

**WESTFIELD TOWNSHIP  
BOARD OF ZONING COMMISSIONERS  
REGULAR MEETING  
April 14, 2009**

Chair Sturdevant called the regular monthly meeting of the Westfield Township Board of Zoning Commissioners to order at 7:35 p.m. Board members Miller, Anderson, Kemp, Brewer and Sturdevant were in attendance. Alternate ZC member Kevin Primer was also present. Other individuals in attendance were Ron Oiler, Tim Kratzer, Stan Scheetz and Dwayne Kramer.

**GENERAL BUSINESS:**

Approval of March 10, 2009 meeting minutes

Mr. Anderson made a motion to approve the March 10, 2009 meeting minutes as amended. It was seconded by Ms. Brewer.

ROLL CALL-Anderson-yes, Kemp-yes, Brewer-yes, Miller-yes, Sturdevant-yes.

**Correspondence**

Chair Sturdevant read the following:

- An e-mail from Bethany Dentler Executive Director from the Medina County Economic Development Corp. Ms. Dentler would be in speaking at the Village of Seville on April 27, 2009 at 8:00 p.m. following the meeting of the Seville Zoning & Planning Commission to give an overview of how JEDD's and CEDA's can work in a community.
- A clarification letter from Mr. Scheetz regarding his letter dated March 2, 2009 and presented last month to the Zoning Commission. His reference to a "General Business District" should have been references as Westfield Township's existing Local Commercial Business District. In addition to the Permitted Uses and/or conditionally permitted uses that would need to be enumerated, there would have to be a reference to a Planned Unit Development as an alternative, as the vast majority of the proposed retail to be built northeast of Greenwich Rd. would not be on lots having frontage on Greenwich Rd, but rather most likely on a combination of private streets and reciprocal easements and ingress and egress across proposed parking lots to be used by multiple tenants in the future.

**COMP PLAN STEERING COMMITTEE UPDATE**

ZC member Miller stated the Steering Committee was struggling a bit drafting questions to be on a survey that would be mailed out to the community. There has been much talk at the Committee Meetings about the Lake Rd. /Greenwich Rd. corridor. Mr. Majewski was trying to keep the committee on task and leading the Committee to completion of a survey. There have been two renditions of the survey drafted with a third on its way shortly.

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Chair Sturdevant asked about the issue of a complete and accurate mailing list for the distribution of the surveys. Mr. Miller stated there was talk about getting a list from the school and or the Fire Dept. To date, he did not believe a decision has been reached. Secretary Ferencz stated she could follow up with Mr. Majewski if he has made a decision about the mailing list and if he needed any assistance in the matter. Mr. Evans stated he could at least give Mr. Majewski the boundary addresses

The Commission stated they were still in agreement with leaving the zoning code as is until a residential survey is completed so the Commission would know what direction the residents of the community wanted zoning and land use to move forward. Chair Sturdevant stated that if any Zoning Commission members have comments or questions they would like Mr. Majewski to address in regards to the survey being drafted, they could be given to Mr. Miller and Ms. Brewer who sit on the Comp Plan Steering Committee a well. Therefore further discussion would be tabled until the next Zoning Commission meeting.

Chair Sturdevant stated the Fire Levy would be on the May 5, 2009 ballot. She stated the Fire Dept. was in desperate need of a new fire truck. If the Township was to pay for the fire truck along with the general expenses of the Township the General Fund would be depleted in 4 yrs. Chair Sturdevant stated she encouraged everybody for the safety of the fire fighters and the community plus the genuine need for a new truck and turn out gear that you strongly look at the May 5<sup>th</sup> Fire Levy.

Secretary Ferencz read some basic facts about the Fire Levy:

- Current millage is 1.5 at a cost of \$30.72
- Requesting an additional 1 mil levy (for a total 2.5 mil levy) \$78.75. Based on property value of \$100,000. The new levy would generate \$189,000

Chair Sturdevant stated a PowerPoint presentation was presented by Jack Snoddy showing how quickly a fire can start and spread. Mr. Evans stated that presentation was also on the Township website.

Chair Sturdevant stated she received an e-mail from Mr. Evans who as Ass't ZI was working with the BZA and found under Section 907 Procedure for Variance and Administrative Appeals. Mr. Evans stated a lot of Section 907 has nothing to do with a Variance Appeal but more to an Administrative Appeals. It seems the code has mixed to the types of Appeals together and they needed to be separated. Mr. Evans stated under 907 C. is really the only item that deals with a variance appeal. He added that Bill Thorne is putting on a workshop tomorrow evening that he hoped ZC members would also attend that would explain the difference between the two.

Secretary Ferencz stated she, Mr. Evans, Mr. Oiler and Mr. Schmidt as well as the other BZA members were at a workshop by Bill Thorne on the BZA and received an extensive handout on the BZA, variances and conditionals. Secretary Ferencz stated this

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clarification on the two different appeals could be drafted and then presented to the Commission in the future for consideration.

**NEW BUSINESS:**

A Letter was received from the Pros. Office on the Zoning Commission Bylaws and read by Chair Sturdevant. (See attached to approved meeting minutes). Based on the letter the Commission drafted the following Bylaws for the Commission. (See attached).

Regarding the establishment of an open meetings policy, Chair Sturdevant stated this was to be added as an amendment to the Bylaws. The Commission had tabled this because the board wanted to adopt the same policy (making it pertinent to the Commission) as the Trustees but the Trustees Resolution for Open Meetings was being amended. Trustee Kratzer stated the Trustees have adopted their Resolution and passed out copies accordingly. Chair Sturdevant asked that the Commission review that Resolution and it could be modified to fit the Commission and added as an amendment. This would be considered as well as the changes to the Bylaws at the next Zoning Commission meeting.

**1. Proposed Signage Regulations and Text**

Chair Sturdevant stated she also spoke with Patrice Theken from the Dept. of Planning Services about the comments she sent back regarding signage and the Matrix. Section 406.B.2. Temporary Signs The Commission has drafted the following wording “Conditional Uses in the Rural Residential and Suburban Residential Districts may be allowed additional temporary signage during the construction phase of a project not to exceed thirty-two (32) square feet in area, eight (8) feet in height and not less than fifteen feet from the road right of way or side lot lines. The quantity and duration of such signs to be determined by the Board of Zoning Appeals during the approval process.” Ms. Theken suggested that this paragraph should be included within the special or general conditions for conditional uses. Unless this paragraph means that a temporary sign for a construction project needs a conditional use permit then the temporary signage should be listed as a conditionally permitted uses in the RR and SR Districts to which it refers. And the requirement should be listed as a condition in the special or general conditions for a temporary sign.”

Chair Sturdevant stated she would be speaking with Ms. Theken again tomorrow about the best way to address this in the language of the code as it was very confusing.

Chair Sturdevant stated she asked Bill Thorne about the court case Ms. Theken mentioned that said signs must be permitted in the right of way. Mr. Thorne stated he personally did not do the review on our proposed signage regulations (Attorney Brian Richter did) and did not feel comfortable commenting on it until he had a chance to do some research. She added she did speak with Brian Richter today as well and he did not find that court case but would do some research on it as well and check with Bill Thorne. Mr. Richter stated he was working on several Townships’ zoning language and was getting confused between them all so he would look into Westfield’s accordingly.

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Chair Sturdevant stated that Ms. Theken agreed with Section 407C as drafted by the Zoning Commission.

Chair Sturdevant then read the letter received from the Pros. Office on proposed Amendments to Zoning Regulations-Signage Language. (See attached to approved meeting minutes).

She continued that she reviewed the definition of Structure in the Zoning Resolution and it conflicts with what is being stated in some of the proposed signage regulations. Chair Sturdevant stated that where we call a sign a structure we should go back and call it a sign unless we want to change our definition of structure which she did not think the Commission wanted to do. Chair Sturdevant stated the definition of a Structure reads as follows: "Anything constructed or erected which requires location in or on the ground, including signs, fences, walls, buildings, lakes, ponds, swimming pools, satellite dishes, and communication towers, except that, on a lot which is used for a dwelling in any district, the following shall not be interpreted as a structure when established for personal uses by the occupant of the dwelling: mail boxes, swing sets, sand boxes, bird houses and feeders, basketball, football, tennis, badminton, soccer, and volleyball areas."

Ms. Kemp stated that she did not feel that was necessary as she read the code to be that if there is a lot on a house the following were not considered structures i.e. mail boxes, swing sets, sandboxes etc. and signs was not part of that list so the code did not need to be changed. It appeared Mr. Richter was confused by the definition of structure. So the wording would remain as is.

Regarding Section 406B4. Mr. Richter stated that OFF-site temporary signs were content based. Chair Sturdevant stated she had a long conversation with Mr. Richter on this issue. Mr. Richter conferred with Bill Thorne and there is currently a court case in which they claimed an off-site sign was specifically targeting a construction worker who put up one of his signs where he did work. This could be loosely construed as content based. Mr. Richter suggested the wording to read, "Temporary signs shall be permitted on another's private property if compliance with the following requirements: Do not exceed 4 sq. ft. in area; do not exceed 3 ft. in height, shall not be placed for more than 24 consecutive hours; shall not be placed within the road right of way." That way it would not be titled "off-site temporary signs." There also is no number of signs on the matrix. Chair Sturdevant stated that she would speak to Bill Thorne directly on this issue. Mr. Scheetz stated he did not feel that off-site signage was content based and the wording as drafted by the Commission should not be an issue.

Mr. Richter stated that under 407 C1. "I suggest you clarify the time period for a temporary sign." The Commission stated that was purposely left out due to enforcement issues and would keep the wording as drafted.

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Mr. Richter went on to state in his letter, “Throughout Section 406 and 407, there are numerous indications that the various signs need to be a certain distance from the right of way. This cannot be done with all signs since Courts have held that public right of ways are traditional forums for free speech and will generally allow temporary signs in the right of way. The Township would have to have a compelling interest to prohibit all signs in the public right of way. Importantly, aesthetics are not a compelling interest. I suggest putting language in the appropriate sections of the Sign Regulations indicated that Sections 401-407 apply except otherwise permitted by law.” The Commission agreed to add Sections 401-407 apply except otherwise permitted by law.

Mr. Richter stated that there was an error in the sign matrix. The reference in Section 407(B) (6) indicates signs “must be removed within 5 days after permanent occupancy of the building.” The actual regulation does not indicate such a requirement. That requirement should be placed under Section 407(C) (2). Chair Sturdevant stated that was an error on the matrix and should be corrected. The Commission agreed.

There was also an error in Section 407(C) (3) and the maximum height should be 8 ft. not 20 ft. as depicted on the matrix.

Under Section 407(C) (4) Lots with frontage exceeding three-hundred fifty square feet needed to be changed to 300 sq. ft.

A typo on Section 407(B) (6). Change “use” to “used.”

Secretary Ferencz stated she would make the necessary changes to the proposed signage language and matrix.

Chair Sturdevant stated that previously it had been brought to the Commission’s attention the error in Section 807 D. m. of the Zoning Resolution. Section 407 A. currently reads, “The total area of all permanent signs (but not including the area of a high rise sign permitted in section 407.B.5... The reference was actually 407 B.3 not 407 B.5. Regarding Section 807.D.m. which currently reads, “If applicable, an erosion control plan as required by Section 205 H.” However Section 205 H. is Loudspeakers. Therefore the Commission proposed Section 807.D.m. to read, “If applicable, an erosion control plan as required by the Medina County Soil and Water District and or Medina County Storm Water Management.”

Ms. Theken responded, “The Medina County Soil and Water District does not require an erosion control plan; the Medina County Highway Engineer reviews storm water management issues. Check with them prior to including them in the Resolution under this Section.” Chair Sturdevant stated she did contact the Medina County Soil and Water District but has not heard back from them as of tonight.

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Chair Sturdevant stated that when the Commission sets the public hearing on the proposed signage text they would make a motion to set a public hearing on Section 807 D. (m) as well.

### **Announcements**

- Medina County Planning Services Training- April 15, 2009 at 6:30 p.m.
- Informational meeting on CEDA's & JEDD's at Seville-April 27, 2009 at 8:00 p.m. following the Planning and Zoning commission meeting at 7:00 p.m. The timing of the meeting needs to be confirmed. This e-mail came in this evening to the Trustees. Mr. Miller asked that this information be forwarded to the board members.
- Next Regularly Scheduled Zoning Commission Meeting: May 12, 2009 at 7:30 p.m.

### **Update on Aquifer Meeting**

ZC member Brewer went to the aquifer meeting. They just went over the fact they would be pumping and that residents should test their own well. Secretary Ferencz stated Ms. Brewer also dropped off information from the Division of Wildlife on Bald Eagles regarding the eagles nest on Kennard and Westfield Landing Rd. Signs are being considered to be posted "No Parking Soft Shoulder." No motor paving will be done on Westfield Landing Rd. until July so as not to disturb the nest.

### **MISC.**

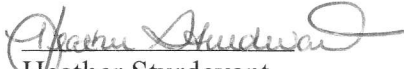
Mr. Scheetz handed out an excerpt from the Goals, Objectives and Policies from the 1996 Westfield Township Development Policy Plan. Under Policy IB:4 it states, "Permit no further expansion of commercial and industrial zones in the Township with the exception of changes which would be of direct benefit and/or use to the Township Residents. Mr. Scheetz stated that this needed to be addressed in the new Comp Plan. One of the rationales the Trustees used to defeat the zoning text amendment of the Kratzer property was that the Comp Plan stated it did not want to permit further expansion of the commercial and industrial zones in the Township. He added that this Comp Plan however is being totally ignored in relation to the industrial area. Mr. Scheetz stated the Township has had 27 yrs. since his clients who own the industrial land that is currently being annexed and is zoned RR and now all the sudden there is interest from the Township's attorney to fight the annexation and potentially proposed the CEDA's and JEDD's. The other document Mr. Scheetz handed out was the Resolution passed by the County Commissioner's approving the petition for annexation of 103.3541 acres to the Village of Seville and that the statutory requirements were met.


Having no further business by the Commission, Mr. Miller made a motion to adjourn. It was seconded by Ms. Kemp. All members were in favor. The meeting was officially adjourned at 9:11 p.m.


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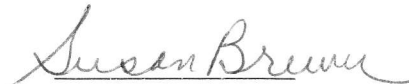
Respectfully Submitted,

Kim Ferencz, Westfield Township Zoning Commission Secretary

  
Heather Sturdevant

  
John Miller

  
Scott Anderson

  
Sue Brewer

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Jill Kemp