

MINUTES OF THE JUNE 18, 2025

MILLINGTON TOWNSHIP ZONING BOARD OF APPEALS

The meeting was called to order by Robert Benard at 6:00 PM

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

There were 12 people in the audience.

Seating of Alternates: Close was called in the absence of Burns. Close made a statement that although a citizen had questioned him in regard to a possible conflict of interest, he was not involved in any way to this issue.

The Pledge of Allegiance was recited

Approval of Agenda: A motion was made by Kager, Supported by Ptaszenski to approve the agenda. A voice vote was taken, and the motion was unanimously carried.

Approval of the June 11, 2025 Meeting Minutes: A motion was made by Opperman, supported by Close to accept the minutes. A voice vote was taken, and the motion was unanimously carried.

The Millington Township Policy for Public Comments was identified: Benard noted that the Public Hearing for the Tri-County Aggregates appeals were closed and that no new information may be accepted or considered for that record.

Opperman recused himself from the meeting, stating that "due to the fact that I'm on the Planning Commission that made this recommendation, I would have to recuse myself from this tonight." (He leaves his seat on the board)

Seating of Alternates: In the absence of Opperman, Moore is seated on the board and affirms he has watched the video and reviewed all the information from the May 6, 2025 ZBA meeting.

Public Comments:

- Bob Worth: Questions if the 3 minute time limit for public comments applies to submitted letters as well. Gives examples of commercial businesses operating in Residential districts.
- Lorraine Martin: Just because those businesses exist doesn't mean we go ahead and continue everything improperly.

- Jamie Nisidis: "Recognizing your decision that the record is closed, generally all zoning approvals are permanent; they can't be made subject to temporary approval or periodic review; consider the appeal that relates to the special land use."
- Lorinda Jensen: Questions whether the commercial businesses were established before the ordinances did not allow them.
- Robert Loomis: Cited commercial businesses in Residential district; it made him think that Mr. Gilling was being put through the ropes when a mile down the road, a commercial business is operating in the Agriculture/Residential District.
- Opperman: MTA has stated that it is unprecedented that this [type of] appeal is even here; the second time in 1 ½ years. That there is an observed conflict of interest at the board level and there are three documents referring to this. This board may take it upon themselves to make this appeal, but when the court of law looks into some of these conflicts, the residents of the township will be paying for some of these decisions.
- Kager: Tri-County Aggregates submitted a letter to be read; she reads a portion of the document that was excerpted from the MTA book Breaking the Zoning Code.
- Nisidis: then explains that this was not intended as a submitted letter, but was an excerpt from reference material. (Breaking the Zoning Code, pp. 31,33,35)
- Benard: The excerpts from the MTA are accepted as Public Comment, but are not a part of the record of the appeal on May 6th, 2025

Old Business A

The appeal was read aloud: Appeal by the Millington Township Board of the Planning Commission's February 10, 2025 decision of a commercial special land use permit relating to parcel: 017-035-000-00100-10, Tri-County Aggregates, 10222 Sheridan Road, Millington, MI.

Before beginning deliberation, Benard advised the Zoning Board of Appeals that they had the option to hold a closed session where an attorney would be available to discuss an alleged conflict of interest of a Township Board member. He ascertained that each ZBA member had read the attorney's attorney/client privilege opinion regarding this matter. Discussion then began.

ZBA Discussion and Action

Benard began by reviewing the ordinances that had been violated by the Planning Commission, based on the record of evidence from the May 6, 2025 Public Hearing:

1. The request was for a Special Land Use Permit for a use that is only permitted in the Commercial Zoning District, per Section 10.02A of the Ordinance. The property is zoned agricultural/Residential.
2. The Planning Commission violated Section 2.01 of the Ordinance, which indicates that there shall be no change of use of land, unless it is in conformity with the provisions of the Ordinance.
3. The Planning Commission violated Section 18.03D of the Ordinance, which states "All specific requirements of the Zoning District where the proposed use would be located shall be complied."
4. The Planning Commission violated Section 4.03 of the Ordinance, which indicates that any use not expressly listed as a permitted or special land use within a zoning district is prohibited.

Benard then asked for a motion.

A motion was made by Carol Kager, supported by Emory Close to reverse the Planning Commission's approval of the Special Land Use Permit relating to parcel 017-035-000-0100-10, for the reasons:

1. The request was for a Special Land Use Permit of a use that is only permitted in the Commercial Zoning District, per Section 10.02 A of the Ordinance. The property is zoned Agricultural/Residential.
2. The Planning Commission violated section 2.01 of the Ordinance, which indicates that there shall be no change of use of land, unless it is in conformity with the provisions of this Ordinance.
3. The Planning Commission violated Section 18.03 of the Ordinance, which states "All specific requirements of the Zoning District where the proposed use would be located shall be complied."
4. The Planning Commission violated Section 4.03 of the Ordinance, which indicates that any use not expressly listed as permitted, or special land use, within a zoning district is prohibited.

Discussion followed:

Comments:

- Ptaszenski: In a conversation with an attorney/presenter at a Michigan Township Association conference [training session], it was stated that it was a bad look for our township to have two agencies at odds with each other
- Ptaszenski: We shouldn't be fighting each other on every decision that's made, and I don't think there's any gross negligence here.
- Ptaszenski: This is not a major change for the gravel pit, as it already exists.
- Benard reminded the group that this is an administrative appeal, not about a personal opinion; it is whether the Planning Commission acted lawfully within their authority granted by the approved Ordinances of this Township. We must follow these ordinances. Our purpose when there are challenges on administrative appeal, regardless of who brings them forward, that is what we do, and nothing else—just to see if it was a lawful decision.
- Kager stated we must see if this was a lawful decision according to our ordinances. The plan is for it [the gravel pit] to have condos built there in the future. How does selling landscape materials fit in with that?
- Benard noted that the parcel is not zoned commercial as affirmed in their statement of Position. On page 9, line 10, they affirm that the property is zoned A/R; the original request in our packet which was made by Tri-County Aggregates clearly states the A/R District.

Discussion Ends. A roll call vote on the motion was taken: Kager: Yes, Moore: Yes, Close: Yes, Moore: Yes, Ptaszenski: No, Benard: Yes. The motion was carried.

Old Business B

The appeal was read aloud: 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, 10222 Sheridan Road, Millington, MI.

ZBA discussion and action

Benard cited the ordinances violated:

Based on the record of evidence, the Planning Commission made a premature approval and abused their discretion for the following reasons:

1. The motion of the Planning Commission indicates that the application was incomplete, which violates Section 17.02 of the Ordinance.
2. The motion of the Planning Commission indicates that the submitted plan was incomplete, which violates Section 5.03C of the Ordinance.
3. The motion of the Planning Commission does not make any distinction between a site plan and a reclamation plan, which are two very different documents and processes identified by Section 5.03 and Article 17 of the Millington Township Ordinance.
4. The motion of the Planning Commission refers to extending a plan from 2007, which has expired per Section 17.06 of the Ordinance.
5. The submitted plan indicates that it is both a Reclamation Plan and a Site Plan for a Site Condominium Development, while failing to meet the requirements of Section 5.03, Section 6.02.1, and Article 17 of the 2020 Millington Township Ordinance.

Discussion followed:

Comments:

- Benard: Please review the ordinance, Section 5.03C,D; each item in there is against that plan. We're not here because of a gravel pit, we're here because of a Planning Commission, and even in Public Comments in this Township, it has been stated that there should be a root cause analysis done of the issues going on here, but that is not for us to decide. We are here for this single appeal and does it meet the requirements of the ordinance and procedure or not. Did they [the Planning Commission] act appropriately, which is their duty?
- Ptaszewski: I understand, I just think that I don't want to say because, let's say there are 19 gravel pits that don't have a site plan, that don't have a reclamation plan, and this one person is, I don't want to say, "singled out", but "randomly selected" for an appeal by the board, I just don't think it's right.
- Kager: We have to look at a board who is making decisions that don't go along with our ordinance, so we're not looking at the board, but we're looking at the decision that they made; on the fact that it does not go along with our ordinance.
- Benard: Maybe they [the appointing authority] want to look into that. They should be looking at the Planning Commission, which is, once again, not our jurisdiction at all.
- Ptaszewski: It's ridiculous that we are reversing these decisions that the planning Commission has made. It's a part-time Planning Commission, meeting once a month. It's not like these people are full time. We don't have the money and the resources to train and retain these people to make good decisions.
- Close: I agree with you [Ptaszewski], but sitting here, you know, we follow the ordinances. Did this follow the ordinances? That is a yes or no answer.
- Kager: We're not singling them out; these have been the decisions of the Planning Commission, and it's our job to handle the appeal.
- Ptaszewski: I don't think that the Planning Commission, they're making mistakes. I don't think we should be reversing these decisions because they make minor errors.
- Kager: Some of these [decisions] are not minor. The one of approving something that does not exist is not minor.

- Ptaszenski: I think this is; it's probably the best site plan ever submitted to Millington Township and I don't think we should reverse it.
- Close: My thoughts are I have followed the ordinances and that's what I took a pledge to do and clearly they have violated the ordinances, sad to say
- Ptaszenski: There's been a lot of time and money put into this. It's going to be a beautiful place. They're building a lake, planting trees. It's crazy for the board to be fighting.
- Benard: A decision must be based on objective facts; even the Michigan Township Association book states that statements of findings must be based on facts, just as the Planning Commission decision should have been. I agree we should not be here, but this was not created by the Zoning Board of Appeals. Who submitted the appeal is not really an issue here; it is whether the appeal is valid or not.
- Moore: We are the ZBA. We are here to make sure the ordinances are being met, and they are not being met. It's unfortunate that they are not being met. That's what we're here to decide. They are not being met, plain and simple. I agree with you [Ptaszenski] but at the end of the day, we have to follow the ordinances, and that's what this board is here for.
- Benard: Are there more things we need to review, or would someone like to make a motion?

Discussion ends.

A motion was made by Carol Kager, supported by Emory Close to reverse the Planning Commission's February 10, 2025 decision for a reclamation Plan relating to Parcel: 017-035-000-0100-10, Tri-County Aggregates, 10222 Sheridan Road, Millington MI for the stated violations of the ordinances:

1. The motion of the Planning Commission indicates that the application was incomplete, which violates Section 17.02 of the Ordinance.
2. The motion of the Planning Commission indicates that the submitted plan was incomplete, which violates Section 5.03C of the Ordinance.
3. The motion of the Planning Commission does not make any distinction between a site plan and a reclamation plan, which are two very different documents and processes identified by Section 5.03 and Article 17 of the Millington Township Ordinance.
4. The motion of the Planning Commission refers to extending a plan from 2007, which has expired per Section 17.06 of the Ordinance.

5. The submitted plan indicates that it is both a Reclamation Plan and a Site Plan for a Site Condominium Development while failing to meet the requirements of Section 5.03, Section 6.02.I and Article 17 of the 2020 Millington Township Ordinance.

A roll call vote on the motion was taken: Close: Yes, Kager: Yes, Moore: Yes, Ptaszenski: No, Benard: yes. The motion carried.

New Business

None

ZBA Member Comments

Close noted that its is sad to be here. The township needs to address the problems. Agrees that people are trying to change and progress is being made.

Benard reported that he had broached the subject of increased compensation for the ZBA members when there were multiple meetings/ hearings taking place within one meeting. There was lack of support, so the request denied.

Adjournment

A motion was made by Benard, supported by Moore to adjourn the meeting. A voice vote was held. The motion unanimously carried. The meeting was adjourned at 7:29 PM.



Carol Kager

Secretary, Millington Township Zoning Board of Appeals

June 23, 2025