

**MONTVILLE TOWNSHIP
ZONING COMMISSION MEETING
March 24, 2010**

PRESENT

Alan Piatak, Vice Chairperson
Mary Pawlowski
Ron Potter
Pat Ryan
Dave Wetzel
Elayne Siegfried, Alternate

ALSO PRESENT

J. Emrick, Zoning Inspector
B. Schwehm, Zoning Secretary

HANDOUTS: Chapter 540, Regulations of Wireless Telecommunications
Facilities Draft
Revised Text for Zoning Commission Public Hearing
Scheduled for 4/14/10

AGENDA:

1. Approval of Minutes – February 24, 2010
2. Text Discussion/Review: Chapter 540, Regulations of Wireless Telecommunications
Facilities
3. Zoning Inspector Updates

The March 24, 2010 meeting of the Montville Township Zoning Commission was called to order at 7:04 p.m. by Vice Chairperson, Mr. Alan Piatak who served as Chairperson for the meeting.

ROLL CALL: Ms. Mary Pawlowski – here; Mr. Ron Potter – here; Mr. Dave Wetzel – here; Ms. Pat Ryan – here; Mr. Alan Piatak – here.

Commission Chairperson Piatak asked, “Has the meeting been properly advertised and the necessary contiguous property owners notified?”

Zoning Inspector Emrick responded, “Yes.”

Commission Chairperson Piatak said, “Everyone in attendance should sign in if they have not already done so. Anyone who wishes to speak should state their name and address for the record. The meeting is taped for transcription purposes. The official minutes of the meeting are the typed transcripts.”

1. Approval of Minutes

February 24, 2010

MOTION: Commission Member Wetzel moved to approve the February 24, 2010 meeting minutes as written.

SECOND: Commission Member Ryan

ROLL CALL: Mr. Ron Potter – aye; Ms. Mary Pawlowski – aye; Mr. Dave Wetzel – aye; Ms. Pat Ryan – aye; Mr. Alan Piatak – aye.

2. Text Discussion/Review: Chapter 540, Regulations of Wireless Telecommunications Facilities

Commission Chairperson Piatak introduced the agenda item and referenced a presentation given quite some time ago regarding telecommunications facilities.

Zoning Inspector Emrick said that Mr. Ed Block from GPD Associates spoke to the Zoning Commission on May 24, 2006 regarding telecommunication facilities. She would provide the Zoning Commission (ZC) with a copy of the minutes from that meeting. Regulations were currently included in the Zoning Resolution for telecommunication facilities; the proposed regulations would be updating/replacing the regulations in Section 805.136.

Commission Chairperson Piatak asked if any requests for telecommunication towers had been received in the past five years.

Zoning Inspector Emrick said that approximately two years ago Verizon requested to locate an equipment trailer on the Lexington Ridge telecommunications tower site. Approval, with special conditions, was granted by the Board of Zoning Appeals; however, the trailer had not yet been located on the site.

Commission Chairperson Piatak said it appeared that telecommunication tower construction had considerably slowed down over the past two or three years. Zoning Inspector Emrick agreed. Commission Member Wetzel said that maybe co-location was more viable than constructing more towers.

The discussion and related revisions to the review of Chapter 540 follow.

Commission Chairperson Piatak pointed out that in the index at the top of page 1 a period needed to be added after *540.1 Purpose*. for consistency with the other listings.

Section 540.1, Purpose

As Commission Member Ryan suggested, the ZC agreed to add *(TCF)* after *telecommunication facilities* since the abbreviation was frequently used throughout the chapter.

Section 540.2, Intent

The reference in the first paragraph to *residential areas* was changed to *residential districts*. As appropriate, *district(s)* would replace *area(s)* throughout the chapter.

Commission Member Wetzel questioned telecommunication towers being conditionally permitted only in the *residential areas*. Zoning Inspector Emrick said that per the Ohio Revised Code (ORC) the Township could only regulate telecommunication facilities in residential districts.

Alternate Commission Member Siegfried suggested removing *which are characteristic of the Township* from Section 540.2 C. She thought all residential properties, parks and open spaces should be protected.

Commission Member Pawlowski asked if the reference to *residential properties, parks and open spaces* covered every possibility. She wondered if the text should be more general and suggested using the term *residential areas*. The ZC and Zoning Inspector Emrick thought the original wording was appropriate.

Zoning Inspector Emrick read the following comment from Ms. Trina Devanney, Medina County Prosecutor's Office, regarding Section 540.2 C.:

Adverse effects – The Zoning Commission will have to enunciate on the record exactly what the adverse effects of towers are to have these two words remain in this section.

Zoning Inspector Emrick said that she could remember information being presented in the past that indicated telecommunication facilities did not have an adverse effect on property values. Alternate Commission Member Siegfried said that she did not believe aesthetic effects on property values could be regulated. She thought the adverse effects may have to relate to radio waves, etc. Commission Chairperson Piatak said he was surprised at the low wattage/radiation that Mr. Block said the towers emitted.

Commission Member Pawlowski suggested combining Sections 540.2 C. & D. The items were combined and rewritten as follows:

To protect residential properties, parks and open spaces within the Township from the adverse visual impacts of towers and related facilities through buffering, careful design, and siting standards, construction and prompt removal when not utilized.

**Section 540.3,
Permitted Locations & Locations Requiring Conditional Use Approval**

Commission Member Wetzel said that the text did not specifically state that telecommunication facilities were allowed in the commercial zoning districts. Commission Chairperson Piatak and Alternate Commission Member Siegfried said Section 540.4 A. referenced ORC 519.211 which addressed telecommunication facilities and the districts in which they were allowed.

Commission Member Wetzel thought it was important for the text to clearly state that telecommunication facilities were permitted in commercial zoning districts, even though most people who would be interested in putting up a tower would be familiar with the ORC requirements.

Zoning Inspector Emrick said the first paragraph of Section 540.3 addressed facilities *permitted by right* and by *conditional use permit*; however, it did not specifically refer to commercial and residential zoning districts. The ZC considered adding references to commercial and residential districts to the first paragraph of the Section.

Zoning Inspector Emrick said that ORC 519.211 not only addressed the status of and procedures for telecommunication facilities in commercial zoning districts, but also addressed notification requirements and related procedures for TCFs in residential districts.

Alternate Commission Member Siegfried said that ORC 519.211 also addressed the procedures for putting up a tower within 100 feet of a residential dwelling – not residential district. She suggested leaving Section 540.3 as proposed; the ZC agreed.

Zoning Inspector Emrick pointed out that Chapter 410, Single-Family Residential Districts, stated that telecommunication towers were conditionally permitted, and Chapter 430, Commercial District Regulations, would be changed to show that telecommunication towers were permitted.

Section 540.4, Locations Requiring Conditional Use Approval

Zoning Inspector Emrick read the following comment from Ms. Devanney regarding item A:

Please make sure that the references to the normal conditional use criteria as well as the other standards the Board wishes to require compliance with are correct.

Commission Chairperson Piatak thought Ms. Devanney wanted the Commission to ensure that the requirements were consistent with other conditional use requirements.

Ms. Devanney provided the following comment regarding item B. 1.:

1,000 feet must be justified in their discussions on the record by the Board. The number seems excessively large without good justification.

The ZC thought a 1,000-foot minimum setback from existing residential dwellings may be excessive. The current regulations did not have a setback requirement/fall zone requirement. The Commission agreed to review the minutes from Mr. Block's presentation before amending the requirement but thought the setback should be at least equal to the fall zone (height of the tower plus twenty-five feet).

Referring to item B. 3., Commission Member Ryan thought proof should be required confirming co-location was not available. Commission Chairperson Piatak said the burden of proof was addressed in another section. If it did not seem adequate when that section was reviewed, the ZC would come back to this item.

Referring to item B. 4., Commission Member Ryan questioned locating a tower within a recorded electric high-tension power line easement. Commission Chairperson Piatak said some towers in Strongsville were mounted on the high-tension power line poles. He had seen lattice-type high-tension support structures with a telecommunication pole through the middle. However, he had not seen those types of lattice-type structures in Montville Township.

The references to (A)(1) and (A)(2) in Section 540.4 B. 3. and B. 4. would be changed to (B)(1) and (B)(2).

After reading Section 540.4 B. 5., the ZC agreed items a), b), and c) were repeated in item d). The ZC agreed to eliminate items a), b) and c); item d) would be reconfigured with the requirements numbered accordingly. The first reference in d) to *Section 540.4* was changed to *Section 540.4 B.* The reference in the last sentence of d) to *Section 540.3* was eliminated (as well as the word *and*); the reference to *Section 540.4* was changed to *Section 540.4 A. and B.*

After clarifying that a Conditional Zoning Certificate Application was submitted prior to appearing before the Board of Zoning Appeals, the first paragraph of Section 540.4 B. 5. was changed to read:

When a TCF is proposed to be located in a residential district, the applicant shall present the following evidence with the Conditional Zoning Certificate Application:

Alternate Commission Member Siegfried wondered if it was necessary to mention that other information could be submitted in addition to the required items. Zoning Inspector Emrick did not believe it was necessary. She routinely told applicants that additional documentation could be submitted.

The ZC renumbered Section 540.4 B.5. to Section 540.4 C. The outline of the remainder of the section would change accordingly – existing Section 540.4 C would become Section 540.4 D.

After reviewing the new Section 540.4 D., a period was added at the end of *forces* to create the second sentence of the paragraph. The last sentence of the section was changed to read:

Written documentation shall be presented to the Board of Zoning Appeals that provides evidence that the owner of the property on which the tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this Section.

Commission Member Pawlowski thought it may be a good idea to limit the amount that the Township and/or County safety forces could be charged to co-locate on a tower. Zoning Inspector Emrick did not believe it was possible to regulate charges. Commission Chairperson Piatak thought a lot of emergency communication signals were going to satellite communication.

Commission Member Wetzel said that as the electronics improved, more towers were not necessary. The regulations for removing unused towers may be important in this regard.

Section 540.5, Standards Applicable to All Wireless Telecommunications Facilities in Residential Districts

The distance in Section 540.5 A. was changed to 1,000 feet; however, a final determination would be made regarding the appropriate distance when the minutes were reviewed from the presentation made by Mr. Block.

Section 540.5 B. was removed and the section would be renumbered accordingly. As the remainder of the section was reviewed, the original lettering/numbering assignments were referenced.

Since an antenna may extend above the height of the tower, Section 540.5 C. 1. was changed to read: *A distance equal to the highest point of the TCF plus 25 feet.*

Commission Member Wetzel did not believe that telecommunications towers were constructed with sheer points to collapse upon themselves; he thought the structure would fall the length of the tower. For consistency and clarity, he suggested removing Section 540.5 C. 2. The ZC agreed to remove item 2. in its entirety. The information in item 1. would be added to the first paragraph. Section 450.5. C. would read as follows:

The minimum setback of a tower from all property lines shall be a distance equal to the highest point of the TCF plus 25 feet.

The Commission considered changing the setback to the highest point of the TCF plus 10 feet (consistent with the proposed wind energy conversion system requirements), but decided to review the minutes from Mr. Block's presentation before making a final determination. Commission Member Pawlowski thought the antennae on the tower would come off and could go a long way if the tower fell; she did not think ten additional feet would be sufficient.

Referring to Section 540.5 D., Zoning Inspector Emrick read the following comment from Ms. Devanney:

Is there a reason for a one mile separation between towers? It seems excessive.

Commission Chairperson Piatak and Zoning Inspector Emrick said that Mr. Block had addressed the need for the one mile separation in his presentation. From what Commission Member Piatak remembered, the separation was related to the topography, height of the tower and obstructions.

Commission Member Wetzel said that in North Royalton and Seven Hills some of the telecommunication towers were in very close proximity to one another because those were the highest points in Cuyahoga County.

For clarification of the separation in Section 540.5 D., the minutes from May 24, 2006 would be reviewed.

Ms. Devanney made the following comments regarding the next item:

It seems that there is a conflict in your code. It seems that your board is attempting to control both height and type of structure and require co-locating on short monopoles. You might have them decide which item is of more importance to control. Or have an engineer testify on the record that a short monopole can support three or more additional co-locators and that such would be able to support the needs of your community and not require more monopoles.

The ZC acknowledged Ms. Devanney's comments/concerns; the maximum height for a TCF in the proposed regulations was 100 feet.

Referring to the telecommunications tower on the Township site, Commission Member Pawlowski said that originally a 350-foot lattice-type tower was proposed, but the Township insisted upon a monopole. She said the lattice-type towers could be very tall and required a lot of space.

Commission Chairperson Piatak said 200 feet was about the height limit for a monopole.

Zoning Inspector Emrick said that the 100-foot maximum height limitation was not reasonable because it would justify more towers.

Alternate Commission Member Siegfried said that a maximum height requirement may not be necessary if lattice-type towers were prohibited.

Commission Chairperson Piatak said that he would prefer to include a maximum height limitation and remove the wording prohibiting lattice-type towers.

Commission Member Ryan thought Ms. Devanney's concerns would be addressed if the height limitation was increased to 200 feet.

Alternate Commission Member Siegfried said that increasing the maximum height to 200 feet may encourage co-location and result in fewer towers. The ZC agreed.

After reviewing Section 540.5 F, the ZC agreed to remove the first sentence because it did not appear to be something that could be proven and/or substantiated.

Commission Member Pawlowski suggested combining the proposed Section 450.5 E. and F. The text would read as follows:

All towers shall be of a monopole design and shall not exceed 200 feet in height as measured from the natural grade at the base of the tower. Lattice-type towers shall be prohibited.

Referring to Section 540.5 G., Commission Chairperson Piatak said that the minutes from Mr. Block's presentation would be reviewed to ensure the requirements were reasonable.

Ms. Pawlowski referenced the language in the proposed Section 450.4. C. that stated, . . . *but in no event shall the owner/operator agree to allow fewer than two antenna platforms for additional providers unrelated to the owner/operator.* She wondered if Section 540.5 G. was necessary.

Commission Member Wetzel said the intent would be for more providers to co-locate on taller towers. He added that at less than 200 feet, the pole did not have to have lights on it.

Commission Member Ryan did not believe it would be possible to co-locate three antennae on a ninety-five foot pole unless it was located on top of a hill. The antennae would have to be certain distances from each other to prevent interference.

Commission Member Wetzel said that if a 200-foot pole was constructed, the regulations would require the monopole to be designed in a manner to accommodate three antennae.

Depending upon what the minutes from Mr. Block's presentation indicated, Commission Member Ryan said the height requirement in Section 540.5 G. could be changed.

Commission Chairperson Piatak suggested removing, *If structurally possible*, from Section 540.5 G. Commission Member Ryan agreed. The item would read as follows; however, the ninety-five foot requirement would be reviewed when a new draft was prepared reflecting the most recent changes.

All poles having a height greater than 95 feet shall be designed to accommodate at least three antennae.

Referring to Section 540.5 I., the ZC thought ten feet was not sufficient for the height of an accessory structure. The requirement was changed to fifteen feet.

Section 540.5 J. required barbed wire at the top of an eight-foot chain link fence. The zoning requirements for residential fences allowed fences to be a maximum of six feet tall and did not allow barbed wire in the front yard. Commission Chairperson Piatak wondered if the ORC addressed height requirements for a fence for telecommunication facilities.

Commission Member Ryan and Zoning Inspector Emrick thought the ORC required eight-foot fencing.

Commission Member Pawlowski suggested changing *if* to *as* (before *necessary*) in the second to last sentence of Section 540.5 I. Commission Member Ryan proposed eliminating the last sentence of Section 540.5 J. The ZC commission agreed on the recommended changes.

After reading Section 540.5 L., the ZC agreed that the item should be listed at the beginning of the section with other items relating to site/plot plan submittals. Commission Member Ryan pointed out that Section 540.5 H. also referenced plan documentation. Alternate Commission Member Siegfried said that *H.* dealt with the maintenance aspect rather than the site plan itself. Section 540.5 L. would become Section 540.5 B.

In Section 540.5 O., *Federal Aviation Authority* was changed to *Federal Aviation Administration*. Commission Chairperson Piatak asked if the telecommunications facility at the Township Administration site had safety lighting. Commission Members Pawlowski and Ryan said there was a small security light on the building, but no additional lighting.

In Section 540.5 P., Commission Member Pawlowski asked if it was necessary to state that outside storage was prohibited since all of the storage would be inside the building. Commission Member Wetzel thought the statement prohibiting outside storage was necessary.

Zoning Inspector Emrick said there had been problems in the past with outside cable storage on telecommunication facility sites. The proposed regulations specifically prohibited outside storage of *equipment related to a TCF*. Commission Member Potter asked about outside storage that was not related to the TCF. The ZC decided to prohibit all outside storage.

Zoning Secretary Schwehm said that the maximum height requirement for accessory structures was listed in Section 540.5 I. It may be helpful if the height and setback requirements were included in the same item.

The ZC changed the item to read as follows:

All accessory buildings shall comply with the location regulations set forth for the district in which the tower is located and shall not exceed a height of fifteen feet. Outside storage shall be prohibited.

Tower and/or was added before *facility* in the last sentence of Section 540.5 Q.

The ZC decided to add limitations regarding the size of the “no trespassing” and warning signs required in Section 540.5 Q. Commission Member Ryan thought these signs should be a little larger than the required signage for wind energy conversion systems. The following sentence was added to Section 540.5 Q., *Each sign shall not exceed four (4) square feet.*

In Section 540.5 S., *safety* was added after *health* to read:

Any TCF will be subject to the general guidelines for conditional use, the foregoing conditions and the Board of Zoning Appeals may impose additional conditions when it deems it necessary to safeguard the health, safety, and welfare of the community.

Section 540.6, Abandoned Telecommunications Facilities

Zoning Inspector Emrick said that the regulations in Section 540.6 A. and B. would be compared with the requirements in the ORC.

The ZC agreed to remove *they* and *thereof* from Section 540.6 B. The item would read as follows:

Any tower that has had no antenna mounted upon it for a period of six months, or if the antenna mounted thereon is/are not operated for a

period of three months, it shall be considered abandoned, and the owner shall remove the tower and restore the site to its original state within 120 days after receipt of a notice from the Zoning Inspector to do so. (See 540.8 D., Performance Bond Approval)

Section 540.7, Notification For Public Utilities

Commission Chairperson Piatak said the section was drawing attention to the notification requirements in ORC 519.211.

Commission Member Pawlowski suggested removing Notification Required. at the beginning of the section. The ZC agreed. The title of the section was changed to, “*Notification Requirements for Public Utilities.*”

Zoning Inspector Emrick read the following comment from Ms. Devanney’s letter:

It is recommended that rather than 120 days and/or three months for abandonment, that the Township use a 2 year standard.

Zoning Inspector Emrick said the Commission could discuss the item in more detail when the new draft was reviewed.

Commission Member Ryan thought Section 540.7 should be located near the beginning of the Chapter. Section 540.7 would be added after Section 540.3 and before Section 540.4.

Section 540.8, Approval

Commission Member Ryan also thought this section should come before the section addressing abandonment. Commission Member Wetzel thought several of the items were previously addressed in the chapter. When the new draft was typed, the items would be checked for duplication and would be included as appropriate.

Referring to Section 540.8 D., Zoning Inspector Emrick said the performance bond could be held by the Township for twenty years. The construction bond required per Section 720.11 was typically good for one year and could be renewed for another year. Zoning Inspector Emrick planned to check on the legality of Section 540.8 D.

Commission Chairperson Piatak said he had suggested requiring applicants to post a bond for wind turbines in a manner similar to what was proposed for telecommunication towers.

A draft of Chapter 540 reflecting the above revisions would be prepared and reviewed by the Zoning Commission.

3. Zoning Inspector Updates

Zoning Inspector Emrick said she had some concerns regarding the proposed wind energy conversion system and outdoor wood-fired Hydronic heater (OWHH) regulations. She showed a picture of an OWHH unit inside an outbuilding. Field Assistant Jeffers researched chimney heights for Hydronic heaters and discovered some chimneys required guy-wires because of their height. Zoning Inspector Emrick was also concerned that the owner of an existing OWHH may be required to extend their chimney stack height if someone built a new residence within 150 feet of the existing OWHH. She thought that infringed upon the rights of the OWHH owner.

Commission Member Ryan said that requirement was common in regulations for OWHHs. Alternate Commission Member Siegfried did not believe it was an infringement on someone's rights. An owner of an OWHH would receive a permit for the unit and would acknowledge acceptance of the requirement. Commission Member Ryan said the requirement may help someone planning to install an OWHH select a location that would not be impacted by a situation such as that.

Zoning Inspector Emrick said an addendum to the zoning certificate would be necessary for the applicant to acknowledge acceptance of the requirement.

Commission Member Wetzel suggested consulting with the Prosecutor's Office. Zoning Inspector Emrick indicated there was time to do that before the public hearing.

Commission Member Ryan said that she noticed in the minutes that small wind farms (under five megawatts) were not permitted – essentially eliminating all wind turbines from residential properties because they were all under five megawatts.

Alternate Commission Member Siegfried said the Commission agreed that small wind farms would not be included in the text and would not be permitted. However, the proposed text regulated wind turbines which by definition could be considered a small wind farm.

Commission Member Ryan suggested adding a minimum qualification (three or more units on one property tied into the grid) to the definition for a small wind farm in order to regulate wind turbines. In that case, one turbine would not be considered a small wind farm.

More clarification/discussion regarding the regulations would be necessary.

MOTION: Commission Member Wetzel moved to adjourn the meeting.

SECOND: Commission Member Potter.

A collective oral vote was taken with all Zoning Commission members in favor of adjourning. The March 24, 2010 Zoning Commission meeting was adjourned at 9:17 p.m.

Respectfully submitted,

Bonnie Schwehm

Signature _____
Chairperson

Date _____