

# Milton Township

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## Agenda for Milton Township Planning Commission Meeting

Milton Township Hall - 32097 Bertrand St., Niles, MI

PLANNING COMMISSION MEETING

December 3, 2012 6:30 P.M.

**FINAL**

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### Planning Commission Members

Kara Boyles, Jeremy Clanton, Ron Jureziz, Richard Hebard, Sandra Redman, Diane Shields, Kelly Sweeney

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### Call to Order/Pledge of Allegiance: Meeting called to order at 6:30 PM

- Pledge of Allegiance was recited
- All were present with the exception of Kelly Sweeney (excused)
- Sandra Redman took notes and Kelly will finalize the meetings minutes

### Anyone Wishing to Speak to the Planning Commission: (3 min/person)

### Approval of Agenda:

The Planning Commission agreed to move new business-Letter of Inquiry (Attachment A from Zoning Administrator) before old business because both parties were present.

Current Agenda was approved

### Approval of Previous Minutes:

Motion: Diane made a motion we approve the November 5th, 2012 minutes as corrected.

Seconded: Ron seconded the motion

Discussion: Minor Corrections were made

Vote: All in Favor: 6 Nays: None

**Motion passed**

### Community Reports:

1. Zoning Administrator
  - a. 4 site plans reviewed-
    - i. 1 new Home in Kestrel Hills
    - ii. 3 for accessory buildings.
  - b. Milton vs. 5 Star-The Michigan Court of Appeals gave a fully favorable ruling in this litigation, upholding Milton Townships Zoning Ordinances. Wilkes Property has been cleaned up.
2. Township Board Representative
  - a. Kelly Sweeney was appointed as the ex-officio member of the Planning Commission
3. Zoning Board of Appeals Representative

- a. Sue Kronewitter was appointed to the ZBA

### **New Business:**

1. Letter of Inquiry (see Attachment A from Zoning Administrator)
  - a. Attorneys for each party made opening statements concerning this matter.
  - b. Zoning Administrator - Zoning Ordinance Conditional Uses can NOT be revoked, the Conditional Use runs with the land.
  - b. The Zoning Administrator stated that Zoning Ordinance Conditional Uses do not allow for challenges and run with the land. However, if there is a violation then the Zoning Administrator can issue a Violation.
  - c. Richard wanted to clarify that the area in question is zoned Rural Residential
  - d. The PC addressed each of the 6 items individually and made the following findings:
    - i. Spreading Leaves within 100 Feet of the property line
      1. The PC did not feel that spreading of the leaves up to the property line was in violation of the Conditional Use. The PC also did not feel that this constituted "composting."
    - ii. Allowed Burn Times
      1. The PC did not feel that the intent of the Conditional Use was to limit the burning times. The PC didn't want to see lingering or smoldering ashes.
    - iii. The times for use of a tractor and other equipment
      1. The PC felt that weather conditions effect the start/stop times of the business and it was not the intent of the Conditional Use to limit activities on the property. It was further felt that tractor/machine noise was considered a non-issue as long as it is done during reasonable hours.
    - iv. Occasional use of private residence garage area for power washing of equipment
      1. The PC felt that it was not a violation to power wash salt from his vehicles in the family garage area.
    - v. Frost conditions as a weather-related delay matter
      1. The PC felt that "Frost" was an appropriate weather delay.
    - vi. Use of Batchelor Road for semi-truck unloading with a propane forklift 1-2 times per year.
      1. It has been discussed at prior PC meetings that there is no way for a semi truck to turn around in his driveway. The PC does not see having semi truck deliveries 1-2 times per year as a violation of the Conditional Use. The PC further feels that it is not a violation to use a Forklift loader to unload the semi trailers.

### **Old Business:**

1. Discussion on Zoning Ordinance Audit next steps
  - a. Paul Sniadecki (Zoning Administrator) will put together Audit for the January meeting
  - b. 4<sup>th</sup> draft from LSL is in digital electronic format but we have a hard copy.
2. Industrial Zoning District-PC subcommittee submitted a draft
  - a. Kara put together a Document which was discussed in great detail
  - b. List to be revised and further discussed during the January meeting
  - c. Public hearing should be in the Feb/Mar Planning Commission Meeting.
3. Planning Commission Code of Conduct
  - a. Kelly to Revise draft for PC review and approval for inclusion in Bylaws
  - b. Tabled to the next meeting.

4. Master Plan Implementation
  - a. Paul will devise a tracker
  - b. Sandra agreed to be the lead on the Housing
  - c. There are 6 goals in the master plan
    - i. Agriculture and Farmland Preservation
      - a. Lead:
      - b. Support Members:
    - ii. Rural Character and Natural Features
      - a. Lead:
      - b. Support Members:
    - iii. Land Use Planning and Zoning
      - a. Lead:
      - b. Support Members:
    - iv. Growth and Development
      - a. Lead
      - b. Support Members:
    - v. Community Facilities and Services
      - a. Lead:
      - b. Support Members:
    - vi. Housing and Neighborhoods
      - a. Lead:
      - b. Support Members:

**New Business:**

1. Selection of a Secretary.  
Kelly was elected  
Vote:                      All in Favor:    6                              Nays: None
2. Meeting Dates for 2012
  - a. January 14, February 4, March 4, April 1, May 6, June 3, July 1, August 12, September 9, October 7, November 4, December 2.
  - b. Paul to post on the Milton Township Website
3. Discussion on the meeting hours
  - a. It was decided to start the meetings at 7:00 PM
  - b. It was also decided if we all come prepared for the meeting we should be able to conclude the meetings by 9:00 PM.
4. Richard suggested the PC develop a subcommittee for Road Repair and Maintenance
  - a. Supervisor Robert Benjamin would like the PC to develop a list and recommendations on a priority list of road projects.
  - b. Ron volunteered to call the Cass County Road Commissioner to obtain help in determining needed repairs.

**Board Member Comments:**

1. None

**Announcements:**

2. None

**Adjournment:**

Motion: Jeremy made a motion to adjourn the meeting

Seconded: Ron seconded the motion

Vote: All in Favor: 6 Nays: None  
**Motion passed**

Meeting was adjourned at 9:18 PM

Minutes respectfully submitted by Kelly Sweeney

**CONCERNS NEEDING CLARIFICATION FROM PC RELATIVE TO THE WEAVER LANDSCAPING SERVICE  
CONDITIONAL USE PERMIT ISSUED ON 1/17/2012**

**BACKGROUND:** Attached to this document are the PC & BOT Minutes that deal with this Conditional Use Permit, the Actual Resolution which contains the terms and conditions of the Permit, an email from the Ordinance Enforcement Officer dated 4/20/12, a letter of concern I sent Mr Weaver in October 2012, and a recent letter from the Attorney representing Mr Rupchock who is the neighbor/property owner to the north of the Weaver property.

As information, please be aware that I have referred this matter to the MI DEQ/DNR concerning burning and composting. It was the opinion of the DNR investigator that no state law violations existed.

**ISSUES AT HAND:** I have received numerous complaint calls from Mr Rupchock concerning what he believes are violations of the Permit. After review of the matters, relative to the written documents, I have not taken direct enforcement action because there are matters that I believe need to be clarified by the PC before any action, or further non-action is taken. The matters involved fall into the following categories: Spreading leaves closer than 100 feet of the property line; allowed burning times; the times for use of a tractor and other equipment; occasional use of private residence garage area for power washing of equipment; frost conditions as a weather-related delay matter; and use of Batchelor Road for semi-truck unloading with a propane forklift 1-2 times per year.

While no Conditional Use can cover every specific aspect of land use, the intent of the PC can generally resolve most technical issues raised.

- 1) **SPREADING LEAVES CLOSER THAN 100 FEET OF THE PROPERTY LINE-** In April 2012, Mr Weaver agreed that he would not spread grass clippings within 100 feet of the property line (See email 4/2012). This fall he has spread leaves a few inches thick, within the 100 foot setback, claiming he was building his soil. Mr Rupchock contends that is "composting" and not permitted. I advised Mr Rupchock that if piles of leaves were left to "compost" in a compost pile I would view that as a clear violation. Mr Rupchock contends the spreading of leaves a few inches thick meets the definition of composting as used by the PC. Does this spreading of leaves violate the PC's intent?
- 2) **ALLOWED BURN TIMES:** Mr Rupchock contends burning can only occur from 7-830am and 5-7pm, as the burning is related to the "mowing operation." Does burning outside of the referenced times violate the PC's intent?
- 3) **THE TIMES FOR USE OF A TRACTOR AND OTHER EQUIPMENT:** Mr Weaver uses a tractor to move brush, leaves, and logs (brought in by his business) at various times during the day. Such use is not every day, but it does occur. Mr Rupchock contends such use is related to the "mowing operation" and can only occur 7-830am and 5-7pm. Does use of tractor in this manner, outside of the listed times, violate the PC's intent?
- 4) **OCCASIONAL USE OF PRIVATE RESIDENCE GARAGE AREA FOR POWER WASHING OF EQUIPMENT:** Mr Weaver has used this area to power wash his trucks, some equipment and snow plows, at various times during the year. Does this power washing of his business equipment have to occur only in the two (2) existing buildings referenced in the Permit?
- 5) **FROST CONDITIONS AS A WEATHER-RELATED DELAY MATTER:** When the permit application was being reviewed, the matter of "frost on lawns" was not specifically mentioned. In my opinion, frost is a basis for a weather delay and I will continue to rule that way unless there is a different PC intent.
- 6) **USE OF BATCHELOR ROAD FOR SEMI-TRUCK UNLOADING WITH A PROPANE FORKLIFT 1-2 TIMES PER YEAR.** The Permit did not specifically provide for unloading of salt/melt compound or other consumables related to the business. Since this currentl occurs on a "de minimus" basis, and propane forklift is used 1 to 2 times a year, for about 20 minutes, I do not view this as a violation at this point in time, unless the PC had a different intent.

Again, my purpose is to relate these concerns so that I fairly handle complaints brought to my attention consistent with the entity who crafted the main provisions of the Conditional Use Permit.

Paul J. Sniadecki  
Zoning Admin/Code Enforcement Officer  
Milton Township 11/28/2012