

Westfield Township Trustees

Continuation of Public Hearing- Proposed Zoning Text for Small Wind Energy
June 18, 2012
6:00pm

Trustee Harris opened the Public Hearing to consider a text amendment to the Westfield Township Zoning Resolution Article II Section 205J Small Wind Energy Systems at 6:00pm.

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

Also in attendance was: Heather Sturdevant

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

Heather Sturdevant after listening to the audio of the last public hearing on Wind Energy, wished to convey to the Board of Trustees, some of the reasoning that the Zoning Commission used in deciding not to allow homemade Small Wind Energy Systems. Ms. Sturdevant stated that there was concern in allowing these types of systems. She went on to say that while the Zoning Commission was discussing this topic, they viewed photographs taken by the Road Supervisor, Lee Evans of homemade Wind Energy Systems that are currently in the county. These systems were made out of old car bumpers and any other materials it appeared that the owners could find laying around their home. The Zoning Commission discussed that part of the reason for Zoning is to try to keep neighbor disputes from happening. The photos that were presented looked as if those Wind Energy Systems in particular were eye sores or nuisances and several Zoning Commission members stated they wouldn't want that in their backyard. They therefore made the decision to exclude the allowance of homemade systems to eliminate that problem. The Commission was also concerned that homemade systems, depending on how they were put together could present a safety risk to the owners or neighbors especially if there were no safety features installed to keep the blades from rotating too quickly. Ms. Sturdevant stated that the Commission did realize that the township could only protect individuals from themselves to a certain extent. Ms. Sturdevant continued by saying that if the Board wished to allow homemade wind energy systems that she hoped they would at least consider a statement similar to the following: "No person shall erect or operate any small wind energy system in a manner that creates a nuisance". She went on to say that the Zoning Commission has created a definition that will be coming to the Board of Trustees for a nuisance in the near future. Ms. Sturdevant read the following definition for nuisance that would be coming before the Board of trustees in the near future. "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".

Trustee Harris thanked Ms. Sturdevant for speaking.

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Trustee Harris closed the public participation portion of the hearing and stated that the Board would continue their discussion on the topic.

Trustee Likley stated that in response to Ms. Sturdevant and her concerns, that they were making their decision based on a recommendation from legal counsel to remove that language. The prosecutor's office felt that if a homemade system met all Township, EPA, County, and State regulations, it should be allowed. He stated that there are regulations at a higher level that get into the aesthetics and noise of any item put on a property. He went on to read the following from a Law Report that was given to the Board by legal counsel: "noise not to exceed 50 decibels or 10 decibels above ambient noise in any one Hour, whichever is higher. Noise is measured from the closest neighboring inhabited dwelling or neighboring setback, whichever is closer. Ambient noise is measured as a weighted sound level and is taken where the noise from the small wind turbine cannot be heard or with the small wind turbine shut down". Likley stated that the problem with sound issues was enforcement and then having a meter to measure the noise.

He did say that he felt Ms. Sturdevant made a valid point that if a system was loud or making a clanking noise all night long that it would create a nuisance and should be addressed.

Trustee Oiler asked the other Trustees if they would want to insert a statement under item number 15 to read "and shall not create a nuisance to contiguous properties".

Trustees Harris and Likley stated they believed that such a statement would address the concern.

Trustee Oiler asked Fiscal Officer Evans to retype the regulations showing the changes that have been made by the Trustees thus far so that he could read it contiguously. Ms. Evans agreed to do so.

Trustee Likley stated that in review of the height regulations that had been established, through recommendation from Legal Counsel as to the basis or reason for the ruling for a 150 feet limit, while he didn't see many homeowners extending a system above that limit, it could occur. In answer to that, trustee Likley prepared and forwarded out to the other Trustees and legal counsel, language that would require a wind assessment. This would determine the optimum height for that system whether it be 30 feet or 130 feet or even 200 feet. That would provide the homeowner with flexibility. Trustee Likley stated that he had not heard back yet from Bill Thorne on that language and felt that they should wait to hear back from him before proceeding. One of the concerns Trustee Likley had with that language is that even though it was taken from the Planning and Law Report, it does not indicate who or how the information required would be gathered. He therefore wondered if there were companies that performed those types of analysis. He has reservations with the Wind Assessment language but said he would defer to legal counsel in making his final decision.

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Trustee Oiler stated that the Wind Energy Companies he has spoken to stated that they have a consultant who collects that data for them. That is how they are able to guarantee the output of their systems.

Trustee Likley stated that he felt if a homeowner was going to spend the money to put up a system, he would like to believe that they would want to gather that information. He also stated that in regards to electrical interference, he did not believe that the Township had any additional responsibility to gather, maintain or enforce any issues that might arise as a result from electrical interference. He stated that he felt it should be mentioned in the language so that any neighboring property owners could establish a baseline with which to move forward with whatever action they felt necessary. Trustee Likley proposed deleting the 3 acre requirement in order to have a small wind energy system and stated that as long as the property owner could meet all of the setback requirements that their lot could be any size. He therefore suggested that the Trustees continue the Public Hearing for Small Wind Energy to a pre specified date until he heard back from Bill Thorne.

Trustee Oiler made a motion to continue the Public Hearing for Small Wind Energy to July 2, 2012 at 6:30 pm

Trustee Likley seconded the motion.

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

Approved July 16, 2012