

Minutes of the Joint
Zoning Board of Appeals
and
Planning Commission
Sheffield Lake, Ohio
November 24, 2009

The regular meeting of the Zoning Board of Appeals was held Tuesday, November 24, 2009. Chairperson Jancura called the meeting to order at 6:05 PM.

ROLL CALL OF ZONING BOARD OF APPEALS MEMBERS:

Present: Jancura, Ebenschweller, Tatter, McClelland, Kovach
Absent: Building Inspector Wiblin (excused)
Attending: Applicants, Law Director Graves, Concerned Citizens and
Representatives of Nex Gen

ROLL CALL OF PLANNING COMMISSION MEMBERS:

Present: Jancura, McClelland, Huska, Belaska
Absent: Bracale
Attending: Applicants, Law Director Graves, Concerned Citizens and
Representatives of Nex Gen

ZONING BOARD OF APPEALS MINUTES:

*Motion by Ebenschweller/Second by McClelland to accept the minutes of the October 21, 2009 meeting with the exception of the spelling of a concerned citizens name – should be Brost. Yeas All.

CORRESPONDENCE: None.

PRESENTATIONS: presented as a joint presentation for Planning Commission and Zoning Board of Appeals -

City of Sheffield Lake, application for hardship for wind turbine. Law Director Graves stated thank you very much for agreeing to have this joint meeting. I think that this is an exciting issue. Sheffield Lake is committed to being aggressive and on the forefront of the alternative energy movement as evidence by the 2 wind turbines that we have already managed to put up at our boat launch facility and we are getting a lot of media attention county and state wide and we want to continue in that direction with the shopping center. In that vein in alternative energy we are looking at geo-thermal heating options, we are looking at solar energy and most importantly we are looking to expand the use of wind technology. One of the major draw backs to constructing large wind turbines is the costs. When you look at constructing large wind turbines, they are quite expensive to build and they can be

quite costs prohibitive when you look at the rate of return and how long it is going to take for the city to recoup its initial investment. We have been presented with a proposal by a company called Nex Gen and they are proposing to build a 100-kilowatt wind turbine for the city. The structure will be approximately I believe 160 feet tall and they will build it and own it, it will cost the city nothing. We would then enter into an agreement to purchase the power that that turbine would generate and then in turn transmit that or sell that to our tenants most appropriately Apples Grocery Store. We have discussed this proposal with the Apples Grocery Store management/ownership and also the development company that we are working with in an effort to develop the shopping center. Everyone is excited about this possibility and we would like to move forward. We are in the process of drafting a comprehensive piece of legislation that would govern wind turbine construction and operation for the city. That will be referred to Planning Commission for its mandatory 60-day review period and ultimately set for public hearing and hopefully if my timeline is correct coming back to Council in its final form probably sometime in late January or early February with hopefully being adopted sometime in late March or maybe early April. A couple of things have to happen as an initial matter and that is why we are here tonight. Nex Gen only has a limited number of these wind turbines, they are in high demand, they are looking for sites to construct it. They are very excited about building them in locations close to the water and Sheffield Lake is an ideal community, again on the lakefront and also with us having our 2 existing turbines we are as I said are committed to that program. So they have a limited number though and as they are in high demand if we wait until our formal final version of the legislation is adopted we stand a very good chance of losing out on this possibility. I believe and we have a representative from the company here tonight. I believe they only have 5 turbines and this company is out of Boulder Colorado, so this is a national operation. They only have I believe 5 left to construct and we don't want to miss out on an opportunity to have a 100-kilowatt wind turbine constructed at no expense to the city. The first step in this process is for the city to enter into a non-binding letter of intent which would basically state that we are in favor of the project and subject to further revisions, subject to all of the details that would be put into a final piece of legislation but at least saying that we are committed to further exploration and looking into going forward with the project. In order for that project to go forward, Nex Gen has to engage in a series of testing, they have got to do some core sampling and site analysis and most importantly they have to get accurate measures of the wind speed at the elevation where the wind turbine is going to be. That is going to entail as part of their initial testing the construction of a small tower/tripod – you could probably fill them in a little more on this. Something with an anemometer on top that is going to measure the wind speed as part of their testing as we go forward and ultimately looking at a final contract with all the terms and also a final piece of legislation. But I think what is before Zoning Board

of Appeals tonight and really this is an issue just for the Zoning Board of Appeals but Planning Commission is intimately involved in this because you will be receiving the draft legislation for your 60 day review and you need to make sure that your Commission is also aware of all the factors and is in agreement with going forward as well. But really it is an issue for Zoning Board of Appeals tonight, I believe what you have in front of you is a request for 2 variances. The first would be a use variance to allow the construction of the wind turbine at the shopping center site without the final version of the legislation. The other request for a variance you have tonight would be just an area variance for the height. My recommendation to the Zoning Board of Appeals that the use variance be **tabled** while we continue to work with Planning Commission on the language of the final ordinance that would govern the operation of the wind energy facility. But that Zoning Board proceed tonight to consider the area variance giving relief from the height and that would be necessary to at least get off of square one so we can enter into a non-binding letter of intent and allow Nex Gen to begin the process of their testing. The practical difficulties standard I believe the city has met or would meet based on the availability of the wind turbine in the strong possibility that if we don't begin this process very soon that we may lose out on the opportunity to have this constructed. I think that the costs to build a wind turbine of this size would be a ½ million dollars and they are going to construct this at no costs to the city.

Chairperson Jancura swore in Mr. Glen A. Ginesi, Representative for Nex Gen. Mr. Ginesi advised I am President of Engineered Process Systems and we are out of Huron, Ohio and we are their representative in the State of Ohio. We do their installation work, we do their engineering work here in Ohio. Planning; Mrs. Belaska asked how many have you built and how safe are they and have you had any issues in the past? Mr. Ginesi answered in Ohio we have just completed 2 of the exact same turbines at McGuffey's in McGuffey Ohio which is between Kenton and Lima. They are on the school property that exact same turbine 100KW turbine. We are in the process of building or installing a 400 and a 600 KW turbine up in Conneaut. They have installed turbines elsewhere but in Ohio but those were the first 2, they were commissioned in September of this year. This is relatively new but I would tell you that as long as you are in this size of 100 and larger that there is a proven track record. This is a northern wind turbine and it is a very well proven turbine. You do see issues about smaller turbines, when you get down to below 50 – that market is still immature and still has issues that are being resolved. But I would tell you that at 100KW and above that there isn't that track record of any problems. Zoning/Planning Mr. McClelland asked it costs \$500,000.00? Mr. Ginesi answered we install turbines for other people too and if you were to come to our company I think we would probably tell you that it probably costs about \$550,000.00. Zoning/Planning Mr. McClelland asked what is the advantage to you, I see the advantage to us? Mr. Ginesi answered to Nex Gen the advantage is – if we were doing a presentation one of the things that we would say is that we are

conduit for being stimulus dollars and tax dollars and federal dollars to your community. First off depreciation is of no value to you, where it is to Nex Gen. Secondly is although you would be eligible to get a State of Ohio Department of Development grant but you would not be eligible for other grants that are available to them – USDA grants and some things like that and then other is depreciation. Finally there is a production tax credit that when they sell power to you in lieu of the production tax credit they could get a certain tax credit but now you can get a 30% grant from that. So they can bring down that costs to them which you can't bring down that costs to you and that really is it in a nut shell. It is a case where the private sector because of opportunities available to them can do it for less costs then what it is to you. Of course we intend to make money and they intend make money, I am sure you understand that. But that is really the driving force to it. The other part I would like to make, even though Nex Gen is a company out of Boulder, Colorado – that is why they employ us in terms of here in Ohio. One of the promises that we make to the people in Conneaut and the same promises that we make to the people here is that we make every effort to utilize local people, local suppliers where possible. Obviously the turbine is not going to come local but we would ask and say where is the local concrete people/to buy rebar and those type of things/materials. Electrical, we will make every effort to use a local electrician to run what ever wiring is done between the building and the turbine. We do build a firewall if you would around the turbine and we do that work ourselves as you can understand that that is a technical piece of equipment and there is some skills that you have to be trained for that. We have incurred those costs and have that training but everything else, one of my jobs is to make sure that we make every effort to utilize the local people. As we say we are a conduit to bring economic/to try to improve the economic development to your area. If we don't utilize local material men and local contractors then we haven't really done a good job for you and you don't get that benefit. That is one of the things we do, again engineering support to. It would be our company that would then also maintain it afterwards for Nex Gen but your contract is with Nex Gen. Planning Commission Chairman Jancura asked is Nex Gen going to carrying the insurance on it? Mr. Ginesi answered absolutely. Law Director Graves advised I have explored how the construction of the wind turbine would impact the city's insurance policy and I got an answer today that it should have no real impact on our premiums as far as our liability policy. We would insist that we be named as an additional insured on any insurance that Nex Gen would carry on this turbine. Zoning Mr. Ebenschweller asked in your plans do you take into consideration safety issues and do you have certain spec's that are; whether it is federal or state that you follow or is this so new that there are no spec's that have to be followed? Mr. Ginesi answered building codes, we follow building codes of course. One of the things that Nex Gen is very sensitive to and I can speak to this because we have had people ask can we put one here and we have said no you can't put one here.

We are concerned about making sure there is a minimum distance between, in most communities in terms of zoning what they have talked about is what they call a fall zone and that is fine and I think that Mr. Graves mentioned that it is a little bit less than 160 feet tall to the top of the blade when the blade is at the top – that would be 160 feet. Although there is plenty of room to put that between that and the property line, one thing we look at is to make sure that there is a minimum distance between any residential places because these are very quiet machines. One of the concerns people have is noise or what we call sound but we make sure that by putting enough distance and that distance is 500 feet and I stepped it off myself the other day. At first quite frankly when we first drove by the site we said it might be a little tight until I actually got out and stepped it off and measured and said no we have 500 to the street and we have this distance to here. I could tell that the noise to the neighboring residents would be less than the ambient noise to the neighboring residents would be less than the ambient noise – the trees will make more noise than the turbine will. I can tell you I have been underneath and again there is 2 of these installed in McGuffey, Ohio and you can stand underneath them and you don't hear them over the noise of the wind itself. Zoning Chairperson Jancura asked will the contracts to buy and sell the energy be exclusive to the city? Mr. Ginesi answered the contract, one of the things that the contract – yes, I mean can we sell it to somebody else? Zoning Chairperson Jancura answered yes. Mr. Ginesi answered no. One of the points that Nex Gen does is not only tells you what you are going to pay for it now but what you are going to pay for it for the next 10 years – that is fixed number during that period of time. Now after the 10 years then it, you have options/we have options. You can say for example, the city says you know we just don't like it anymore. The guy down the street developed a coal fusion machine and we can buy power for a penny now, after 10 years you can say gentlemen the contract is up please take the turbine off the site. Of course we are not too interested in doing that or at least they are not too interested in doing that. On the other hand that if you are paying more for power than what you are paying to Nex Gen then you might be motivated to keep the turbine there and they would be motivated to keep the turbine there also and continue to sell you power but one of the ways that a turbine is installed is under something called the net metering agreement with the power company. You can only put a turbine under a net metering agreement behind one meter, that is why it had to be arranged with the Apples Store. We couldn't sell power to all the other tenants, that is just not the way it is done – it is to offset that costs to them. Planning Chairman Jancura asked what is the expected life? Mr. Ginesi answered the expected life of a turbine would be between 15 and 20 years. But even then the foundation, the expected life of a foundation might be 40 or 50 years – it is in the ground and it is good. The tower – certainly more than 20 years or 30 years or more. So what we envisioning happening is that 10 years from now, we expect power to be in the neighborhood of 2 times what it is now. I hate to tell you but being involved in the energy

business, a lot of people think that power is going up X% a year – all our indicators tell us that it is going to be maybe 2 times what it is now. Nex Gen, that is not the rate that you would pay off the power from the turbine but the power you buy from the power company. So going back to your question about how long, our goal is a long time term goal – a long term arrangement with the city that in 10 years we renegotiate, the turbine is paid for, the maintenance and the insurance and all the other things would still have to be covered in an extension of the contract and we could lower that costs so that you would see a greater savings versus what you are paying to the power company. This is a long term solution to not just the city but to everybody. Zoning/Planning Mr. McClelland asked you said 500 feet back, is that from the street? Mr. Ginesi answered yes. Zoning/Planning Mr. McClelland asked that is sort of like in the middle of the existing parking lot? Mr. Ginesi answered it is closer towards the buildings but yes. Zoning Chairperson Jancura asked has the city looked at in terms of the plan that was presented way back when, how the wind turbine will fit into the plan? How will that all work? Law Director Graves asked do you a copy of Nex Gen's proposal, was that attached to the application? Zoning Chairperson Jancura answered no. Law Director Graves answered I will pass through a diagram, now again it is important to keep in mind that right now what we are just talking about is allowing the initial testing to go forward with a non-binding letter of intent as we proceed with both the legislation governing wind energy facilities and also the contract. We are going to be looking at what kind of safety standards that we want to impose and you know where and how we want this thing ultimately constructed. So all those details still have to be hammered out, with an eye toward making sure that there is safety concerns are certainly addressed. Zoning Chairperson Jancura advised so the area variance gets the ball rolling because it allows the construction of the wind turbine to exceed our. Law Director Graves clarified it allows them to start their testing. We are not allowing any construction of the wind turbine at this point, we are allowing the testing to proceed including measuring of the wind speeds at that altitude and going forward with the plan. But ultimately like I said we would have to work all the details out before they made an agreement to construct the turbine. Zoning/Planning Mr. McClelland asked is there something magical about 160 feet? Mr. Ginesi answered quite frankly that company, we kid in our office that company is a lot like Henry Ford – they will make any turbine you want as long as it is 100KW and as long as it goes on a – the hub height is 132 feet or 137 feet so the additional distances. Other companies you can get different height towers although quite frankly, they determine this is their optimum tower and that is it. Zoning/Planning Mr. McClelland asked and there is engineering studies to back that up I am sure? Mr. Ginesi answered for that absolutely, part of the requirements from the states standpoint for us to go to the state is to have all our engineering and that is really what the letter of intent allows us to do all the engineering work. In fact we have to have a State of Ohio engineers stamp to tower drawing, even though the tower may

be engineered but he then has to have a State of Ohio engineer who has a stamp here in Ohio has to review those calculations and stamp that drawing again. Zoning Mr. Ebenschweller asked now your company is strictly wind turbines, you are not exploring any solar cells or anything like that? Mr. Ginesi answered no we would also do solar if there is an interest in doing that at another location, there is certain rules – when we put the financing together there is certain things. Again we try to optimize the grants that are available to us but we would also look at a solar application. Although it wouldn't be necessarily at that same location. Zoning Mr. Ebenschweller stated the reason that I ask is I watched a show the other night on CNBC with Warren Buffet and Bill Gates and they were talking, the subject of alternative green power came up and Gates made a statement saying the some of the proposals being made now are to use the term faddish. It is kind of like saying don't put all your eggs in one basket because we are not sure what we are going to wind up in the end because there is still so much research going on. He was talking about from a standpoint of investment, where would you put your money. Mr. Ginesi answered absolutely and I agree with him and we would as a corporation I know Nex Gen would agree with him also. One of the things that we do is we kind of look at it is as in the future you are going to buy energies kind of like you invest your own personal money now. You put some things in bonds, you put some things in growth stocks. In a way we look at it buying energy from us with a turbine as the bond fund of your portfolio. We are not trying to displace all the power that is being used at that facility, in fact we purposely try not to exceed 50%. We wouldn't size it to be more then that. There is also some other things and now I regret because I could have done a whole presentation. We also have to look at how the – you know a wind turbine doesn't make the same amount of power every month. It varies, in the winter – it makes more and in the summer – it makes less. So we have to look at the profile of the user and compare that to the profile of the turbines performance and make sure that is a good match. I tell people, I always get calls from golf courses – they want to get a turbine, they got all this land – it is a perfect thing except one problem, I don't know too many golf courses that use a lot of energy in the middle of January and February where as they use it all in the summer and guess when the wind turbine blows the least. You are in a very optimal spot in terms of wind resource that is close to the lake. But we would agree and one of the advantages that Nex Gen has versus again you individually putting in a turbine. Nex Gen has the projects in Ohio, has projects in Colorado, in Kansas. I mean they are talking to people in Hawaii and California. You know this past year has been a low wind year, so their revenues would have been off this year but they can offset it because of other investments elsewhere in the country. So I couldn't agree more with his comment that you don't want to put all your eggs in one basket and that is why you wouldn't see a proposal from us saying yes buy all the power for this facility from us – it is not the smart play. Zoning Mr. Tatter stated I am getting a little confused, is this part of the Zoning meeting or is this part

of the other committee meeting or are we on a joint? Zoning Chairperson Jancura answered both, we are on a joint meeting but the Zoning Board needs to grant the variance. Zoning Mr. Tatter asked I would like to direct a few questions regarding the variance if that is okay? They may be better answered by Mr. Graves since time is of the essence here I think we should get to the variance first. He continued Mr. Graves, the last line of your statement here asking for the variance says the city asks that the variance be issued as a conditional use subject to the parameters of the proposed legislation as modified – we as a Board haven't seen that legislation but you are asking us to vote on a variance based on that legislation. Can you enlighten us a little bit as to first what is that legislation as it concerns the variance that you are asking for? Law Director Graves answered I think that what happened was when we were looking at a number of different ways that this whole project could be initiated and proposed that one of the initial proposals was that we just bring this whole project to the Zoning Board tonight and ask that you just give a use variance to allow the turbine to be built as a conditional use and as guidelines for that construction we would give you the proposed legislation that I referenced earlier and ask that the permission just be granted tonight to build the whole thing. As the discussions and the thought process proceeded we decided that that was not the best way to proceed and that the most important thing was to at least get an area variance tonight to allow the testing to go forward, to allow to enter into the non-binding letter of intent but the request for a use variance which I think is what you are talking about – the request for the use variance that that would be tabled to a later date and ultimately maybe found to be not necessary once the City Council considers the legislation that we have proposed. At the City Council meeting tonight which is going to immediately follow this meeting there is a proposed piece of legislation (Clerk Fantauzzi distributed Council copies to members of the Board and Commission which included a copy of the proposed legislation) that you know there will be a resolution to send that back to Planning Commission for their review and set it for public hearing. So that would be the use variance and we are not asking that the Board consider. We are just looking for the area variance. Zoning Mr. Tatter advised the first sentence of that same paragraph indicates that you hardship request that is one of the conditions of a variance is based on a use variance, so now if you are taking the use variance off of the table where does the hardship to the city come into play? Law Director Graves answered well we would be looking at an area variance which as you are aware of requires a lesser standard than a use variance. When we are talking about a use variance that is where you have to meet the undo hardship standard, it is a more stringent standard. We are only asking an area variance which you go to the factors in the Duncan versus Middlefield case which is the practical difficulties standard and the city's argument that we meet the practical difficulties standard would be that we need to get moving on the project as soon as possible and get the initial testing going as soon as possible or we stand a fairly good chance of losing out on this opportunity.

Zoning Mr. Tatter asked so this is comparable then to a temporary variance for testing only and then the actual use variance will be considered at a later time or zoning will take over and eliminate the need for a variance? Law Director Graves answered I don't know that it will be a temporary variance, it would just be an area variance to allow the height of the structure. Zoning Mr. Tatter asked of the testing tower? Law Director Graves answered yes. Zoning Mr. Tatter asked is the testing tower temporary is what I am trying to get here? Mr. Ginesi answered actual checking the wind speed, we are pretty confident of the wind speed from means we have already. It is really soil borings and other engineering work, what it does is allow us to do that but obviously we can't come on and pursue these things. Zoning Mr. Tatter continued so then by granting a variance if we would decide to grant the variance for 157 foot testing tower that would also then carry over permanently to a wind turbine tower? Law Director Graves answered right but that would not permit the construction of a wind turbine, it is just for the height but it would not be a permitted use as the code currently stands. Zoning Mr. Tatter asked in all other zoning meetings we have always had adjacent property owners notified and don't see any notifications on here. Law Director Graves answered I believe 21 separate property owners were notified. Zoning Mr. Ebenschweller stated as I understand it this is up for granting a variance for 157-foot structure, at a later date if Council should pass a law that says they can only be 140 – that is up to Council. Zoning Chairperson Jancura answered but we have granted a area variance which would technically trump the ordinance because that is why we are here in the first place. Law Director Graves advised the Zoning Board of Appeals is a separate entity under the City Charter that is an independent body and your variance would run with the land once granted. Zoning Mr. Tatter added although if not used within one year. Law Director Graves advised no it would run with the land, once the variance is granted it would run with the land. Zoning Chairperson Jancura advised so if in the future the city would sell the property to a developer, they can keep the wind turbine on the property. Zoning Mr. Tatter stated so if the testing tower or otherwise is never constructed then does the 157-foot variance still go with the land. I thought it had to be completed or started within 1 year. Zoning Chairperson Jancura answered no the variance runs with the land, I am sure there is a legal case that says that if you don't use it it expires. Law Director Graves advised the Board would be within their rights to grant it as a conditional variance. Zoning Mr. Ebenschweller stated if it were not used for some reason if the wind turbine goes out and we have passed the height variance then could they not build a building that high then. Anybody that made a proposal to build a building that high on that property. This is not specifically for just a tower. Law Director Graves advised you can make your variance as specific as you would like to make it. Zoning Mr. Tatter stated specific with a time frame. Zoning Mr. McClelland asked how much time do you need? Mr. Ginesi answered quite frankly once we have the letter of intent we would do about 2 months worth of work. Obviously there is

submitting things and waiting, it is not 2 months of continuous work. But we would come back and I would tell you that simultaneous, once we know we get to a certain point we know we have a legitimate project here/something that we will proceed – the ground is right and all the other things that are unknown to us yet are okay we would come back to the city and start negotiating the actual contract to install the turbine. What we are doing now is non-binding and in the future would be binding. At that point once that is signed, quite frankly we could put a turbine up within a month. What we do is the engineering and we submit it so we know what grants are available and that we are going to get our financing where we want and a month goes by after that – from that point once the contract is actually signed because we own turbines already, we have an inventory of them and that is what Mr. Graves is referring to. When those are gone, yes they will still make more but we are out a year or we are out 9 months to a year waiting for those too. I think from our understanding there is an urgency to have something happen here soon. Zoning Mr. Ebenschweller stated so you could have it up by spring? Mr. Ginesi answered absolutely.

Jeff Kocak, 4072 Lake Road was sworn in by Zoning Chairperson Jancura. Mr. Kocak stated he mentioned earlier that there are some issues with the smaller turbines. I was wondering what the issues are, I have 2 questions; 1 was the issues with the smaller ones – what are they? Zoning Chairperson Jancura advised sir this is just for the 100KW turbine. Mr. Kocak answered okay, if this is going to be for the turbine that is going to be built over in the parking lot – where it is going to go? I live next to the one; the smaller one and there is a noise that sometimes I have to actually shut the windows as there is a whiny noise when it really winds up and to say that there is no noise with the bigger one. I am wondering if I can hear the smaller one and this one is going to be more then twice the size, why is not the sound going to be anymore louder then the ones that we already have there? Mr. Ginesi explained difference and advised I can tell you the noise level of that turbine is less then the ambient noise. I fell comfortable saying that you won't experience what you are experiencing with that small one. Mr. Kocak asked how about where it is going to be placed, do we have a place where they are looking at right now? Zoning Chairperson Jancura answered where it has been discussed, in the middle of the parking lot basically – 500 feet from the street.

*Motion by Jancura/Tatter that the area variance be granted subject to a condition that the use be limited to a wind turbine and the use must be exercised within 18 months of the variance being granted. ROLL CALL TO APPROVE: Yeas All – Ebenschweller, Tatter, McClelland, Jancura.

ZONING BOARD OF APPEALS MEETING ADJOURNED: With no further business before this board, *Motion by Ebenschweller/Second by McClelland to adjourn at 6:47 pm. Yeas All.

Planning Chairman Jancura continued with Joint meeting.

PLANNING COMMISSION MINUTES:

*Motion by Belaska/Second by McClelland to approve the minutes of the September 17, 2009 meeting. Yeas All.

CORRESPONDENCE: None.

REPORT FROM COUNCIL REPRESENTATIVE: None.

REPORT FROM ZONING BOARD OF APPEALS MEMBER: Mr.

McClelland explained if you go to page 5 you will see a statement a little more than a quarter of the way up where it starts Law Director Graves. Mr. McClelland explained two people on adjacent properties built a structure that went over the property lines on each side and you can't do that and they were advised that they could not do that. The gentleman came up with a very good solution to have them come back and restate their request in an effort to help them out with their problem and yet do not create problems for future generations or people who might buy that land and that is the biggest thing that happened.

PRESENTATIONS: Mr. James Kolleda, build a joint accessory building that would span a lot line unless a new parcel was created. Planning Commission Chairman Jancura advised Mr. Kolleda I don't have any surveys or anything like that. At this point, do you have anything? Law Director Graves asked Mr. Chairman may I just make a few points? Planning Commission Chairman Jancura gave him the floor. Law Director Graves advised this structure as it stands right now is illegal and would need numerous variances to be maintained which since there was no application prior to construction he may have a difficult asserting an argument of practical difficulties. A compromise solution was proposed where he would submit for a lot split to create an independent parcel for the structure. That parcel is going to have to be either an independently buildable lot or their going to have to absorb the structure into one of the existing lots, even when that happens it is still too large of an accessory building and will probably necessitate a variance. So there is still a lot of issues with this structure that have to be resolved and I just want to make sure that the Planning Commission is aware of that. Planning Commission Chairman Jancura advised I am sure they will work on trying to address those issues before the next meeting. Mr. Kolleda advised I am going to have an operation on December 8th and planning on going to Florida for my recovery time which is maybe 2 weeks, is it possible for me to be on leave? Planning Commission Chairman Jancura advised you can be represented by your attorney that would be fine with us. If you have faith that he can handle it for you that is your call. *Motion by Belaska/Second by McClelland to TABLE Kolleda application for next month. Yeas All.

PLANNING COMMISSION MEETING ADJOURNED: With no further business before this Commission, *Motion by Belaska/Second by McClelland to adjourn at 6:54 pm. Yeas All.

CLERK OF COMMITTEE AFFIRMATION: This Meeting Of The City Committee Of The City of Sheffield Lake, Ohio Was Held and Conducted Under All Rules and Regulations Governing The Sunshine Laws Of The State Of Ohio As They May Apply. All meetings are recorded and available in council's office.

CLERK OF COUNCIL

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committee Of Sheffield Lake DO HEREBY CERTIFY that this Is a true and exact copy of the Minutes of the JOINT Zoning Board of Appeals and Planning Commission meeting of November 24, 2009.

CHAIRMAN OF COMMITTEE

Diana Jancura

PRESIDENT OF COUNCIL

Edward R Podmanik

and/or

COUNCIL PRO TEM

Rick Rosso