

# RECORD OF PROCEEDINGS

Minutes of

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held \_\_\_\_\_ 20 \_\_\_\_\_

## MINUTES OF ELLSWORTH TWP BOARD OF TRUSTEE'S ZONING AMENDMENT HEARING

September 30, 2024

Chairman Robert Toman called the September 30, 2024, Public Hearing of the Ellsworth Trustees to order at 7:00 pm. A roll call was taken to establish a quorum: Chairman Robert Toman - present, Vice Chairman William Spellman - present, Trustee Fredrick Houston – present. Also, present was the Zoning Inspector Wayne Sarna and the Zoning Commission Secretary Angela Javorsky. The Pledge of Allegiance was recited.

Chairman Toman described the purpose of this Hearing. Pursuant to ORC Sections 519.213 and Sections 519.02 through 519.25, the Township has the authority to regulate any small solar facility, which is defined as an operation with a capacity of under 50 megawatts. He furthered that the Ellsworth Township Zoning Commission had presented such proposed regulations to amend to the existing Ellsworth Township Zoning Amendment. This hearing is authorized under ORC 519.12 and is conducted to accept, modify or reject the proposed Amendment to the Township Zoning Resolution.

Chairman Toman then recognized Angela Javorsky, who presented a summary of the proposed Amendment. Ms. Javorsky reported the following:

A change to section 602 of the current zoning resolution to remove “public utility works” from the matrix in agricultural and residential districts. The Amendment adds to the matrix accessory solar energy systems as an accessory use in agricultural and all residential districts. It also allows for the general requirements for these systems, whether they be rooftop integrated, ground mounted, and any other solar facility. There’re lighting restrictions, noise restrictions, maintenance and decommissioning information. Permits would be required, and the project shall comply with applicable state, federal and local laws.

In Section 702, removing from the matrix, “public utility works” from business and industrial districts, adding to the major accessory solar energy systems as an accessory use in business and industrial. Principal solar energy systems would be a conditional use in business and not permitted in industrial.

And adding section 713 principal solar energy systems shall also have all of the requirements, road maintenance agreements, safety services, location, height, buffers, setbacks, glare restrictions, lighting restrictions, fencing, maintenance and decommissioning requirements and any other conditions or requirements determined by the zoning inspector. The applicant must have a zoning permit and then development and site plan reviews would be by the zoning commission. Application would include engineering reports, site drawings, evidence of compliance with setbacks and other zoning restrictions, maintenance schedules, dismantling plans, and any other information reasonably requested by the zoning inspector. And any small solar facility exceeding 10 megawatts shall provide proof of coordination with the Department of Defense Siting and Clearinghouse.

Chairman Toman then advised the audience that this hearing is in regard to the proposed Amendment to the Zoning Resolution and is not pertinent to any particular proposal currently in consideration in the Township. Chairman Toman then reiterated that the purpose of this hearing is for the Board of Trustees to either accept, modify or reject the proposed Amendment. He recognized the Zoning Commission members in attendance.

Chairman Toman then opened the floor for public comments:

Jim Tripp of 5760 Elias Lloyd Rd. asked if language had been added to allow the BZA to add to the increased setbacks as they feel necessary. Chairman Toman responded that any modifications would be covered later in the meeting.

Frank Imburgia of 9790 West Hill Dr. commented on the proposed 100 ft setback from an existing dwelling. He indicated that the setback for a well is typically 656 feet. He indicated that everything that he has seen and everything he’s been involved with around solar farms, while the sunlight is gone, they’re very hot. They are noisy with the fans. What’s typical for a small farm is 656 feet, typical for a large farm is 1640 feet. He commented that the proposal is way different. Mr. Tripp responded that he had suggested the additional setback authority for the ZBA for those occasions.

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## Trustee Zoning Amendment Meeting September 30, 2024, Continued

Dee Tripp of 5760 Elias Lloyd Rd. commented that she was in agreement that any solar project may only exist on property zoned as business.

Lee Sandstrom of 10719 W Aron Canfield Rd. read excerpts from a letter that he had sent to the Trustees. The Zoning Commission proposes to delete matrix category "public utility works" from the Ellsworth Zoning Resolution approved June 8, 2016. In 2016 Ellsworth Zoning Commission with direction from George Smaragin, outside consultant on township resolutions, established and added matrix pages to the zoning resolution to provide an easy-to-use guide to approve a variety of purpose category classification with zoning district A, Agriculture, R1, R2, R3, Business B, Industrial I, where they were permitted and not permitted, or conditional accessory use. One of the 131 purpose categories was "public utility works", which is found on page 20 and page 34. On September 17, 2024, a text from George Smerigan, Tactical Planning, LLC about Ellsworth's zoning ordinance, included my understanding that "public utility works" was added as a category in the matrix to cover all types of utilities that could be installed in and on an agricultural zone property. Electric, natural gas, sewer, cable, and pipelines could cover electricity generated from solar panels that fed the Ohio Edison electric grid. George's reply to me was, as written back in 2016, was that the zoning resolution would have covered solar farms generating power to the electric grid. Since it was to be a purpose category that covered all types of utilities, as written, and would cover solar farms generating power to the electric grid. Mr. Sandstrom requested that the Trustees should not delete "public utility works" from the Amendment.

Karen Grittie of 8969 Duck Creek Rd. objected to Mr. Sandstrom's letter to the Trustees prior to this hearing and felt that any statements provided prior to this hearing could be considered as "undue influence" and may be illegal.

Frank Mosure (address unknown) asked what was the decommission plan and who would pay for it. Ms. Javorsky responded that any project would be required to submit a Bond that could be used for the costs of decommissioning a project.

Someone commented that Mahoning County had banned solar projects. Chairman Toman responded by reminding the audience that the County has enacted a resolution to ban large scale projects; those 50 megawatts or greater. It is still up to each zoned community to review their Resolution regarding projects under 50 megawatts.

Karen Grittie of 8969 Duck Creek Rd. suggested that the Board take a 90 day moratorium on their vote today. She also discussed the possible pollution to the Meander watershed from broken or vandalized solar panels. Ms. Grittie also suggested that the Amendment require all panels to be American made. She also felt that there must be access for safety and maintenance vehicles.

Chairman Toman reminded everyone that the law required an open hearing on the Commission proposal and that was done. The law further required that the Trustees hold a public hearing, and that too was done on September 11, 2024. The Board then must vote on the Amendment within 20 days of their hearing and that is why this meeting is being held.

Trustee Spellman discussed the need to set rules that contain the requirements regarding solar projects in the Township. He indicated his personal dislike of solar projects, but that rules need to be in place that, when followed and approved by the Zoning Inspector and possibly the ZBA, would prudently allow a safe and regulated small solar project.

Trustee Houston discussed the concerns that the entire solar industry is very new. As many government entities create their local regulations, lawsuits will inevitably occur that will eventually determine the scope of these local rules and regulations. Much of the regulations are from templates available from the Ohio Township Association (OTA). The OTA has itself indicated that these regulations will most likely be legally challenged.

Sarah Hendricks of 10302 W Western Reserve Rd, a member of the Zoning Commission reviewed the safety concerns that the Commission discussed and included in the proposed Amendment.

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## Trustee Zoning Amendment Meeting September 30, 2024, Continued

Jim Gilmartin of 8389 Huxley Rd., also a member of the Zoning Commission indicated that he and the Board spent hours attempting to find a clear definition of "Public Utilities" within Ohio zoning laws to no avail. He too felt that the courts will eventually interpret these regulations.

Tod Weaver (address unknown) asked if these projects were to be restricted to Business property. The Board confirmed that they would be.

Lee Sandstrom felt that ORC 4905.02 gives a definition of "public utilities" and that it is important to maintain that in the matrix as it relates to all other utilities, including gas, sewer, and water.

Sarah Hendricks responded that the elimination of the "public utilities works" gives the Zoning Resolution, through this Amendment, the necessary ability to regulate solar projects locally.

Jim Tripp also responded that the solar business is a supplier of electricity to a public utility and is not necessarily a public utility in itself.

At that time, Chairman Toman asked if there were any additional comments from the audience. With none offered he directed the Board to consider the Amendment.

Trustee Houston thanked the Zoning Commission for their efforts to put this proposal together. He then discussed the suggestion to add additional language regarding setbacks to the Amendment.

Trustee Spellman also thanked the Commission for their work and then discussed the height limitations. He discussed the possible need to increase the height to allow for easier maintenance of any undergrowth. The Board discussed the limitations imposed by other government entities. Chairman Toman reminded all that a height limitation could be approached by a variance request.

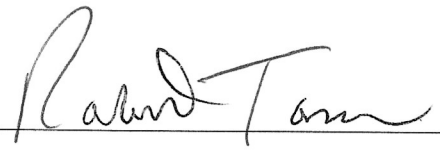
Trustee Spellman then reminded the Commission and the ZBA members present about the Zoning workshops sponsored by Canfield Township that are available on October 15<sup>th</sup> for commission members and October 16<sup>th</sup> for ZBA members.

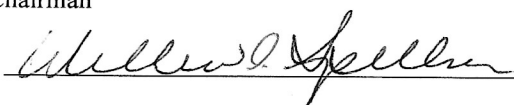
At that time, **Motion 2024-111:** Trustee Houston made the motion to accept the Zoning Proposal with two modifications. The first modification requires that additional language be added to Section 13, Requirement #5 that reads, "...however, as a condition of approval, the BZA may require increased setbacks if it is determined that greater separation is necessary to adequately protect adjacent residents and property owners." The second modification is to Section 13, Requirement #4 to change the maximum height from 10 (ten) feet to 12 (twelve) feet.

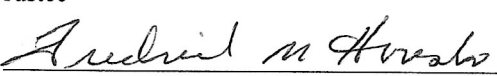
A roll call was taken by the Chairman. Trustee Houston – yes; Trustee Spellman – yes; Chairman Toman – yes.

With no further business, at 7:57 pm, **Motion 2024-112:** Trustee Spellman made a motion to adjourn. Trustee Houston seconded the motion. The roll call vote was all in favor.

  
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Eiseal Officer

  
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Chairman

  
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Trustee

  
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Trustee