

Westfield Township Trustees

Public Hearing Small Wind Energy System
November 5, 2012

Trustee Harris opened the public hearing for small wind energy system at 6:30pm.
ROLL CALL: Trustee Oiler-present, Trustee Likley-present, Trustee Harris present.

Also present were Heather Sturdevant and Matt Witmer.

Trustee Harris opened the hearing for public comment.

Ms. Sturdevant stated that after reading the model small wind energy language approved by the Medina County Department of Planning Services and the Prosecutor's office, she noticed that they added something about the level of noise in decibels during certain hours. She did not think that the township could regulate hours. When the Zoning Commission was reviewing language for internet café's they asked the prosecutor's office if they could regulate the noise after certain hours and they were told that townships did not have that authority. She was also concerned that while meters to measure noise were available that it would be very hard to enforce by the Zoning Inspector. Trustee Likley stated that he questioned that as well. He felt it looked like a last minute addition as it did not have any distances. He also felt there are too many variables that could come into play to affect the noise level such as, is the noise measured at the base or at the property line. Trustee Likley stated that he would support striking that language. Trustee Likley stated that he thought townships had some flexibility in regulation more so when it came to conditional uses especially in a residential area and that in those instances hours of operation could be set. He did not feel that the township had enough horse power to support the noise regulation for a permitted use. Ms. Sturdevant then stated that she was very pleased to see in looking over the model regulations that most of it was what Westfield Township Zoning Commission and the Westfield Township Board of Trustees had written over the last several months. Trustee Likley stated that it was almost verbatim what we submitted. Ms. Sturdevant stated that she felt good that we as boards were doing something they could be proud of. She then stated that was all she had. The Trustees thanked Ms. Sturdevant for speaking.

Trustee Harris closed the public comment section of the hearing. Trustee Oiler stated that he felt the language that the township has is very complete with the exception of number 14 which he would address in a moment. He went on to say that he had spoken with Bill Thorne regarding number 14 on the township's draft which states that no homemade small wind energy systems shall be permitted. Bill Thorne stated that would be very hard to enforce if it was contested. He then stated that a homemade system would have to meet all the other specifications in the language and he couldn't see anyone putting up a tower less than 35 feet. He suggested that number 14 be removed from the language. Trustee Likley stated that the model language from the county permitted homemade small wind energy systems. He also felt it was a good move to remove regulation number 14. Ms. Sturdevant asked by doing that how it would affect the regulation stating that all systems must be operated and maintained by manufacturer's standards and that since they are the builder of that system doesn't that in essence mean that however it operates it is within code as they can write their own specifications. Trustee Oiler stated that they would have to produce all the information just as a manufacturer would. Ms. Sturdevant stated that the language did not say that. It stated that they had to be operated by the manufacturer's specifications and that a person could say that as they were the builder there were no

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specifications. Trustee Likley stated that all systems would have to meet state and county regulations. Ms. Sturdevant stated that the state and county do not address small wind energy systems. They only

regulate systems over 5 megawatts in power and the systems we are dealing with must be under that amount of power. Therefore there are no state and county regulations. She stated that it would be nice to rely on the state to regulate however, when there is nothing there it will not protect the township. Trustee Harris stated that all the EPA regulates is the storage and disposition of the batteries. Ms. Sturdevant stated that the major concern with a homemade small wind energy system was not the battery. It is the noise and aesthetics associated with them. They can be very noisy and unpleasing to the eye as they do not flow together nicely like those made by a manufacturer as they can be made out of whatever parts a person finds around their property. She explained that Road Supervisor Evans had photos of some systems that were horrible that were in Medina County. She stated that the Zoning Commission was adamant on not allowing homemade systems. The property owner could come for a variance if they wanted to erect something of that nature and the BZA could regulate it further. Trustee Likley stated that number 14 should be left in and that they could proceed. Trustees Oiler and Harris agreed. All three Trustees stated that they did not support the addition of the letter s. regulation in the model language that addresses noise levels in decibels. Trustee Likley stated that in reviewing the two documents side by side he did notice the addition of language in the model regulations making any small wind energy system over 35 feet a conditional use instead of a permitted use. That is located in their first paragraph. They are also recommending small wind energy system be singular instead of plural. Trustee Likley stated that we do not have stipulations for a conditional use in our draft. He felt that making systems over 35 feet a conditional use was a good approach. Mrs. Evans stated that the conditions set in our language for towers over 35 feet could be included under the conditional use. Trustee Harris called a recess to the public hearing until after the regular meeting to be held at 7:00pm.

Trustee Harris recalled the public hearing to order at 8:25pm. Trustee Likley stated that they were discussing the addition of a paragraph to state that any small wind energy system over 35 feet would be a conditional use. Fiscal Officer stated that after that paragraph they would add the following:

“and a conditional use for tower height in excess of thirty five feet in rural residential, local commercial, highway commercial and industrial”.

Trustee Likley stated that the next paragraph 17B. which talks about notifying all contiguous property owners, under section b. the last sentence it requires the location of all sewer treatment systems and that is not supported by planning services or the prosecutor’s office. He proposed that they strike this requirement. Trustee Oiler and Harris agreed.

Trustee Oiler stated that in the copy from planning service there was a requirement for the location of trees within a 150 foot radius. Trustee Likley questioned that as well as he felt that would come in the original height requirement and would not be needed. That is not currently in the regulations that Westfield Township is considering.

Trustee Likley stated that the number four in the planning services document had the word elevation and that the Trustees had decided that they would use the word height instead for our regulations they did not feel elevation was as clear. This is reflected in 17D of the township’s language for consideration. Trustee Oiler asked if the Trustees wanted to include the location of trees into the language for consideration. Heather Sturdevant stated that the reason that the Zoning Commission had the location

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of trees was because if a tower were to fall and hit a tree and then the tree fell, the tree could then hit a house or do damage to neighboring structures or properties. While the Commission felt the chances of this happening were small, they felt it was important to cover that event in the language. Trustee Oiler asked the other Trustees how they felt about that. They stated they did not see the value of adding the location of the trees and therefore decided not to include it in the language. Trustee Likley stated that if a property owner wanted to erect a wind energy system and they planted a tree next to it, shame on them, he could not fix stupid. He then asked if the Trustees felt that the definitions were satisfactory. Trustee Harris stated that the township had the same seven definitions that planning services had and that he felt they were complete. Trustee Oiler agreed. Trustee Likley stated the importance in that was the measurement to determine the tower height and that is established in the definitions. That is important for knowing whether a system is under or over 35 feet and therefore a conditional use.

1. Trustee Likley asked if they were satisfied with the Small Wind Energy Language to be added to section 205. The Trustees stated that they were. The Trustees agreed to strike the word systems and instead use the singular version of the word system. Each of the districts will be updated to show small wind energy systems as a permitted use.
2. Trustee Likley stated that rural residential would be Article III under section 303 B.1.h., then 303B.2.n., small wind energy systems in excess of 35 feet and in that section of conditional use it references section 606. That should be updated to include the restrictions for a wind energy system over 35 feet including the paragraph regarding a wind study. Trustee Likley stated that he believed that should go under section 606A.34 supplemental conditions. That will then take into consideration, the requirements and should include the paragraph that starts with "Prior to the issuance of a zoning certificate" and the five numbers that are below that in the language for consideration. He said all of the other requirements for small wind energy systems would have to be taken into consideration as well under Section 606 and therefore asked that Section 205.J for Small Wind Energy System be referenced in Section 606 and state that all those requirements must be met in addition to those specifically listed in section 606.
3. The permitted use will also be entered into section 305 Local Commercial B.1.n., and 305B.2.j. Conditional Uses 606.34 will add the same language as established in the previous district.
4. The next section would be 306B.1.e Highway Service Commercial and 306B.2.i. would be the conditional use section 606.34
5. The next section would be 307B.1.h for permitted uses and 307B.2.e. for conditional uses 606.34.
6. Fiscal Officer Evans stated that there are a lot of amendments that are being worked on right now. She is not going to recopy the book for everyone until they are all complete as if she were to do it now, she would be doing it again in another month. She did agree to get all the new language to the board members along with the signed update sheets as they became available. Trustee Likley stated that it is critical for all board members to have the signature pages. Heather Sturdevant stated that as the changes are adopted by the Trustees, she is updating the code and once they are all done, new books will be made. In the meantime, the new language will be handed out so that all members have the new language to add to their books. Trustee Likley stated that before the township goes to the expense of making new books to do a very good proof read to make certain that it is correct. He stated that fixing alignment issues and spelling issues make the book that much better.
7. Trustee Likley stated that our contents page would need to be amended as well to include 205J.
8. Add definitions in alphabetical order

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Trustee Likley made a motion to adopt the language for Small Wind Energy Systems as amended.

Trustee Oiler seconded the motion.

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

The language shall go into effect in 30 days, December 5, 2012.

Trustee Harris made a motion to close the public hearing for small wind energy. Trustee Likley seconded the motion.

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

Approved December 3, 2012