



RECORDS OF PROCEEDINGS  
MINUTES OF THE WESTFIELD TOWNSHIP BOARD OF TRUSTEE'S  
SPECIAL MEETING HELD: August 11<sup>th</sup>, 2006 @ 3:00 P.M.

**ATTENDANCE:**

**EMPLOYEES:**

Timothy Kratzer (Trustee)  
Carolyn Sims (Trustee)  
Jeffrey Plumer (Trustee)  
Marlene Oiler (Secretary pro tem)  
Ron Oiler (Zoning Board Member)  
Jim Likley (Zoning Board Member)  
Gary Harris (Zoning Inspector)  
Jack Snoddy (Fire Chief)

**RESIDENTS:**

William Thorne (Prosecutor's Office)  
Martha Evans

**OPEN MEETING:**

Chairman Timothy Kratzer opened the meeting at 3:00 p.m. Chairman Kratzer stated that the initial reason for the special meeting was a request by Baker Sand & Gravel to allow Osborne to construct a temporary concrete plant directly behind the Baker Sand & Gravel office. We asked Assistant Prosecutor Bill Thorne and our zoning inspector to be present.

Chief Assistant Prosecutor Thorne - There is nothing in your normal provisions that would allow that as either a conditional or permitted use. However, under your general provisions it does look like that you did attempt to do what some of the other townships have done and, which in most cases, it could be interpreted to allow it. (Section 204 D. Temporary Buildings.) On page 6 you allow temporary buildings for use incidental to construction work. It may not be a building, probably just a plant, but depending on how the Board wants to handle it, if you allow a temporary building to put a concrete plant in then I don't know why you couldn't allow a plant for six months to one year. I think that's a reasonable interpretation of that language. It's not much to meet a building - they can put up four poles and a roof and locate this thing under there and it would probably be legal because you have a temporary building. The most you have per your code is six months with an extension to a year. There is nothing in your code that is going to allow you to authorize this for four-five years as it stands now. If they don't want to come before the zoning board, there are only two other ways you can do it - one obviously is to have a zoning change to expand potential conditional uses and the other is that you simply allow it to happen and you give them a citation and tell them to move it. Some townships have in their code a definition for necessary services - services needed for implementation of public

projects, which is found to be in the best interest of the residents of the area. There could be some conditions on them, such as direct access to I-71 etc.

There was discussion about the Baker Sand & Gravel and Osborne operations, whether it made a difference if Baker sub-leased land to Osborne and about adding zoning text pertaining to ODOT construction as there might be multiple potential plants, staging areas, contractors, etc.

Zoning Commission member Jim Likley had drafted some proposed language for to review – conditions, direct access, etc. The draft was distributed and reviewed. Discussion was also about the various properties where ODOT could potentially have direct access to I-71/I-76 with minimal impact on the township roads. It was suggested that Jim contact ODOT to have them review the draft language and get their thoughts before proceeding. There was further discussion about the amendment procedure and how long the process would take.

Thorne – Either the trustees or the zoning commission can make text proposal changes. The difference between this and the other, the zoning change would require a public hearing and the other is more of an administrative determination. You could say if the trustees or the zoning commission find that (a), (b), (c), etc. are met, you just authorize without a public hearing. You could make this for necessary services but then there would be no discretionary call – you wouldn't go through the normal conditional process. Even if you adopt this zoning change, they will still need to go through the normal conditional process and they will have to demonstrate that it will not be detrimental, etc. – all the general requirements that would apply to a conditional. They would still need to comply with things that are not exempt, where if you made an administrative determination you would basically say they met (a), they met (b), etc., it's a go. It depends on where you want the authority to rest.

Thorne – On the other thing we had talked about - excavation and that kind of stuff. You do have some conditional uses for strip-mining (Section 606 A. 24). The key here is that they have to have a reclamation plan to show when it's done it can be used under the township zoning code. There is some ability to use this in your RR and SR areas but not in your HC or LC areas. Your code does provide that BZA can grant variances for sand & gravel removal in those two zones. There are ways to get the material out and back in through your existing code. It does require State permits but the key is they will have to show that there will be a viable use of land after removal in accordance with the township zoning code or other such comprehensive plan in effect. There is viability for excavating these materials in all of your zones either through a conditional or through a variance, as it stands now.

There was general discussion relative to the proposed zoning language and other possible situations that could arise regarding the reclamation procedure. There was also discussion about whether the township should require a performance bond to ensure the removal of a building or reclamation of an area once the project was completed.

Thorne – Instead of a performance bond, some are using letters of credit from a bank for a five-year period. You could ask for a monetary letter of credit, which would guarantee the bank would hold a certain sum of money for a stated period of time. The bigger companies have been using the letters of credit because they get the interest. The term “performance guarantee” is a broader term.

Thorne –If they don't want to go through a variance you could take the position that making them put up four poles and a roof is ridiculous and the spirit of the code is being followed. There are a couple cases recently where the court has found that the township should have done that. Here it makes sense but in another case you may not want to do it that way. Or the zoning inspector can authorize a temporary structure for six months while zoning language is pending. Once zoning language is approved one public hearing is held before the BZA (key is they will have to show how it relates to a government job). The zoning inspector could authorize a temporary plant for six months while the zoning change is pending and if the zoning fails, then they would have to put a roof over it.

Trustee Sims inquired about the cemetery letter and Thorne indicated he had approved it and it should have been sent. Trustee Sims also inquired about the Zuber judgment and Thorne indicated he would get that from the courthouse.

There was discussion about the Westfield Terrace performance bond and the file will be pulled for the trustees to review. Gary Harris stated that taxes haven't been paid for two years - it's up to \$16,000. Thorne advised that at the end of two years the Auditor advertises a property as delinquent and then they can refer it to the Prosecutor's Office. As a practical matter it's probably between three and five years before the property would be sold.

Trustee Sims stated as a preview of the drainage complaints by surrounding property owners around Westfield Terrace – there is a retention basin that, since the topography had been modified, may not be working. Thorne indicated that drainage has been a complaint since the project started. There was an investigation and no valid complaint was found. Things may have changed and possibly it might not be working now. Thorne further indicated it's really not a township problem and that property owners should contact Mike Salay because his office is in charge of storm water. Mr. Summers would have an obligation to maintain the retention basin. It was indicated that the County might have a performance bond on that particular part of it (retention basin).

Trustee Kratzer inquired about the possibility of buying delinquent property for a park. Thorne indicated that if the trustees passed a resolution, once a property is certified as delinquent and sale procedures initiated, the township could claim it under Reclamation Land Use Program but they needed to adopt the program. A.P. Trina Devaney can be contacted for more information.

Trustee Sims inquired about the Greenwich Road parcel that had the arson as there is a concern with the rubbish. Fire Chief Jack Snoddy stated that he had

sent a letter for the condemnation of the property to the property owner in care of his lawyer a long time ago in order to get the process started. Trustee Plumer asked Snoddy to furnish the trustees a copy of that letter.

Trustee Kratzer stated that Lyn Methlie had dropped off some paperwork on the Grubbis matter and he would get it to Thorne to review. It had to do with the ownership of the property and listing of dates. Thorne asked if Grubbis indicated any preference on how they were going to finance this and that originally they thought they wanted to pay it off as they sold the lots. The trustees had discussed a five-year time frame at the last regular meeting but no decision was made.

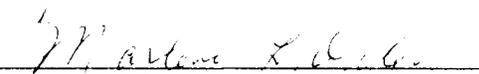
The next discussion item related to a secretary for the trustees. Trustee Sims had e-mailed the trustees a proposed job description for a secretary to the trustees. Trustee Sims explained her reasoning for such a position. The proposal is to have someone three hours per week at set office hours - it would allow someone to answer the phone, document the phone messages, letter writing, copying, faxing, follow-up and request documents, file organization, advertise meetings/legal notices, order office supplies, light cleaning of the town hall, learn website maintenance etc. It would also give specific hours for applicants to pick up zoning forms or make inquiries. There was general discussion about the creation of such a position and filling it; that the position listing might need to be more defined and delineated; what time frame; what day of week; what about hall rental; website maintenance, etc. There was concern that three hours a week might not be that beneficial but set hours might be helpful for the residents to come in on various township matters.

***Trustee Sims made a motion to hire a secretary to the trustees for three hours per week with a set office schedule (tentatively Thursday 8-11 a.m.), salary to be determined with the criteria/job description to be modified. Trustee Plumer seconded the motion. Roll Call Vote: Carolyn Sims – yes, Jeff Plumer – yes, Tim Kratzer – no. Motion Carried.***

#### **ADJOURNMENT**

Public Hearing Adjourned at 5:10pm

X   
Chairman, Timothy Kratzer

X   
Marlene L. Oiler  
Secretary pro tem