

2015 Minutes of Ellsworth Zoning Meeting
Regular Meeting – May 12, 2015

2015-008

On Tuesday, May 12, 2015, the Ellsworth Township Zoning Commission regular meeting began at 6:00PM at the Fire Hall.

Chairman Fred Schrock opened the meeting leading with the Pledge of Allegiance followed by a moment of silence for those serving our country past and present.

Members present were Chairman Fred Schrock, Vice Chairman Jim Tripp, Janine Goddard, Ron Niemiec, Frank Marra and Alternate Sean Giblin.

Seven (7) guests were present. This included Ellsworth Township's legal counsel Tonya Rogers. Also present is Inspector Wayne Sarna (off and on).

Tonight's meeting is being recorded

Chairman Fred Schrock mentioned that Memorial Day observance for Ellsworth will be on Sunday, May 24, 11am at the VFW Hall. Following will be a parade to the cemetery with cemetery observance.

Fred Schrock introduced the Zoning Commission members.

At tonight's meeting, the presentation of the Basista Holdings LLC site plan for their property on RT45 will be held first.

Fred Schrock gave a brief history;

- On March 26, 2015, Laura Lewis (on behalf of Basista Holdings LLC) filed an application for a permit;
- April 14th, the Commission acknowledges receipt and scheduled a meeting for review.
- Meeting was scheduled for May 05, 2015, but was later postponed.
- On May 04, 2015 the Lewis's legal council asked that the meeting be postponed.
- This meeting was rescheduled for May 12, 2015 which is tonight.
- It was also noted that the Township is going by the current zoning resolution.
- Following procedure, Laura Lewis; representing Basista Holdings LLC, will be the presenter.
- The Commission will address questions to the Laura Lewis; following the public will be invited to talk. All comments are to be directed to the Chairman.
- At the end, the Zoning Commission then recommends the request.
- From here, the commission has thirty (30) days from tonight to act upon this.

The plan proposes to the south of the property; approximately 16 storage units/rental units. Also two dry storage buildings for storage of equipment used by Advance Drainage and Trenching. Then the open storage area will be for materials and items used in Advance Drainage and Trenching's business including the existing silo and the bins that are currently located on the property. The silo and bins are not permanent structures; they will be put in the area that made the best sense.

Chairman Fred Schrock had Laura Lewis verify the location of the property on our current Official Zoning Map (2006).

Laura Lewis read the transcript from the Ellsworth Township's representative. In it Attorney Matthews agrees that the first five hundred (500) feet are Industrial.

2015 Minutes of Ellsworth Zoning Meeting
Regular Meeting – May 12, 2015

2015-008

The Township's 1969 Zoning Map was not correctly updated to show the coal tipple as Industrial. Laura Lewis stated that it should not be a zone change; it should just be a map correction.

Ellsworth Township's legal counsel, Tonya Rogers, said the zoning map was unambiguous. The only way to change the zoning map is to go through the proper zoning procedures as stated in O.R.C. 519.12. The Ellsworth Trustees have taken action under O.R.C. 519.12 to make the changes that have been specified by way of the proposed amendments.

Laura Lewis said that in the proposed amendment (to the Zoning Resolution) imposes a fifty foot setback on all sides of the property lines. As stated; the proposed Zoning Amendment will take approximately three acres from the Lewis's property. The Lewis's will view this as a government taking and will proceed with legal action.

The Lewis's are contesting this amendment, the first fifty (50) feet is their property. Our township counsel, Tonya Rogers, said that yes, it has been appealed but no formal action has been taken as of yet.

Laura Lewis asked to have this site plan review tabled until they get the state court's decision on the clarification of zoning on their property instead of denying it due to the court case.

Chairman Fred Schrock asked if the Lewis's had other concerns they would like to have clarified and the commission could address them. Laura Lewis said *she would still like to get some feedback on the plan* even though she would like it tabled until a later date.

Laura Lewis went on to describe the site plan. It was verified that the Commission will be looking at 900 ft. frontage by 500 ft. depth.

Jim Tripp's questions were answered by the following:

- The buildings will be set on concrete blocks.
- All the buildings will be built of concrete block with steel roofing and no windows.
- Laura Lewis explained what bollards were.
- The buildings will be built in stages with the first stage being four buildings.
- Possible usage will be for company use (storage) or public storage.
- Gravel area will be used to store some aggregate and some equipment.

Fred Schrock wanted it clarified that the building's structure was no longer going to be the all steel structures. Dave Lewis said only the two dry storage buildings used for Advance Drainage and Trenching will be steel sided, pole type.

Frank Marra asked if there were to be multiple businesses on the property. Dave said yes. Also the height of each storage unit will be eight ft.

Jim Tripp asked about drainage. Laura Lewis said that first they need approval on the permit, then after, they will go to the county regarding drainage work.

2015 Minutes of Ellsworth Zoning Meeting
Regular Meeting – May 12, 2015

2015-008

Fred Schrock asked how they were going to comply with the enclosed structure. Laura Lewis's reply was they are complying by having a fence that is at least 6 ft. but not more than 8 ft. and since they do not border a residential district, the opaqueness does not affect them. She feels that the buildings are a buffer in itself.

Dee Tripp asked if there will be two businesses on the property; the trenching and also as a rental – answer was yes. Dee wanted to know if the trenching company would require heavy equipment traveling on RT45 and the answer was yes. Dee also asked about their hours of operation. She also wanted to know if it would increase traffic – answer was no.

Fred Schrock verified with Laura Lewis that Basista Holdings, LLC is the permit requester.

Ron Niemiec made a motion to table the decision until June 2nd meeting; seconded by Janine Goddard. Motion carried. **(THIS DATE WAS LATER CHANGED TO JUNE 9)**

Site plan review is done for the night.

Fred Schrock asked Tonya Rogers what was meant by the state court case.

Tonya Rogers stated that based on O.R.C.519.12 a public hearing needs to be set up not less than twenty (20) days, but not more than forty (40) days from today for review of the zoning amendments. And five (5) days from today, the Zoning Commission must send a copy of the zoning amendments to the Mahoning County Planning Commission for their recommendation. Fred Schrock was going to hand deliver them to the planning commission the following day (May 13, 2015). This way the planning commission can present it at their meeting on May 26, 2015.

Tonya Rogers said that the Lewis's (Basista Holdings, LLC) were involved in two court cases. One is a state case which against a bunch of zoning officials, the second being a federal case against a couple of current zoning officials and also past zoning officials. Both are in regards to the same issues.

Tonya Rogers made a comment that based on law, zoning is a legislative function and zone changing can be one way and one way only, through the procedures in O.R.C. 519.12.

Sean Giblin brought up about water and soil and the EPA in regards to the Lewis's property and unresolved issues. Tonya Rogers said you can ask the Lewis's any question that you want. Fred Schrock said that in the end zoning has no control over any of these issues. They are state and county issues.

Fred Schrock at tonight's meeting (May 12, 2015) received a certified copy of the four zoning amendments from Tonya Rogers. It is signed by all three trustees. Next step is to set up the public hearing. You cannot get around it any other way.

Fred Schrock said if the site plan is approved, it is approved. If it is denied, then the Lewis's have the option to go to the appeals board.

Sean Giblin again brought up the EPA issue. Said they need addressed.

2015 Minutes of Ellsworth Zoning Meeting
Regular Meeting – May 12, 2015

2015-008

Artie Spellman's response to this was that our concern is dealing with the site plan. Artie Spellman said that the township has always been in a position to try and resolve this issue with the Lewis's. We (the township) want to resolve this.

Janine Goddard asked what was the purpose of adding the 50 ft. buffer and Fred Schrock said it was from legal counsel. That it should be pleasing to both parties.

Ron Niemiec made a motion to hold both the site plan review and zoning public hearing together at the same meeting to be held on June 09, 2015 at 6:00PM at the Fire Hall; seconded by Frank Marra. Motion carried.

Also on the agenda for tonight's meeting is the replat of the Merdic Plat #1.

Ron Niemiec made a motion to recommend approval of the replat of Merdic Plat #1; seconded by Jim Tripp. Motion carried.

Motion is made by Frank Marra to approve April 14, 2015 minutes; seconded by Ron Niemiec. Motion is carried.

Motion is made by Ron Niemiec to approve May 05, 2015 minutes; seconded by Frank Marra. Motion is carried.

Business meeting is closed at 7:45PM and the commission moves to a workshop.

The commission went over a list of three items from Jim Tripp and all were approved.

Janine Goddard asks what we are doing with the LUP map in regards to showing boundaries to satisfy the Mahoning County Planning Commission. Fred Schrock said we will be using the sewer lines as a boundary.

Jim Tripp made a motion at 8:00PM to adjourn; seconded by Frank Marra. Motion carried.

Janine Goddard
Secretary