

Public Hearing Zoning Ordinance Change Proposals
Goshen Planning Board
January 14, 2009

Members Present: Chairman Allen Howe, Vice Chairman John Wirkkala, and member Rich Moen.

Public Present: Mary Wirkkala, Fred Smith, Ed Peckham

Mr. Howe started the meeting by summarizing the six proposals being put forth by the Planning Board and that the proposals arose to clarify existing ordinances, to address recommendations made by the Town's attorney, and to address legislation passed this past year related to small wind energy systems and outdoor wood fired hydronic heaters (OWHH).

For the small wind energy system ordinance Mr. Howe explained that the board started with the model ordinance and made some modifications to address not only impacts on the property where the wind system would be installed, but also property within a 1,000 foot radius of the installation location. This suggestion was put forth by the Town's attorney and the board agreed.

Mr. Howe explained that the board had been receiving comments related to OWHHs over the last couple of years, but Town's attorney informed the board we could not regulate these units unless the state authorized towns to do so, which they did this last year. The board started from the RSA, because no model ordinance had been developed.

Mr. Howe explained that there were two types of units being regulated, Phase I and Phase II related to particulates being emitted. He explained that the board wanted to go with the cleaner units in town (Phase II or better/cleaner units). The board did want an ordinance that prohibited future installations of older (pre-phase II) OWHHs in town. If you have an OWHH on your lot you could keep it and move it somewhere else on the lot, but you could not move the non-rated unit to another lot according to the draft ordinance.

Mr. Smith wondered if the planning board members had read the RSAs mentioned under the "3. Penalties" proposal. Some members had read or skimmed sections of these RSAs. Mr. Howe explained that the point of the proposal was to simply state that the mentioned RSAs are the law and that they would supersede any penalty clauses in the town's ordinances. Mr. Howe explained our ordinances could incorporate more stringent penalties, but not less stringent ones.

Mr. Smith asked about the building inspection clause in the draft OWHH ordinance. Mr. Howe explained that this was proposed to identify possible health hazards posed by the older units. Mr. Howe explained that this would be similar to the building inspector/health officer finding any form of health hazard in town, such as an abandoned building.

Mr. Smith expressed concern with the provision in paragraph S.4 related to the possible requirement of a stack 5 feet above the ridgeline. He thought the stacks would be "hideous". In addition he thought this could pose a fire hazard. For some units, such as his own, lengthy stacks

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would cause the units to function less efficiently and pose a fire danger due to creosote build-up. His unit has a blower (forced draft) in it that is designed to force emissions up the stack. Mr. Peckham expressed similar concerns and conclusions. Mr. Smith said he could understand such a requirement in densely populated neighborhoods. Mrs. Wirkkala wondered if in Mr. Smith's case he had a neighbor within 300 feet. He did.

Mr. Moen wondered what notification process there would be related to the inspection of the older installed units. Mr. Howe said there was no notification process envisioned, but that the building inspector likely would respond to public complaints about smoke from an OWHH. Mr. Howe did not envision someone driving around looking for hazards in town, but that complaints could arise.

Mr. Howe said he would reexamine the RSA language to see how the board may have modified that language to make it more stringent in the current proposal. He knew the board had decided on Phase II units only, but would have to check for changes related to other proposed requirement. He informed everyone that a second public hearing on these proposals would be held February 3 and properly noticed.

The discussion of stack height continued. Mrs. Wirkkala asked if Mr. Smith had houses around him that were higher than his house. Mr. Smith replied that he did...his son's house was within 300 feet if you went through the woods and his son's house is higher. Mr. Smith thought if he had to comply with the draft ordinance he would need a stack probably 50 feet high. Mr. Howe explained that the stack height provisions are in the RSA, but that he will go back and check and see if the board had worded something inappropriately relative to the state's RSAs.

Mr. Moen thought we might consider just referring to the state RSAs in the ordinance proposal rather than including specific language. Mr. Howe explained that we intentionally wanted to be stricter than the RSA in some aspects...we wanted to allow only new installations to be cleaner Phase II or better units in town. We didn't want someone bringing in an older or less clean unit whether it was a new purchase or purchased from a previous owner. Mrs. Wirkkala wondered if this was the only part of the proposed ordinance that was stricter than the RSA. Mr. Howe said he would have to return to the RSAs to be certain. Mr. Howe thought our proposal was stricter in terms of setback requirements.

Mrs. Wirkkala thought that one purpose of our ordinance was that we wanted to control certain aspects of it, but if we don't intend to control stack height you don't want people voting against the proposal because of the stack height provision. Her suggestion was to make reference to the RSA that pertains to stack height rather than incorporate the specific language into our ordinance. This would emphasize that the stack height was a state requirement.

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Mr. Howe said he would look into this question and the RSA. He thought perhaps the board had modified the 300 foot setback...perhaps it was a short distance in the RSA...it may have been 100 feet. Mr. Howe stated that he knew stack height above ridgeline was in the ordinance. Mrs. Wirkkala asked Mr. Smith if there was a distance that would seem more appropriate for OWHH installations. Mr. Smith expressed that tall stacks would cause property prices to go down. He thought a 100 foot setback was reasonable.

The board was in agreement that the Chair and Vice Chair would reexamine the RSA relative to the setback and stack height requirement to see if the draft ordinance could be rephrased. Mr. Howe said that he would do this probably tomorrow, then put the modified proposal out for public access and hold a second public hearing February 3.

Mr. Howe stated that he had visited the EPA web site and determined that the Phase II units are 90% cleaner than the older unrated units. Yet the EPA says that an OWHH will burn a lot more wood than a new conventional wood stove and that the particulate emissions are higher, but that Phase II units are a lot better than older OWHHs.

Mr. Moen said he doesn't want to scare people away from adopting the ordinance. Mr. Howe agreed and thought we would probably do one of two things. He stated that we'll either make a reasonable modification to address the valid point Mr. Smith raised, or, if we can't because of the RSA requirements, he expected we would follow Mrs. Wirkkala's suggestion at rewording to improve the proposal.

The discussion returned to the small wind energy system proposal. Mrs. Wirkkala had a question under T4 about the 1.1 setback requirement and wondered why that was 1.1 and not 1.5. Mr. Howe explained that the 1.1 was in the model ordinance. Mr. Howe said it could be a mistake in the model ordinance because the model ordinance decibel level was 60, but it was 55 in the RSA. Mrs. Wirkkala expressed concern that a 1.1 setback might not offer adequate fall zone protection whereas a 1.5 setback might. Mr. Howe will check the RSA.

Mrs. Wirkkala wondered how small town building inspectors would evaluate the shadow flicker standard. Mr. Howe stated that this is another example that this is in the RSA and it is in the model ordinance from the RSA, thus even if you don't say it the requirement still exists in the RSA.

Mrs. Wirkkala expressed concern over the "manufacturers sign" provision. The concern is that we not allow "manufacturer's sign" to become advertising signs. While there are size limitations for signs, Mrs. Wirkkala said these are located at the place of business and didn't think it appropriate to allow advertising signs in this manner (i.e., on wind towers). Mr. Howe thought it

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should be easy to state something like “manufacturer identification” or “manufacturer’s nameplate”.

Mrs. Wirkkala expressed concern about the exception to undergrounding electrical conduit except “when the financial costs are prohibitive”. She did not think that a building inspector could make this determination. She proposed that this would be changed to “except by special exception” and then the zoning board could look into it. Mr. Smith thought it should just be underground. Pros and cons were discussed, but special exception seemed reasonable.

Mrs. Wirkkala had a few punctuation problems that Mr. Wirkkala also agreed with. They would provide these to the Chair.

Rich Moen made a motion to close the public hearing, John Wirkkala seconded the motion, all were in favor to adjourn at approximately 9:02 pm.