

**MONTVILLE TOWNSHIP
ZONING COMMISSION MEETING
May 12, 2010**

PRESENT

John Vujevich, Chairperson
Alan Piatak, Vice Chairperson
Pat Ryan
Elayne Siegfried
Dave Wetzel
Ron Potter, Alternate

ALSO PRESENT

P. Jeffers, Field Assistant
B. Schwehm, Zoning Secretary

HANDOUTS: None

AGENDA:

1. Approval of Minutes – April 14, 2010
2. Comment Review for OWHH/WECS Text Amendments
3. Text Review/Discussion: Chapter 540, Regulations of Wireless Telecommunications Facilities
4. Zoning Updates

The May 12, 2010 meeting of the Montville Township Zoning Commission was called to order at 7:07 p.m. by Chairperson Mr. John Vujevich.

ROLL CALL: Ms. Elayne Siegfried – here; Mr. Alan Piatak – here; Ms. Pat Ryan – here; Mr. John Vujevich – here.

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

Field Assistant Jeffers responded, “Yes.”

Commission Chairperson Vujevich 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.”

Commission Member Dave Wetzel arrived at 7:08 p.m.

1. Approval of Minutes

April 14, 2010

MOTION: Commission Member Piatak moved to approve the April 14, 2010 meeting minutes as written.

SECOND: Commission Member Siegfried

ROLL CALL: Ms. Pat Ryan – aye; Ms. Elayne Siegfried – aye; Mr. Dave Wetzel – aye; Mr. Alan Piatak – aye; Mr. John Vujevich – abstain.

2. Comment Review for OWHH/WECS Text Amendments

Commission Chairperson Vujevich referred to the email from Commission Member Ryan that identified several questions regarding the Zoning Text Amendments for Chapters 210, 330, 410, 412, 430, 510, 710, and 720 for Outdoor Wood-fired Hydronic Heaters (OWHH) and Wind Energy Conversion Systems (WECS). A motion had been made at the April 28, 2010 Zoning Commission meeting approving the amendments with revisions. The Zoning Commission (ZC) addressed each of the comments/questions.

Chapter 710 #2 on page 2, instead of submit at the end of line 1 shouldn't it say contain or at the beginning of the sentence say applicants ?

Commission Chairperson Vujevich agreed with Commission Member Ryan and suggested that the sentence be changed to begin with the word *applicants* instead of *applications*.

Zoning Secretary Schwehm said that Zoning Inspector Emrick planned to make the proposed change at the Trustees' public hearing that would be held on May 25, 2010 at 7:30 p.m. Commission Chairperson Vujevich said that he planned to attend the Trustees' public hearing on the 25th.

Chapter 210 #2, could establish in this instance refer to zoning or uses established when zoning district is established? It just seemed like a potential loophole to me. I think the sentence could end after principal building .

Commission Chairperson Vujevich said that Ms. Susan Hirsch recommended the wording as shown.

Commission Member Ryan wondered what *established* the zoning or use. Could it be perceived that the zoning district (such as R-1) established the use (residential)? Commission Member Ryan did not object to leaving the item as it was written.

#226 instead of machinery perhaps use electrical equipment?

Commission Member Ryan thought the wording may limit the scope of application; however, no changes were proposed to the definition.

#227 why limit to generators?

Commission Member Wetzel said that a wind turbine took mechanical energy and turned it into electrical energy.

Schedule 410.8 #10 are we allowing the rear setback to be the same as the side as it states?

Commission Member Ryan asked for clarification regarding the rear yard setback. The chart indicated that the rear yard setback was the same as the side yard setback. She thought the rear yard setback for an OWHH should be the same as the rear yard setback for the principal building.

The ZC reviewed the proposed text and agreed that the rear yard setback for an OWHH should be changed. The rear yard setback should conform to the setback for the principal building. Item #10 in Schedule 410.8. of Section 410.8 C., would indicate that the minimum setback from the rear lot line shall comply with the rear yard setback for the principal building as set forth in Schedule 410.5.

Commission Chairperson Vujevich asked that a recommendation be made at the Trustees' public hearing reflecting the above change.

Chapter 410 #1 page 18 unclear to me we are considering them an accessory use and not an accessory structure but holding them to accessory structure height limits. Why not say they will not be counted in the overall accessory building allowance?

Commission Member Ryan thought it was conflicting that an OWHH was being considered an accessory use and was limited by the regulations for an accessory structure, but it was not being counted as an accessory structure. (An OWHH was allowed in addition to an accessory building.) She thought it may be more appropriate to state that the OWHH was not counted in the overall accessory building allowances.

Commission Member Wetzel said that the regulations may allow an OWHH to be larger than the size of an accessory building that would be permitted on a property.

Field Assistant Jeffers said that he had taken a picture of an OWHH in western Medina County that was located inside an accessory building that was large enough to include storage space for wood. The entire structure was considered as the OWHH.

The proposed regulations did not specifically limit the size of an OWHH by dimensions or square footage; however, Commission Chairperson Vujevich pointed out that the regulations required an OWHH to be an approved model.

Commission Member Siegfried said that from this point forward the proposed text limited the use of an OWHH to an EPA Phase II program qualified model or as may be amended. By limiting the use to an approved model, the size was limited to what was available.

Commission Chairperson Vujevich thought the size of an OWHH was limited by virtue of the regulations indicating that an approved model was required.

Commission Member Siegfried asked if OWHHs were being considered an accessory use because that was how the Township could regulate them.

Commission Chairperson Vujevich confirmed that was true.

Referring to the presentation by Ms. Bonetta Guyette, Akron Regional Air Quality Management District, Commission Member Ryan said that the EPA had revised their thoughts on OWHHs; however, they still wanted local jurisdictions to limit OWHHs. She said Ms. Guyette would be offering a new presentation regarding OWHHs in Summit County.

Commission Member Wetzel asked if comments were received from the Prosecutor's Office regarding the text amendments for OWHHs and WECS. Field Assistant Jeffers and Zoning Secretary Schwehm indicated that they were not aware of receiving any comments from the Prosecutor's Office for the proposed amendments. Commission Member Siegfried said that Mr. Thorne from the Prosecutor's Office had previously spoken with the ZC regarding the regulations for outdoor wood-fired Hydronic heaters.

Commission Chairperson Vujevich said that Zoning Inspector Emrick had told him that Trillium Creek did not plan to pursue installing a wind turbine.

Zoning Secretary Schwehm said that Zoning Inspector Emrick had not yet been able to talk with anyone from Trillium Creek to discuss their decision to not move forward with the wind turbine.

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

Two drafts of Chapter 540 were provided for the ZC to review. The first draft reflected the changes that were made when the chapter was last reviewed. The content of the second draft had been rearranged in order to group similar items together. The ZC compared, reviewed and discussed the two drafts and made the following changes to Draft #2.

The extra periods were removed from 540.3 and a period was added after 540.7 at the top of page 1 as shown below.

540.3 *Permitted Locations and Locations Requiring Conditional Use- Approval.*

540.7 *Abandoned Telecommunications Facilities.*

Section 540.2 C.

Referring to Section 540.2 C., the ZC discussed the use of the terminology *adverse visual impacts*. Commission Member Piatak said that *adverse effects* had been eliminated from the item, but *adverse visual impacts* had not been removed.

Section 540.5 B.

Commission Member Piatak referred to the following paragraph of the minutes from the May 24, 2006 Zoning Commission Meeting when Mr. Ed Block from GPD spoke to the ZC about telecommunication towers:

Mr. Block said regarding section 540.5 B. 1. it says that cell towers must be 1,000 feet from any residential dwelling. This is a little excessive, but you are leaning more to the safety side, and that is actually good. He went on to say that you have established setbacks of the height of the tower plus twenty-five (25) feet, which will ensure that if a tower does collapse it will not cause any damage to surrounding buildings. He explained that cell towers are designed to withstand sustained winds of 75 miles per hour, which is hurricane winds, and 3 second wind gust of up to 90 miles an hour.

Commission Member Siegfried said that Mr. Block thought 1,000 feet was a *little* excessive but leaned more to the safety side which was good.

Commission Member Piatak said that Mr. Block also indicated that the established setbacks of the tower plus twenty-five feet would ensure that a building would not be damaged if the tower collapsed.

Commission Member Ryan asked if the setback was from all inhabited buildings. Commission Member Piatak thought that was what the ORC stated. Commission Member Siegfried said that the wind turbine regulations stated that the setback was from inhabited buildings.

Commission Member Wetzel said that unlike wind turbines, the fall zone for telecommunication towers did not have to be within the property boundaries. As examples, he referred to the towers on State Route 3.

Commission Member Ryan said that the tower in Lexington Ridge existed when the subdivision was developed. The homes in the subdivision were closer than 1,000 feet to the tower.

Commission Member Siegfried said that in the proposed regulations the height of the tower was limited to 200 feet, but the setback from an existing residential dwelling was 1,000 feet.

The ZC agreed that 1,000 feet seemed excessive and changed the item to read as follows:

- B. All wireless telecommunications equipment, towers, antennae and facilities shall be located a minimum of two (2) times the height of the structure measured from the natural grade at the base to the highest point of the structure from any existing residential dwelling.*

Section 540.5 C.

Commission Member Siegfried wondered if the one mile separation between towers could be enforced in a residential area if it was determined that location was not the best placement/spacing for the towers.

Commission Chairperson Vujevich said that Mr. Block did not directly answer the question regarding the feasibility of the one mile separation.

Commission Member Siegfried said that an answer may not be available until a study was conducted to determine the best location.

Commission Chairperson Vujevich suggested leaving the item as written. A variance application could be filed if necessary.

Section 540.5 D.

To clarify that the maximum height included the entire structure, the ZC changed the wording of the item to read as follows:

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

Section 540.5 E.

Commission Chairperson Vujevich referred to the following paragraph from the May 24, 2006 minutes:

Mr. Block said he would encourage them to allow higher towers, and to also allow for a maximum of four (4) carriers per pole. That will eliminate the need for more towers. Right now you only allow 3 carriers, the main carriers and two (2) additional carriers.

Section 540.5 E. stated that a 95 foot pole *shall be designed to accommodate at least three antennae*. As written, the text allowed for more than three antennae. The ZC agreed that the item did not need to be changed.

Section 540.5 M. & N.

Commission Member Ryan thought Section 540.5 M. and 540.5 N. were confusing and closely related. For clarification and easier reading/interpretation, the ZC agreed to combine the two items into one. Section 540.5 M. was changed to read as follows:

M. In the event that the requirements set forth in Section 540.5 B. are met but co-locating is not available as stated Section 540.5 L., a wireless telecommunication tower and/or antenna facility shall then be located:

- 1. Within a recorded electric high-tension power line easement, or*
- 2. Other residential area of the township in the event that location within a recorded electric high-tension power line easement is not available.*

The remainder of Section 540.5 was renumbered accordingly after combining Sections 540.5 M. and 540.5 N.

New Section 540.5 N.

The singular *antenna* was changed to the plural *antennae* as shown below:

N. As a condition of issuing a conditional zoning certificate to construct and operate a tower in the Township, the owner/operator of the telecommunications tower shall agree to:

- 1. Allow co-location until said tower has reached full antennae capacity, but in no event shall the owner/operator agree to allow fewer than two antennae platforms for additional providers unrelated to the owner/operator;*

New Section 540.5 O.

The following changes were made for accuracy and consistency.

O. ~~Any~~ TCFs shall ~~will~~ be subject to the general guidelines for conditional use, the foregoing conditions, and ~~Chapter~~ Section 540.7. The Board of Zoning Appeals may impose additional conditions when it deems it necessary to safeguard the health, safety, and welfare of the community.

New Section 540.5 P.

The ZC thought that the amount of the performance bond would not be determined by the Board of Zoning Appeals. The Commission agreed to remove *Board of Zoning Appeals* to allow for flexibility in determining the amount.

P. Upon conditional approval, the applicant shall post a performance bond in the amount set by the Township ~~Board of Zoning Appeals~~ for the purpose of insuring that an abandoned, obsolete or destroyed wireless telecommunication facility shall be removed in compliance with Section 540.7. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond.

Section 540.6 B.

Commission Member Wetzel suggested changing the distance from 1,000 feet to 400 feet (twice the maximum height of the tower). Commission Member Ryan suggested changing the distance to 500 feet to cover any antennae that may be mounted on the structure. Commission Chairperson Vujevich suggested changing 1,000 feet to two times the height of the structure.

For consistency with Section 540.5 B., the ZC agreed to change the item to read as follows:

- B. A plan including all building uses within **two times the height of the structure** ~~1,000 feet~~ at a scale not less than one inch equal to 100 feet shall be required.*

Section 540.6 C.

The ZC agreed to change the singular *antenna* to the plural *antennae* as shown below.

- C. Detailed description of the wireless telecommunications tower(s) or facility(s) capacity including the number and types of antennae that it can accommodate.*

Section 540.6 F.

The ZC changed *antenna(s)* to *antennae*.

- F. A list showing the location of every tower, building or structure that could support the proposed antennae so as to allow it to serve its intended function including the reasons why such towers, buildings, structures or areas have been determined not to be technically suitable or not available.*

Section 540.6 H.

The ZC was not familiar with what type of certification may be provided for complying with FCC regulations for non-ionizing electromagnetic radiation, but wanted the regulations to require confirmation of compliance.

Section 540.6 I.

Commission Member Ryan suggested adding an “s” to *appurtenance*. The item was changed as follows:

- I. A plan documenting how the tower, facility, equipment, appurtenance~~s~~ and surrounding associated land will be maintained on the site.*

Section 540.7 A.

Commission Member Piatak said that the Prosecutor’s Office suggested a two-year time frame, as opposed to 120 days as shown. The ZC decided that the item would remain as written.

Section 540.7 B.

Item was changed as follows:

B. Any tower that has had no antenna mounted upon it for a period of six months, or if the antennae 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)

Zoning Secretary Schwehm said that the agenda for the next Zoning Commission meeting would include the conditional renewal rewrite, as well as a few other miscellaneous text amendments for the ZC to review. After finalizing all of the proposed text changes, a public hearing could be scheduled for all of the items/chapters.

5. Zoning Updates

Field Assistant Jeffers said that the Riparian/Wetland Guide Maps showed some areas that had been resolved (stormwater, etc.) when some of the subdivisions were developed. The Zoning Office planned to maintain a file with proof documenting these areas and would request an updated map on an annual basis from the Medina County Soil and Water Conservation District.

Commission Chairperson Vujevich asked if any progress had been made in storing all of the Zoning Commission meeting minutes as word documents. It would be helpful to be able to search the documents when inquiring about and reviewing previous text amendment, etc.

Field Assistant Jeffers said that he had minutes in PDF format that had been archived from the website. They could be saved to a disc; however, some of the minutes had been scanned and it may not be possible to search those documents.

Commission Chairperson Vujevich suggested that in the future only the attachments be scanned to allow the minutes to be searched. Field Assistant Jeffers said that could be done.

MOTION: Commission Member Ryan moved to adjourn the meeting.

SECOND: Commission Member Wetzel.

A collective oral vote was taken with all Zoning Commission members in favor of adjourning. The May 12, 2010 Zoning Commission meeting was adjourned at 8:22 p.m.

Respectfully submitted,

Bonnie Schwehm

Signature _____
Chairperson

Date _____