

**PLAIN TOWNSHIP ZONING COMMISSION
PLAIN TOWNSHIP HALL-2600 EASTON STREET NE
CANTON, OHIO 44721
MINUTES OF REGULAR MEETING
JANUARY 14, 2009**

The meeting was called to order by Chairman David Roshong, with Terry Seeberger, William Lundin, Patti Thornborough, Jeff Arnold, Larry Pulka, Steve Peroz and Stephanie Metzger present.

Mr. Roshong introduced the members of the Board, he also noted that the amendment that was being heard tonight is amendment #545, not #546 as published in the newspaper.

Mr. Roshong made a motion to elect William Lundin as the Chairman. Mr. Arnold seconded the motion. All members were in favor.

Mr. Lundin made a motion to elect David Roshong as the Vice Chairman. Mr. Arnold seconded the motion. All members were in favor.

Mr. Lundin made a motion to approve the minutes of April 12, 2006. Ms. Thornborough seconded the motion. All members were in favor, Mr. Arnold and Ms. Thornborough abstained.

Mr. Roshong read the statements of duties into the record.

Mr. Roshong read a letter submitted by David W. Crowder (Exhibit #1) into the record.

Mr. Roshong read Text Amendment #545 into the record.

Mr. Seeberger read the RPC recommendation of approval for Amendment #545 into the record.

The following Amendment was heard:

AMENDMENT #545 - TEXT AMENDMENT

Applicant/Agent -- Plain Township Trustees, 2600 Easton Street NE, Canton, OH 44721.

Requests the following amendments to the Plain Township Zoning Resolution:

ARTICLE VI - SECTION 602.5 (A3) ACCESSORY USES, BUILDINGS AND STRUCTURES

CHANGE TO:

An unattached accessory building, structure or use two hundred one (201) square feet or more in size shall be located only in the side or rear yard area and shall be located a minimum of ten (10) feet from the side and rear yard property lines. However, one (1) building or structure of two hundred (200) square feet or less and a maximum height of fifteen (15) feet may be located in the side or rear yard area provided it is set back at least five (5) feet from the property lines.

ARTICLE VI - SECTION 602.10 FENCES, WALLS, AND HEDGES

CHANGE TO:

Any fence, wall, or hedge located in or along the edge of any yard abutting a public or private dedicated thoroughfare in any Zoning District shall be located a minimum of five (5) feet from any street right-of-way line.

ARTICLE VI - SECTION 603.7 RESTRICTIONS ON THE PARKING AND STORAGE OF VEHICLES

CHANGE TO:

No more than two (2) recreational vehicles; such as a trailer, motor home, or boat may be stored outside in a residential district. Such vehicle shall have a current license and shall only be stored on a driveway or in the side or rear yard area.

ARTICLE VI - SECTION 603.9 SWIMMING POOLS, PONDS, AND OTHER WATER BASINS

CHANGE TO:

Public or private in-ground or above-ground swimming pools, wading pools or other bodies of water containing over three (3) feet of water depth shall be considered as structures for the purpose of permits and shall conform to all required yard setback lines. The construction, plumbing, and electrical requirements and inspections of same shall meet applicable county or state codes.

ARTICLE VIII - SECTION 801.10 (A4) TEMPORARY/PORTABLE SIGNS

CHANGE TO:

Political signs may be placed only on private property with permission of the property owner. All political signs shall be removed seven (7) days following such election or referendum. No temporary political sign shall exceed sixteen (16) square feet in area.

ARTICLE VI - SECTION 603.12 SMALL WIND ENERGY SYSTEMS

ADD:

Adoption of Small Wind Energy Systems as a Conditionally Permitted Use as recommended by Stark County Regional Planning Commission.

PROPOSED TEXT AMENDMENT
FOR SMALL WIND ENERGY SYSTEMS AS
CONDITIONALLY PERMITTED USES

Article IV DEFINITIONS

ADD:

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to reduce on-site consumption of utility power.

- **NACELLE:** The enclosure located at the top of a wind turbine tower that houses the gearbox, generator and other equipment.
- **POWER CENTER:** Serves as the central connection point for the electrical components in the system and provides a number of necessary control functions.
- **ROTOR:** The rotating part of a turbine, including the blades.
- **TOWER:** The support structure, including guyed, monopole and lattice types, upon which a wind turbine or other mechanical device is mounted.
- **TOWER HEIGHT:** The height of the tower, measured from the natural grade surrounding the support pad to the tip of the blade in a vertical position along the vertical axis of the tower.
- **WIND TURBINE:** A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, power center and a rotor with two or more blades.

Article VI GENERAL STANDARDS AND SPECIAL PROVISIONS
Section 603 SUPPLEMENTARY REGULATIONS

ADD:

Section 603.12 SMALL WIND ENERGY SYSTEMS

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity. A small wind energy system may be permitted in an R-R, S-1, B-1, B-2, I-1 and I-2 District as a conditionally permitted use.

No person shall cause, allow or maintain the use of a small wind energy system without first having obtained a conditional zoning certificate from the Board of Zoning Appeals. Application for a conditional zoning certificate shall be submitted to the Zoning Department and forwarded to the Board of Zoning Appeals in accordance with Article XI, Conditional Zoning Certificates.

- Article VII DISTRICT REGULATIONS
- Section 701 R-R Rural Residential District
- Section 711 S-1 Suburban Office District
- Section 712 B-1 Neighborhood Business District
- Section 713 B-2 General Business District
- Section 721 I-1 Light Industrial District
- Section 722 I-2 General Industrial District

B. CONDITIONALLY PERMITTED USES

ADD:

Small wind energy systems, subject to Subsection 154.

- Article XI CONDITIONAL ZONING CERTIFICATES
- Section 1102 REGULATIONS PERTAINING TO CONDITIONALLY PERMISSIBLE USES AS LISTED IN SECTIONS 701.2B, 702.2B, 703.2B, 704.2B, 705.2B, 706.2B, 708.4C, 711.2B, 712.2B, 713.2B, 721.2B AND 722.2B.

ADD:

- 154. Small wind energy systems shall meet the following requirements:
 - a. Primary purpose shall be to provide power for the principal and accessory uses of the property and not for the generation of power for commercial purposes.
 - b. Minimum lot size of 5 acres.
 - c. One small wind energy system tower per lot or parcel.
 - d. Small wind energy system shall be located only in the rear yard area.
 - e. Maximum height shall be 100 feet, measured from the natural grade surrounding the support pad to the tip of the blade in a vertical position measured along the vertical axis of the tower.
 - f. Minimum setback from all property lines, structures and above ground utility lines shall be no less than 110 percent of the tower height.

- g. Anchor points for guy wires for the tower shall be located no closer than 25 feet to the property lines and not on or across any above ground electric transmission or distribution lines.
- h. Minimum height from the base of the tower to the lowest part of the blade tip or rotor system shall be 12 feet.
- i. Blade color shall be white or light gray.
- j. Lighting of the tower for all aircraft shall conform with Federal Aviation Administration standards for wattage and color, when applicable.
- k. The tower shall have either:
 - 1. Tower climbing apparatus located no closer than 12 feet to the ground level at the base of the structure;
 - 2. A locked anti-climb device installed on the tower; or
 - 3. Shall be completely enclosed with a locked fence at least six feet in height to prevent uncontrolled access from unauthorized personnel.
- l. A sign shall be posted at the base of the tower warning of electrical shock or high voltage.
- m. An automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.
- n. All small wind energy systems must separately comply with Stark County Building Department regulations (building, mechanical, electrical, etc.).
- o. All small wind energy systems shall be installed, operated and maintained per the manufacturer's instructions, including compliance with the Ohio EPA regulations regarding storage and disposition of batteries and other hazardous materials.
- p. No variance shall be issued for the placement of a small wind energy system so close to a property line that it may result in any portion of the system to overhang, cross or otherwise extend beyond the property line at any time, whether erect or in the event the system should fall or be toppled.
- q. Decommissioning and Restoration. Any small wind energy system which has reached the end of its useful life or has been abandoned shall be removed. A small wind energy system shall be considered abandoned when it fails to operate for one year. The applicant shall include the following information regarding decommissioning of the project and restoring the site when submitting the application for a conditional zoning certificate:
 - 1. The anticipated life of the project;
 - 2. The estimated decommissioning costs in current dollars;
 - 3. The method and schedule for updating the costs of decommissioning and restoration;
 - 4. The method of ensuring funds will be available for decommissioning and restoration; and
 - 5. The anticipated manner in which the project will be decommissioned and the site restored.
- r. Site Plan requirements shall include, but not be limited to:
 - 1. Property lines and physical dimensions of the site.
 - 2. Location of small wind energy system tower, guy wires, setbacks from property lines, above ground and under ground utility lines, easements and any structures on the property. Also show location of sewage treatment system.
 - 3. Location of signage.
 - 4. Elevation of the proposed small wind energy system tower.
 - 5. Location of trees within a 100 ft. radius of the proposed small wind energy system.
 - 6. Manufacturer's specifications, including make, model and picture.
 - 7. Scaled drawing no smaller than 1" = 100'.

There were no attendees for this amendment.

Mr. Seeberger said that since this is a lengthy text amendment it might make sense to handle each of the proposed amendments as a separate motion. It might make it easier for people to do that.

Mr. Roshong asked if we wanted to start with each article as we go down and not as the total text amendment.

Mr. Seeberger said it might make it easier.

Mr. Roshong said we all have copies of this, he will ask for discussion after he reads the title, he will not repeat any lengthy readings.

**Mr. Roshong – Article VI – Section 602.5 (A3) Accessory Uses, Buildings and Structures
This is a change, is there discussion on this change.**

Mr. Seeberger asked Lou or Steve what is the genesis of this proposed change.

Mr. Peroz said what is being changed is we had problems with the way it was written – shall comply with side and rear yard setbacks applicable to the principal building which made it very difficult in R-2 for anybody to have small storage buildings because of the 20 ft, or 15 ft setbacks. The way it used to be is the way we are going back to where if it's large it will be a 10 foot setback and then if it's smaller is a 5 foot setback. We ran into a lot of problems with that with the R-2 district.

Mr. Roshong asked if there was any other discussion.

Ms. Thornborough said she has a question. When it says an unattached accessory building, if by chance a utility or any kind of construction that needed to go through there for the telephone company would that building have to be moveable.

Mr. Peroz said no. Some of them are and some of them aren't.

Ms. Thornborough asked if they would be required to move that, is that part of the easement between properties.

Mr. Peroz said no.

Mr. Lundin said there are right-of-ways.

Mr. Peroz said that a shed could not be built in an easement.

Ms. Thornborough asked how far a right-of-way is from the end of the property line.

Mr. Seeberger said that depends. Basically, people and the use of their properties are limited by two things...zoning resolutions and any easements or right-of-ways that exist. Sometimes you will be ok on one and not the other and you are still stuck. We don't know what easements exists on their real estate, Plain Township merely sets up a uniform system and if some easements are more restrictive then so be it.

Mr. Roshong asked Stephanie and Steve if they wanted to take a vote on each individual and roll call as we go.

Mr. Peroz said yes, we can do that.

Mr. Lundin said he had another question. We are changing it from 10 feet to 5 feet for R-2 from not a lot line but a property line, is that correct.

Mr. Peroz said no, it's proposed to change from the 201 sq. ft. and larger to be 10 feet from the property lines and the 200 sq. ft. and smaller will remain at 5 feet from the property line. This is the way it was before it was changed in 2006 and the problem we are running into is R-2 lots are small and the way it was written is the accessory building would have to comply with setbacks applicable to the principal building so you are talking about 15 feet or 20 feet from the property line for a little building.

Mr. Roshong said that what we are saying here is that the change that was made although in good intention for the smaller lots it became too restrictive, so we have to fix it.

Mrs. Metzger stated that this change is for all districts, not just R-2 districts.

Mr. Pulka said he has two questions. What about existing buildings that are there now, do they have to be moved.

Mr. Seeberger said no.

Mr. Pulka said you are talking about smaller buildings, 201 sq. ft. is a 10 ft. x 20 ft. building and that is a single car garage, that's a pretty good sized building. That's now a lawn mower building.

Mr. Peroz said that we looked at other townships and that was usually the break off at that size and that's why we went with that size.

Mr. Lundin asked what the structures were used for.

Mr. Peroz said they are utility sheds for lawn mowers, etc.

Mr. Lundin said that they are in his neighborhood and they are not being used for that purpose they are being used for fundraising as home shops, work areas....are we getting into a situation where we are going to have these little buildings, these out croppings everywhere throughout a neighborhood as people search for alternate means to generate funds. He has some concerns about it. If you are telling me that these are the small buildings that people are going to put a lawn mower and a can of gas in that's one thing.

Mr. Pulka said that this is a good size building.

Mr. Peroz said that they can't have a business in a residential area.

Mr. Seeberger said that there are use restrictions.

Mr. Lundin said he can appreciate that, but our Township does not look into uses. You are authorizing people to build, now what they build for we don't monitor that.

Mr. Seeberger said that theoretically it can be monitored there are limits to what a township Zoning Department can do but there are use restrictions within a zoning ordinance, individual neighborhood associations often have powers and deed restrictions.

Mr. Roshong said that deed restrictions may say fences not over 4 feet where we may say 6 feet is fine. That all has to be looked at. Just because this article states certain things there may be other regulations that supersede this like deed restrictions like no above ground pools.

Mr. Peroz said that most of R-2 has single family homes and a lot of the R-2 lots were having problems getting simple utility sheds like everybody else can get because of the size of the property and requiring them to have the same size building setback...

Mr. Lundin said why don't we suggest the dimensions of the utility shed.

Mr. Pulka said yeah, this is a big building.

Mrs. Metzger said that it's all regulated by property size in another part of the book.

Mr. Lundin said he appreciates that.

Mrs. Metzger said that the size restriction is 3% of their lot area.

Mr. Peroz said that size is regulated.

Mr. Seeberger said here is what he recommends, and this is why he wanted to break up the text amendment into several sections, what we customarily have done is someone always moves for adoption of a proposed amendment. It doesn't bind the movement to vote for it, but it gets it on the table, so what he is going to do is move that the Zoning Resolution Article VI – Section 602.5 (A3) be amended as written in the notice of public hearing.

Mr. Seeberger made a motion to approve Amendment #545 Article VI – Section 602.5 (A3).

Mr. Arnold seconded the motion.

The vote on the motion was as follows:

Mr. Arnold, **YES**; Ms. Thornborough, **YES**; Mr. Lundin, **NO**; Mr. Seeberger, **YES**; Mr. Roshong, **YES**.

The Plain Township Zoning Commission recommends APPROVAL for Amendment #545 Article VI – Section 602.5 (A3).

Mr. Roshong – Article VI – Section 602.10 Fences, Walls and Hedges
This is a change, is there discussion on this change.

Mr. Seeberger said that 602.10 is 5 (five) paragraphs in the code now, will those 5 (five) paragraphs now become 1 (one) paragraph.

Mrs. Metzger said no, we are just changing the verbiage in that one paragraph.

Mr. Peroz said that we are changing the setback. Currently we have 10 foot setback requirements from the right-of-way and we want to change it to 5 feet.

Mr. Seeberger said that what he is asking is, are we seeking only to change the third paragraph of 602.10.

Mr. Peroz said yes.

Mr. Roshong said the corresponding paragraph.

Mr. Peroz said just from 10 feet to 5 feet.

Mr. Seeberger said that we can have discussion after the motion on the third paragraph. He said that the change is basically changing the setback from 10 feet to 5 feet. It's on page 27 in the book.

Mr. Seeberger made a motion to approve Amendment #545 Article VI – Section 602.10.

Mr. Roshong seconded the motion.

The vote on the motion was as follows:

Mr. Arnold, **YES**; Ms. Thornborough, **YES**; Mr. Lundin, **YES**; Mr. Seeberger, **YES**; Mr. Roshong, **ABSTAIN**.

The Plain Township Zoning Commission recommends APPROVAL for Amendment #545 Article VI – Section 602.10.

**Mr. Roshong – Article VI – Section 603.7 Restrictions on the Parking and Storage of Vehicles
This is a change, is there discussion on this change.**

Mr. Peroz said that the problem we were having here was people would create a pad by the driveway to put boats and everything on, but under our zoning it said they should put it on the side of the house, which doesn't really look good or in the back, which most people aren't going to do that and go through their yard and everything. So they are creating these little areas by the driveway and we wanted to allow them to do that because we have so many of them now anyways.

Mr. Seeberger said that we are adding on a driveway. He said that makes sense.

Mr. Lundin asked if they are adding a driveway or we are allowing them to park on the driveway.

Mr. Peroz said that they can park on the driveway.

Mr. Roshong said they may be augmenting the present driveway with the pad attached for them to park.

Mr. Peroz said that they cannot park it on grass in the front yard, but they can park it on the driveway instead of just on the side of the building or in the rear of the building, which is what we have now which causes a lot of problems.

Mr. Lundin asked what kind of problems.

Mr. Peroz said that most people park in their driveway. An RV, a boat, etc a lot of them create that side pad on their front driveway, instead of parking it in the rear of the house and nobody really tries to get it in the back yard and ruin the lawn trying to get back there. Most people will park it in the driveway during the summer for an RV or boat and then they have it stored somewhere in the winter, that's how most people do it. Under our zoning they weren't allowed to put it in the driveway, we don't want it in the street because it causes problems when they park there.

Mr. Lundin asked why we have a zoning ordinance that says not in the driveway but says to the side or the back of the property.

Mr. Peroz said it doesn't say not in the driveway, it just says you have to park it on the side of the house or in the rear yard.

Mr. Lundin asked why?

Mr. Peroz said he doesn't know why that was year's ago.

Mr. Lundin says he knows why, because some neighbors don't like to see boats and RV's in front of their neighbor's homes.

Mr. Peroz said in the driveway.

Mr. Lundin said absolutely. They want it at the side or perhaps in the back of the property.

Mr. Peroz said that some people don't like it in the side or the rear yard either. The thing is they are residential recreational vehicles and we cannot keep them out of a residential area, we can't do that.

Mr. Lundin said he understands, but you can request that residents keep them in the back yard as opposed to an eye sore to the neighborhood.

Mr. Peroz said that most people don't do that, they won't drive an RV in the back yard.

Mr. Lundin said that he appreciates enforcement, we have one inspection officer and why do some of the other things come up, well this is exactly what we are talking about. He doesn't want to be any more argumentative than he already has been.

Mr. Roshong said that he thinks the situation is that from legal standpoint these people have a right to buy a recreational vehicle, it's their property they have a right to store it there, we are just trying to use a reasonable approach to where they are going to put it, if they want to put it on the side or rear or if they have a driveway that circles the house it would be convenient to put it in the rear perhaps. But if they only have a small driveway without an augmented section for this vehicle or trailer or something of that sort then we have a danger of shuffling the cars in and out to make access into the garage and so forth.

Mr. Peroz said we don't want them parking on the grass, we don't want them on the road, we get complaints about that which we tell them they can't park them on the street. And they have the right to park the residential recreational vehicle on a residential lot.

Mr. Roshong said that we don't want to interfere with those particular rights we just want to spell it out a little bit and hope we get some cooperation for uniformity.

Mr. Seeberger said that this is the classic close call where there are good arguments on both sides.

Mr. Roshong asked for any further discussion.

Mr. Seeberger made a motion to approve Amendment #545 Article VI – Section 603.7.

Mr. Lundin seconded the motion.

The vote on the motion was as follows:

Mr. Arnold, **YES**; Ms. Thornborough, **YES**; Mr. Lundin, **NO**; Mr. Seeberger, **YES**; Mr. Roshong, **ABSTAIN**.

The Plain Township Zoning Commission recommends APPROVAL for Amendment #545 Article VI – Section 603.7.

**Mr. Roshong – Article VI – Section 603.9 Swimming Pools, Ponds, and other Water Basins
This is a change, is there discussion on this change.**

Mr. Roshong asked Mr. Seeberger to elaborate on the change in this section for the Board's understanding.

Mr. Seeberger said that as it says in the RPC recommendation they are basically taking it up from one and a half feet (1' 6" or 18") to three feet (3' or 36").

Mr. Peroz said that is the only change. Jackson, Canton Township and Perry all have 3 feet. Lake doesn't even address anything under 48 inches, which is 4 feet. The problem we were running into is that stores sell pools 20 inches, 24 inches for \$29.95 or \$39.95 at Walmart and we have to issue a \$50 permit every year for a blow up type of pool.

Mr. Roshong said a kiddie wader.

Mr. Peroz said that when he checked with the other Townships that is why they have pretty much raised it to 3 feet.

Mr. Roshong said that it feels like that was over restrictive. He would agree.

Mr. Peroz said that 18 inches is just so shallow and to require a \$50 permit ever year...

Mr. Roshong said you go to grandma's and bring \$50 with you and you can wade in our pool.

Mr. Seeberger said that it does apply to above-ground as well as in-ground pools.

Mr. Roshong asked for any further discussion.

Mr. Seeberger made a motion to approve Amendment #545 Article VI – Section 603.9.

Mr. Roshong seconded the motion.

The vote on the motion was as follows:

Mr. Arnold, **YES**; Ms. Thornborough, **YES**; Mr. Lundin, **YES**; Mr. Seeberger, **YES**; Mr. Roshong, **ABSTAIN**.

The Plain Township Zoning Commission recommends APPROVAL for Amendment #545 Article VI – Section 603.9.

**Mr. Roshong – Article VIII – Section 801.10 (A4) Temporary/Portable Signs
This is a change, is there discussion on this change.**

Mr. Seeberger said that from what he can tell, the only change is the removal of the 45 days.

Mr. Peroz said that he probably knows, it's illegal, the ACLU has won every case, they have 3 pending in Ohio now, so we really can't have that, and it's a good idea to drop it out. We can't enforce that, we don't have the right to do that.

Mr. Seeberger said he is absolutely correct, it's indefensible.

Mr. Roshong asked if the 16 sq. ft. remains the same.

Mr. Peroz said yes.

Mr. Seeberger said even that has been the subject of challenge.

Mr. Peroz said that there has been some debate about the time after because we want them to take them down after 7 days, but that's not real clear yet from what he has read and looked up.

Mr. Seeberger said he doesn't have a problem with 7 days.

Mr. Peroz said for now we would leave that in, but we know the 45 we can't enforce.

Mr. Roshong said realistically this apparently is almost unenforceable from that standpoint. And within our area there are always a few signs missed and so forth and it's a very difficult time for people who's running for office to know where every sign is, even though it's their total responsibility, but we think most of our politicians are very decent upstanding citizens and he thinks they have complied very well in the past and we look forward to their future complying with our standards.

Mr. Roshong asked for any further discussion.

Mr. Seeberger made a motion to approve Amendment #545 Article VIII – Section 801.10 (A4).

Mr. Arnold seconded the motion.

The vote on the motion was as follows:

Mr. Arnold, **YES**; Ms. Thornborough, **YES**; Mr. Lundin, **YES**; Mr. Seeberger, **YES**; Mr. Roshong, **ABSTAIN**.

The Plain Township Zoning Commission recommends APPROVAL for Amendment #545 Article VI – Section 801.10 (A4).

Mr. Roshong – Article VI – Section 603.12 Small Wind Energy Systems

This is an addition, is there discussion on this change.

Mr. Peroz said that this was authored by Regional Planning. They had two options, one was permitted use and the other was conditionally permitted use. He felt this should be conditionally permitted use because of what it is. Also he spoke to Ed Stetz from the Building Department and they have strict regulations on foundation, the pad, the actual construction of it too. It's listed as item N that they include and also the EPA regulations. This was authored by Regional Planning by several people.

Mr. Seeberger said that he thinks it's a good resolution he agrees with making it a conditionally permitted use because if it's permitted the Township could lose some control. You might lose control to some extent any way, but at least you have the ability to slow it down.

Mr. Roshong said slow down where the proper authority other than the Township, perhaps EPA or what have you may have a chance to look at it more carefully and bring some things to our attention where we could make an attempt to regulate this through our authority.

Ms. Thornborough said what if a company came and wanted to use it commercially at this point, she knows this is for non commercial use but what if somebody did come.

Mr. Peroz said that the things that he has found out about it is that they should be 25 to 30 feet above the tree lines and building lines and when it gets to 200 feet and taller it's supposed to lighted under the federal laws. And when we went through a lot of this, we saw the wind map for Ohio and this area is not very conducive for it but he knows that some people are going to buy into this and thinks it's going to solve all their energy problems. They can be pretty expensive and there are restrictions. If it's a commercial use, and it's zoned commercial there could be problems with that but Regional Planning felt they should put that in there for everyone and that something that we will probably have to deal with when that comes up.

Mr. Lundin asked why they just included R-R and not R-1, R-2, R-3 or R-4.

Mr. Peroz said that it's more of an agricultural thing a lot of farms will use it for energy and for pumping water, irrigation.

Mr. Roshong said just like years ago the old wind mills they had on farms connected to a well to bring water up.

Mr. Peroz said a lot of farmers will use it. That is an agricultural structure which the Building Department and EPA can still regulate it.

Mr. Lundin asked why you couldn't do this in R-1.

Mr. Pulka said you don't have 5 acres.

Mr. Peroz said that if they have an agricultural use that is restricted to 5 acres or more there's a possibility that they might be able to do it if it was for an agricultural use, but it's still under EPA and our Building Department would still have regulations on it.

Mr. Lundin said that they have just approved a 15% per year for the next 3 years increase in the cost of electricity in Ohio. So if that's the case, in 3 years we will be looking at something around 150-160% increase in energy. There are going to be people in the area that are going to look at anything and everything to try to...I just hope that this is not so restrictive.

Mr. Peroz said that he had a guy call him and he wanted to put 3 foot blades on an old TV antenna and he was asking if he could do that. Do you know how dangerous something like that is? You are going to have people who are going to try to do things like that and this is something that can be very dangerous if it's not handled right.

Mr. Lundin said he appreciates that. He has talked to an individual in the electrical business and he has suggested to him on several occasions that there is nothing in the market right now that is efficient and it's almost cost prohibitive to get something that could be used by an individual, it just isn't in the market place just yet. He just hopes that we are not so restrictive that we preclude something that could be used in the not too distant future. He doesn't understand why we are excluding – we go from R-R, is it strictly for agricultural, is that all we are....

Mr. Peroz said that they wouldn't be able to do it because it is 5 acres or more, with 5 acres or more they would be able to have structures for agriculture.

Mr. Lundin said let me give you an example...his brother built a home years ago and they had a common well, and it served the entire community, a housing development about the size of the development that he is in which is Deerhaven. The contractor went in and built this area around a common well. Perhaps there is a builder out there, a developer, who could latch on to something that is zoned R-1 and he has 10 acres why shouldn't he be able to put 2 wind mills on that and build a community around it and the community would then support these wind turbines.

Mr. Peroz said like a Planned Unit Development.

Mr. Roshong said that we are talking for the generation of electricity, not water.

Mr. Lundin said that he is talking you could do the same thing with water or the same thing with electricity.

Mr. Roshong asked how he was using electricity for agriculture; you can't grow corn with lightning bolts. I am not sure, are you saying to pull up the water to water the agriculture.

Mr. Lundin said no, he is talking apples to oranges right now. He has another example...this year he installed a fireplace insert but he also went through the exploration of an exterior fire shed or a wood burning shed to supplement and there are all sorts of restrictions there. There were people putting these wood burners between houses that are 20 feet apart, so there were problems there. He is just suggesting lets not eliminate all alternatives in some of these areas, he has 4½ acres and he is in an R-1, if there is something economical out there as his fireplace insert is, his gas bill for 4 weeks was \$450 estimated. He gave them his reading after 5 weeks and they sent him a bill for \$206. He is just suggesting that as things change, as we develop the industry...

Mr. Peroz said that people can always request a variance.

Mr. Lundin said he doesn't like variances.

Mr. Seeberger said that regarding wind turbines, we don't know if any will ever be built, and if they are built how many will be constructed, what they will ultimately look like, forget the pictures we see in the magazines. What will it be like driving around and seeing them. He thinks the proposed amendment authorizing them is a step to see what might happen and if it turns out that economical units become available that could be used on smaller lots the Township can always consider that. He doesn't want to willy nilly open the door to wind turbines in every district within the Township. That is certainly unfair to some residential districts that would probably like to have them. That's kind of the way it is for now.

Mr. Lundin said no it isn't the way it is right now. It's the proposal. He also don't want to willy nilly preclude, ignorance is not bliss, it's probably going to go down, he understands that but he just wanted it on the record that he thinks we need to consider these things. And it says right here, the applicant must prove his or her case for the proposed change, he thinks we need to be cognizant of these things as we just broad brush a change in there and if something comes down the road that will fit on his property at 4½ acres in R-1 he is going to remember what Mr. Seeberger said that "yeah we can change this".

Mr. Seeberger said that he is used to people remembering what he said.

Ms. Thornborough asked Mr. Peroz if she could ask him a question. On the fourth page where it says ADD 154 Small Wind Energy Systems shall meet the following requirements...could you explain what it means by letter A.

Mr. Lundin said he thought it was could not sell the product.

Mr. Roshong said right.

Mr. Seeberger said right.

Ms. Thornborough said that businesses can build a wind turbine in the way that we have set up as only a way of generating their own power.

Mr. Peroz said right.

Mr. Seeberger said that is interesting... it says not for the generation of power for commercial purposes, and he may be over thinking this, but he is over thinking it....

Ms. Thornborough said she can tell you what she interpreted. At first she interpreted that you couldn't use it for businesses as commercial that is what she first kind of interpreted and that is why she asked to clarify that.

Mr. Seeberger said hang on a second here....

Mr. Roshong said that it depends on your understanding of the definition of commercial, if it is for sale or to create monetary payment for that electricity, would you say Bill.

Mr. Lundin said that was his interpretation.

Mr. Roshong said that is the way he interpreted it. Not that somebody couldn't have one to power their paint store.

Mr. Lundin said that would be for commercial purposes.

Mr. Seeberger said maybe.

Mr. Roshong said it depends again on the definition.

Mr. Pulka said what if you put in there commercial gain.

Mr. Lundin said or resale.

Mr. Pulka said yeah, that would solve the problem.

Mr. Seeberger asked Steve what he thought about that.

Mr. Pulka said commercial gain or resale.

Mr. Seeberger said that he can see the problem.

Mr. Peroz asked what letter that was.

Mr. Seeberger said that it was 154 A

Ms. Thornborough said it is on page 4, the fourth page in.

Mr. Peroz said that the primary purpose shall be to provide power for the principal and accessory uses of the property and not for the generation of power for commercial purposes.

Mr. Roshong said that the commercial purposes may cast a doubt.

Mr. Peroz said that it would have to generate power for any principal or accessory buildings on the property, but it's not to create extra power for sale. That's what it means.

Mr. Roshong said although, he thinks there is a federal law that says if anyone does have a wind turbine and they need 10,000kw to operate whatever they are operating and they generate 15,000kw the power company, under federal law, must except that and pay for it.

Mr. Seeberger said that is correct, that is PURPA.

Mr. Pulka said that is commercial gain.

Mr. Seeberger said that is what he was thinking before he said that he was over thinking that it's on the table now. He doesn't want to encourage intentional overbuilding.

Mr. Roshong said that the cost of these right now would absolutely prohibit for anybody to use, but who knows 10 years from now, who knows.

Mr. Seeberger said the he is toying with the language here; he is toying with the idea of removing the words commercial purposes and substituting sale off the property. Which he thinks would be broad enough to capture the PURPA and to some extent we would probably have to rely on the Zoning Department to catch that at the Board of Zoning Appeals to exercise its discretion.

Mr. Pulka said what about just listing it as not for the generation of power for profit.

Mr. Seeberger said that profit always bothers him too because any accountant can make anything look unprofitable.

Mr. Peroz said for sale.

Mr. Seeberger said that is why he said, for sale off the property or even maybe for sale.

Mr. Peroz said for sale, that is what A is getting at. Not to generate extra power for sale that they don't need for the principal building or accessory uses.

Mr. Roshong asked how can we fix this.

Mr. Lundin said that we have already offered them a suggestion, they need to fix it.

Mr. Seeberger said that they have the ability to do that so the process isn't elongated.

Mr. Peroz said that you could put sale in there and whatever the Trustees....

Mr. Seeberger said he would suggest "sale off the property" in place of "commercial purposes".

Mr. Roshong asked Mr. Peroz if he wanted them to make that change so they all have it.

Mr. Peroz said yes.

Mr. Roshong said they are going to scratch out the last two words "commercial purposes" and add "for sale off the property". He made sure that the other Board members had updated their copies.

Mr. Seeberger said before we make a motion are there any other little things that caught somebody's attention.

Mr. Lundin said in the same section, 154 letter E, is the blade up or down. Is the tip pointing up or down?

Mr. Roshong said vertical would be pointing up, it's got to be a minimum of 2 blades but it could be 6 blades, but one of the blades, they should all be the same length, vertical would be straight up.

Mr. Lundin said that is what he is asking.

Mr. Seeberger said as an attorney he is not worried about that.

Mr. Lundin said it could be vertical along the same access but the tip could be down.

Mr. Roshong said we are talking height.

Mr. Seeberger said he understands what Mr. Lundin is saying, but as a lawyer he is not too worried he thinks a judge would say tip means the top, and if a judge says it differently then once again, his fault.

Mr. Lundin said then we are definitely above the treetops. Because there would be 100 feet from the base.

Mr. Roshong asked if there was anything else that stands out.

Mr. Seeberger said that the Board of Zoning Appeals, if somebody tries to play games, the Board of Zoning Appeals can say forget it. He said that he sees what he is saying.

Mr. Lundin said he is stretching.

Mr. Seeberger said that he would still leave it this way because he thinks a judge will say it's to the tip, so if the blade extends upwards by say 6 feet then the tower itself will be 94 feet and blade 6 feet.

Mr. Lundin said hopefully.

Mr. Seeberger said that the law is an art, not a science. It's a guessing game. He hopes to be right 90% of the time.

Mr. Roshong asked if there was anything else, this is a very large...anything that really stands out at this point. It seems to be very well written and the intent is very good and he is glad that Regional Planning...I think they probably will adopt this particular method for similar things and maybe in other Townships also.

Mr. Seeberger said that the whole county should make it conditionally permissible.

Mr. Roshong said he would say.

Mr. Seeberger made a motion to approve the modification of Article XI, 154 (A) where we deleted the words "commercial purposes" and added the words "sale off the property" in Amendment #545 Article VI – Section 603.12.

Ms. Thornborough seconded the motion.

The vote on the motion was as follows:

Mr. Arnold, **YES**; Ms. Thornborough, **YES**; Mr. Lundin, **YES**; Mr. Seeberger, **YES**; Mr. Roshong, **YES**.

The Plain Township Zoning Commission recommends APPROVAL for Amendment #545 Article VI – Section 603.12.

Mr. Seeberger said that we will not make a motion to approve the proposed text amendment for Small Wind Energy Systems as a Conditionally Permitted Uses, basically the 4 pages with the one modification. He thinks that would be adequate to describe what the Board is doing.

Mr. Seeberger made a motion to approve Amendment #545 Article VI – Section 603.12 w/modifications.

Mr. Roshong seconded the motion.

The vote on the motion was as follows:

Mr. Arnold, **YES**; Ms. Thornborough, **YES**; Mr. Lundin, **YES**; Mr. Seeberger, **YES**; Mr. Roshong, **YES**.

The Plain Township Zoning Commission recommends APPROVAL with modifications for Amendment #545 Article VI – Section 603.12.

ANNOUNCEMENT:

Mr. Roshong said that this recommendation will be forwarded to the Trustees of Plain Township, Ohio on Monday, January 26th and they at that time will set a public hearing date.

The meeting adjourned at 7:46 PM.

PLAIN TOWNSHIP ZONING COMMISSION

STEPHANIE A. METZGER, SECRETARY