

BLENDON TOWNSHIP
PLANNING COMMISSION MEETING
MINUTES

4-4-17

1. At 7:00 pm Chairman Mark Leathead called the meeting to order.
2. Rick Lamer offered the invocation.
3. Roll call: Present; Mark Leathead, Jim VanderVeen, Rick Lamer, Terry Huberts, Paul Potter, & Ron Wind. Absent with notice; Jeff DeWind
4. Attendees:
 - Andrew Moore, Planning Consultant
 - Kurt Gernaat, Zoning Administrator & Fire Chief
5. Approval of the Agenda
Motion by Rick Lamer, supported by Ron Wind to approve the agenda with the suggestion that item d) under new business (election of officers) be moved to item f) under old business.
Motion carried.
6. Approval of the minutes of the March 7th Planning Commission meeting.
Motion by Rick Lamer, supported by Jim VanderVeen to approve the minutes from the March 7th, 2017 planning commission meeting.
Motion carried.
7. Opportunity for public comment – no comments from the public were heard.
8. New Business –
 - a. Public Hearing for ERS telecom properties of Cass City, MI on parcel 70-13-33-200-006 in the area of Barry St. & 72nd Ave.
 - Kurt Gernaat read the public hearing
 - Austin Babich & John Gaber presented the plans for the proposed tower.
 - Chairman Leathead opened the public hearing
 - No comments were heard from the public
 - Chairman Leathead closed the public hearing
 - Township Planner Andrew Moore gave his report on the SLU review.
 - The planning commissioners discussed the Special Land Use request and the Site Plan
 - Motion by Jim VanderVeen, supported by Terry Huberts to approve the Special land Use and Site plan request for ERS telecom on parcel #70-13-33-200-006 with the following conditions:

1. *No demolition or earthwork shall be undertaken on the site until a building permit has been issued consistent with this site plan approval.*
2. *Prior to issuance of any permits, the applicant shall have paid all application, permit, reimbursable escrow, and other fees related to the request.*
3. *The special land use shall at all times comply with local, state and federal rules and regulations.*
4. *Any stipulations as required by the Blendon Township Fire Department.*
5. *The tower shall not be lit unless required by the FAA or other applicable state or federal agency.*
6. *A performance guarantee ensuring removal shall be posted which is agreeable to the Township Board and Township Attorney prior to the issue of building permits.*
7. *Should the tower become obsolete, the applicant or its successors shall comply with Section 15.05.05, f, of the Blendon Township Zoning Ordinance regarding removal.*
8. *That the site be moved to the North to make the tower 220' from any buildings. To be approved by the ZA*
9. *That a deed restriction be placed on the remaining property to restrict any new buildings being built within the fall zone.*
10. *That a landscape screening be placed on all sides*
11. *That a bond of \$32,000.00 be placed to cover removal of the tower if it is ever needed.*

Motion passed 5-2 with Paul and Rick voting no

- b. Site Plan review for ERS telecom on parcel #70-13-33-200-006
 - Approved in the above motion.
 - c. AJ pallet site plan concerns.
 - Jim VanderVeen expressed concerns of the site
 1. It was not cleaned up prior to work on site
 2. Fire Lanes are not being maintained (24' is required)
 3. Pallets are being stored on the adjacent site with no SLU
 4. 2 neighbors filed a written complaint
 - AJ explained what he was trying to do.
 - Planning commissioners asked that Pallets be removed from adjacent site and fire lanes be maintained to a width of 24', and no trucks parked in the road right of way by May 4th.
9. Old Business –
- a. Sand Mining SLU for Doug Ulberg & Vrugink and Sons Excavating on parcel 70-13-22-100-015.
 - Motion by Paul Potter, supported by Rick Lamer to remove the item from the Table.
Motion carries
 - Motion by Paul Potter supported by Ron Wind to approve the request for a sand mine SLU with the following conditions:

1. *The applicant shall obtain and provide the Township with copies of all applicable permits obtained from the MDEQ, Ottawa County Soil Erosion and Sediment Control Office, Ottawa County Water Resources Commissioner, Ottawa County Drain Commission and Ottawa County Road Commission, and any other applicable permits.*

2. *The following standards shall apply to the creation or cleaning for ponds:*

a. The Zoning Administrator shall utilize the standards of Section 13.05.19 for review and approval. A decision of the Zoning Administrator may be conditioned upon the applicant receiving approvals from the Ottawa County Health Department, Water Resources Commissioner, and/or Michigan Department of Environmental Quality, if and when applicable.

b. The applicant shall adhere to the applicable Operations Standards, as determined by the Zoning Administrator, in Section 13.05.19 (g) of the Zoning Ordinance, items 1-30.

3. *No natural resource extraction activities shall be conducted within the required fifty (50) foot setback.*

4. *No dewatering of the site shall occur.*

5. *Hours of operation shall be as specified in Section 13.05.19(g)(27) of the Blendon Township Zoning Ordinance.*

6. *The applicant shall install a lockable gate at the entrance to the site at Blair Street to prevent unauthorized access to the site.*

7. *The location of the gravel driveway extending from Blair Street, as shown on the site plan, shall be used as the ingress and egress drive into the site and this location shall be approved by the Ottawa County Road Commission prior to it being utilized. The applicant shall furnish the Township with a copy of said permit. No other access shall be constructed.*

8. *The operations shall take all reasonable steps to minimize airborne materials. This includes dust control, minimizing stockpile areas and stockpile height of 20 feet, and strategically placing these stockpiles in areas that can avoid high winds and areas that may blow into neighboring properties. Any stockpiles over 20 feet in height shall be covered over at least 50 percent of their height except when actively in use, and shall be covered between the hours of operation permitted above.*

9. *The driveway shall be maintained daily in a mud and dust free condition to minimize dust, dirt and mud accumulations and not produce a public nuisance.*

10. *Trees shall not be removed, moved or altered outside of the excavation area and within a phase in which excavation activities have not commenced. Trees within the excavation area may be transplanted to other areas to buffer the excavation area from adjacent properties.*

11. *Earth removal and the resultant grading shall be as shown on the site plan. The slopes of the pond bank shall be as illustrated on the site plan.*

12. *The owner/operator shall file with the Township Zoning Administrator the name and telephone number of the person designated by the owner/operator to act on behalf of the owner*

operator, who will be held responsible for resolving any and all complaints related to this operation. When the owner/operator receives a complaint, he or she shall file a report with the Zoning Administrator regarding the nature of the complaint and the resultant action of the owner/operator.

13. No use of lighting in connection with the excavation activity shall occur on the site.

14. The owner/operator/applicant and subsequent assigns, hereby agree to take full remedial and financial responsibility for any impact on nearby water supply wells, as determined by the MDEQ.

15. Within 30 days of the date of approval (and before any mining or processing operations can occur on the property), the applicant shall provide to the Township a \$310,000 performance bond from a bank or insurance company acceptable to the Township and in a form satisfactory to the Township Attorney. In lieu of such a performance bond, an irrevocable letter of credit in the amount of \$310,000 drawn on a bank and in a form and with language satisfactory to the Township may be used instead of the bond if agreed to by both parties. This security may be used by the Township to ensure conformance with the reclamation plan and the conditions of approval. The bond or letter of credit shall be released only upon a determination by the Township Board that the reclamation has been carried out (and completed) in full compliance with the approved plan and all conditions have been complied with. The bond or letter of credit may be used, in whole or in part, for any of the following:

- a. Reclamation of the entire site.*
- b. Hauling away and lawfully disposing of any unlawful or remaining concrete, asphalt, etc.*
- c. Final removal of all equipment and vehicles from the site, including, but not limited to, the processing machinery.*
- d. Removing any and all other relevant items from the site.*
- e. Bringing in and spreading any needed topsoil (to a depth of at least 4 inches) onto the site for reclamation.*
- f. Paying any delinquent escrow or zoning escrow amounts to the Township.*
- g. Satisfying any other costs or expenses incurred by the Township in enforcing the special land use permit or the Zoning Ordinance with regard to the Property.*
- h. Paying for replacing neighboring property wells if it can be proved that the wells went bad due to the creation of the pond.*

16. Additional signs shall be posted at the entrance to the operation for the duration of the excavation process identifying rules for, hours of operation or other appropriate messages intended to protect the public health, safety, and welfare. This sign shall also contain the name and phone number of the person responsible for answering questions or responding to complaints.

17. *The applicant shall defend, indemnify and hold harmless the Township and its officers, Township Board, Planning Commission, employees and agents from and against any and all claims, damages, demands, expenses, liabilities and losses of any character or nature whatsoever (specifically included but not limited to damage to wells or to agricultural crops from the lowering of the ground water table) arising out of or resulting from the construction, maintenance, repair and utilization of the pond included as part of the project. The indemnification obligation shall include the payment of all reasonable attorneys' fees and other expenses of defense. The Township shall give prompt written notice to the applicant of any claim or litigation against the Township relating to the pond. The applicant shall have the opportunity to defend and contest such claim or litigation.*

18. *The applicant and all parties at any time owning or having an interest in the premises shall at no time petition for or otherwise instigate any other legal proceeding under any federal or state statute or other provision of federal or state law which could result in the imposition of an assessment, charge or other financial responsibility on the Township in connection with the pond included as part of the project. Without limiting the generality of the immediately preceding sentence, the applicant and all parties at any time owning or having any other interest in the premises shall at no time petition for maintaining the normal height and level of waters; for maintenance of the pond; or for improvement or development of the pond within the project for fishing, wildlife, boating, swimming, algae or other vegetative controls, or for any other recreational or agricultural use.*

19. *The applicant has designed and engineered the pond included as part of the project. The applicant assumes all responsibility with respect to the adequacy of the pond concerning its design, its adequacy for surface drainage of the premises, its safety with respect to the general public, and all other aspects of the construction, operation and maintenance of the pond.*

20. *The applicant shall provide the Township with written verification from the Department of Environmental Quality and the applicable insurance company or other surety that the Township has been added as an additional obligee to any and all performance bonds filed with the Department of Environmental Quality by the Applicant relative to the sand removal operation which results from the approval of this Project. If all the requirements of the preceding sentence are not met, for whatever reason, the applicant shall file with the Township a performance bond which names the Township as the sole obligee, with the performance bond to be in such amount as is determined necessary by the Township. In either event, any and all performance bonds which list the Township as an additional or as the sole obligee shall insure that the conditions set forth in these findings of fact are met in their entirety.*

21. *All other federal, State and County rules and regulations, as well as those of Blendon Township shall be applicable and enforceable. The applicant shall obtain and submit to the Township all applicable federal, State, County or local permits prior to beginning mining activities.*

Motion Carries

b. Site Plan review and SLU amendment request for Farmhaus Cider 70-13-01-200-007

- Motion by Rick Lamer supported by Jim VanderVeen to remove this item from the table.
Motion carried
- John Behrens requested a couple minor changes to the requirements that were discussed at the special meeting.
- Andrew Moore presented some comments in regards to the applicant's request
- Motion by Paul Potter, supported by Terry Huberts to approve the restrictions, and create a resolution of findings of fact to be presented at next month's meeting for final approval

Motion by Potter Supported by Huberts:

I move that the Planning Commission hereby approve the proposed special land use amendment submitted by Mr. John Behrens for expansion of the existing farm with entertainment facility located at 5025 Stanton Street, subject to the following conditions which shall be incorporated into a formal findings of fact to be approved at the May 9, 2017 Planning Commission meeting:

1. *No demolition or earthwork shall be undertaken on the site until a building permit has been issued consistent with this site plan approval.*
2. *Prior to issuance of any Township permits, the applicant shall have paid all application, permit, reimbursable escrow, and other fees related to the request.*
3. *The applicant shall maintain all required state, federal, and local permits and approvals.*
4. *The applicant shall comply with the stipulations of the Township Fire Department and any other applicable emergency personnel regarding emergency vehicle access to the site.*
5. *Tasting rooms, cider production, and food service activities shall at all times comply with any and all requirements of the Ottawa County Health Department and the Michigan Liquor Control Commission and evidence of applicable agency review and approval shall be provided to the Township.*
6. *If any additional lighting is proposed, lighting details showing fully cut-off lighting fixtures shall be provided by the applicant for review by the Zoning Administrator.*
7. *There shall be no speaker system, amplified noise, performance, band or similar music outdoors after 9:30 PM Sunday-Thursday, and after 11:30 PM on Fridays and Saturdays. Noise from events and/or*

outdoor entertainment shall not exceed those standards contained in the Blendon Township Noise Ordinance.

8. *The tasting room and food service shall only operate during the following times:*

- i. January 8 – April 14: Not to exceed 3 days total between 4:00pm and 8:00pm.*
- ii. April 15 – November 15: Not to exceed 4 days per week; 11:00am – 10:00pm Sunday – Thursday; 11:00am-12:00am Friday and Saturday.*
- iii. On Fridays, Saturdays, food and beverage service shall cease at 11:00 PM, music and other outdoor entertainment shall cease at 11:30PM, and all patrons shall be off the site no later than 12:00 AM.*
- iv. November 16 – January 7: Not to exceed 2 days per week between 2:00pm and 8:00pm.*
- v. Production and canning of products which occurs entirely indoors shall not be subject to hours of operation unless it is determined that the operation unreasonably impacts adjacent properties.*

9. *The applicant shall be allowed to hold events on the property between April 15 and November 15 of each calendar year as follows*

- i. The applicant shall be permitted to host 14 events/promotions per year during which the number of people on the subject property shall not exceed 150.*
- ii. The applicant shall be permitted to host 16 events per year during which the number of people on the subject property shall not exceed 250. Such events shall conclude and event patrons shall be off site by 8:00 PM on the day of an event.*

The applicant shall notify the Zoning Administrator of an upcoming event at least 5 days prior to an event. The applicant shall manage attendance at all events through the sale of tickets or some other means acceptable to the Township Zoning Administrator.

10. *Except as permitted under number 9 above, total site capacity shall not exceed 150 people, excluding owners, employees and event staff.*

11. *Not more than six employees shall be permitted on the site at any time except that the applicant may utilize additional staff during events permitted under #9 above and tasting room hours. The applicant shall*

ensure that sufficient event staff are utilized to ensure compliance with the terms of this special land use permit.

12. *The applicant shall not have outdoor “movie nights.”*
13. *The applicant shall post “No Trespassing” or similar signage every 50 feet near the perimeter of the site along the westerly, northerly and easterly property boundaries.*
14. *The applicant shall install a split rail fence between the barn and the northerly, easterly and westerly property lines and between Stanton Street and the overflow/event parking lot as illustrated on the site plan submitted and signed by the applicant and Secretary of the Planning Commission on April 4, 2017.*
15. *All vehicular parking shall occur within the designated parking area as illustrated on the site plan. While it is not required that the parking area be paved, the applicant shall all times ensure that this parking area is maintained in good condition. No parking may occur in the Stanton Street right of way nor anywhere else that would require a visitor to cross Stanton Street.*
16. *The applicant shall not utilize a second driveway to the overflow parking, located east of the main driveway to the site, lot for ingress/egress purposes.*
17. *The main driveway to the site shall be cleared to a minimum width of 20 feet and shall provide and maintain a minimum of 16 feet of vertical clearance to accommodate emergency services vehicles and personnel.*
18. *The application shall be reviewed by the Planning Commission at its December 2018 Planning Commission meeting. The purpose of the review is to ensure the special land use is operating within the terms of the Zoning Ordinance and this special land use permit. The Planning Commission may impose additional requirements or conditions*
19. *The Planning Commission may initiate proceedings to revoke this special land use permit pursuant to Section 13.02.07 of the Township Zoning Ordinance upon finding that the terms of this permit are being violated. The Planning Commission shall initiate proceedings to revoke this special land use permit pursuant to Section 13.02.07 of the Township Zoning Ordinance upon finding that the terms of this permit have been violated three or more times.*

Motion carried 6-0, with Commissioner DeWind absent.

- c. Major Home Occupation – discussion was held and it was decided to hold off on this until we can review the ordinance
- d. Master Plan - no discussion
- e. Review of current bonds
- f. Election of officers
 - Motion by Jim VanderVeen supported by Rick Lamer to appoint Mark Leathead as Chair
Motion carried
 - Motion by Jim VanderVeen supported by Mark Leathead to appoint Rick Lamer as Vice-chair
Motion carried
 - Motion by Jim VanderVeen supported by Rick Lamer to appoint Paul Potter as Secretary
Motion carried
 - Motion by Jim VanderVeen supported by Rick Lamer to close nominations and approve the election of officers as noted.
Motion carried

10. Correspondence –

- Letter received from Larry and Diane Wilson reference the Lake Summerwood expansion
 - 1. Planning commissioners asked for an enforcement letter to be sent, and a follow up report be presented by the ZA at next month's meeting.
- Letter from Doug Engelsman reference AJ Pallet
- ZBA meeting minutes from the 2-27-17 meeting
- Planning commission annual report

11. Upcoming events

- a. Township Board Meeting – April 20th, 2017
- b. Planning Commission Meeting – May 9th, 2017

Adjourned at 9:22 pm

Recorded by Kurt Gernaat
Submitted by Paul Potter, Secretary