

MINUTES OF Planning Commission Public Hearing-ZO Amendment

HELD

February 14, 2018

20

Township of

Metamora

Jennie Dagher

Clerk

Form M-1-PT

The Riegler Press, Inc., Flint, Michigan

Chairman Nash called the Metamora Township Planning Commission Public Hearing to order at 7:02 p.m. at the Metamora Township Hall, 730 W. Dryden Road, Metamora, Michigan.

Members Present: George Nash, Phil Bellinger, Ann Derderian, Dan Miller, Roger Hamilton, Kevin Knisely and Lance Gould

Members Absent: None

Also Present: Township Planner Doug Piggott, Township Attorneys Michael Nolan and Gerry Fisher, Rob and Sarah Champion, Attorney Susan Johnson of Butzel Long, Mark Frank, Jocelyn Schofield, Victor Dzenowagis, Attorney Christopher Bzdok, and Jarod Sawyer, videographer for Levy.

The pledge of allegiance was recited.

Chairman Nash announced that this is a public hearing on proposed text amendments to Article 12A of the Zoning Ordinance regarding reviewing and approving applications for natural resource extraction. Chairman Nash asked if anyone in the audience had any comments. Rob Champion of Dryden Road asked if the Board had received comment on the amendments from Mr. Bzdok. Chairman Nash reported that the Board received one written response to this Notice of Public Hearing which was a letter from Olson, Bzdok & Howard dated February 12, 2018, and stated further that copies of the letter are available for anyone interested. Attorney Gerry Fisher then detailed the reasoning for the amendment stating that it is to clarify the ordinance and make it clear that the intent of the Township was to make decisions on grants and denials of the ordinance based on criteria of state law and the criteria of whether or not a proposed applicant has demonstrated "no very serious consequences." Professor Fisher further stated that the intent of the amendment is not to create a higher burden for applicants to get approvals. Professor Fisher stated that some items were added to last month's draft and pointed out those changes, referring to the February 7, 2018 revised draft of the proposed amendment. There was discussion regarding the suggestions made in the February 12, 2018 letter from Olson, Bzdok & Howard on behalf of MLPA. Attorney Christopher Bzdok on behalf of MLPA stated they support the proposed amendment and further suggested that the noise ordinance should be reviewed at this time. Chairman Nash then asked if anyone else had any further comments and there were none.

At 7:17 p.m. Chairman Nash closed the public hearing.

Respectfully submitted,
Darlene Wise, Recording Secretary

cc: All Board Members
Persons Requesting Same


Roger Hamilton
Planning Commission Secretary

Chairman Nash called the Metamora Township Planning Commission regular meeting to order at 7:17 p.m. at the Metamora Township Hall, 730 W. Dryden Road, Metamora, Michigan.

Members Present: George Nash, Phil Bellinger, Ann Derderian, Dan Miller, Roger Hamilton, Kevin Knisely and Lance Gould

Members Absent: None

Also Present: Township Planner Doug Piggott, Township Attorneys Michael Nolan and Gerry Fisher, Rob and Sarah Champion, Attorney Susan Johnson of Butzel Long, Mark Frank, Jocelyn Schofield, Victor Dzenowagis, Attorney Christopher Bzdok, and Jarod Sawyer, videographer for Levy.

Approval of Agenda

006-18

Motion by Member Derderian, support by Member Hamilton, to approve the agenda as submitted. All ayes, no absent. **Motion carried.**

Approval of Meeting Minutes

007-18

Motion by Member Derderian, support by Member Bellinger, to approve the minutes of the January 10, 2018 regular meeting as presented. All ayes, no absent. **Motion carried.**

Public Comments (on items not on the Agenda)

None.

New Business

A. Decision on Public Hearing on an amendment of Article 12A of the Zoning Ordinance of the Township of Metamora. If enacted, the amendment would clarify and further explain the intent of the Township in Article 12A of the Zoning Ordinance that provides the process for reviewing and approving applications for natural resource extraction in the Township.

Chairman Nash asked for a motion.

008-18

Motion by Member Derderian to recommend to the Township Board the approval of the proposed amendment to Article 12A of the Zoning Ordinance, as presented to the Planning Commission, with the additional changes explained by the Township's Attorneys. This recommendation is based on comments received at the hearing, including the point that the effect of this amendment is to provide greater clarity in the ordinance, and that the amendment will remove ambiguity on the point that the decision to approve or deny an application under this ordinance is whether the proposed extraction operation would result in "no very serious consequences."

HELD February 14, 201820
Jennie Dagher

Township of

Metamora

Clerk

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ROLL CALL VOTE:

Ayes: Bellinger, Derderian, Gould, Hamilton, Nash, Miller & Knisely
Nays: None
Abstain: None
Absent: None

Motion carried.**Unfinished Business****A. Final Copy Annual Report 2017.**

Planner Piggott discussed the revised 2017 Annual Report which was distributed. It was decided to add to goals for 2018 a review of Performance Standards in Section 1517 regarding noise.

009-18

Motion by Member Derderian, support by Member Knisely, to accept the 2017 Annual Report listing the goals for the year 2018 with the addition of including a review of Section 1517(F), Performance Standards, regarding noise. All ayes, no absent. **Motion carried.**

Communications and/or Committee Report

None.

Matters for Discussion from the Commission Members

Nothing at this time.

Township Planners Report - Doug Piggott/ROWE Professional Services Company

Planner Piggott relayed that he just received the application for a special land use, site plan approval and rezoning approval for Drop & Lock Mini Storage for an expansion of their mini-storage operation. Mr. Piggott noted that he cautioned the applicant that he can apply for all of those at the same time but that the Planning Commission would review the special land use and site plan requests on the condition that the rezoning is approved. Mr. Piggott stated he would get these materials to the Board prior to next month's meeting. The applicant requested scheduling the public hearing for the March meeting.

010-18

At 7:28 p.m., a Motion was made by Member Derderian, support by Member Bellinger, to adjourn. **Motion carried**, all voting aye.

Respectfully submitted,
Darlene Wise, Recording Secretary

cc: All Board Members
Persons requesting same


Roger Hamilton
Planning Commission Secretary

METAMORA TOWNSHIP
PLANNING COMMISSION AGENDA
14 FEBRUARY 2018 7:00 PM
METAMORA TOWNSHIP HALL

Pledge of Allegiance

Roll Call

Hearings:

A: Public Hearing on an amendment of Article 12A of the Zoning Ordinance of the Township of Metamora. If enacted, the amendment would clarify and further explain the intent of the Township in Article 12A of the Zoning Ordinance that provides the process for reviewing and approving applications for natural resource extraction in the Township.

Approval of Agenda

Approval of Minutes

Public Comments (on items not scheduled on this agenda)

New Business:

A: Decision of Public Hearing on an amendment of Article 12A of the Zoning Ordinance of the Township of Metamora. If enacted, the amendment would clarify and further explain the intent of the Township in Article 12A of the Zoning Ordinance that provides the process for reviewing and approving applications for natural resource extraction in the Township.

Unfinished Business:

A: Final copy annual report 2017

Communications and / or committee report

Matters for discussion from the commission members

Township Planners Report – Doug Piggott/Rowe Professional Services

Adjournment

OLSON, BZDOK & HOWARD

February 12, 2018

Members of the Planning Commission
Metamora Township
730 W Dryden Rd
Metamora, MI 48455

*Via email c/o Township Clerk Jennie Dagher
clerk@metamoratownship.com*

RE: Public Hearing on Amendments to Article 12A Gravel Zoning
Comments on behalf of Metamora Land Preservation Alliance

Dear Members of the Township Planning Commission:

I write to you on behalf of the Metamora Land Preservation Alliance (MLPA), regarding the new amendments to Article 12A of the Metamora Township Zoning Ordinance, which govern gravel mining. Please include this letter in the record of the public hearing.

MLPA supports the new amendments. We believe they are consistent with the findings of the Lapeer County Circuit Court in the court case where Levy/American Aggregates and Ajax Paving have challenged the Township's zoning ordinance. We also believe the new amendments are more narrowly tailored to the requirements of the Gravel Statute, Public Act 113 of 2011. And we concur with the Township attorney's opinion that the new amendments are no more restrictive than the previous version. With all that said, MLPA believes that the new amendments continue to maintain the most important feature of Article 12A, which is treating gravel mining and associated activities with the seriousness and rigor those activities require.

We do make two suggestions. The first relates to noise, an issue that continues to be of great concern. Noise associated with gravel trucks rumbling by homes and businesses located close to the road will be a major impact of any new mining project. Noise associated with mining and crushing in rural residential areas is also a major impact requiring careful consideration.

The draft amendments reference noise in Sections 1205A(C)(4)(c) and (k) as impacts to consider in determining whether very serious consequences will result from mining activities. MLPA generally agrees with that regulatory approach. That said, we continue to have concerns regarding the noise standards set elsewhere in the zoning ordinance. These standards are contained in Section 1517 of the ordinance, and provide for a maximum limit of 60 decibels in the daytime for Agricultural and Residential zoning districts and 70 decibels in the daytime for Office or Business zoning districts.

Members of the Planning Commission
February 12, 2018
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MLPA believes these standards represent noise levels that are too high for the community to have to accept. Modern noise ordinances use levels of 45 to 50 decibels for residential areas in the daytime. Such limits do not interfere with normal activities, but do protect local residents from harmful noise from mining, crushing, and hauling. Further, an Office/Business limit of 70 decibels is typical of a major commercial area, not a historic village. Finally, low frequency noise – like from heavy trucks – raises additional concerns because it penetrates the interiors of homes and buildings in a way that other noise does not. An updated ordinance could address this issue, too.

MLPA is willing to work with the Township to update your noise requirements so that this issue can be addressed before you need to make long-lasting decisions on big new mining projects. Updating noise requirements is essential in conjunction with the gravel mining amendments.

The second suggestion is a minor one. In light of some of the arguments made by the gravel companies in litigation with the Township, we would suggest deleting the text in 1205A(C)(4)(b) after the first sentence. We would propose that the section would read in its entirety: “b. The impact of applicant’s proposed Transitory Extraction Use and associated activities on identifiable health, safety, and welfare interests in the Township.” We believe this changes is directionally consistent with other changes in the draft.

All in all, MLPA supports your efforts to further improve the regulation of gravel mining in Metamora Township. In light of the grave impacts to the community, we appreciate the Township’s careful consideration of these issues. Thank you for this opportunity to provide MLPA’s position for the record.

Sincerely,



Christopher M. Bzdok

xc via email: Michael Nolan
Gerald Fisher

2017 Annual Report

Metamora Township Planning Commission

Section 19 of PA 33 of 2008, the Michigan Planning Enabling Act (MPEA) requires a planning commission to submit a report annually to its legislative body on "... its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development". This report represents the Metamora Township Planning Commissions 2017 annual report to the Township Board.

Planning Commission Activities - 2017

The Planning Commission held 5 meetings in 2017. During those meetings, it reviewed:

- ☐ 1 proposed text amendment, initiated by the Planning Commission addressing open storage and display
- ☐ Approved 3 Biennial Soil Removal Permits
- ☐ Approved 3 site plans/site plan amendments
- ☐ Reviewed General Dollar's compliance with its site plan approval

The Planning Commission also:

- ☐ Adopted the 2016 Annual Report

Planning Commission Goals - 2018

The Planning Commission will continue to review rezoning, text amendment, SLUP and site plan review requests as provided for in the Township Zoning Ordinance. The complete list of goals for the Commission for 2018 includes:

- ☐ Conduct Planning and Zoning refresher training for Planning Commission, ZBA and Township Board
- ☐ Conduct Five Year Review of Master Plan as required by the Michigan Planning Enabling Act
- ☐ Initiate amendments to zoning ordinance to provide zoning for cement plant
- ☐ Study issue of zoning for composting operations
- ☐ Review Section 1517 – Performance Standards for possible revisions

Sign In Sheet

Date:

2/14/18

Address

Bob & SARAH Champion 220 Dryden Rd
Susan Johnson Butzel 41000 Woodward Bloomfield 17115
MARK FRANK 4133 BARBER
Jared Sawyer
Jocelyn Zepf Wilder Rd 48455
Victor Dzenowian 3 WHITE HORSE INN
CHRIS BROWN CBH TC, MI