

ISABELLA COUNTY
ZONING BOARD OF APPEALS
January 18, 2012

Room 225
Isabella County Building

A regular meeting of the Isabella County Zoning Board of Appeals was held January 18, 2012 in room 225 of the Isabella County Building, 200 North Main Street, Mount Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Gordon Gilchrist, Marilyn Fosburg, Brent Duffett, Tom Courser

MEMBERS ABSENT: None

SUPPORT STAFF PRESENT: Tim Nieporte, Community Development Director
Mike Zalewski, Planner/Zoning Administrator
Brandy Harger, Recording Secretary

The meeting was called to order by the chair at 9:00 a.m.

The Pledge of Allegiance was recited by the board.

APPROVAL OF AGENDA

The agenda was approved as submitted.

ELECTION OF OFFICERS

A motion was made by Ms. Fosburg, supported by Mr. Duffett, to keep the current slate of officers: Jim Wynes for Chairperson, Tom Courser for Vice-Chairperson, and Marilyn Fosburg for Secretary.

Mr. Wynes called for any other nominations twice.

Mr. Wynes called for a roll vote on the nomination.

Brent Duffett: Yes
Gordon Gilchrist: Yes
Marilyn Fosburg: Yes
Tom Courser: Yes
Jim Wynes: Yes

By a unanimous vote, Mr. Wynes was declared the Chairperson, Mr. Courser was declared the Vice-Chairperson, and Ms. Fosburg was declared the Secretary.

A motion was then made by Ms. Fosburg, supported by Mr. Duffett to maintain the time and date for the regular meetings as is, on the third Wednesday of the Month at 9:00 a.m. in room 225 of the Isabella County Building.

Mr. Wynes called for a vote on the motion.

Yes: Wynes, Fosburg, Duffett, Courser, Gilchrist.
No: None.

Motion Carried.

PREVIOUS MINUTES

The minutes of the December 14, 2011 meeting were approved as submitted.

PUBLIC COMMENTS

None heard.

INTERPRETATION REQUEST (MILLING AND PROCESSING FARM PRODUCTS IN AG DISTRICTS)

Mr. Zalewski explained that the 'milling and processing of farm products' is a permitted use in the Ag-1 and Ag-2 zoning districts. He also explained that since the definition of farm products includes 'trees', sawmills have been considered a milling and processing of farm products use and therefore a permitted use in these districts. In the past this office has issued a couple of zoning permits for sawmills. Some sawmills are small and operate in a completely enclosed building, sometimes as an accessory use on a farm. However, a larger sawmill will take on commercial/industrial characteristics as far as size, noise and traffic. The zoning ordinance states that 'all new commercial or industrial uses' require site plan review approval. The question that staff has relates to any milling and processing of farm products use not just necessarily sawmills. Does a milling and processing of farm products use that is commercial and/or industrial in nature require site plan review approval or are they permitted with an administrative zoning permit?

Mr. Nieporte stated that the ordinance requires that whenever you have a commercial/industrial activity it must go through the site plan review process and meet specific standards. These types of uses because they are permitted and we have seen them in the small scale variety in the past, haven't taken on the commercial aspect so it was being administratively approved by our office. Any of these milling and processing operations that get larger in scale, staff feels that should be going through the site plan review process and we need an interpretation from this board to say either you concur with staff or they should continue to be permitted administratively. Administrative activity limits staff to what can be done; it is limited to setbacks, height, building size, etc. Staff can't impose screening regulations, further setbacks, etc. The site plan review process is not a public hearing that the applicant would have to go through; it is an administrative review that is completed by the Planning Commission based on criteria, in which they may

require screening or further setbacks to make it harmonious with the character of the area. Staff is hoping to get an interpretation from the board that if milling and processing types of activities that fall into an industrial/commercial nature, which is somewhat subjective by staff and by what the applicant tells us, then they would have to go through the site plan review process.

Ms. Fosburg stated milling and processing would consist of changing from a sawmill to a manufacturing process like the pellet plant in Weidman.

Mr. Nieporte stated that it would be the entire nature. The milling and processing facility on a farm could be a small operation. An owner may have some equipment inside a building where he chops wood and puts it out front, that is a small scale. This type of operation is quiet, there will be a small amount of traffic, but some of these are expanding beyond this type of operation. These larger operations should have to go through the site plan review process just like other businesses are required to do. It is a business; they have trucks in and out that are loading and unloading.

Mr. Wynes stated that the determination of whether the operation is commercial/industrial is subjective.

Mr. Nieporte stated that it is subjective based on what the applicant tells staff when they come in. They could tell staff that it is a small scale operation and once it is up and running they could start having trucks coming in and out etc. Once this happens the scale of the operation has changed and staff would have to force them to go through the site plan review process because of the other potential impacts that it might have. It is subjective based on the applicants' narrative of what their business is or what their business model will be.

Mr. Wynes stated that it could go beyond cutting your own wood from your land.

Mr. Nieporte explained that staff is not looking to over regulate anything. We are just making sure that it gets the proper due process, so as to insure that neighboring properties are protected from some of the potential impacts that the activity will have.

Ms. Fosburg stated that staff is talking about wood products and sawmills.

Mr. Nieporte stated that staff is talking about all milling and processing types of activities.

Ms. Fosburg stated that she thinks of farmers in out-County areas that have large hay operations.

Mr. Nieporte stated that growing, storing, and selling of hay is not a milling and processing activity. The activity we are discussing is taking a natural product and processing it into something else for some other means.

Mr. Zalewski stated that the subjective part of this is not determining whether the operation is permitted, it is a permitted use in the Ag districts. It is only determining what process the applicant will have to go through. If an operator does not agree with staffs' interpretation they have the option of appealing it.

Mr. Duffett asked what criteria this type of subjective decision would be made on.

Mr. Nieporte stated that it would be based on the definitions within the ordinance of a commercial type of business. It would be based on the nature of the package that comes along with what the applicant is doing. It would not be denying them the right to do business there. It will be the business model that they present to staff that will dictate what process they will need to go through.

Mr. Wynes asked if an applicant were to come in and described only a small operation and get an administrative review, but in reality when they are up and running it is a commercial/industrial operation, and who keeps an eye on that in these types of situations or do we just wait for a neighbor to complain.

Mr. Nieporte explained that there has never, in this county, been a policing type activity where we would go out looking for violations. If a neighbor makes a complaint our office would take a look at it and go through the process. Staff would contact the owner and talk with him through that process and try to get the violation cleared up by making them go through the site plan review process with the Planning Commission. Currently we don't have that and staff has the ability to nothing.

Mr. Wynes stated that if they expand beyond what they stated they were going to staff would have the opportunity to send the applicant to the Planning Commission to get a site plan review.

Mr. Duffett asked if an applicant disagrees with staff's determination that they are a commercial/industrial type business they can go to the Planning Commission.

Mr. Nieporte explained that no they would have the option of going through an appeal process; they would come to the Zoning Board of Appeals. This board would then determine if staff used the ordinance properly when making the decision and whether the subjective decision making was proper.

Ms. Fosburg asked if the ordinance will be amended to include new definitions and criteria.

Mr. Nieporte stated that the Zoning Ordinance would not be amended.

Mr. Courser stated that it seems logical to have this type of activity go through the site plan review process.

Mr. Zalewski stated that staff makes subjective decisions in the office all the time.

Mr. Gilchrist asked if this should be clarified by amending the Zoning Ordinance and providing specific criteria for this type of use.

Mr. Nieporte explained we could have the Planning Commission look at this use, but we don't necessarily need to do this.

Ms. Fosburg stated that a site plan review is needed because there are operations such as these out there and they are doing manufacturing activities.

A motion was made by Mr. Courser, supported by Ms. Fosburg to accept, if deemed to be a commercial/industrial milling and processing use, the applicant should follow the site plan review process as all commercial or industrial uses are required to do so by the zoning ordinance.

Roll call vote:

Brent Duffett: Yes
Gordon Gilchirst: Yes
Marilyn Fosburg: Yes
Tom Courser: Yes
Jim Wynes: Yes

STAFF COMMENTS

None heard.

BOARD COMMENTS

None heard.

ADJOURNMENT

A motion was made by Mr. Courser, supported by Ms. Fosburg to adjourn at 9:38 a.m.

Yes: Wynes, Gilchrist, Fosburg, Duffett, Courser.
No: None.

Motion Carried.

Marilyn Fosburg, Secretary

Brandy Harger, Recording Secretary