

## MUSSEY TOWNSHIP PLANNING COMMISSION

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**We learn from the Past, We live in the present, We prepare for the future**

James Carden, Chair

Mary Klug, Member

Linda Schmitt, Vice Chair

Ed Watteny

Judy Palmieri, Secretary

Bill Schultz, Member

Kenneth Montgomery, Planner

Linda Kniseley, Twp.Board Rep.

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Regular Planning Commission Meeting and Public Hearing

Re: To provide for wind energy systems and their regulation

22 SEPTEMBER 2009

Unofficial Minutes

Call to Order: The regular meeting of the Mussey Township Planning Commission was held in the Mussey Township Fire Hall. Vice Chair Linda Schmitt called the meeting to order at 7:00p.m.

Roll Call: Present: Linda Schmitt, Mary Klug, Judy Palmieri, Ken Montgomery-Planner, Bill Schultz, Linda Kniseley, Ed Watteny, and Selise Carden-recording secretary.

Absent: Jim Carden

Late: None.

Visitors: Tim Ferrano - attorney for Miller Broach, Kevin Byers of Koehn Road, Craig Duckwitz-Engineer for Miller Broach, Elizabeth Barr of Miller Road.

Approval of Agenda: Motion Mary Klug with Bill Schultz in support to approve the agenda as presented. Absent: James Carden. All ayes. Agenda approved.

Approval of Minutes from Previous Meeting: Motion Judy Palmieri to approve the minutes of the 25 August 2009 meeting as written. Ed Watteny in support. Absent: James Carden. All Ayes. Minutes approved.

Public Hearings: To amend Article 12 Section 1225 of the Township of Mussey Zoning Ordinance for on-site use wind systems.

Public Hearing: Vice Chair Linda Schmitt close the regular meeting at 7:06 pm and opens the public hearing at 7:06pm.

Kevin Byers: Handout. I don't like I think we should be encouraging people to put up windmills where they make sense. I have problems with the set backs, requirement that they should be in the rear yard and the 65 foot height limit. Pages three (3) and (4) explain why. With a wind mill, turbulent air is stressful on the blades. To avoid turbulence is to have bottom of the windmill at least 30 feet above nearest obstruction. Wind speed increases as you go above ground. There is a formula on page one (1). Another formula explains the power possible from a windmill. A small increase in the wind can make a large difference in power out put. The increase is significant the higher

the windmill. When trying to justify the output of the expense to put up a windmill... they are quite expensive. Wind load and ice load must also be taken into consideration.

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There seems to be an inconsistency in your zoning ordinance. Height does not seem to be a consideration in regards to the present communication towers in Mussey Township. I doubt that those are going to blow over if built to standards. But having the requirement of no higher than 65 feet when considering the boundaries many people may have such as woods, we are limiting amount of windmills available in township other than on farm land.

Shadow and light flicker I have never heard of. How do you define what is adverse and what is not?

That summarizes the rest of the stuff in my hand out. On the back page I have a summarization where I basically I say throw out most of what you have written. Any questions? My intent is to be helpful.

Mary Klug: We have a general format that the State of Michigan was using. We have to address every broad spectrum of demographics and the geographic that may be possible. The Zoning Ordinance has to be broad to be comprehensive. There was nothing like this before in the Zoning Ordinance.

Kevin Byers: Does that mean if this is accepted as written, and I come before the board and want to violate one or two standards--is there any chance you would grant that?

Ken Montgomery: I might be able to clarify a few of the questions raised.

Regarding the 65 feet height, if you see where that ...page three (3) of ordinance under paragraph "B" in the residential district (R-1), Multiple Family or Recreation/Conservation district the following additional regulations shall apply, number two (2), height not to exceed 65 feet. That district is a very small district. In a built up area, the ascetic purposes this standard seeks to maintain, are important. This is similar to when satellite dishes first came out. It wasn't something in keeping with custom and tradition and what people expected. These (regulations) are not set in stone, as we gain more experience with these (windmills) and as the technology changes we may want to make changes, fine tune the ordinance.

The other thing mentioned was set backs: "Only located in a rear yard"... again that exempts the agricultural district.

Kevin Byers: But in another paragraph...

Ken Montgomery: On site use wind energy located only in rear yard with a residence. The intent of the regulation is that ... minimum lot size is three (3) acres, if you are on a

road with several three (3) acre parcels do you really want someone to put up a windmill in the front yard? It is more a visual rule rather than a safety issue.

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Kevin Byers: I would.

Ken Montgomery: "Only one energy system permitted per lot" also falls under the (R) residential district, not (AG) agricultural.

Agricultural District...page two (2) of the proposed ordinance states ... this is very similar language/regulation for cell towers and the reason for this is safety, primarily. With a large piece of property where these may be located, requiring the set back to be 1 1/2 times the height of the tower keeps the tower, should it fall, from falling on the neighboring property. Now should someone wish to erect a collapsible tower that might be a reason to approach the ZBA for a variance.

There is no height limit in the Agricultural District. Limit on height of a possible windmill will be determined by the set back: i.e. if you have a 10 acre parcel that is 660' x 660' - you can work the figures there and figure out how high that would be.

We used the recommended language in the Michigan Sighting Guidelines to define "lighting flicker". The reason being this regulation is neighbors have the right to live their life without interference from your windmill, i.e. changes in lighting intensity on their property, like strobe lighting.

Bill Schultz: It's medical. Such lighting could cause seizures.

Ken Montgomery: The language is in the Michigan guidelines. Measures should be taken to mitigate the problem and that is what we are trying to do here. We have to balance people's rights against the rights of their neighbors.

Obviously there are going to be advantages to putting up a tower. In the residential (R) district we are looking at the rights of neighbors to live in the type of neighborhood they wish to live in. This area is expected to develop so you don't want to allow things that will disadvantage that.

Kevin Byers: That helps. Do you know if the existing towers are the type to collapse on themselves?

Ken Montgomery: I don't know. Generally the newer types are, like cell towers. I can't say that I've seen situations where people have asked for a variance on that.

Bill Schultz: On the technology... a lot of these windmills are not made for speed.

Kevin Byers: They all should have breaking mechanisms. They should brake out at 30 mph. But around here you need to be up pretty high to average that. We don't normally have real high winds.

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Linda Schmitt: Anyone else?

Elizabeth Barr: Say you pass this (proposed ordinance) the way this is and then my neighbor wants to get a variance, as a resident do I have a say?

Ken Montgomery: You would get notified and there would be a hearing. The ZBA is not supposed to give a variance just because someone asks for it. They have to show some cause that could not be foreseen when the ordinance was adopted.

Linda Schmitt: Close the Public Hearing and re-open the regular meeting at 7:31p.m.

Public Time: None requested.

OLD BUSINESS:

Miller Broach:

Ken Montgomery: (Hand out titled Miller Broach Site Plan Review 5<sup>th</sup> submittal) Last meeting we discussed the site plan submitted dated 25 August 2009 by the engineer. The previous report that I had written and went over with you was from a site plan submitted 17 August 2009. It did appear at the meeting that most or all of the deficiencies had been addressed at the last meeting in the site plan of 25 August 2009. The report titled fifth submittal is a short report that indicates this is current site plan submitted, variances applied for and approved in December 2008 and special land use approval public hearing was held 16 October 2008 and tabled due to revised site plan necessity and variances had not yet been acted on. Now we are at the point of final site plan approval and I have given you a recommendation: before the Special Land Use Approval is issued administratively, we need to make sure that all fees are paid and all escrow is done. Site plan dated 25 August 2009 satisfactory addresses issues. The Planning Commission should approve the preliminary and final site plan dated 25 August 2009 subject only to any conditions applied at your meeting tonight (22 September 2009).

Tim Ferrano: I can attest that we paid significant fees when my company and new engineers came on board to the satisfaction of the chairman at that time. I can only tell you that that was after 24 June 2008.

Ed Watteny: Has Mr. Miller solicited bids?

Craig Duckworth: I don't think so due to any approval of site plan.

Ed Watteny: Does he plan on paving the parking lot this year?

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Craig Duckworth: With approval and weather permitting he would like to but I don't know that for sure.

Tim Ferrano: Parking structure to be erected. Mr. Montgomery has put us through hoops and he is now satisfied.

Mary Klug: Motion to approve Special Land Use for Miller Broach per planner's report of 22 September 2009. Linda Kniseley in support. Absent: James Carden. All ayes. Special Land Use approved.

Mary Klug: Motion to approve Site Plan for Miller Broach; preliminary and final site plan approval contingent upon fee schedule being rectified to our satisfaction within seven days. Absent: James Carden. All ayes. Site Plan approved with contingency.

B. Accessory Buildings (Section 1203.D.) Tabled

New Business:

Bill Schultz: Do we have an ordinance to regulate golf carts or golf cart type vehicles?

Ken Montgomery: Could be an issue for the Sheriff Dept.

Bill Schultz: We have a lot of them down our road. A lot of teenage kids driving these.

Ken Montgomery: You could call the Sheriff and talk to them.

Mary Klug: Could be something to put on our agenda to look at.

Ken Montgomery: Probably something to put to the township board.

TOWNSHIP BOARD REPORT:

Linda Kniseley: Pretty fast this month. Talked about tree removals and moving a fence. Pretty quiet.

Ken Montgomery: Did you want to do anything on the windmill ordinance?

Judy Palmieri: Carl Hoskey had a point last month. The AG/Tourism Ordinance does say that the particular resident he used as his example is in violation.

Linda Schmitt: Maybe we could take a look at that in the winter.

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Ken Montgomery: Maybe that could have been written better, but we followed the State of Michigan guidelines.

Planning Commission Chairman's Report:  
None.

Planning Commissioners' Business:  
None.

Township Planner Report:  
None.

Adjournment: Motion to adjourn the meeting made by Mary Klug with Linda Kniseley in support. Absent: James Carden. All ayes. Meeting adjourned by Vice Chair Linda Schmitt at 7:55p.m.

Respectfully submitted,

Selise Carden  
Acting Recording Secretary  
Mussey Township Planning Commission