

**WESTFIELD TOWNSHIP BOARD OF ZONING COMMISSIONERS  
CONTINUATION OF THE PUBLIC HEARING  
KRATZER ZONING MAP AMENDMENT-5669 Greenwich Rd.  
JUNE 17, 2008**

Chairperson Kemp called the continuation of the public hearing of the Westfield Township Board of Zoning Commissioners to order at 7:30 p.m. Board members Sturdevant, Miller, Anderson and Kemp were in attendance as well as Alternate member Susan Brewer. (See attendance sheet for complete attendance).

Chairperson Kemp stated that since the Commission did not have a response back from Planning Services (Mr. Scheetz, attorney for the applicant Mr. Kratzer has asked for a reconsideration of the Kratzer application and that will not take place until July 2, 2008 at 6:30 p.m.) the Commission would not be continuing the public hearing this evening. Instead, the Commission would be working with legal counsel (Mr. Thorne) about the consideration of a lease agreement regarding this amendment application. After the Commission has received a response back from Planning Services, the public hearing would be continued and public participation will be taken.

Mr. Thorne then addressed the Commission. He stated that at the public hearing the concept of placing restrictions and covenants on the property in question was presented by Mr. Scheetz. Since then, Mr. Scheetz has come up with a proposal for such. At this time Mr. Thorne stated he was not satisfied with the document as it currently stands but would be willing to work on it only if the Commission was interested in considering this approach.

Mr. Thorne continued that per the normal rezoning procedure, if a property is rezoned it could be developed into any of the permitted uses in that specific zoning district. Planning Services has recommended that Mr. Scheetz develop a broad use PUD to be applied to the property. Once Mr. Scheetz has secured the tenants, then he can come in with a site specific PUD. Mr. Thorne added that a site specific PUD is just that. If the Plan is not developed precisely to the specifications of the plan, he would have to come back before the Commission with an amendment and the Commission would have to decide whether or not you would approve it. Mr. Thorne stated that Mr. Scheetz has told Planning that he cannot go that approach because he cannot get the commitments at this time to create a broad PUD. Further more, Mr. Scheetz did approach this property previously in this matter and was told by Planning Services it was too broad.

Mr. Thorne stated in Ohio there was no “contract zoning” What Mr. Scheetz is proposing on behalf of his client is that they will place deed restrictions on the property for x number of years that would prohibited the development of the property unless they return to the Commission and Trustees for approval of a site specific PUD. This would be done to entice the Commission to rezone the property Local Commercial.

Mr. Thorne stated it will be up to the Commission to set the conditions, but he believed it would fly as an actual deed restriction but this would be up to the Commission to decide. He added that once he had a document with all the deed restrictions laid out, it would be available for review by the public and they in turn will be able to comment on it as well. Mr. Thorne concluded that it was up to the Commission to decide if they even want to consider this option. Also the fact remains that even after a document is drafted the Commission may decide the proposal is not what they want to see for the Township and rebuke it all together.

Mr. Miller asked what if the Commission considers this option and approves it and the property sells? Mr. Thorne responded that the proposal would be that it would go with the property for x number of years (which, as currently drafted, is a year more than what they are asking). At that, time the Commission could rezone the property back to RR if they felt it was warranted or to something else all together. This is the way to get around the dispute of Planning Services traditional methodology to give the applicant and Commission the opportunity to draft and approve a site specific PUD. This approach is very new but has been undertaken in a modified form in the City of Brunswick. The City of Brunswick Planning Commission recommended a denial of a rezoning because they were not in favor of all the permitted uses that could potentially be developed on the property if rezoned. The City agreed with that recommendation but added they viewed the property and spoke with the developer and felt comfortable that there would be enough conditions placed on the property that the City would get exactly what they wanted and were willing to take that risk. They were not even talking deed restrictions they were just basing it on the planning department's assessment of the property in question. Mr. Scheetz has up the ante so to speak and has voluntarily offered to place deed restrictions on the property. The best scenario would be to have the document drafted by the time Planning Commission came back with their response so the Commission and the public had a chance to review such documentation.

Mr. Scheetz stated that the deed restrictions will be part of the presentation he will make in front of the Planning Commission on July 2, 2008. Whether they will accept this proposal will be up to the Planning Commission. Mr. Thorne interjected that the Commission needs to decide if they are willing to consider this option before he would begin/continue further research and work on the proposal.

Mr. Miller stated he was concerned that adequate protection for the Township needed to be in place so as not to have any loopholes so that if the proposal is considered with the deed restrictions that the decision of the Commission could not be changed or manipulated. Mr. Thorne stated that was his job to make sure it was thoroughly viewed to protect the Township and that was why he was going to be involved in the drafting of the restrictive document. He added however, that it is important to remember that if the Commission is not satisfied or comfortable with the document you do not have to accept the proposal. Mr. Thorne added that he was not asking the Commission this evening if

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they accept or not accept the proposal; he just wanted to know if the Commission would consider this option before he commits to working any further on the document.

Mr. Scheetz addressed the Commission and stated that the deeds of record would be put into effect simultaneously with the zoning being effective. The time frame would commence then as would be stated in the document and run the 5-6 yrs. or whatever time frame is decided upon. Mr. Scheetz added that they would also not object to the land being rezoned to RR if they fail to come back with a site specific PUD within that time frame. Mr. Scheetz continued that the 1<sup>st</sup> 500 ft. of the property is already zoned Local Commercial. We could split the property but it would be unlikely we could do anything unless sewer and water were available and that would need to be financially justified to bring off site improvements to the property. Mr. Thorne stated the availability of sewer and water was a deed restriction in the current draft document by Mr. Scheetz. He added he had to come up with the “legalese” to protect the Commission and the Trustees when and if the proposal was passed along to them for their consideration and approval. Ultimately the Township has to make sure the deed restrictions are filed and recorded and the provisions of the document are followed.

Mr. Thorne continued that after that specific time frame is over and if the property is not developed, the Township can rezone the property. Hopefully within this time frame of 5-6 yrs. the Township will have reviewed the Comp Plan to determine the best use for this property. If the property is not rezoned back to RR, Mr. Scheetz will want a provision that he, on behalf of his client could object to the zoning. Mr. Scheetz interjected that was correct especially if they successfully negotiated to have sewer and water available. Mr. Thorne commented that the property could be rezoned back to RR and then the Township was at square one again.

Secretary Ferencz asked for clarification of the vote once the recommendation of the Zoning Commission was sent on to the Trustees. Mr. Thorne confirmed that Trustee Kratzer would have to recuse himself from the vote and it would take a unanimous vote of the Township Trustees (Trustee Likley and Trustee Simms) to overturn the recommendation of the Zoning Commission. If there is a split vote of the Trustees then the recommendation of the Zoning Commission becomes the new code. Mr. Thorne added that was why it was so important to get the proposal done correctly.

Mr. Thorne stated that per the Statute the Planning Commission give the Zoning Commission their recommendation on the proposal. The Commission is not obligated to follow the Planning Commission’s recommendation but per the Statute it must be received and made part of the public record.

Mr. Scheetz stated that the document presented to Mr. Thorne was a draft written in the affirmative where the Township would be the third party beneficiary and the Zoning Commission and Trustees or the Pros. Office would have the right to enforce the

conditions and it would not only be the property owner and their successors and assigns but the developers successors and assigns contemporaneously.

It was decided by the Commission members that they would take the opportunity to think about whether or not they want to consider the proposal with deed restrictions as drafted by Mr. Scheetz. Also the Commission members are free to contact Mr. Thorne with any questions they may have. It was also decided that the Commission would not set a date for the continuation of the public hearing until after the July 2, 2008 meeting of the Planning Commission to make sure all documents once completed and received by the Township be available for public review. The Commission also stated that if they received all documentation by their July 8, 2008 regular meeting, they would set the public hearing date accordingly. At the public hearing, the public would be able to comment about the proposal and also on any pertinent documents/information received on this amendment.

Ms. Sturdevant asked if it was proper to ask the public if they wanted the Commission to consider the proposal with the deed restrictions. Mr. Thorne stated absolutely.

Mr. Thorne stated that instead of individually talking to Commission members, possibly at the Commission's regular meeting on July 8, 2008 there could be the opportunity to take any questions, comments etc. and address them. Then the Commission could let him know if they want to proceed with the consideration of the proposal. The Commission felt that was a good way to address this issue and would try to forward their comments, questions etc. to Mr. Thorne prior to that meeting to best use the time at the July 8, 2008 regular meeting. The Commission stated that anyone who wanted to send an e-mail to the Township could do so at [info@westfieldtownship.org](mailto:info@westfieldtownship.org).

Mr. Scheetz stated that the application before the Commission is for the entire property to be zoned from RR to LC. He added that his client's preference is to stay with that, subject to the declarations and covenants that they would place on the property. Mr. Scheetz stated that the only reason he suggested the local commercial overlay district was because the Commission did not want the underlying zoning changed. Mr. Scheetz commented that we just want to stay with the first (map amendment) and we agree you can zone it back. That way there did not have to be a text amendment and the process could be kept as clean as possible. Mr. Scheetz concluded that what will go before County Planning is the map amendment along with the deed restrictions as proposed. There is no additional text.

Trustee Likley asked about the timeliness of the entire process and the application. Mr. Thorne stated this just slows it down but it does not change the procedure. Mr. Thorne stated that what Mr. Scheetz is requesting is to rezone the property Local Commercial under the existing code and is also willing to put deed restrictions on the property so then he can develop the site specific plan. Mr. Scheetz will not develop under the Local

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Commercial as it exists currently in the Zoning Resolution but it will have to be noted that the property will be developed under the Local Commercial with the deed restrictions that will be put in place for this property.

Secretary Ferencz stated asked the difference between this “proposal” and contract zoning? Mr. Thorne stated the lines are very narrow. The difference is Mr. Scheetz is voluntarily agreeing to add the deed restrictions to the property. It is similar to contract zoning in that the Statute allows for a site specific PUD so what can be built is in accordance with that PUD. Any deviation would need to be considered as an amendment and would need to come back before the Commission for approval. It is not an independent contract as this has to go before public hearings.

Trustee Simms stated that at a Trustee meeting Mr. Scheetz presented a map amendment draft that included an overlay district. She added that there was no text in the Zoning Resolution to support that draft application and was appreciative that Mr. Scheetz realized that. She added that at the joint meeting between the Mr. Scheetz, the Trustees and Zoning Commission, she walked away with the impression that there would be PUD language for commercial development and was surprised when Mr. Scheetz put in the application for Local Commercial. Trustee Simms added that the Township does not have PUD Commercial text. Mr. Thorne responded that could be part of the deed restriction that the property could not be developed until they produced a site specific PUD (which will include the language) allowed under the ORC. However there is still the risk that even when they submit a site specific PUD the Township may not want it and or approve it. Nothing can happen on the property during the time period specified except for the applicant trying to market the property. Mr. Thorne stated it was important for the Commission to have time to read and review and digest the response from the Planning Commission before they decide to consider moving forward with the proposal.

The Commission then opened up the meeting to public comment.

Five individuals addressed the Commission and all stated that they felt the Commission should consider the proposal in concept as drafted by Mr. Scheetz and to be further expounded upon by the Commission and legally by Mr. Thorne as it appears it would give the Township more control over the development of the property. It was also asked to make the language plain enough for the majority to understand the proposal. All documents received will be part of the file and once received are a public record for anyone to request access to. All public hearings and meetings are noted on the website and the Medina Gazette.

The next meeting of the Zoning Commission is scheduled for July 8, 2008 at 7:30 p.m.

Having no further business before the Commission, Ms. Sturdevant made a motion to adjourn. Meeting officially was ended at 8:30 p.m. It was second by Mr. Miller.  
ROLL CALL-Sturdevant-yes, Miller-yes, Anderson-yes, Brewer-yes, Kemp-yes.

The meeting officially was ended at 8:30 p.m.

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Jill Kemp, Chairperson

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John Miller

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Scott Anderson

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Heather Sturdevant

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Susan Brewer