

Westfield Township Trustees

Continuation of Public Hearing-Small Wind Energy

August 6, 2012

6:30pm

Trustee Harris opened the Public Hearing to consider a text amendment to the Westfield Township Zoning Resolution Article for Small Wind Energy at 6:30pm.

Trustees Present: Gary Harris, Ron Oiler, and Jim Likley

Please see attached Sign In Sheet

Trustee Harris opened the meeting up to the public for comments or questions.

Heather Sturdevant- Ms. Sturdevant stated that the Zoning Commission had some concerns about items that are being presented for change by the Board of Trustees. The first is the allowing of Homemade Small Wind Energy Systems. The Zoning Commission specifically did not allow for this type of system as they felt that not only could they be a nuisance but they could be a safety hazard as well. She went on to say: "You can never be certain what someone is going to use to build a wind system. If there are no specifications available you don't know whether or not they have a mechanism for preventing the over rotation of the blades in a wind storm. The problem with that is if there was a bad wind storm, while there are setbacks, if something were to fly off of the system such as a blade. It could go further than the setbacks and cause a danger to the property owners and potentially the neighbors. This is especially a problem as the height restrictions have been deleted from the proposed regulations". The Zoning Commission therefore felt that this type of system would be a safety hazard and would be a big problem. The other area which caused concern to the Zoning Commission was the addition requiring a Wind Assessment Study to obtain a zoning permit. The Commission does not feel that would be a zoning issue. They did not feel it was the township's responsibility to control whether or not a property owner's wind energy system is efficient, which is what the study would show. The Commission felt that was the property owner's business not the townships. The township should be more concerned with how the system will affect the neighbors and the safety of the residents. Sturdevant finished by saying that she hoped the board would reconsider the proposed code the way the Zoning Commission sent it to the Board of Trustees on those two items. Sturdevant thanked the board for their time and consideration.

Jill Kemp: Ms. Kemp stated that she agreed with Ms. Sturdevant in regards to the homemade wind energy systems as she felt the potential for disaster was far too great. She did not like the idea of someone using unknown parts to hold something together. Ms. Kemp went on to say that the bigger issue to her was that of doing studies. In her opinion, the township did not need to be a "nanny state". She stated that if people were going to spend the money on these systems, they would want to get the best they can out of them. She did not feel that we should be requiring a study from them as it is not our job to look over someone's shoulder to see how they are spending their money. As long as they are within the regulations and are not hurting or affecting their neighbors, there is not a problem.

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Matt Witmer: Mr. Witmer stated that those two issues concern him in that by allowing homemade wind energy systems, you will have neighbors complaining that someone used a fan blade from a 1957 Chevy with an alternator stuck on a system. He feels it is good for people to have a creative mind so long as they do things properly and safely but that is not always the case. He felt that allowing homemade wind energy systems would cause him many headaches as the Zoning Inspector. Mr. Witmer then asked if a Wind Assessment study were to be required, what was he supposed to do with it other than make certain that they had it.

Trustee Likley stated that from the Wind Assessment there would be a recommended height for that system as part of the analysis. The assessment would need to be done by the manufacturer or an outside service. The height restriction that the Zoning Commission recommended was an issue with legal counsel. The report from Bill Thorne's office said that you cannot set a height restriction without a basis for it. You must have a reason for the rules. The Trustees therefore took the restriction out of the proposed code. Mr. Likley stated that he prepared something for tonight's meeting that would look at systems over thirty-five (35) feet as that is our current maximum building height. If a system was under thirty-five (35) feet it would not require a wind assessment. Anything over that height would require a wind assessment.

Mr. Witmer then stated that if he understood correctly, a property owner would bring him the wind assessment for a system and the recommended height would be the maximum height that property owner could have for their system. That would be the only thing he would need to review as the Zoning Inspector.

Trustee Likley stated that was correct.

Mr. Witmer stated that we had to establish criteria to allow for whatever height would be allowed without having to go for a variance.

Mr. Likley stated that if someone asked why they would need a variance for their wind tower over thirty-five (35) feet, they should be told that if they do a wind assessment and it showed that the higher height was warranted, they would not need a variance. He then stated that the township is not limiting the height of the tower. If a property owner wanted to build a tower over thirty-five (35) feet as long as they provide a wind analysis showing that height was warranted, it would be allowed.

Trustee Oiler stated that his reason for wanting the wind assessment was for the residents to have a knowledge of the information that they need for their system to be successful.

Trustee Likley stated that another issue that was being discussed was electrical interference. Part of the language that was prepared at the last meeting was that contiguous property owners would be notified that wind energy was being installed so as to establish a baseline for their electrical equipment. He

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stated that the township would not get involved in any disputes regarding interference. The notification to the contiguous property owners would be at the cost of the applicant. This applies to all wind energy systems.

Jill Kemp: Ms. Kemp stated that if the Trustees eliminated the height requirement, the limitations would be controlled by the setback requirements. She then questioned why a wind assessment was needed at all.

Trustee Likley stated that it was needed as justification for any wind energy system over thirty-five feet. He felt it was necessary even if a property owner could meet the setbacks, as that is our current building height maximum. He then stated that the reason for the building height limitation of thirty-five (35) feet is due to our fire department's limitations.

Ms. Kemp then stated she did not understand why someone would spend the money for an outside wind assessment. She felt they would just follow the manufacturer's recommendations.

Trustee Likley stated that the wind assessment could be from the manufacturer, it did not have to be from an outside company.

Trustee Harris stated that he felt as each scenario would be different; the wind assessment would be a way to regulate height on an individual basis and not be too restrictive on any one resident.

Trustee Harris then closed the public participation portion of the hearing and the Board of Trustees continued with their discussion.

Trustee Likley added for the record that they received two letters in regards to Small Wind Energy Systems from Mr. Greg Brezina and Mr. Scott Anderson and photographs from Sherry Clarkson, Zoning Secretary. (See attached letters and photographs) He then stated that he provided the board with some additional amendments. The permitted uses as presented looked at Rural Residential, Highway Commercial and Local Commercial. He would recommend **adding the Industrial District** to that. He felt that our Waste Disposal Facility would have the funds and room to erect a Wind Energy System and as they are in the Industrial District. This use should be permitted there as well.

Trustee Oiler agreed with this recommendation.

Trustee Likley then stated that in the previous meeting he had provided the paragraph on electrical interference. That was part of the communication to Mr. Bill Thorne. That paragraph will read as follows:

Westfield Township shall notify all contiguous property owners of the applicant to inform them that an application has been submitted and recommend establishing a baseline of operations and reception for all electrical devices due to possible interference from the installation of a power

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generator for a small wind energy system. The cost of the notification shall be calculated and added to the application fee.

Trustee Likley's comment to legal counsel was that while this will be good information for the individual neighbors, he did not feel that the township has any additional responsibility to gather, maintain or enforce any issue that might arise. We do have a response from legal counsel supporting that statement. (See attached ruling from legal counsel)

Trustee Oiler stated that the paragraph on electrical interference should follow the paragraph under purpose as was suggested.

Trustee Likley then stated that the amendment that he offered this evening on tower height should read as follows:

Small Wind Energy Systems with a tower height exceeding thirty-five (35) feet shall be required to complete a wind assessment.

From there the Wind Assessment requirements would need to be inserted which states the following: **Prior to the issuance of a zoning certificate for the installation of a small wind energy system with a tower height in excess of thirty-five feet on any approved parcel or zoning district, the applicant shall have completed a Wind Speed Analysis or Wind Study performed by a qualified professional. The purpose is to identify the optimum energy producing height on the applicant's site and shall provide the following information:**

1. Ranges of wind speed.
2. The hours per year of wind speed in each range.
3. The output during those hours.
4. Total output in kilowatt hours per year for each of the ranges.
5. Recommended height based on analysis.

Trustee Likley stated that language was taken right out of the Zoning and Planning Law Report that legal counsel provided.

Trustee Oiler stated that he agreed with that amendment as did Trustee Harris. All three trustees agreed that this section should be added after the purpose statement underneath the paragraph on electrical interference.

Trustee Oiler then stated that after reading over the letters and listening to the zoning commission members who spoke this evening that for the safety of the residents the trustees should put back in the previously deleted number **17. No homemade small wind energy systems shall be permitted.** He stated that he felt all systems needed to be a manufacturer certified apparatus for the safety of the residents. **He suggested that that be number 16. The current number 16 will be moved to number 17.**

Trustee Harris stated that he has given the subject of homemade wind energy systems a lot of thought and he also feels that they should not be allowed.

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Trustee Likley stated that he agreed with the other trustees recognizing that the recommendation to allow homemade systems was based on the advice of legal counsel and that the Trustees needed to understand that at some point the language could be challenged. It was agreed to not allow homemade wind energy systems.

Trustee Oiler then stated that Article II, 204.B maximum height of structures needed to be amended to include small wind energy systems. That would become number 5 and would read as follows: Small Wind Energy Systems may exceed thirty-five (35) feet in tower height with the completion of a wind assessment see Article II, 205.J.

Trustee Oiler stated that an application for a small wind energy system would need to be created as well as a fee schedule. Trustee Harris stated that he would work on that with input from the Zoning Inspector, Matt Witmer.

Trustee Oiler requested a final draft for review before sending it off to legal counsel.

Trustee Oiler made a motion to continue the public hearing for Small Wind Energy Systems to September 6, 2012 at 6:30pm. Trustee Likley seconded the motion.

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

Approved August 20, 2012