

Westfield Township Trustees

Public Hearing-Swimming Pools

June 18, 2012

6:30pm

Trustee Harris opened the Public Hearing for Swimming Pools at 6:30pm.

Trustees Present: Trustee Likley, trustee Oiler and Trustee Harris.

He then opened the floor for residents to speak regarding the proposed changes.

Heather Sturdevant, Chairperson for the Zoning Commission stated that they originally undertook a change to the Swimming Pool Language as the Zoning Inspector was having a hard time enforcing the current language. The Zoning Commission began by making the language stricter and therefore more enforceable. The Trustees sent that language back and advised that they wanted a less strict, more generalized code. The Zoning Commission then tried to make the language more generalized yet still include fencing guidelines on in ground swimming pools. The problem with that was enforceability. They tried to link the regulations back to the Township's current fencing regulations. The problem was that the opacity with the current regulation was up to 40%. This would allow for a multi rail fence which a child could climb through into the pool area which then would defeat the purpose of a safety fencing regulation for pools. The Commission therefore tried language for in ground pools that would supersede the current fencing regulations with a maximum of 10% opacity. Having fencing regulations and then adding a section that supersedes the initial section, would be very difficult to enforce according to the Bill Thorne of the Medina County Prosecutor's Office. The members of the Commission then discussed the possibility of putting in a suggestion that homeowners discuss fencing with their insurance company. They decided however, that as the Zoning Code was law, not a suggestion, that this would not be a feasible solution. Due to this, the Zoning Commission has presented a very generalized set of Swimming Pools Regulations without any fencing requirements.

Trustee Likley stated that he understood the concern for a fence around an in ground pool but then explained that some pools are accessible from the living room exit of a home and asked if the homeowner should have to fence that area off to protect their children from entering the pool area unsupervised. He then stated that the insurance companies have taken a strong stand on pools and in some cases will not even insure a home that does not have a fence around a pool. He said that his personal opinion was that although an in ground pool should have fencing requirements, in reality, the legality and enforceability was simply not workable. He agreed that with that understanding he agreed with leaving the fencing requirements out of it.

Ms. Sturdevant explained that in her conversation with Bill Thorne of the Prosecutor's office, if a Township was going to require fencing around a pool, they had to have a conversation on the record to justify why fencing was required around a pool but not a lake or a pond. In answering that question, the reason most used is that the drop off in a pond or a lake is usually more gradual than that of a pool and

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would allow for a child to have a chance to climb out. Unfortunately, there have been numerous deaths over the years in Medina County from children drowning in ponds or lakes.

Trustee Harris thanked Ms. Sturdevant for speaking. He then closed the public comment portion of the hearing and continued the discussion among the board.

Trustee Oiler stated that he had nothing to add or delete from the proposed language having reviewed it several times and listened to the Zoning Commission's discussion on the subject.

Trustee Likley had some issue with the term Inflatable Pools. He read the proposed definition for an inflatable pool. He stated that he could go to Wal-Mart and pick up a 10 to 15 foot across pool that he could probably hook up to the GFS in his garage and while it does not require an electrical permit, it would not fall under the inflatable pool definition. He felt they should look at that. In the current code it would fall under a swimming pool but would not require a permit if he chose to run an extension cord to the pool. Trustee Likley had concern that if a pool did not require a zoning permit, would the setback requirements be enforceable. He thought that it would probably be enforceable as the setback requirements are consistent throughout the code but still felt that the Inflatable Pool Definition needed to be addressed. He stated there was still definition number 58 which read "water filled enclosure, permanently constructed and portable having water depth of more than twenty four inches when completely filled". He felt that might cover the other definitions, but wanted to know if those other definitions would require a pool permit. Under the current definitions, the \$125.00 pool from Wal-Mart would require a Zoning Certificate. He did not feel that was the intent of the Zoning Commission or the Board of Trustees. He did not want to create a grey area with language.

Trustee Oiler stated that the language did state under number 1a. Inflatable Pools not requiring an electrical permit shall not require a Zoning Certificate and shall comply with all Medina County Codes. The key word being Inflatable.

Trustee Likley stated that his point was the pool that does not have an inflatable portion would not be covered by this section and wanted to make sure that they understood the impact of what they were writing into the language.

Trustee Harris added that the industry seems to be getting away from the inflatable, bladder type pools as they have not been seeing any advertisement for them. One of the companies that made the inflatable pools now made the pools instead with rubber sides and a PVC frame. There is no inflatable part to it any longer. He felt that inflatable pools may be obsolete and a thing of the past. He could not see writing language for an item that would be obsolete. Trustee Harris felt instead they should include a maximum diameter or water depth to be exempt from a zoning certificate. He explained that he didn't want someone to go out and get a kiddie pool and have to get a zoning certificate.

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Trustee Likley stated that he had seen some of the type of pools that Trustee Harris was describing and that they came in very large sizes.

Trustee Harris felt that they only went up to certain size and were not very big.

Ms. Sturdevant then showed the Trustees photos of a pool like the one Trustee Harris described that were very large so they could get an idea of how big they came. The depth was five feet. The sides were rubber and were reinforced with Kevlar. The top ring was made out of metal pipe and it had legs that came out at the bottom to hold it up. There is a nylon strap underneath that keeps the legs from blowing out at the bottom. This type of pool would still fall under the swimming pool definition according to Trustee Likley.

Trustee Harris asked if they should go to a diameter or water depth to determine the need for a zoning certificate regardless of the manufacturer.

Trustee Likley felt that was a feasible option. He did not feel that the 24 inch depth that was currently included in the code was sufficient and felt that it needed to be raised to a three (3) foot level. He stated that the inflatable portion of the statement and instead state "Swimming Pools not requiring an electrical permit shall not require a zoning certificate and shall comply with all applicable Medina County Codes". This would be under number 1a. He also stated that in order to wire a pool, one had to be a licensed electrician in Medina County in order to pull the electrical permit.

Trustee Harris stated that they would also need to remove the definition of an inflatable pool and to remove the word inflatable from number 2 as well. 2a. should now state Swimming Pools shall not be permitted in any district without an established residence. 2b should be eliminated altogether. Number three shall have the words "and inflatable" removed. Number 4. Shall be removed in its entirety.

Trustee Likley asked if the minimum setbacks were different in Local Commercial than they were in Rural Residential. Trustee Harris stated that they were the same except for Suburban Residential Zoning.

Trustee Likley made a motion to accept the proposed Article II. Section 205 Swimming Pool Language as amended. Trustee Harris seconded the motion.

ROLL CALL: Trustee Likley-yes, Trustee Oiler-yes, Trustee Harris-yes.

Trustee Likley then made a motion to not adopt the definition of an inflatable pool. Trustee Harris seconded. ROLL CALL: Trustee Likley-yes, Trustee Oiler-yes, Trustee Harris-yes.

The new language shall go into effect in thirty days.

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Trustee Likley made a motion to close the public hearing at 7:11 pm for the purpose of swimming pools. Trustee Oiler seconded the motion. ROLL CALL: Trustee Likley-yes, trustee Oiler-yes, Trustee Harris-yes.

Approved July 16, 2012