

1 June 21 2010 Birch Run Township Planning Commission meeting minutes.

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3 Members present:

4 Chair Diana Kloss

5 Commissioner Bronner

6 Commissioner Nelson

7 Commissioner Wiesenberger

8 Commissioner Scharrer arrived @ 7:11 PM

9  
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11 Pledge of Allegiance

12  
13 Motion Bronner seconded Kloss

14 To excuse absentees' motion carries 3 to 1 nelson dissenting

15  
16 Motion to approve March 15<sup>th</sup> minutes, Nelson Second Wiesenberger  
17 3 yes one abstention, Bronner

18  
19 No public hearing

20 Old business outdoor food and beverage service

21  
22 Chair Kloss asked the commissioners to discuss the items in red on the copy of  
23 the document presented by Mark Eidelson of Land Plan; all members of the commission  
24 were sent a copy of the presentation for the first quarter of the year. Page 4 paragraph  
25 4C1, Chair Kloss asked about the setback requirements. Zoning Administrator Setzer  
26 commented on the side lot requirements. In commercial district the set back is 10 feet.  
27 Commissioner Bronner asked about the language regarding the 60 foot requirements. 10  
28 feet a citizen can build a building, residential people must be 30 feet for set backs in  
29 residential districts. This would require a 60 feet set back for a lot where a house is  
30 located on a lot before the business; the setbacks would be 30 plus 30 or 60 feet. The  
31 outdoor area will comply with the principal building setback requirements for the district  
32 in which it is located, but in no case shall the area be closer than 60 feet to the lot line  
33 adjacent to/or in the residential or conservation district.

34  
35 Commissioner Bronner does not like the idea of making a motion to make the changes  
36 reflected above... The board discusses that individual motions are not necessary.

37  
38 Bronner Motion on amendment 6 with the exception of paragraph 4C1 to be changed to  
39 read as follows; see above in yellow, Second Wiesenberger. Unanimous motion carries.

40  
41 Wind energy conversion facilities page 5 of 8 under #2 there is an option for a greater  
42 flexibility... The commission discussed about the substantiation of the claims of  
43 producing extra power. The options included in the proposed documents discuss the  
44 requirements of demonstrating the benefit of additional height. Commissioner Bronner  
45 commented the petitioner must be able to provide documentation of the additional power  
46 generating capability to get authorization. Z.A. Setzer asked how the citizen is going to

47 demonstrate how additional power will be achieved... Audience comments were that the  
48 commission should specify the specifications that determine the benefit the additional  
49 height. Commissioner Bronner emphatically says the commission is NOT in the business  
50 of determining the power generating capacity of the units. This board is not the experts  
51 and cannot make the determination of the output of a generating system. The burden of  
52 this demonstration is on the petitioner, not the board. Professional determination shall be  
53 required to determine "substantially more power" and could be provided by the wind  
54 generator manufacturer and/or sales representatives.  
55

56 Continuing discussion asked the question, "What is the Michigan Tall Structures Act"?  
57 This was referenced in the document generated by Land Plan on page 5 of 8 under article  
58 14.20 paragraph A, section 2, special note... Discussion followed and it was suggested  
59 that the height be a maximum of 125 feet. Motion by Nelson seconded by Wiesenberger  
60 to change the document to say in 14.20 paragraph A. section2. The Permitted maximum  
61 wind turbine or test tower height shall be 125 feet. The rest of 14.20 paragraph A2 to  
62 remain the same, and to remove the entire special note. Unanimous vote, change  
63 approved.  
64

65 Continuing... #3 on page 5 of 8, Officials may want to consider requiring a lesser setback  
66 where the adjacent property(s) are in a commercial, industrial, or office-based district.  
67 The board discussed the requirement of 2 times the height of the tower regarding tower  
68 height. Commissioner Nelson suggested the 10 foot setback may NOT be quite enough.  
69 Page 5 or 8 - 14.20 Section 3, paragraph a, Change the language to read as follows, a  
70 distance equal to the height of the tower plus the required setback. Then keep the rest of  
71 the language to the point where it says in addition, for a private WECF... Motion by  
72 Scharrer Seconded Bronner to reflect the same. Motion passed unanimous.  
73

74 Page 5 Of 8 14.20 3b there is a note that asks, is 500 feet enough... the group decided that  
75 500 feet is enough, no action taken.  
76

77 Page 5 of 8 14.20 3b the board discussed the potential of changing the language to reflect  
78 the setback requirements as it did in the residential area, however the consensus of the  
79 board was to leave the document as written.  
80

81 Page 6 B1 Motion by Bronner second by Scharrer to leave as written and eliminate the  
82 Special note. Motion carried unanimous  
83

84 Page 6 B2 our note is that cost may be prohibitive to the applicant. Discussion followed  
85 on the sound these units produce. Commissioner Nelson explained the typical sound level  
86 for normal conversation between 2 people as reported by U of M is 60 dB. Motion by  
87 Nelson seconded by no one to Add Applicant SHALL provide documentation of the  
88 noise sound level generated at the property line by the WECF when the application is  
89 submitted. In the event of a complaint, the person filing the complaint shall pay the costs  
90 associated with the testing for disputed sound levels at the property lines. If the WECF is  
91 found to be in compliance of this ordinance, the complainant shall bear the costs of the  
92 tests, if the WECF is found to be in violation, the WECF owner shall bear the costs

93 associated with the tests and reimburse the complainant the costs of the tests. Also, the  
94 WECF that is found to be out of compliance shall be required to be repaired to come into  
95 compliance within 90 days. The township shall be in no way responsible for the costs  
96 associated with the testing of sound levels. Motion dies for lack of support.  
97

98 Discussion followed on the potential of enforcement.

99 Chair Kloss asked for a straw vote on the need for a noise ordinance, Nelson said there  
100 needs to be some consideration of noise, Commissioner Scharrer said there needs to be  
101 some language regarding noise.  
102

103 Chair Kloss asked ZA Setzer for his suggestion, Commissioner Bronner answered the  
104 question by suggesting the language be suggested that any noise complaints be handled  
105 as a civil court case. Commissioner Bronner says there should be no language governing  
106 noise. Chair Kloss asked for another straw vote, some commissioners agreed some  
107 didn't...  
108

109 Motion by Bronner leave everything the same on page 6 of 8 B#2 above the special note  
110 then add, if there is a complaint that complaint shall fall under the Birch Run Township  
111 noise ordinance. Seconded by Wiesenberger. 4 yes, one no - Nelson.  
112

113 Page 8 of 8 article D9 Commissioner Bronner made the motion supported by Scharrer to  
114 eliminate paragraph D9 and move the following paragraphs up 1 number. Unanimous  
115 motion carried.  
116

117 Private Roads, under old business tabled.  
118

119 Open discussion to items on the agenda.  
120

121 Commissioner Nelson reminded the board that during the open discussion the board  
122 should be restricted to following the ordinance language.  
123

124 Township board member report, Commissioner Nelson explained the TWP Board's  
125 position on the requirements for citizens submitting or looking for discussion on  
126 ordinances submit a request for a meeting and pay the fees associated. Some members  
127 (Commissioner Bronner & Commissioner Scharrer) said there should be no fee charged  
128 for submissions that fall on regularly scheduled meeting dates.  
129

130 Commissioner Bronner made a motion supported by Scharrer to adjourn. Unanimous.

131 Meeting adjourned @ 9:45 PM. Respectfully submitted, Bill Nelson Planning

132 Commission member and acting scribe, Friday September 3, 2010.

