

# Westfield Township Trustees

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Public Hearing-Small Wind Energy

May 21, 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.

**ROLL CALL: Oiler-Here, Likley-Here Harris-Here**

Trustee Harris opened the meeting up to the public for comments or questions. As no one was in the audience, Trustee Harris moved on to the Trustee's discussion of the proposed language.

Trustee Oiler asked how the other Trustees felt about item number eighteen (18) which states "Any damaged or inoperable small wind energy system shall be returned to a functioning status within six (6) months unless it poses an immediate danger or threat of catastrophic failure. If said system is not returned to a functioning status within six (6) months, Westfield Township shall require a signed decommission statement from the property owner that the system will be decommissioned within eighteen (18) months". Trustee Oiler felt that six months was excessive and would be more comfortable with a two month time frame.

Trustee Likley stated that he had some concern with that language as well. Trustee Likley wanted to know who is to determine if a wind turbine is inoperable and felt that the word damaged was sufficient as long as the damage is visible and the time frame could be adjusted as well. He also did not know if the Township could require a signed decommission statement. He used the home up the street from the Hall as an example by looking at what steps the Township would need to take to have that taken care of. If you communicate with the property owner and they are not responsive, are you going to take them a decommission statement and notify them that they have to sign it? He was uncertain as to how enforceable that language was. Instead he felt "Any damaged small wind energy system shall be returned to a functioning status within a time frame. The concern with the time frame would be weather conditions. If a small wind energy system was to break in January, would it be feasible to have it operable again in two months. A six month window might be acceptable under those conditions.

Trustee Harris asked if they could state "two months, weather permitting"?

Trustee Likley felt that six months was better as if one broke in early winter, it would give the property owner time to fix it.

Trustee Oiler stated that they would strike the wording "or inoperable" and he felt it was reasonable for a six month time frame to be left in the language to return a system to functioning status. He asked about changing the decommissioning from eighteen (18) months to twelve (12) months.

Trustee Likley stated again that he did not feel that the decommissioning language in number eighteen (18) was enforceable. He looked at the steps the township would need to take to enforce that code. The

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Zoning Inspector would notify the property owner of the damage in a letter and ask them to comply within thirty days. He would then send another letter.

Trustee Oiler stated that he believed it would be a structure which would be just like a home and that he believed that the steps the Township would have to take would be the same.

Trustee Likley stated that he spoke with Mr. Bill Thorne of the Medina County Prosecutor's office today to see whether he felt this was good language or not for small wind energy systems. His question is "who determines that a system is inoperable"? So he advised to remove the word inoperable. Trustee Likley therefore felt that number eighteen (18) should read as follows:

**"Any damaged small wind energy system shall be returned to a functioning status within six (6) months unless it poses an immediate danger or threat of catastrophic failure"**. The Trustees then have a process to follow if that language is not followed.

The other Trustees agreed.

Trustee Oiler stated that he has been rereading Bill Thorne's comments on number seventeen (17), which states that "No homemade small wind energy systems shall be permitted". Mr. Thorne stated that the concern there is that it is not a zoning regulation. If a homemade system complies with all EPA, county and state regulations, why should such not be allowed?

Trustee Likley agreed with this.

Trustee Harris felt that there is enough distance in the regulations that if a homemade wind energy system isn't up to par and by chance falls over, that it would at least only fall on the wind energy systems owner's property.

**It was the consensus of the Board to strike number seventeen (17) from the regulation.**

Trustee Oiler in looking at number twenty (20), of the proposed regulation felt that the site plan regulations helped to ensure that the setbacks were being followed and that it served to increase safety. Trustee Likley questioned what the purpose of sewage treatment systems was to that regulation. He also wanted to know if it was the understanding that a site plan review would be required for small wind energy systems and if so under what board. Would it be under the Zoning Commission or the BZA. He did not see in our administrative code where it addressed accessory uses.

Trustee Harris stated that it did not say Site Plan Review; it stated Site Plan Requirements which would be for the Zoning Inspector.

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Trustee Likley stated that he felt that due to the wording it would not require a site plan review. He explained that in discussing it with Mr. Thorne, he did feel that it would require a site plan review. There needs to be clarification as to whether number twenty (20) would require a site plan review or not.

Fiscal Officer Evans stated that they could change it to state Site Plan Requirements for Zoning Certificate Application which would clarify that a site plan review was not required.

Trustee Likley also questioned the wording "but are not limited to" He felt that the language needed to be very clear and not include that wording. He did not want to see additional grey areas. He also felt that they should remove the wording "also show the location of sewage treatment systems"

Trustee Oiler felt that the wording on sewage treatment systems should be left in if for no other reason to raise awareness to it. The other trustees agreed with this suggestion.

Trustee Likley moved on to letter d which states "Elevation of the proposed small wind energy tower". He wanted to know if that was the GPS elevation at the base or was that the height of the system itself.

Trustee Harris then suggested that they replace the word elevation with the word height.

The other Trustees agreed.

Trustee Likley then moved on to letter e which states "location of trees within a 150 foot radius of the proposed small wind energy system". He wanted to know why that should be included.

**The board decided to strike the wording in letter e.**

Trustee Likley stated that as they eliminated the wording that no homemade systems would be allowed the wording in letter f would be not applicable and should be removed.

**The Board decided to strike the wording in letter f as well.**

After this discussion it was decided that item number 20 would read as follows:

**20. Site Plan Requirements for Zoning Certificate Application shall include:**

- a. Property Lines and physical dimensions of the site**
- b. Location of the small wind energy system tower, guide wires, setbacks from property lines, easements and any structures on the property. Also show location of sewage treatment systems.**
- c. Location of warnings/emergency information.**
- d. Height of the proposed wind energy system tower.**
- e. Scaled drawing no smaller than 1"=100'.**

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Trustee Likley then questioned the enforceability of number nineteen (19). He wanted to know how you determine that a small wind energy system has been abandoned. He used the abandoned airfield as an example and what the township had to go through in that situation. He then stated that even if a system was abandoned, as long as it was structurally sound he questioned whether it needed to be removed or taken down.

Trustee Harris felt that most people if a system did not work would take the system down due to the danger it could pose.

Trustee Likley stated that he felt it would be difficult to require decommissioning information during the application process and wanted to know who was going to monitor whether or not a system was inoperable for a two year period.

The Board decided to **strike number nineteen (19) altogether.**

Trustee Oiler in looking at the definitions and reading Mr. Thorne's comments stated that some of the terms were not used anywhere in the proposed document. He stated that he felt that those definitions need to be removed. The Nacelle, Power Center and Rotor are the definitions that do not appear in the code.

Trustee Likley agreed but did see previously that one of those definitions could be utilized in number ten (10) where it states that no tower or blades shall be used for advertising of any kind. He would like to add the nacelle to number ten (10).

**The board agreed to add the word nacelle to number ten (10).**

Trustee Likley stated that they needed to realize that with that however, if GE manufactured the system, there was most likely going to be GE advertising on it that we could not control. Therefore he felt at the end of number ten (10) they should add "excluding the manufacturer of the system".

The board agreed that number ten (10) should read as follows.

**10. No tower, nacelle or blade shall be used for advertising of any kind excluding the manufacturer of the system.**

**The trustees decided to leave the definitions as is.** Even though some of them may not be in the code they can serve as useful information.

Trustee Likley in reading Mr. Thorne's comments noticed that he wanted to know if the township had done a study to determine how high a tower would need to be for suitable air flow to be reached. The

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information that his office provided suggested that a wind survey also be conducted. Trustee Likley asked Mr. Thorne if a wind survey on a property could be a requirement in an application. He stated that no matter the height of the tower, should a wind study be required to determine maximum efficiency. He asked this because regardless of the fact that there may be a lot of stimulus money and grant money available for these systems, many people have put up systems that are essentially worthless because they did not do their due diligence to find out these things in advance. The article Mr. Thorne's office provided stated that a minimum reduction of ten percent air flow was a major reduction in efficiency. Mr. Thorne's comments were that without the Township doing a wind study to determine the rules, which is a common thing in any Zoning Resolution (the reason for the rules), we cannot just say it is going to be 150'. As long as it meets the setback requirements and the lot size requirements Trustee Likley felt that the height requirement should be taken off and that the Township should require as part of the application a performed wind study by the applicant. Trustee Likley recommended removing number four which addresses height regulations and instead require that a wind flow study be done on the property by the applicant to determine the most efficient height of the tower. That suggestion was supported by the law report provided by Mr. Thorne's office.

Trustee Harris asked if they could add a new number four (4) to state that the height of the tower would be determined by the results of a wind flow study done by the applicant on their property. Trustee Likley stated that he did not have the language prepared that he would like to use for that but that he could work on it. It was the consensus of the board to remove the current number four (4) and Trustee Likley would work on wording for a new number four.

Trustee Harris stated that they could continue the public hearing.

Trustee Likley stated that one other point that was brought up by Planning Services is that they recommend siting the Ohio Revised Code section 519.213 in the purpose statement of this text. Trustee Likley had not reviewed that text and he would like to take a look at it to see if it applies.

Planning Services also mentioned the height and stated that they recommended setbacks of 1.1 times as opposed to 110%. As they are the same the board felt they could leave that regulation as proposed.

**Trustee Likley made a motion to continue the public hearing for Small Wind Energy Systems to June 18, 2012 at 6:00pm. Trustee Oiler seconded the motion.**

**ROLL CALL: Oiler-yes, Likley-yes, Harris-yes**

Approved June 4, 2012