

## WEST LAKELAND TOWNSHIP

December 14, 2015

7:00 p.m.

Oak-Land Jr. High

Present: Chairman Dan Kylo, Supervisor Steven Ebner, Supervisor Dave Schultz; Carrie Seifert, Clerk; Mr. Scott McDonald, Township Attorney; Ms. Marsha Olson, Treasurer, Mr. Duane Stensland, Building Inspector; Dave Dupay, Planning Commission Chair

### **Public Hearing to Consider an Application for Cletus and E. Mariet Schertz, 13590 4<sup>th</sup> St Ct N, for a conditional use permit to allow construction of a ground mounted solar energy system.**

Chairman Kylo called to order the public hearing at 7:02 PM. The public hearing is to consider an application by Joseph Schertz on behalf of Cletus E Schertz and E. Marie Schertz, owners of 13590 4<sup>th</sup> St Ct N, for a conditional use permit to allow construction of a ground mounted solar energy system on their property. Mr. Marty Morud, of Tru North Solar, presented the concept on behalf of the applicants. The purpose of the ground mounted system is to supply energy for the residential lot, in conjunction with Xcel Energy, and interconnect to the grid to return any excess power. The array is described as three banks of twenty units each, over 60 x 30 feet, less than 8 feet in height.

Mr. Nik Tragisich, 13595 4<sup>th</sup> St N, asked about how the array would compare to an accessory structure, noting that the lot was already an approved nonconforming lot in terms of the number of buildings on the property. His opinion is that a ground mounted system is not in keeping with the neighborhood for this reason. Mr. Morud noted that a roof mounted system was considered, but is not appropriate based on the structure and orientation of the current buildings. The site for the ground mounted system was selected to maximize screening from other lots while allowing maximum potential for solar collection.

Mr. Joe Casey, 13580 4<sup>th</sup> St Ct N, asked about the size of the system relative to the allowed activity under Minnesota law. At 16.2 KW, this system is sized to meet the needs of the residence, well under the 40 KW authorized under Minnesota law. Mr. Casey also expressed concern that the system not be expanded. It was noted that the conditional use permit, if approved, would be based on the array as being presented, and any increase in size or scope would require an amendment to the permit.

Mr. Dupay presented the planning commission recommendation in favor of the proposal. This is a sheltered, screened location, and the planning commission did not see any concern with reflection off the panels. In terms of the township ordinances, Mr. Dupay does not see this as an accessory structure. It is not a building, and it was not considered as a structure by the planning commission.

Mr. McDonald noted that the number of structures was not called out as a criterion for the performance standards of the solar system. It was also noted by the board that this is the first application of this section of the ordinance, and modifications in the future could be considered.

Chairman Kylo noted that he has visited the site, and considers it well chosen, well screened, and does not see impact on any neighboring residences. He does not consider the ground mounted array a structure in terms of the township zoning ordinance.

Supervisor Schultz asked about the impact of any RF interference. Mr. Morud noted that this was not a known issue with this type of system, and has not been an issue with any system installed by Tru Solar to date.

Chairman Kylo moved to approve the conditional use permit, to reference the ordinance as part of the permit, and direct Mr. McDonald to prepare a resolution documenting approval, noting the construction and operation are to be done according to the application site plan presented to the board,

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that any RF interference be resolved, existing screening be maintained, and the number of location of arrays is limited that presented to the board. Seconded by Supervisor Ebner, the motion carried.

Chairman Kylo closed the public hearing at 7:40 PM

### **Call to Order**

The regular meeting of the West Lakeland Town Board was called to order by Chairman Kylo at 7:42 PM.

### **Approval of the Minutes**

Supervisor Ebner moved to approve the minutes of the November 9, 2015 regular meeting. Seconded by Supervisor Schultz, the motion carried.

### **Treasurer's Report**

Ms. Olson presented the treasurer's report for November 2015, reflecting \$42,954 in receipts and \$56,652 in expenses. Supervisor Schultz moved to approve the treasurer's report. Seconded by Supervisor Ebner, the motion carried.

### **Review and Pay Invoices**

Supervisor Schultz moved to pay the invoices presented by the treasurer and clerk. Seconded by Supervisor Ebner, the motion carried.

### **Mr. Hunter Schiltz, consider property split at 13133 6<sup>th</sup> St N**

Mr. Hunter Schlitz appeared before the board to discuss the potential for selling one of the two lots at 13133 6<sup>th</sup> St N. He is considering purchasing the land. The house and garage were built in 1968 and the outbuilding in the mid 70's. There are two lots as defined by meets and bounds, but based on the location of the buildings, it has been functioning as a single parcel. To sell one of the parcels, a structure would need to be removed. It also appears that the current garage is on the property line. A survey is recommended to determine the exact location of the property lines in relation to the existing buildings and to identify easements for roads and power lines. A parcel could be sold as long as it meets the requirements for a legal buildable lot.

### **Home Occupation Permit, Jared Lawrence**

Mr. Jared Lawrence appeared to review a home occupation permit request to provide wrestling lessons from his accessory building. He currently runs a facility in Shoreview, but would like an opportunity to provide additional instruction. Supervisor Ebner noted that as long as there are no more than 5 students at a time and no more than three business parking spaces, the activity would be covered under this permit request, otherwise an interim permit would be required. Concern was also raised that the hours of operation requested were not specific enough to manage expectations. After discussion, Mr. Lawrence agreed to modify the conditions to reflect no more than 5 students at a single session, not more than 15 students per week, and hours of operation between 8 AM and 5 PM Monday through Saturday, with all training completed indoors. Chairman Kylo moved to approve the home occupation permit for wrestling lessons with the stated conditions of no more than 5 students at a single session, not more than 15 students per week, no more than three business parking spaces, hours of

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operation between 8 AM and 5 PM Monday through Saturday, and with all training completed indoors. Seconded by Supervisor Ebner, the motion carried. The clerk will prepare the permit for signature by Chairman Kylo and Mr. Lawrence with the additional conditions as noted.

### **Conditional Use Permit for Bus Service Home Occupation, Mr. Robert Lind**

Chairman Kylo noted receipt of two letters from former town board supervisors in connection with the conditional use permit for Bus Service Operation held by Mr. Robert Lind. The letters were delivered to Mr. McDonald from Mr. Lind's attorney. The letter from Mr. John McPherson, dated December 2015, noted that Mr. Lind was allowed to build a garage for his five bus service. The second letter from Mr. Terry Spawn, undated, indicated that there was no intent to limit the number of buses that could be kept indoors. It was also noted that the letters were received well after the hearing, the appeal hearing, and the time frame for correction of the violation. The board decision was made based upon the record and testimony available at that time. The board also considered that it would be appropriate to allow other concerned parties to respond to the letters.

A motion was made by Chairman Kylo to allow the letters from former board members John McPherson and Terry Spawn to be considered as part of the township records with regard to the Lind home occupation permit, and to direct Mr. McDonald to notify known interested neighbors of these letters and allow for written comment with regard to these letters received by the township prior to December 22, 2015 to also be included as part of the public record and considered by the Planning Commission Review of the Board of Appeal findings. Chairman Kylo further moved to authorize Mr. McDonald to attend the Planning Commission Review. Seconded by Supervisor Schultz, the motion carried.

### **Tiller Asphalt Plant**

The board discussed holding an additional information session for public input and comment regarding the proposed installation of an asphalt plant at the Tiller sandpit. Chairman Kylo expressed the opinion that a single public hearing might not be sufficient to raise and answer the concerns of the neighboring property owners. The clerk was directed to put the item on the agenda for the February regular meeting, with an additional public notice.

### **Animal Control Services Agreement**

The board reviewed the agreement with Hillcrest Animal Hospital to provide for animal control services. Chairman Kylo moved to approve the services agreement, with an end date of Dec 31, 2016, pending completion of the contract template by Hillcrest Animal Hospital, and allow for signature by the clerk and chairman outside the meeting. Seconded by Supervisor Ebner, the motion carried.

### **Resolution for Assuming Land use and Zoning Code Responsibilities**

The board reviewed the draft resolution to assume responsibility for land use zoning and use ordinances within the jurisdictional boundaries of the Township from Washington County, and request Washington County amend the Washington County comprehensive plan to reflect that change in responsibility. Exceptions to the transfer of responsibility include oversight of mining activities, bluff and shoreland zones, wells and subdivisions. The township needs to be sure it is sufficiently staffed to manage those larger and more complex projects. The Chairman was directed to contact Washington

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County to discuss revisions to the draft, specifically with regard to subdivisions, to determine if there are any concerns with including subdivision oversight within the responsibilities of the Township. Supervisor Schultz moved to table the consideration of the resolution until additional input could be obtained from Washington County. Seconded by Supervisor Ebner, the motion carried.

### **Lake Elmo Expansion Project**

Supervisor Schultz provided a summary of the MAC Planning and Development Committee meeting held Dec 7, 2015 regarding the Lake Elmo Airport Expansion Project. A letter objecting to the proposal was submitted by State Representative Kathy Lohmer. Mr. Neil Ralston reviewed for the MAC board the proposed revisions to the project presented in November to the West Lakeland Town Board. The plan is out for comment, and set for review by the subcommittees and full committees in March and before the Met Council in April.

### **Home occupation Ordinance, Draft Revisions**

Supervisor Ebner provided a revised draft of Section 10 of the town code with regard to Home Occupations. The purpose of the revisions is to more clearly delineate when and why hearings would be required, and how businesses should be classified. The most substantive modification is that the business is now the subject of the classification, and the business classification will determine if a permit, certificate of compliance, or conditional use permit would govern the use. The difference between the classes is the level of impact on the neighboring residences and to township. Questions were raised by the public in attendance with regard to ongoing review requirements of approved uses, and the level of requirements for screening. Mr. McDonald indicated that this change would require a public hearing, and suggested that board open the record for written comments.

### **Additional Business**

Chairman Kylo moved to donate \$250 to the Washington County Historical Society. Seconded by Supervisor Schultz, the motion carried.

The board received a letter from Middle St Croix Watershed District looking to explore the development of a consistent shoreline development review process across the participating communities. Shoreline management will be retained under the control of Washington County, so this request is not applicable to West Lakeland.

A request for a petition for a cartway was received from Mr. Terry Emerson. The clerk was directed to add this as an agenda item for the next regular meeting.

### **Public Comment**

Mr. Vince Anderson offered suggestions to reformat the draft minutes being presented for review.

Mr. Vince Anderson noted some instances of meeting procedures that he believed to not be within the strict context of state law, such as who takes meeting minutes, the specific items discussed at a special meeting, and the specifics of the conduct and notifications for the Board of Adjustment and Appeals. Mr. McDonald noted that this was the first instance of calling for a Board of Adjustment and Appeals.

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Mr. Vince Anderson suggested that the board review the policies surrounding document retention, email use and provision of information upon request.

### **Adjourn**

Having no further business, Supervisor Schultz moved to adjourn the meeting. Seconded by Supervisor Ebner, the motion passed. Chairman Kylo adjourned the meeting at 10:10 PM.

Respectfully submitted,



Elizabeth Vance  
Recording Secretary