

ARLINGTON TOWNSHIP PLANNING COMMISSION
SPECIAL MEETING
MAY 5, 2021

Meeting was in person and electronic
All votes were Roll Call votes

Meeting was called to order at 6:10 PM by Georgette Peterson (Secretary)

Pledge of Allegiance was recited

Roll call was taken: Commissioners Present: Donna Romanak, Tina Loomis, Mike Schrom, Joe Wooding, Georgette Peterson

Other Attendees: Scott Graham (Interim Township Attorney), Ken Detloff (Township Planner), Carmine Pistolesi, Ron Klein, Troy McLaughlin, Jason Blaauw, Roma Thurin (Attorney for Green Mitten), Justin Ayoub, John O'Connell, Annie Davidson-Funke, Judy Daniel, Chris Passmore, Mike Koshar, Joe LaGrow

Motion by Joe Wooding supported by Mike Schrom to: SELECT DONNA ROMANK AS TEMPORARY CHAIRPERSON. All in favor. Motion carried.

Motion by Mike Schrom, supported by Joe Wooding to: ACCEPT THE MINUTES OF THE MARCH 15, 2021 MEETING AS PRESENTED. All in favor. Motion carried.

PUBLIC COMMENT: None

OLD BUSINESS

Update on Sapphire Farms (Carmine & Kristen Pistolesi): Scott Graham (Attorney) reported that the Township is in receipt of the e-mail dated March 18, 2021 indicating that Sapphire Farms wishes to withdraw the modified site plan for consideration by the Township and the Board will consider a motion on accepting the formal request. Motion by Tina Loomis, supported by Georgette Peterson to: ACCEPT THE FORMAL REQUEST ON WITHDRAWAL OF THE MODIFIED SITE PLAN FROM SAPPHIRE FARMS. All in favor. Motion carried.

Next discussed was the 7 points that had been discussed at the March meeting and Carmine stated the majority of those were in relation to the modified site plan. Tina asked about the traffic study that was supposed to have been done and Carmine said that was a decision that was to be made by the Road Commission. Georgette asked Carmine to get the Road Commission to give him something formally that states that it does not need to be done. Scott asked if the renewal SUP is based on the current 1 Class C and 3 Adult Use (AU) and Carmine's response was "Yes". Scott noted that one request is different from one year ago which is the request to use 2 temporary storage containers. Carmine said there had been 5 and he removed 3. Scott asked if the points made on 3/15/21 including run off, lighting, and hard scape are no longer related and asked if the fence surrounding the property with screening. Carmine's response was in the affirmative. Scott asked if the fence is a boundary; Carmine said "Yes". Scott asked how far off the property line it is; Carmine replied "8-10 feet". Scott asked if EGLE had issues; Carmine said "Yes". Scott asked if EGLE has cleared or if he was aware of other issues; Carmine replied "No".

Scott asked If the PC requests, would you be willing to have EGLE out? Carmine said "Yes". Scott asked "When?" Carmine stated he has a phone call meeting with Mr. Harrelson from EGLE tomorrow. Scott asked Carmine if he was willing to ask him to come out. Carmine said "Yes". Tina asked; Didn't the Ordinance say 20 feet? Carmine said he was unclear. Ken said the fence can be at the property line. Scott said there is a conflict in the Zoning Ordinance: Article 10 says a structure is a fence. Article 4 says fences are inside or adjacent to the lot line. Scott added that he has a barrier blocking the grow. Is this a boundary fence to screen the grow? Carmine said for the fence to go further, it would require the removal of some trees. There is a portion of the fence that is on the lot line. Scott said his recommendation is to use common sense. Donna commented that the initial SUP had been granted. Tina commented that there was a lot of dust when she had been out there. Carmine commented that the driveway is crushed asphalt. Georgette asked about the bridge. Carmine said it is there and EGLE is ok with it but there is no paperwork saying so. Joe asked when Ordinances are rewritten if new rules apply. Scott said if there are no changes, then no, they are grandfathered in, but if there are changes in the use of the property, they start from square 1. Donna noted there had been complaints of torn screening. Carmine said the screening has been fastened. Tina asked Carmine if he needed the storage containers because he isn't building the barn and he replied in the affirmative. Georgette asked what he planned to put in the storage containers; the reply was equipment and/or product. Donna asked if there was any public comment. Tina said the fence bothered her because it should have been 20 feet. Ron Klein said he is not opposed to renewal of the SUP adding that he realizes that there is a conflict in the Ordinance and a conflict in the State on whether or not this is Agriculture and 4-6 feet allows the fence to be maintained. Ron said the fence on the property line as across the ware structure and the integrity of that must be maintained. Georgette asked if it says set back or fence. Scott said the definition of setback is to the nearest structure. Ken said that every farm that has their farm on the property line would be in violation. Joe Wooding made a motion to: RECOMMEND TO THE TOWNSHIP BOARD TO GRANT THE SUP RENEWAL TO SAPPHIRE FARMS WITH THE CONDITION THAT THE PROPERTY OWNER SHALL SECURE FROM EGLE WITHIN 60 DAYS THAT THE PROPERTY IS BEING USED IN CONFORMENT WITHIN EGLE RULES OR SHOW TO THE TOWNSHIP THAT HE IS ACTING IN GOOD FAITH. IN ADDITION, IT IS RECOMMENDED THAT THE TWO STORAGE CONTAINERS BE APPROVED FOR ONE YEAR. Tina Loomis supported. All in favor. Motion carried.

NEW BUSINESS

Up High LLC/29300 50th Street/McLaughlin Property Holding LLC-Requesting Special Use Permit Renewal
Troy McLaughlin reported that there may be some changes. He said EGLE visited last Thursday and 1 building may have to move due to wetlands. He said they can't get the driveway permit until EGLE signs off. Tina asked about neighbors. Troy said the ones next door are friends but he has not talked to the ones across the street. Tina asked if the wind is going to blow across the street or into the woods. Troy's response was across the street. Scott went over the steps that Troy submitted:

1. June 2019, contacted Randy Counterman from VBC Drain Commission, regarding necessary permits based on the site plan recently approved by Arlington Township. He explained, if we were disturbing less than 5 acres with ditching or ponds and the land was previously cleared for farming, we don't need any permits, but he would like to see the site to confirm. Randy and I met on site to confirm we could move forward.
2. Over the summer we lined up contractors to begin excavation. I reached back out to the drain commission since there were issues with other farms and EGLE over the summer, and the

excavation contractors said any excavation within 500' of an existing wetland may require a permit which would apply to us. Randy agreed we would need a permit now and put me in contact with Ann and Derek from EGLE. He also let me know I do need an S.E.S.C. permit for the county and sent me the application.

3. On 12/5/19 I first reached out to Ann Gilchrist regarding required permits from EGLE while also working on the drain commission permits.
4. On 12/18/19 I received the S.E.S.C. permit from the Drain Commission.
5. Pm 3/18/20 Ann (EGLE) and I arranged the initial site visit, but they ended up being locked down before our scheduled meeting. I offered to video them inn to keep things moving, but they could not.
6. On 6/2/20 EGLE was able to begin site visits again. Upon their site visit, they decided they wanted a wetland inspection done before any earth changes could commence. I was given the option to hire an environmental contractor to complete a wetland delineation or apply to EGLE for a wetland inspection. At the advice of EGLE, I understood it would be quicker and to my advantage to have a contractor represent me, and with this delineation I would know where if any wetlands exist.
7. On 6/12/20 after interviewing a few environmental contractors, I hired Prism Environmental and Abonmarche for the required surveys.
8. On 12/4/20 I received the final report from Prism regarding the delineation. They determined there are 3 areas that were considered wet and as long as I don't disturb them, I could move forward with no permits from EGLE necessary. I immediately forwarded the report to EGLE and asked for confirmation to move forward. Hearing nothing back, we began to install silt fencing that week to begin excavation.
9. On 12/16/21 I received an email requesting an inspection by another EGLE representative before any earth change, and that this can't be completed until Early May. I immediately responded that I understood that is what we hired a contractor to settle and we agreed to stay out of the areas determined to be wetlands.
10. 3/5/21 after much back and forth we arranged a zoom meeting between Derek, Prism, and myself hoping to settle the dispute. Prism advised and argued I could commence earth moving as long as I stayed out of the areas designated wetlands. Derek (EGLE) said without confirmation from a site visit by their representative any earth change is at risk of penalty from EGLE if they disagree with the boundaries.
11. I am currently filing paperwork with EGLE for this site visit expecting Early May to have confirmation.

Scott asked Troy if he would be willing to get a fully sealed site plan within 60 days and he responded in the affirmative.

PUBLIC COMMENT

Chris Passmore said Troy has been amazing trying to do the right thing. Ron Klein said he agreed with Chris and it is an outstanding example of progress and why it's done or not done. Ron added that Prism is text book delineation and mentioned the discovery of a threatened species that Troy discovered and the steps he took to protect it. John O'Connell said the nice thing about Troy is his communication. Scott said everything is in his file. Ron said the location of his property is interesting in that part of it is near the South Branch of the Black River.

The PC acknowledged that Up High has acted diligently in trying to develop the property based on the representations they have made and that they will file a compliant Site Plan. They acknowledge the requirement of obtaining EGLE approval.

Georgette made a Motion to: RECOMMEND TO THE BOARD THAT THE APPLICATION FOR THE RENEWAL OF A SPECIAL USE PERMIT IS GRANTED WITH THE FOLLOWING CONDITIONS:

1. THE APPLICANT SHALL HAVE THE OBLIGATION TO PROVIDE THE TOWNSHIP WITH A WRITTEN STATUS REPORT AT LEAST ONCE EVERY THIRTY DAYS DESCRIBING PROGRESS TOWARD MEETING ALL CONDITIONS SET BY THE PC.
2. THE REPORT SHALL BE TRANSMITTED BY EMAIL USING A DELIVERY AND READ RECEIPT FUNCTION AND SHALL BE SENT TO THE TOWNSHIP SUPERVISOR AND ATTORNEY. (supervisor@arlingtontownship.com and sgraham@scottgrahampllc.com)
3. THE TOWNSHIP WILL NOTIFY THE APPLICANT ABOUT ANY CHANGES REQUIRED FOR EMAIL NOTIFICATION
4. THE APPLICANT SHALL NOT HAVE ANY MARIJUANA PLANTS GROWING OUTDOORS IN 2021 AND NONE SHALL BE GROWN IN GREENHOUSES IN 2021 UNTIL YOU PROVIDE DOCUMENTATION THAT ALL OTHER REQUIREMENTS OF THE STATE AND TOWNSHIP HAVE BEEN SATISFIED.

The Motion was supported by Joe Wooding. All in favor. Motion carried

PUBLIC HEARING

Green Mitten request for expansion of special land use and site plan approval. Request for additional 5 Class C licenses and a conversion of 3 medical to adult use licenses.

Scott reported that no approval for a 2020 Site Plan has been located and the Plan appears to be an expansion of land. Ken Detloff said he has a review of the May 2020 Site Plan. Scott asked if there was a Public Hearing and application. Ken said he could not remember. Mike Koshar said there was an e-mail from Ken that the Plan was going to be Administratively approved which could be done under the old Ordinance. Tina asked if Derek Babcock administratively approved it. Scott asked if they grew on it last year and Justin Ayoub said they did. Tina asked about the document and Justin said they have not found it. Scott commented that as of 7/31/20, they grew 7 Medical and 3 Adult use for a total of 16,500 plants and you are asking for 10,000 more and a processing license; a 30x44 pole barn. Scott asked if 10,000 added plants, a total of 26,500 plants, be grown on the same land. The property is 30 acres. They are currently using 22 or 23 acres. Donna asked if there are any violations and there are not. Tina said she does not like making decisions on the spot referring to the presentation of a new Site Plan at this meeting. Scott said the request for use of added land was given last year and the only change subject to Ken's review was a pole barn. Scott asked about the effect on the neighbors with the added licenses. Jason Blaauw said they are taking precautions with the neighbors and using blackout shades. Scott said that if he was asked about what happened in 2020, based on the moratorium, it wasn't allowed, but it happened. He said put that aside; is there enough of a change? What is the impact of 10,000 additional plants? Scott asked about a driveway permit. Joe LaGrow said AJ Brooks from the Road Commission had to take a couple different routes and he thought the permit would be coming and Mike K has a copy of that. John O'Connell said he is uncomfortable that Brian Knotek (former Township Attorney) signed off on this project and he would like to contact him to see if he signed off on it to see before any permissions are given. Annie Davidson-Funke sent Scott an e-mail during the meeting. Tina said the new Site Plan has the wrong number on it because it ends in 20 and not 21. Judy Daniel commented on not

letting these places get too big. Kyle Holland said he has 23 license and 1 processing license but he is cultivating 7 licenses.

Motion by Joe Wooding with support by Donna to: RECOMMEND TO THE TOWNSHIP BOARD APPROVAL OF 5 ADULT USE LICENSES AND 1 PROCESSING LICENSE AND REVISED SITE PLAN SUBJECT TO KEN'S APPROVAL TO BE SUBMITTED BY THE BOARD MEETING ON 5/19/21 AND WITH THE CONDITION OF A DRIVEWAY PERMIT. All in favor. Motion carried.

Tina commented that she does not like to come into a meeting to make a quick decision.

PUBLIC COMMENT

Question of how many marijuana facilities are in the Township.

Answer: 18 grows and 1 processer are in operation

Meeting adjourned at 8:40 PM

Respectfully Submitted,
Georgette Peterson, Secretary