

Westfield Township

Board of Zoning Commission

Public Hearing Meeting Minutes

February 28, 2012

The Public Hearing meeting was called to order at 7:30 pm by Chairman Sturdevant. Members in attendance were board members: Heather Sturdevant, Jill Kemp, Susan Brewer, Scott Anderson, Greg Brezina, and Sherry Clarkson. Other individuals in attendance were: Bill Thombs, Jim Likley, Matthew Witmer, Gary Harris, and Colleen Gearhart.

Chairman Sturdevant stated before we get into the public comments section of this hearing, a couple quick updates, first of all, this is the second time we are having a public hearing on swimming pools. The first time we went through our language which was very detailed because we were having some issues with enforcement issues. The Trustees wanted to scale this back because they felt it was overly zoned for the township, so we went back and made something very general based on two examples received from Trustee Likley and Harris. As an update, so everyone knows, MCPC has this information and has asked for the formal review of the new language and we are on the MCPC April Meeting for this material. So tonight's meeting will be continued until after the April meeting. We will start taking public comment tonight, if anyone has any. We had hoped we would receive some response back from MCPC, but unfortunately we have not. We are on the April agenda for both Swimming Pool and Small Energy Wind Systems. We will continue this public meeting until we receive information back in April.

The floor was opened to the public for comments /remarks. It was asked if the information was on the web site, as it is not, we do not want to confuse anyone with what is currently in the zoning book vs. what is being proposed. It was noted that information can be posted under Public Notices advising that this is "proposed" as not to confuse. It was noted that the board took the examples from Trustees Likley and Harris and tried to mesh together. We have been advised by Susan Hirsch, from MCPC, that she has some concerns with what has been submitted. A five minute recess was taken and copies were handed out to all present to review.

The meeting reconvened at 7:37 pm. It was asked if anyone would like to make a comment on the swimming pool language. Mr. Gary Harris, of 7947 Lake Road spoke. He asked a question, as to why did we take out the regulation for fencing around in ground pools. Chairman Sturdevant advised we meshed information submitted, but it can be placed back in. It was noted if we cannot enforce it, we would have a problem with the rest of the language being so broad. We are hoping that if you have an in ground pool, normally insurance companies require the owners to fence in property. Mr. Jim Likley, 9585 Daniels Road spoke. He agreed

with Mr. Harris, that the area should be fenced. I have questions regarding inflatable pools, vs. soft sided pools vs. metal pools. Soft sided can be categorized as inflatable pools. I think we need to realize the potential impact for someone having a large inflatable, soft sided pool on the property. I understand that we don't want to have to control a kiddie pools made of plastic, where you empty after you are finished. On inflatable's, can they be categorized as temporary, even though they stay up all summer? By possibly addressing depth of pools or what is categorized as inflatable possibly addresses this in the meaning of pools. We want to make sure that we don't have a problem in the future. We have gone to the building department to even ask about this especially with electrical issues (for GFI receptacles). Electrical permits may not be a good way to follow. Inflatable's, can be categorized as a soft sided 20 x 40 temporary, as after the summer they can be taken down. This is something to address now and in the future. It was noted that the inflatable meaning is very generic in nature and this has been addressed in comments from the MCPC. It was noted perhaps addressing depth of water (3 ft or deeper), or possibly using diameter. We cannot address by permit only, as some might run ineffectively, by hooking an extension cord and running through the kitchen to an electrical outlet.

It was noted that we are on the Agenda for the MCPC April meeting. This information will be discussed with members. This meeting will be continued until after the Trustees meeting, as information will be received back and we will need to take this information, including the MCPC staff report before the trustees. We are looking at an April date for hearing. In looking at the calendar the date of April 24th was selected as a date for the next public hearing. Chairman Sturdevant asked for a motion to make Tuesday, April 24th our next hearing date. The motion was made by Scott Anderson to have the next public hearing on Tuesday, April 24th. A second to the motion was made by Jill Kemp. A roll call was made: Greg Brezina-aye; Jill Kemp-aye, Susan Brewer-aye; Scott Anderson-aye; and Heather Sturdevant-aye. The motion carried.

It was noted that we will make a public hearing advertisement since this will be so far in advance (14 day notice). Our next public hearing (wind energy systems) will be in 10 minutes, so the committee is going back to the general business section of our meeting.

General Business

Before members the February 14, 2012 minutes were presented and Chairman Sturdevant asked if there were any corrections, amendments to the minutes. There being none she asked for a motion to approve the minutes as presented. A motion was made by Jill Kemp to approve the minutes as presented and a second to the motion was made by Scott Anderson. A roll call was made: Greg Brezina-aye; Jill Kemp-aye; Susan Brewer-abstain; Scott Anderson-aye; and Heather Sturdevant-aye. The motion carried.

Chairman Sturdevant advised we do have definition.

2. *The first paragraph states that “small wind energy systems” are permitted in the Rural Residential, Highway Commercial and Local Commercial Districts. Regulations for Rural Residential, Highway Commercial and Local Commercial Districts should be amended to make “small wind energy systems” a permitted, accessory use. Chairman Sturdevant advised we did go back and add to the section.*
3. *No. 2 requires a 5-acre lot. This may be excessive. It is the setback requirement that is most effective. Chairman Sturdevant advised we did change for 3 acre lot as per the Prosecutor’s office.*
4. *No. 5 requires a minimum setback of 110% of the height of the tower. Again, this may be excessive. Generally, 101% is the minimum standard and 105% should be more than adequate. Chairman Sturdevant we did discuss and decided to leave alone. Chairman Sturdevant advised she saw one fall and the pole went out before coming down and it went across the road (New York this occurred) and so we are being on the safe side.*
5. *No.16 states that no variance shall be issued for the placement of a “small wind energy system” so close to a property line that it may result in overhang. I don’t think that you can limit the BZA’s authority to grant a variance. I would check with the Prosecutor’s office as to the legality of this provision. Chairman Sturdevant advised that we took out after talking to the Prosecutor’s office.*
6. *You may want to consider prohibiting the locating of “small wind energy system” in the front or side yards, or at least the front yard. Chairman Sturdevant advised after some comments received from residents, due to the nature of lots shaped within the township, it was left in.*

Chairman Sturdevant advised for the most part MCPS and the Prosecutor’s office submitted generally the same comments.

It was also noted that definitions were submitted to the MCPS as follows:

Definitions:

39. *Nacelle: The enclosure located at the top of a wind turbine tower that houses the gearbox, generator and other equipment.*
45. *Power Center: Serves as a central connection point for the electrical components in the system and provides a number of necessary control functions.*
47. *Rotor: The rotating part of a turbine, including the blades.*
60. *Tower: The support structure, including guyed, monopole and lattice types, upon which a wind turbine or other mechanical device is mounted.*
61. *Tower Height: The height of a tower, measured from the natural grade surrounding the support pad to the tip of the blade in a vertical position along with the vertical axis of the tower.*
65. *Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle, body, power center and a rotor with two or more blades.*
55. *Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of less than 5MW and which is intended to primarily reduce on site consumption of utility power.*

It was noted that this will also be on the MCPC Agenda for the April Meeting.

The floor was open to public comments:

Mr. Jim Likley, of 9585 Daniels Road asked "What about any farms who would claim they are agriculturally exempt?" "If they are exempt could they place anywhere, as they would claim they produce their own power for a farm?" You may wish to check on this with Bill Thorne. "Also, a question that the applicant shows the identification of the septic system, why?" Chairman Sturdevant advised this would deal with the fact that some sewage systems have vents and could be damaged if an accident occurred; this is why we left it in. It was also questioned by Mr. Likley regarding checking on decommission of a unit, who decides this? Essentially you would need a bond. How enforceable can this be in time? It was noted that the Prosecutor's office has given their advice and approved this. Also, would a separate application be issued, as the commission may wish to decide on what would be needed to create one, rather than a regular zoning code application, the committee should seriously think about this.

Mr. Matthew Witmer, 5606 Buffham Road advised as Zoning Inspector, he would like to see the drawing to be 1"=20 ft, not 1"=100ft. as this would match all other applications and not confuse the public in generating a diagram.

Chairman Sturdevant advised since by law we are awaiting input from MCPS a continuance would be needed and a public hearing will be held. A public notice would be placed in the paper and the continuance of a hearing to be held on April 24th at 8:00 pm after receiving information from the MCPC. Chairman Sturdevant asked for a motion from the board. Jill Kemp made a motion for a public hearing to be held on April 24th at 8:00 pm to address Small Wind Energy Systems. A second to the motion was made Scott Anderson. A roll call was made: Jill Kemp-aye; Susan Brewer-aye; Scott Anderson-aye; Greg Brezina-aye; Heather Sturdevant-aye. All were in favor and the motion carried.

Chairman Sturdevant advised we would change the scale drawing (*Under G-Site Plan Requirements, Item G. Scaled drawing no smaller than 1" = 20 ft.*). Chairman Sturdevant advised she would check with the Prosecutor's office regarding the removal of septic systems being addressed as well as finding out information regarding agricultural exemption.

General Business

Chairman Sturdevant advised we will go to Soil & Water with some dates for a workshop on the 13th and the 27th as a possible date.

Also included in everyone's packets you will find Outdoor Wood Fired Boiler information. As crazy as it may seem we are still awaiting for terminology of steep slope, everything we have looked at we have been advised that we need to determine the degree of steep slope. There is terminology of a slope, but it is up to the community to determine steep. Chairman Sturdevant asked if we want to determine the terminology of "steep". What percentage? Do we want to tackle this language? We haven't determined a stack height as of yet. Do we want to have BZA determine this on a case by case basis based upon each property? This will be a conditionally permitted use, since this will be based on how it will affect properties close by. Mr. Anderson advised the building height of a structure is limited to 35 ft. would this not be the limit? This would be a free standing structure. Chairman Sturdevant advised they could put one in without building a structure around it. She provided the definition: *Outdoor Wood Fired Boiler: Any equipment, device or apparatus which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat to principal residential structure or any other site structure on the residential premises. OWD's can also be used to heat domestic hot water.*

It was noted that we have to be careful as not to create a nuisance with smoke going onto and into another property owner residence and causing a problem due to the stack, in some areas it was noted that some stacks have reached a height of 40 feet. Chairman Sturdevant asked "What does everyone think? We obtained this language from several places, one being the Prosecutor's office and from Bath Township, which was presented at one of the training sessions. We took both and tried to make them work for our township. The reason why we got involved in this is because we had some requests from people wanting them to put them in. The largest problem is resolving the smoke going to the next door neighbor's yards, windows and everything else.

Our definition of a structure is: anything constructed or erected which requires location in or on the ground, including signs, fences, walls, buildings, lakes, ponds, swimming pools, satellite dishes and communications towers, except that on a lot which is used for a dwelling in any district, the following shall not be interpreted as structure when established for personal use by the occupant of the dwelling: mailboxes, swing sets, sand boxes, bird houses and feeders, basketball, football, tennis, badminton, soccer and volleyball areas.

So if our current building structure height, metal stack height shall be at all times and after including installation be 5 ft. higher than the highest point of any residence within a 300 ft. area; the reason... because it can be a nuisance for neighbors, as some burn garbage. It states that it may aesthetically not be in the best thing for the township. We may be protected under our definition of a nuisance: *The unreasonable, unwarranted or unlawful use of one's property in a manner that substantially interferes with the enjoyment or use of another individual's property, without an actual trespass or physical invasion to the land.*

The zoning inspector advised that it may be best to contact the EPA with reference to a OWHH Phase I Program, it states the model shall be as follows.....It was requested that we contact the EPA for further information, as perhaps the information we received may have been modeled after this. (Outdoor Wood Burner Heat Fired Program). Chairman Sturdevant asked if we want to take this before the MCPS for an informal review and get comments back while we check further on the program. After getting the information back we can review prior to asking for a formal review. In the meantime, we can check with Bath to see if they have a definition of steep slope in Summit County. Scott Anderson stated that possibly the meaning of steep; mean anything more than a 10% grade. Chairman Sturdevant was going to see if and what Bath had in their terminology for the meaning of "steep".

After no further discussion Chairman Sturdevant asked for a motion by the board. A motion was made by Scott Anderson to submit information at hand to the MCPS for an informal review. We will get the information back, digest it and then ask for a formal review. A second to the motion was made by Jill Kemp. A roll call was made: Sue Brewer-aye; Greg Brezina-aye; Scott Anderson-aye; Jill Kemp-aye; Heather Sturdevant-aye. All were in favor and the motion carried.

Chairman Sturdevant advised information handed out was regarding HC (Highway Commercial). The information presented was from Brunswick, Brunswick Hills, Montville Township and Seville. Chairman Sturdevant advised the big difference between cities and townships, is that several cities, Brunswick included, everything in the HC is a conditional use; whereby in townships it is a permitted use. Under the first section for Brunswick Hills the permitted uses are:

Permitted Uses:

1. Uses permitted by right in C-1 Local Commercial and C-2 Community Commercial Districts as specified in Section 407-2(A) and 408-2(A).
2. Radio and television broadcasting station
3. Printing, blueprinting, newspaper printing, telegraphic service
4. Display or showroom where merchandise sold is stored elsewhere.
5. Wholesale establishments
6. Plant greenhouse and garden supply sales
7. Mortuary
8. Monument sale and display
9. Truck, Trailer, boat and farm implement sales and services, and storage both new and used
10. Tool and equipment rental
11. Drive-in establishments including banks, restaurants, amusement and recreation, and drive-in theaters
12. Carpenter, cabinet, upholstering, sheet metal, plumbing, heating, roofing, air conditioning, sign painting, painting and other similar establishments
13. Repair services for machinery and equipment including repair garages and specialty establishments such as motor, body and fender, radiator, motor tune-ups, muffler shops, tire repairing sales, and service including vulcanizing.
14. Accessory uses clearly incidental to the principal uses permitted on the same premises
15. Signs-as regulated by Article V hereof.
16. Parking and loading-as regulated by Article VI hereof

17. Automobile Service Station/Automobile Repair Shop

18. Motel and hotels

Conditionally Permitted Uses

1. Multifamily dwelling subject to subsection 804-16
2. Churches and other buildings for the purpose of religious worship subject to Subsection 804-5
3. Governmentally owned and/or operated building or facility subject to Subsection 804-8.
4. Clubs, lodges, fraternal, charitable or social organizations
5. Auto Wash subject to Subsection 804-10.
6. Sale, repair and storage of automobiles, trucks, trailers, boats, and farm implements subject to Subsection 804-15.
7. Outdoor business displays subject to Subsection 804-13
8. Special events subject to Subsection 804-1
9. Self-storage buildings subject to Subsection 804-9
10. Other uses similar in character to those listed herein
11. Single-family residences provided the following conditions are met;
 - a. The residence shall be attached to or within a commercial structure
 - b. The residence shall be occupied only by the owner or an employee of the business being carried out in said commercial structure.

HC Permitted Uses in Seville:

1. Restaurants and eating places
2. Motels and hotels
3. Gasoline Service Stations with subjections
4. Garage and Automobile repair shops, excluding body and paint shops and automobile sales. Automobiles waiting for or under repair must be stored within the building or be to the rear of the building screened.
5. Business and Professional Offices
6. Sexually Oriented Businesses as regulated by Article XVI
7. Accessory uses
 - a. Signs as regulated by Article VII
 - b. Parking and loading as regulated by Article VIII
 - c. Wireless telecommunication antenna(s) on existing buildings or structures as regulated by Article XVII

Conditionally Permitted Uses (These uses would need to go through the Board of Zoning Appeals)

Montville Township

1. Administrative, businesses and professional offices, including public administrative office
2. Financial establishment
3. Hospital, medical clinic, urgent care facility, ambulance/emergency medical services and accessory uses
4. Medical or dental offices
5. Retail in completely enclosed buildings
6. Personal service facilities offering services directly to the public, including, but not limited to, hair care, dry cleaner, shoe repair and photography studios.
7. Restaurant
8. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; protective services; equipment rental and leasing.
9. Copying services open to the general public on a retail basis
10. Golf course, miniature
11. Hotel, Motel
12. Public Safety Facilities
13. Wireless telecommunication tower and/or facility not classified as a public utility
14. Sexually oriented business in compliance with Sec. 330.6

Conditionally Permitted Uses:

1. Automated Teller machine
2. Drive-thru facility associated with a permitted use
3. Indoor Recreation
4. Sports/Fitness center
5. Theater, indoor
6. Automotive service station
7. Car Wash
8. Gasoline station with more than 5 islands or 10 pumps
9. Gasoline station with not more than 5 islands or 10 pumps in association with a retail store not exceeding 5,000 sq. ft.
10. Automobile Dealership

11. Park/Playground
12. Business school, college or university
13. Church or other place of worship

Chairman Sturdevant asked for input from the board members. Jill Kemp advised she is concerned with having much of anything with what we already have. There would be problems with egress/ingress with an intersection that already has problems. She advised that she feels that we would be asking for problems. Some businesses might be okay but not to any extent with two major intersecting highways. Greg Brezina agreed with Jill Kemp. He advised if you look at what is allowed by other townships/villages, you will see they drive in and out and there is higher traffic incidence. If you look at the intersection of Rt. 3 with the new shopping center and Panther Parkway, including the child care facility, it is very congested certain times of the day. If you get this mixed with truck traffic you will have a major problem. Scott Anderson advised you almost need a service road to service traffic. Chairman Sturdevant advised we do need to do something to address the current land in the area. Traffic or no traffic, we need to allow some businesses in the area. We do have land in which something can be done with and commercial land is also available near the sod farm entrance.

Matthew Witmer advised Truckstops of America (TA) will be applying for a Urgicare Walk-in Medical Facility. This was closed previously due to zoning and they would like to get it up and running again. The application was to be here today, but did not make it. This would be applicable under Section J. Walk in Care. This facility would address physicals, cuts, blood pressure checks, etc. This would be located in the back where truck drivers walk in and the area is past the game area. Colleen Gearhart, P.A. (who "manned" the clinic) provided members with information regarding the previous facility which was opened and closed. She advised it was used highly by the truck drivers and very much would like to have it opened again. The previous hours of the center were 10am-8pm.

Matthew Witmer also noted that we should also be receiving an application from Idle Air (conditional use when previously under Truckstops of America). They will be a stand-alone location across from Pilot in a smaller lot. This would also be something to consider for a permitted use under the Township zoning.

Chairman Sturdevant advised that once a full application comes to us, we vote on it and it then goes to MCPC, a public hearing is set, then goes to the Trustees with another public hearing, which is about 90 days. This is about the quickest we can get done.

It was noted that the application was to come in today, but will probably arrive the following date (2/15) 29 pages forthcoming. The zoning inspector printed out the first 2 pages. The

Zoning inspector advised he was 100% sure the application is complete. Chairman Sturdevant advised that we can act upon the Zoning Inspectors approval of the completed application and accept this so the board can act upon this. A motion was made to approve to accept the application as complete and receiving it within the next few days and set a public hearing date for a zoning text amendment by Scott Anderson and a second to the motion was made by Greg Brezina. A roll call was made: Greg Brezina- aye; Jill Kemp-aye; Susan Brewer-aye; Scott Anderson-aye; and Heather Sturdevant-aye. The motion was passed.

After discussion of dates on the current calendar for dates, Chairman Sturdevant asked for a motion to set a public hearing date for March 27th at 7:30 pm to hear the TruckStops of America (TA) Zoning Text Amendment. The motion was made by Scott Anderson and a second to the motion was made by Susan Brewer. A roll call was made: Greg Brezina-aye; Jill Kemp-aye; Susan Brewer-aye; Scott Anderson-aye and Heather Sturdevant-aye. All were in favor. The motion passed.

With reference to HC, since information was handed out at the meeting, Chairman Sturdevant asked that everyone look at what was presented; review the map and this will be discussed at the next meeting. It was also discussed about thinking about Idle Air, which would be for forthcoming, do we want to address or send to BZA? One other thing to address, Internet Café's, we found out what we can and cannot do and possibly we can discuss this also at the next meeting.

With no other business to be brought forth, Chairman Sturdevant asked for a motion to adjourn the meeting at 9:15 pm. A motion was made by Scott Anderson to adjourn the meeting. A second to the motion made by Jill Kemp. All were in favor and the meeting was adjourned.

Our schedule will be as follows:

March 13, 2012 -7:30 pm Zoning Commission Meeting (Possible meeting with Bill Thorne)

March 26, 2012 -7:30 pm alternate date to meet and have workshop with Bill Thorne

March 27, 2012 – 7:30 pm Public Hearing on Truckstops of American Zoning Text Amendment

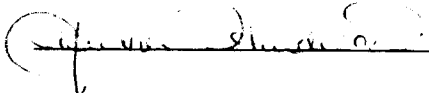
April 10, 2012 – 7:30 pm Zoning Commission Meeting

April 24, 2012 - 7:30 pm Public Hearing on Swimming Pools

April 24, 2012 – 8:00 pm Public Hearing on Small Energy Wind Systems

Respectfully submitted,

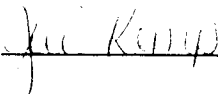
Sherry Clarkson, Zoning Secretary



Heather Sturdevant, Chairman

3-13-12

Date



Jill Kemp, Co-Chairman

3-13-12

Date



Scott Anderson, Member

3-13-12

Date

Greg Brezina, Member

Date



Susan Brewer, Member

3/13/2012

Date