

## COURTLAND TOWNSHIP PLANNING COMMISSION SPECIAL MEETING

APRIL 30, 2015 @ 7:00 PM

ROCKFORD EAST MIDDLE SCHOOL

---

The Special Meeting of the Courtland Township Planning Commission was called to order by Chairman Wood. Members present were Wood, Nelson, Rau, Krygier and Moore. Also present was Township Attorney, Jim Scales; Township Engineer, Brandon Mieras; Township Supervisor, Charles Porter and recording secretary, Colleen Brown. Attendance of others is attached, approx. 300 – 350 were in attendance.

Chairman Wood noted that we have received a lot of information from the applicant and public input. The updated application for extraction of the materials that is in the same similar area that building permit were originally applied for, which is limited to the two 2.2 acre lots, namely 9334 and 9350 Shaner Ave. The applicant will have the opportunity to explain his revised updated plan and then comments will be heard from the audience.

Applicant, John Bitely, Sable Homes, noted for the record the revised application date on the most recent plan should be corrected to read April 29, 2015. He proposes to remove the sand from those lots and then building the proposed homes. They have scaled back the proposal based on the public outcry. He again apologized for not being aware of the 500 yards of sand minimum allowed per building site to be extracted without a special land use approval. He just wants to apply for the extraction of material to improve the home sites so homes can be built and allow removal of the sand so that a walk out home could be built. Most of the sand removed would be used for Arrowcrest Public Road that is right across the road, which will be reducing the truck traffic and with the understanding everything is out of there within 120 days. The understanding is that what they have now is called a reverse lot, that from the street they go uphill. They would reduce the slope of this lot that goes uphill and make the lots tip downwards with grading so that the walkouts and daylight basements could be built and have grading for water control. He further stated he would only have the McCloskey Unit and the pay loader on site. They would bring in some asphalt billings, which is a gravel type of product, for the trucks to stabilize the drive and to help not create as much dust. Would be user friendly to the neighbors also.

Chairman Wood asked with 3,500 yards of sand, how many truck loads that would equal? Bitely replied that it would be hard to determine because of the different size of trucks used from 12 to 22 yards. He further stated as far as times allowed to operate, the more limited they are in time frames, the longer it could take. If we allowed him to run harder, he could shorten up the time. There seems to be an immediate need for the sand with Kentwood Excavating who will be doing the excavation work for Arrowcrest Development per their letter dated April 27, 2015.

Member Krygier asked questions about the plan to build on the site as a reverse lot. He still views this application as a mining operation with it being over 500 yards being removed from the site. He asked does the applicant need to remove to the extent of the 3,500 yards that he is asking for? Bitely stated there is more than one way to build a home. He believes this would be the best value, the best long term plan for these residents. There are ways of building a home with window wells, etc., but that is not always as desirable in the long run. It is possible to build, anything is possible, but not as desirable.

Member Krygier also asked whether the setbacks being asked to be set aside with the proposed being so close to the existing homes and not the 100 ft. setback required with excavation. Bitely replied yes he is asking us to set those aside. He plans to finalize the grading with the contour plan shown and have nice backyards with a ridge along the back of the lot that will definitely improve the value of the homes.

Member Krygier asked if he has already excavated outside of these lot lines. Bitely stated he did not believe so. Krygier also asked if the reports would be available that were requested from the last public hearing and how deep the excavation is proposed would be? Bitely stated they would mine the way the contours show up on the plan and would not be creating a pond or going into the water table with excavation that would be cost prohibitive. He did not feel those reports are necessary any longer with the change in plans.

Commission members questioned if the time frame of 120 days could be shortened up because it seems like it would be a long lead time and what would the guarantee be to have it done by that time. Bitely stated the weather and times allowed to operate play a large factor. He would make sure he was done within 120 days. He has to have homes started within 180 days, and no further building permits would be allowed anywhere in the Township if the deadline is not met, which is significant for his type of company that has many lots and building a lot in the township. Also a \$20,000 surety bond was agreed to be posted for reclamation work to be completed by the Township, if he did not perform as agreed. He does not intend to do anything with the pond that was proposed or anything beyond the two lots. The majority of the 3,500 yards will take up most of the sand needed for the Arrowcrest site. One person would run the operation, loading & screening. He may have a truck stop by to fuel that excavator or in the event of maintenance or breakdowns, they may have a mechanic truck be there. Arrowcrest is waiting for this approval to proceed as well. If approved the piles could be moved tomorrow.

The Township Engineer stated he anticipates approving Arrowcrest site plan tomorrow subject to his review, but at this point, it looks good. Member Moore requested to have materials on both of these two parcels to be corrected very quickly and put back to its reasonable condition at this time. The piles need to be taken down to a minimum size to address the dust & safety issue for the residents.

Hearing no further comments from the commission, Chairman Wood stated to the audience they would have an opportunity to make comments and please keep in mind to be respectful and also emphasized that it is important to focus on what is before the commission tonight.

Christopher Bergeron, 6500 Arbor Ridge Dr., affected by the proposed mining and is the spokesman for "Prevent the Pit" provided a power point presentation that could sum up the

“Concerned Citizens of Courtland Township against Sable Sand Mining”, [www.preventthepit.org](http://www.preventthepit.org) and the “Property Value Losses from Quarrying Operations”. They have a website with over 20,000 hits, 300 hits/day. They just found out about the revised plan not even six hours ago, but wanted to present their findings. Two 3 ring binder books were presented for the record and placed on file for review. He further noted the Master Plan for this area is Rural Residential. There are 25 children within 300 ft. of this site that they are concerned for their safety. They are concerned with the impact of the wells and decreasing property values. That Senator McGregor stated the original bill was set up for the Upper Peninsula. The 25 ft. cliff that has been there for the past several months and dust pollution.

Cameron Mertel, 6769 12 Mile Rd., stated he hoped that he was not the only one that caught Mr. Bitely’s comment when asked if it was going to be limited to the two-acre sites, he stated today “not at this” and then stopped. Hopefully he was not the only one that picked that up.

David VanGorder, 6243 Longacre, stated the presentation was extremely revealing to him. He is concerned that this is the camel’s nose in the tent even if we permit this. It seems to him they could bring in a bulldozer and build the houses that they want with a walkout/daylight windows and not have to remove any material from the site. Furthermore for the commission to review the standards of review and note the findings that this type of operation is not harmonious and is also hazardous, with the character of adjacent property and the surrounding area. He is also concerned with the roads not being primary roads for the truck traffic and what will happen with the roads and who will pay for them to be repaired when they crumble from the truck traffic.

Amy Mueller, 9280 Shaner Ave., whose house was built by Sable Homes, adjacent to the site, said she is concerned with the sand pit coming right up to the property line, they were not informed. They have three small children that will not be able to play outside at all. What is going to happen to her water well? What will happen to her foundation? This is too much even with four acres, it’s too much.

Kim Lombard, 9376 Shaner Ave., adjacent to the site, stated Mr. Bitely is asking the setbacks to be excused and the setbacks have already been violated. Currently they are 8 ft. off her property line. The setback would be 10 ft. from her garage. Who will be replacing her garage when the structure is compromised?

Sarah Saur, 6471 Arbor Ridge, feels a precedent could be set if mining on the four acres is allowed. They do not want it here and do not want the door to be open.

Julie Townsend-Zahm, 9124 Courtland Dr., stated that Mr. Bitely has violated the rules and that the Planning Commission shouldn’t even consider this request.

Phillip Tate, 6590 11 Mile Rd., Feels the hole is already pretty deep and if it goes a minimum three times deeper and three times more comes out of there, that would surely back into that hole and lifted quite a substantial amount to be level with the road and will affect the water table for all of us around.

Bernard Zahm, 9124 Courtland Dr., would like to see the rural residential character of the Township stay this way, or they would have settled in the city.

Sue Hansen, 7525 Peterson St., stated she did want a precedent set for opening up the door for other mining areas, to maintain the rural community. She feels we would be breaking the rules for people who do not even live here that are defacing the very landscaping we enjoy. She wonders what effect this will have on the water table and water quality in the area.

Fred Watters, 9303 Shaner Ave., across the street, questioned what the plan was for reclamation of the site, since the Algoma Township pit has been active since 1997 and even though it is outside of our township, it is an eye sore. Several extensions have been granted with that site and is still not reclaimed. He feels there is plenty of sand available in the area.

Tim Joosten, 6425 Rock Meadow Ct. stated Mr. Bitely wants to make himself more money.

Russ Niedzwiecki, 6272 11 Mile Rd., questioned why are we considering this in the first place?

Tim Plank, 8410 Oakview Ave., is concerned lakes are going to be affected.

Karen Johnson, 9410 Shaner Ave., is concerned what will the effects be on wells and the water table? Also concerned about trucks and safety of kids in area.

Brad Rick, 9510 Arrowcrest, noted that Mr. Bitely already built 2 walkouts without taking 3,500 yards of sand out.

Mike Reus, 7585 11 Mile Rd., felt sand can be brought in from elsewhere. The PC should consider what the residents have to say.

Susan Karnes, 6825 11 Mile Rd., lives directly west of the pit, her child has asthma. The wind and dust are a hazard.

Terry Finger, 6530 11 Mile Rd., stated traffic will be terrible at 10 Mile Rd. and Shaner Ave.

Nancy Poisson, 8633 Shaner Ave., knows a coworker who lost a child in a sand pit, also others have issues with Sable Homes that are still unresolved.

Henry Greeb, 5727 – 11 Mile Rd., questioned the location of the site.

James VanBeynen, 6505 Arbor Ridge, what about homeowners with odd work hours? How will night shifts people sleep?

Joan Bunn, 5992 12 Mile Rd, stated this is not going to be a good idea in Courtland Township.

Mark Hamler, 6649 Foxtail Meadow, why does everyone have to apply for permits, but Mr. Bitely did not? Mr. Bitely broke the Township rules by proceeding. When Mr. Hamler had chickens he was made to immediately move his coop, paint it, and change it or the sheriff would be at his door.

Tom Bradfield, 9808 Myers Lake Rd., traffic on Myers Lake is already worsening, trucks use air brakes and its loud. He recommends 35 mph for Myers Lake Rd. traffic.

Don Syverson, 9311 Barrywoods Dr., commented his house is directly to the east of where he's putting this pit. Right now he is next to piles of sand and the dust is already starting to blow his way. He is concerned with the chemicals in the sand. He is also concerned with the applicant complying with the DEQ and only doing the minimum necessary. That is just one of his concerns at this time.

Applicant, Mr. Bitely addressed the commission and the concerns of the citizens. He pointed out he did pull the proper building permits for what was taking place at the time. He had already owned up to that mistake. He pointed out the Township has an ordinance for mining that has not been enforced in the past in many multiple situations where large amounts of sand has been removed. Namely an incident with KBH Homes recently. They had a large body of sand on their site stored for the second phase, that has come up missing with the down turn of the economy to the best of his knowledge and now they are in need of more sand back. He further explained in his defense of not having this other permit that he works with lots of other builders, excavators and part of our knowledge base is based on what the other guy did, what and how it works in a certain Township. He truly believes that if that one hadn't slid through along with multiple other items within this Township he would have been aware of that then. The black eye that he's taking for not having that would not be here at this time. Again, to the public and Board he apologizes he did not have that permit and again he did not know that that was a second layer in the requirement. He feels that if the Township does not allow his sand to be used for Arrowcrest the residents will have more impact of from truckers coming from a further distance. He feels his option will provide less wear and tear on the roads and is better for everyone concerned. The zoning in this area does allow for extraction and it does it by a special land use. He has mined a number of other pits were they have had gravel and sand extraction, the only one that is not fully reclaimed is the 14 Mile Rd. which is nearing completion. Many pictures that were produced he feels are not accurate. The final contours of this site will be beautiful and add value. He understands the concerns, he also has kids and a family. He asks the commission to take this information into consideration.

Member Rau asked why the short time frame of submitting revised plans right before this meeting. Bitely stated he had very little time to work n those requirements with the minutes taking up to three weeks and they did what they could with the time they had to work with. Also Rau asked if he could elaborate on the special kind of sand that is on this site. Bitely stated the sand has not been tested, but at this point is regular road base sand used for roads, backfills, homes, driveways, etc. that is typical uses. Bitely further stated there is no shortage of sand in Michigan, what's tight is there isn't availability. There is no body that wants to deal with it in their back yard, like you see tonight, so it becomes difficult to work through those scenarios. He is not concerned with the close set back of 10 ft. away from the neighbor's garage.

The Township Engineer responded that with the proposed excavation on a 3-to-1 slope and the distance from the garage, he did not anticipate any problems.

Residents were concerned with the excavation area increasing over time that would intentionally create a much larger operation in two years or five years. Attorney Scales addressed that issue by saying you might want to consider long term factors when reviewing the application such as the proposal stays well above the water table, traffic effect, and property values, etc. He felt that if the applicant is building two homes right next to it and cutting off one of the access points to Shaner, would not be a wise move.

Member Nelson stated she is concerned with missing the window of opportunity to use the sand at Arrowcrest and still have 3500 yards that could be used elsewhere and the factors that would go along with that. Member Krygier stated he has helped create several other developments in the township and does feel the sites are basically buildable as they are with just a little bit of work. It is his opinion it is strictly economic reasons to mine the sand. He stated it does not take 120 days to build a road.

Chairman Wood thanked the residents and the applicants for their comments and all of the information will be taken into consideration. They do not come into this meeting with their minds made up.

Motion was made by Krygier, supported by Rau, to recommend to the Township Board to deny the current application dated 4/29/15 for the reasons that it is only an economic situation that houses can be built on this site. The applicant has already exceeded the amount of materials allowed per building permits and is not enough of a reason to approve a mining permit. Also taking in to consideration the amount of comments made and information provided by those in attendance as noted regarding the dust, excavation being very close to neighboring properties, and those items have not been addressed by the conditions which have been offered by the applicant. The application does not meet the Courtland Township Zoning Ordinance or Master Plan. Also there is concerns with safety and very serious consequences that would result from the proposal. Member Moore recommended to amend the motion to include the Planning Commission believes that there will be serious consequences, health safety issues, property values being lowered, marketability issues and the application does not meet, including but not limited to, all of those set forth in MCL 125.13205. Member Krygier agreed, as did Rau, to amend his motion to include the additional language to the motion. Roll Call vote: All members voted yes. Motion carried.

No further discussion was held. Motion to adjourn was made by Moore, supported by Krygier, to adjourn @ 9:05 PM

Respectfully submitted,

  
Colleen Brown, Recording Secretary