

SAUGATUCK TOWNSHIP ZONING BOARD OF APPEALS

THURSDAY, September 23, 2010 4:00 p.m.
SAUGATUCK TOWNSHIP HALL
3461 BLUE STAR HWY, SAUGATUCK, MICHIGAN 49453

MINUTES

Chairman Shawn Powers called the meeting to order at 4:00 p.m.

Members present: Shawn Powers, Mark Putnam, Herb Bills.

Also present: Zoning Administrator, Al Ellingsen, Attorney Ron Bultje, Vicky Lepoir, Josh Young and members of the public.

Absent: None

Powers read the notice from the paper.

One hearing was scheduled: A request from Vicky Lepoir, 2495 62nd Street, Fennville, MI 49408 to overturn the decision of the Planning Commission to grant a Special Approval Use (SAU) to Jack Helder, 7971 Adams St., Zeeland, MI 49464 to construct a private driveway through the Floodplain to access a previously approved sand mining operation on parcel#0320-036-007-91 located on 62nd Street, approximately ½ mile north of M-89. The approval was granted based upon criteria found in Section 40-590 and Section 40-693. The Zoning Board of Appeals may hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or the Planning Commission. On appeal by any party affected thereby, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination of the Zoning Administrator or the Planning Commission.

Approval of Minutes: **Motion by Putnam, seconded by Powers to approve the minutes of May 13, 2010.** Motion carried unanimously.

Public Comment: Vicki Lepoir, 2495 62nd St. is appealing the Planning Commission decision on granting permission for a road through a floodplain area. Lepoir went over all her papers that she filed with the Saugatuck Township Planning Commission discussing her reasons that the road should not be allowed in that location as follows:

- 1) Wear and tear on 62nd St. due to big trucks.
- 2) Alternate routes.
- 3) Flooding problems.
- 4) Safety reasons.

Lepoir handed in a petition with 12 signatures opposing the private drive. She said there was no promise the sand mined would remain in the Township. Lepoir also stated she thought Planner Sisson was being one-sided at the Planning Commission meetings. She

wanted to point out that Helder only has vacant property and would not know how bad it floods in that area.

Josh Young, 4949 136th Ave. JJ Sand Mining, wanted to comment on Lepoir's concerns. He stated that there are funds that repair roads and that they are not a big operation. Alternate routes were looked at but this was the most feasible and prudent. MDEQ (now DNRE) granted them a permit for this driveway. The flooding issues were considered at the MDEQ level; there will be more material taken out in the floodplain area so the water will have more area to back up into. The area won't be more susceptible to flooding than it would be before the drive being put in according to the engineers' standpoint. He noted that an access to M-89 would not be safe, and that the approved road enters a County primary road (i.e., 62nd Avenue).

Discussion took place regarding the culverts and the retention area.

Don Brown, 2533 62nd St. stated his property is always flooding and was concerned if this private driveway would have more of an impact.

Attorney Bultje mentioned there is an appeal through the DNRE pertaining to the private driveway.

Larry Edris, Planning Commission Chairman stated that the Planning Commission did miss that the road was in the floodplain and so the matter was brought back to the Planning Commission under the floodplain ordinance after the Planning Commission granted the SAU for the sand mining operation. The ordinance does not prohibit building a road in a floodplain but just says certain requirements have to be met. Edris stated the Planning Commission has no authority to require an applicant hire a civil engineer when a project is brought to the Planning Commission. Edris stated the alternate routes were considered and that the DNRE found the most effective solution was the route where the floodplain is located.

Attorney Bultje stated that the questions asked of the engineer ultimately hired by the applicant were only for that specific route and not for the alternate routes. The Planning Commission had already reviewed Planner Sisson's report and agreed that the other routes had problems and that the approved route was most feasible. The questions were to make sure that this route, the most feasible, was not going to create a dangerous situation. Engineer Calvin Becksvoort, and Lepoir's engineer Jack Barr, agreed that this route would not create a dangerous situation.

Robert Kotman, 2485 62nd St. stated that putting that road in would do more harm than good.

Nick Saputo, 2437 62nd St. was concerned because of the dust problems that might occur.

Jim Dejonge, 2489 62nd St. stated that the easement between him and Kotman is only accessible to those 11 acres and does not go any further.

Kathy Sturm, 2591 62nd St. had questions on the drain and she wanted to talk to the experts. Chair Powers stated she would have to contact the DNRE.

Public hearing closed by Chair Powers.

Putnam stated he has not seen anything new presented to change the decision and that the Planning Commission and the civil engineers did their job.

Zoning Administrator, Al Ellingsen stated the reason for his apologetic letter dated 2/12/10 was that the Planning Commission, Planner, and Zoning Administrator missed that there was a floodplain where the road was going. Ellingsen had to ask JJ Sand Mining to come back and apply for a SAU because the road was located in the floodplain area.

Edris pointed out that any SAU granted by the Planning Commission states that it is conditioned upon all other legal requirements being satisfied, including compliance with any required DNRE permit and any conditions applied. If the DNRE permit for the access road in the floodplain would not be granted or its conditions not be met, then the conditions of the Planning Commission for the approval of the SAU for the access road in the floodplain would not be satisfied.

Motion made by Putnam, seconded by Bills, to find that the Planning Commission used the proper procedure in considering and granting the SAU for the road in the floodplain. The motion passed unanimously.

Discussion took place regarding the permits for the floodplain.

Bills asked when the road is being completed who will have that responsibility to go out and make sure that all conditions are met. Bultje responded that the DNRE enforces its conditions and the Township enforces its conditions. However, the Township conditions include by reference the DNRE conditions.

Discussion was closed.

Motion made by Putnam, seconded by Bills, to affirm the Planning Commission's decision to grant a SAU for a private road in a floodplain, in order to access the applicant's sand removal operation. The Zoning Board of Appeals affirms the findings made and the conditions established by the Planning Commission, as reflected in the Planning Commission minutes of April 26, 2010, May 24, 2010, and June 28, 2010. The Zoning Board of Appeals adopts and agrees with the May 21, 2010 memorandum of the Township Planner, which reviewed the standards for the applicant's proposed access road and evaluated all of the alternative routes. The Zoning Board of Appeals further adopts and agrees with the written findings of Engineer Calvin Becksvort, and notes that Engineer Jack Barr agreed as well. The Zoning Board of Appeals decision is based upon the applicant's site plan, last revised May 19, 2010. Finally, the Zoning Board of Appeals notes that the Allegan County Surveyor and the DNRE reached the same conclusion reached by the

Planning Commission and now affirmed by the Zoning Board of Appeals. The motion passed unanimously.

There being no further business meeting adjourned at 6:30 p.m.

Lori Babinski, Recording Secretary