

Westfield Township

Zoning Commission Meeting Minutes – December 11, 2012

The meeting was called to order at 7:30 pm by Chairman Heather Sturdevant. Members in attendance: Heather Sturdevant, Jill Kemp, Sue Brewer, Greg Brezina, Scott Anderson, Dennis Hoops and Zoning Commission Secretary, Sherry Clarkson. Guest in attendance: Gary Harris.

Chairman Sturdevant advised members received **the September 11th Meeting Minutes** and asked if **there were any corrections/additions to the minutes. There being none a motion was made by Scott Anderson to approve the minutes as presented and a second to the motion was made by Greg Brezina. A roll call was taken: Sue Brewer-aye; Greg Brezina-aye, Jill Kemp-abstain, Scott Anderson-aye and Heather Sturdevant-abstain. The motion carries.**

The November 13th meeting minutes were emailed along with copies handed out at the meeting and Chairman Sturdevant asked members if there were any corrections/additions to the minutes. **Chairman Sturdevant advised in the bolded section of motion to change to: approve the minutes as amended, not with changes made as typed. With no other additions/corrections, a motion was made by Jill Kemp to approve the minutes as amended and a second to the motion was made by Greg Brezina. A roll call was taken: Sue Brewer-abstain, Jill Kemp-aye, Scott Anderson-abstain, Greg Brezina-aye, and Heather Sturdevant-aye. The motion carries.**

Updates

Jill Kemp, board member brought information forth to the board regarding two books (which were passed out to members to review). The Books, titled: Agenda 21 (Behind The Green Mask, U.N. Agenda 21, The Agenda for the 21st Century, Sustainable Development by Rosa Koire; Earth Summit/Agenda 21 The United Nations Programme of Action from Rio. Jill proceeded to advise members the goals of the United Nations is to control the U.S. Items discussed are sustainable growth, green space, walking paths, urban settings. (This gives more control to the government and less control to the individuals). They want to take away the freedom the U.S has, no individual property rights, it is felt the U.S. has too much freedom and the way to break it is not from the top down but the bottom up. It talks about doing away with individual property rights. Also discussed are women's rights and individual rights. It was noted that the U.S. has so much more freedom than other countries and this needs to be controlled at the local level. This is a very good book to read, which will lead you to read other which are also out, one of the other books which is good is Smart Growth. Chairman Sturdevant advised she has the book at home and is willing to share with members. It was noted some of the books the Planning Commission is looking at come directly from this Agenda 21 book. This book deals with beyond party lines.

Work Items on Agenda

Two outstanding items are still on our agenda, those being the Outdoor Wood-fired Boilers (OWB's) and Highway Commercial. It was noted that after our meeting with Bill Thorne, if some of our questions were answered, we could not review for the last time, prior to providing information to the Trustees for action. If everyone could pull their comments dated 8/7/12. (Also, members pulled the October 2012 minutes the OWB's were discussed at a prior committee meeting.) The other handout was on 8/31/12 in a letter to Martha Evans which was discussing Wind Energy, which Trustee Gary Harris passed out to board members.

Article VI, Conditional Zoning Certificate

1. Section 606 Specific and Supplementary Conditions

23. Outdoor Wood Fired Boilers shall be considered a conditional use in the Rural Residential and Local Commercial District only on lots equal to or greater than three (3) acres. Only one (1) OWB shall be permitted on any lot or parcel in those specified Districts. A zoning Certificate is required for all OWB's

a. OWB's shall be located in rear yard only

Comments: Limiting the OWBs to the rear yard may be overly restrictive. Consider permitting them in the rear and side yards.

b. OWB's Shall be located not less than two hundred (200) feet from all property lines.

c. OWB's shall be located not less than fifteen (15) feet from the principal building or any accessory structure.

Members Comments: All members agreed to limit to rear yard. Not to include side yards due to smoke. It was noted 200 ft. away from property lines and 15 ft from principal building or accessory structure due to fire hazard. All members agreed to keep items.

d. Fuels shall be limited to seasoned hardwoods, corncobs or woodchips.

Comments: This provision is not a land use control. It is this office's opinion, that you may restrict the types of fuel to those recommended or in conformance with the manufacturer's instructions. In addition, based on limited case law, it is our opinion that you may limit the types of fuel to those as approved by the Environmental Protection Agency for such structures.

However, we do not feel the Township may impose stricter requirements.

Chairman Sturdevant advised "Do we want to change this to": d. Fuels shall be limited to those recommended or in conformance with the manufacturer's instructions. Board members agreed.

e. The stack height of any OWB shall be no less than twenty (20) feet or at least two (2) feet above the peak of any structure within three hundred (300) feet whichever is greater.

Board comments: Chairman Sturdevant asked if members were in agreement with this. They were in agreement.

f. OWB's Shall be installed, maintained and operated according to the manufacturer's specifications.

g. OWB's shall not be permitted on steep slopes as defined by the Township Zoning Resolution.

h. No person shall operate or maintain a OWB in such a manner that creates a nuisance as defined by the Township Zoning Resolution (Board put in a definition for nuisance) to reword h. to say: By authorizing OWB's the township is not authorizing a nuisance (see definition).

i. Prior to the installation of an OWB, the owner or occupier of the real property where the OWB shall be installed shall make application to the Township on the proper form to included:

a. A scaled drawing detailing the location of the OWB. The drawing shall clearly indicate parcel lines, setback distances from the property lines and principal building, proposed stack height, neighboring structures and steep slopes as applicable. (This would become a #1 when retyping).

B. Definitions

1. 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 (This definition was provided directly to the zoning commission from Planning Services.)

Board Comments: Greg Brezina advised that we need to have the Manufacturer's regulations/instructions on file, so when Matt goes out on a problem, we have to add into information so if Matt needs to address this he has. It needs to be in the file at the time of filing for a zoning certificate, this would be a conditional use, so the BZA would require. (We need to obtain copy of manufacturer's instructions at the time of zoning certificate issuance). Greg Brezina advised his suggestion is when the application is made instructions must accompany application which will be used and given to the Zoning Inspector. Zoning Secretary advised notes from the last meeting reflected: EPA does not have anything, the manufacture has different rules, we need to add manufacture instructions on file as Matt needs to regulate instruction on file at the time of filing for a zoning certificate, this is a conditional use for the BZA to address. Chairman Sturdevant agreed this information will be needed by the BZA when they need to make a decision vs. they go out and look for this information, it is not their job to do this. It is their job to make an informed decision on information contained in file. It was noted that any manufacturer should give information to an applicant, should they wish to apply first vs. buying a unit and then apply for a permit. This way the company realizes that they have the ability to make a sale. The more information a company would provide to an applicant would be better, should they look at three different models.

Board Comments:

We should make a # 2. (and add).....On the proper form to include a copy of the manufacturer's instructions for use, setup and any operation.

(Under Definitions of Nuisance and Prosecutor's Comments: We would not recommend defining nuisance for zoning purposes in such a manner as to imply that the Township will prosecute private nuisances. Writing language to the effect that the authorization of OWB's is not intended to authorize a nuisance would be appropriate. A Township should only be involved if a public nuisance is involved and such can be prosecuted whether it is legitimate or illegitimate under zoning.) Chairman Sturdevant advised if it is in our book, we need to have a definition on it. She advised she disagrees with what the Prosecutor's office advised, and asked Gary Harris' opinion. Gary agreed. Members discussed this and decided to allow Nuisance under definitions.

2. Steep Slopes: Lands having slopes over twelve (12) percent as measured over horizontal distances of fifty (50) feet or more that are not bluffs.

Comments: As an alternate to restricting the placement of OWB's on Steep slopes, consider adding a regulation stating that they may only be placed on flat ground.

Board comments: (g) Outdoor OWB's shall only be allowed on level ground as defined by the township zoning resolution. Now we will need to provide definition for level ground.

How about level ground, will now become a#2 instead of Steep Slope (Definition: Level Ground-ground which on the horizontal plain has a zero percent grade.) Do we want to put property owner may install pad to make level? But, if it is on a hill we do not want that. All agreed to leave it as is.

3. 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 a principal residential structure or any other site structure on the residential premises. OWB's can also be used to heat domestic hot water.

Comments: Under this definition, a OWB located in the "Local Commercial District" is not an OWB. Please revise your definition accordingly. Also, throughout the proposed regulation, you refer to Outdoor Wood Fire Boilers as "OWB's" Please identify this acronym in your definitions section. E.G. OWB –An Outdoor Wood Fired Boiler.

Board Comments: We can do this....We can add Outdoor Wood Fired Boiler – aka OWB in definitions. We have limited OWB's to residential in the LC area only, not including LC in this.

General Comments:

In regard to the above proposed regulations my main concern is enforceability if challenged. A conditional is by definition a use not necessarily inconsistent with the zoning objectives of a district, but whose nature is such that compatibility in a particular area depends upon surrounding circumstances. Making OWB's, a heating system, a conditional does not seem to fall within the parameters of what a conditional is to be used for. Clearly such a system is in reality an accessory use, a heating system, that can be used in all types of structures.

Board Comments: We want to keep as a conditional use, if for some reason the individual does not comply we can make them shut down the operational unit until they comply. It is easier than a permitted use, which other townships are leaving out, so they are not allowed, which is a problem enforcement wise, or they are allowing under a permitted use.

Holding such to be accessory uses however does not mean restrictions cannot be applied. Restrictions should however, relate to at least a perceived problem, to be addressed by the restriction.

Moreover, as of this date the only problem regarding these devices raised to us in the possibility of their fumes causing problems for neighboring structures and uses. Thus, regulation the stack height would have a legitimate basis. Your board may be aware of issues that have not been brought to our attention and therefore have a basis for restriction dealing with:
The limit to certain zones; The limit to one per lot; The limit to the rear yard only.

Finally, the Township seeks to regulate the stack heights, setback and location of OWB's. To this end, the Township should maintain a file containing the research they have conducted (we have), the documentation they have reviewed, and the training they have had to develop these regulations. If you have any questions or if this office can be of further assistance, please do not hesitate to contact me, Very truly yours, David Folk, Assistant Prosecuting Attorney

Chairman Sturdevant proceeded to obtain from the computer in the other room the EPA regulations which are on the laptop in the office. This cannot be opened on any other computer.

We have it in the office and it can be viewed, but not printed, should anyone want to view

We have a letter in the form of a memo to Debbie Wayland from Michael Benson who is from Copley and cc: to Matt Springer.

Please go to Copley Zoning rewrite and it reflects what they have as regulations and there is an article from the EPA that states regulations of woodburning stoves and furnaces....it states that my neighbor has a woodburning furnace that the smoke from it bothers me, who regulates this? It states that the USEPA has taken the lead in regulating woodstoves and fireplaces, the USEPA has regulations that require the manufacturers to install controls on new wood stoves, the regulation says that each wood heater manufactured on or before July 1, 1988 sold at retail on or after 1990 must meet air pollution standards in the rule. These regulations do not affect any wood stove built prior to that date. The above regulations apply to the typical wood burning stove you would put in your home, they do not appear to apply to outdoor wood furnaces currently being sold. USEPA does not yet have regulations governing these outdoor furnaces. The Ohio EPA does not have specific regulations concerning residential wood stoves and furnaces, most of our regulations are designed to limit industrial air pollution not small residential sources, because we do not have specific regulations, we have limited ability to require a homeowner to stop operating their furnace or to modify how they use it to minimize smoke. However, we are willing to talk to individuals about how to operate efficiently to help minimize problems regarding smoke. In order to get this kind of assistance please contact your local office responsible in your area. You can find the local office by looking at the map. The USEPA has a lot of information on the operation, regulation, potential health hazards concerning wood stoves on the web site. You can go to EPA.Gov/Burnwise (Program EPA used SODA PDF).

(www.EPA.Ohio.Gov/TIC Outdoor woodfired boilers. aspx) 614-644-2270 Ohio EPA Incinerator Rules 4/20/0 614-644-2160 Public Interest Center). (see attached) (If you go to the website at EPA.Gov/Burnwise, there are 26 pages of wood fired burners/furnaces that individuals can review.(EPA.Ohio.gov/PIC/Outdoorwoodfiredboilers.aspx)

In looking at the draft of the incinerator rules, which were written in April 2010, if they have been adopted, we can use for our township. Heather agreed to call the EPA at our local district to see if they have been adopted. If they have been, Heather will obtain a copy and email it to everyone as well as the trustees.

Chairman Sturdevant advised if these rules have been adopted, it will make it a lot easier to enforce the rules and regulations. The Prosecutors office will be made aware of this. Nothing has been approved as of the information received from David Falk in 2010; and nothing has been done to date at the county level.

Chairman Sturdevant advised she will contact the EPA tomorrow. Chairman Sturdevant asked for a motion to approve Article VI, Conditional Zoning Certificate, Section 606 Specific and Supplementary Conditions for A. 23 Outdoor Woodfired Boilers as amended, to be sent to the Trustees. Before we do that we need to look in our books in the table to see if any of those numbers apply. Action on the motion was held.

If we look in the front of the book (Contents) under Articles we will need to add in the appropriate sections. As an example under LC, 305 B 2, and then add letter J. Outdoor Wood Fired Boilers and then the numbers that apply in addition to the restrictions we set. Go to page 63, 606 Specific & Supplementary Conditions. Items covered, #11, #13, #23, & #32 (apply for a OWB under similar use needs to be included also) discussion was entered into amongst the board members on the above mentioned items. These will be included in RR & LC.

Chairman Sturdevant made a motion to approve and certify to the Trustees Article 6, 1. Section 606 A. 23 Outdoor Wood Fired Boilers (OWB's) as amended December 11, 2012. A second to the motion was made by Scott Anderson. A roll call was taken as follows: Sue Brewer-aye; Greg Brezina-aye, Scott Anderson-aye, Heather Sturdevant-aye. All were in favor.

Chairman Sturdevant advised she will make the necessary calls and get with Sherry to certify to Trustees within five days.

Other Business

Chairman Sturdevant asked if everyone got a form from Martha regarding direct deposit of checks. All members advised they had received form. Scott Anderson was not at the previous meeting and Chairman Sturdevant advised there is a quarterly fee now of \$6.00. She advised he may wish to get with Martha and she will explain further.

Our next meeting will be our regular meeting. At that meeting we will be holding our organizational meeting to elect officers.

North Coast

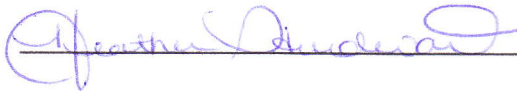
Heather met with Matt and all relevant information is being given to Bill Thorne regarding this. Bill will then advise whether we need to pursue further or approve. Proof was found as to when certain items in question happened. We are moving forward, and hopefully Bill Thorne will be at our January meeting. We will address after meeting with Bill, otherwise we may have to hold a special meeting regarding addressing this further. We are doing our due diligence. Some of you were here when things happened, and this will give you a chance to talk to Bill on this. Minutes including audios are being pulled.

Training schedules for 2013 from the Planning Commission have not been released to date yet.

Chairman Sturdevant asked for a motion to adjourn the meeting. A motion to adjourn the meeting was made by Scott Anderson. A second to the motion was made by Jill Kemp. All were in favor. The meeting was adjourned at 8:45 pm.

Respectfully Submitted,

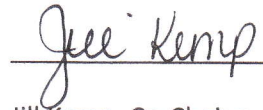
Sherry Clarkson, Zoning Secretary



Heather Sturdevant, Chairman

1-8-13

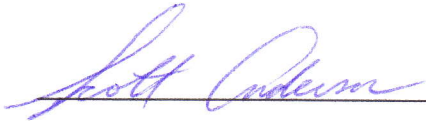
Date



Jill Kemp, Co-Chairman

1-8-2013


Date



Scott Anderson, Member

1/8/13

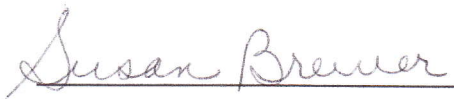
Date



Greg Brezina, Member

1/8/13

Date



Sue Brewer, Member

1/8/13

Date

Dennis Hoops, Member-Alt.

Date