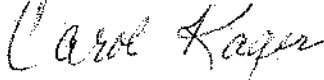
ZBA Member Comments (including any training updates)

A reminder to board members to avoid any occasions that might be interpreted as deliberations. A reminder to board members of the MTA Training Session in Frankenmuth tomorrow 5/7/25.

Adjournment: A motion was made by Kager, and supported by Ptaszenski, to adjourn the meeting.

A roll call vote was taken: Ptaszenski: Yes, Opperman: Yes, Kager: Yes, Close: Yes, Benard: Yes. The motion was carried.

Meeting adjourned at 8:34 PM.

A handwritten signature in cursive script that reads "Carol Kager".

Carol Kager, Secretary Millington Township Zoning Board of Appeals.