

**WESTFIELD TOWNSHIP  
BOARD OF ZONING APPEALS  
PUBLIC HEARING  
AUGUST 3, 2011**

Chair Schmidt called the public hearing of the Westfield Township Board of Zoning Appeals to order at 7:35 p.m. Permanent Board members Daugherty, Evans, LeMar, Simmerer and Schmidt were present. Alternate Board member Courie was also in attendance. Others in attendance were as follows: Heather Sturdevant, Tom James, Donna Bower, Terry Bower, The Kerrs, Ken Jenkins, Gary Burroway, Marianne Burroway, Steve Dembowski, Laura Dembowski, Barb Fraugh, Jim Carey, Mike Sweeney, Ron Oiler, Gary Harris, and Tim Kratzer.

**MINUTES**

Mr. Daugherty made a motion to approve the February 23, 2011 meeting minutes as amended. It was seconded by Keith Simmerer.

ROLL CALL-Daugherty-yes, Simmerer-yes, Schmidt-yes, LeMar-yes, Evans-yes.

**Presentation by Mr. Tom James of the Medina County Park District for the construction of a boat ramp at Chippewa Lake**

Mr. James stated that it was the Park District's intention to develop a recreation area on the land owned by the Park at the end of Westfield Landing Rd. with the construction of a boat ramp on Chippewa Lake. It would consist of 26 parking spaces for cars and trailers and 13 vehicle-only spaces. In order to access the property, the park entrance road will pass through several parcels that are owned by the District. The Park District received a grant to be able to construct this boat-launching ramp.

Chair Schmidt explained that the Medina County Park District was a governmental agency and "technically" did not need to come before the Township with a formal zoning request or have to obtain permits. He added that Mr. James was before the Board, as a courtesy to explain what events would be occurring with the development of the Chippewa Lake area.

The Board reviewed the drawings this evening. Mr. Daugherty asked if there would be any structures built? Mr. James stated the only structures would be a restroom facility.

Mr. Evans stated he did review these plans previously and the Township requests that the cul de sac be put in for a turn around for the Township to be able to turn a truck around. He added that as so you get past the Demchek property the Park District wants to put up a gate. If a gate gets put up the Township cannot maintain the road and it is a Township road. Mr. Evans stated the Park District could put in a private drive all the way back. Mr. James interjected the Park was willing to do that and that could be addressed in the current agreement they were trying to work out with the Township Trustees.

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The Board stated they had no comments at this time but would review the plans individually and if anyone had any concerns they would relay those to Mr. James and/or the Trustees before a contract was finalized.

### **PUBLIC HEARING-North Coast Soccer-area variance and renewal of conditional use permit- 8809 Lake Rd.**

Mr. Mike Sweeney was sworn in. He stated he represented Northcoast Soccer. Chair Schmidt stated there was much discussion with the Trustees, Zoning Inspector and Pros. Office as to how to proceed with this issue.

Mr. Sweeney stated this whole situation started over the width of the drives. The concern was the natural growth in those drives and what counted as where one drove and where one measured the width of the drive as a result. The other issue to be addressed this evening is the conditional use permit requirement that the mound to the west had to be maintained. Mr. Sweeney stated North Coast Soccer would like the mound to be able to remain and continue in a natural state. All the items that were previously discussed and decided upon are reflected on the site plan before the Board this evening i.e. the number and placement of portajohns, which resulted in the reduction in the number of required parking spaces. Also the parking area to the east had a tree located in it and therefore those parking spaces have been removed as well. The driveway on the west, where it was less than 62 ft. in width, is indicated also on the site plan.

Chair Schmidt stated per the site plan it appeared that 17 parking spaces were omitted. Mr. Sweeney stated because the parking was not striped it was hard to say but 17 seemed to be an accurate number.

Zoning Inspector (ZI) Witmer was sworn in. He stated he and Mr. Sweeney and Bill Thorne from the Pros, Office have met and talked on several occasions and in the end it was recommended Mr. Sweeney apply for a variance to allow vegetation to grow within the driveway areas but that was not reflected on their site plan. ZI Witmer stated Mr. Thorne previously stated that Northcoast Soccer had adequate parking even with the reduction in parking spaces due to the location and number of portajohns as well as the reduction of the number of parking spaces due to the location of the drainage ditch.

Ms. LeMar asked if the grass was growing along side the parking area or in the parking area? ZI Witmer stated he has not been down to Northcoast Soccer in some time. When this first started the grass was growing from the sides into the parking area. There was supposed to be new grindings put down over the entire parking area. However it was spread down the middle of the driveway and not out to the sides. To find grindings on the side ZI Witmer stated he actually had to dig up some grass to get the width of driveway. The grindings were there but were not new by any stretch of the imagination. If one were

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going to define the width of the driveways it would be hard to do if grass was allowed to grow because where would it be measured from?

ZI Witmer stated one of the original conditions by previous board member Micklas was that new grindings be laid in the drive in lieu of the zoning requirement of hard surface paving. Ms. LeMar asked, was that not required as a safety issue so vehicles would not get stuck due to there not being any hard surface paving; as well as to delineate parking spaces during tournaments so people weren't parking every which way they wanted? ZI Witmer responded that was what he understood. Ms. LeMar stated allowing grass to grow would defeat both those purposes.

Mr. Daugherty asked what was the required width of the drives? ZI Witmer stated the parking spaces are suppose to be 20 ft. long and 22 ft. for the actual aisle width for a total of 62 ft. Mr. Daugherty asked how many parking spaces were required for Northcoast? If we don't have a zoning regulation then why are we requiring the parking spaces to be delineated? ZI Witmer stated there is a regulation for the width and depth of a parking space. ZI Witmer stated Northcoast is required to have parking spaces to have their venue operate. Mr. Daugherty interjected, how many? ZI Witmer answered, that was set by the Board well before he was Zoning Inspector.

Mr. Daugherty stated he remembered the Board looking at assembly as being a similar use, which requires 1 parking space for every 4 seats but asked, does Northcoast Soccer really fall under this category? He added he felt the Board should focus on the driveways and not the parking spaces. ZI Witmer stated whatever conditions were set or variances granted is what he needed to enforce.

Ms. LeMar stated maybe there were so many issues because this use was operating in the Rural Residential District. Mr. Evans interjected that there are 19 fields with two teams on each field so there needed to be parking. Chair Schmidt stated the question to be asked was if Northcoast felt their parking was adequate. ZI Witmer stated the site plan had to reflect what was on the property, be it number/location of parking spaces, trees, portajohns, etc.

Mr. Sweeney stated the issue is the driveway and the width of the grindings. For the vast majority of the driveway there is a drainage ditch that runs along the edge. When you get to the edge of the grindings it is not flat. There is a ditch so one could clearly see where the parking stops. It is not grass that is growing; it is weeds that get into the grindings. The vast majority was along the edge but they do creep. Mr. Sweeney added they could spray roundup but it would wash off after the first rain and then the residue would end up in the creek. If you just had loose grindings and some kid walks along the edge, the grindings would end up going into the drainage ditch and clog it. As the natural vegetation grows the roots hold the ground together. He continued he spoke with the woman from Soil and Water and she stated that grass/weeds started the filtration process

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and was useful. Mr. Sweeney stated there was only one incident where someone got stuck and that was a kid who wanted to turn around on the soccer field.

Regarding the number of parking spaces, Mr. Sweeney stated they have counted the number of cars present at regular games as well as tournaments. They have arranged starting times to prevent issues and minimize traffic concerns as they relate to traffic flow. He continued they relied upon the Highway Patrol (Sheriff's Department) to direct traffic when tournaments are being played and continually ask the Patrol if there was a better or more efficient way to control traffic and was there sufficient room for emergency services if needed? The Highway Patrol has never once said that traffic patterns or access to the site needed to be changed.

Ms. LeMar asked if the variance was granted to allow for the grass to grow and no more grindings were going to be laid down was Northcoast Soccer going to line the grass to delineate the parking spaces? Mr. Sweeney stated no he was not talking about allowing grass to take over; it is weeds. He added this has been a solid drive for years. Ms. LeMar stated she had issues with the application, which stated "to allow grass to be allowed to continue to grow in all parking areas." Mr. Sweeney stated he wrote down ZI Witmer's wording. Ms. LeMar asked if he meant the road or the parking areas? Mr. Sweeney responded there are three roads with parking on either side of the roads. He added they use this facility 8 Saturdays and one weekend in the fall for a tournament and 20-25 days in the spring. Mr. Sweeney stated they do and have laid grindings and have a stockpile of this material at this time. Mr. Sweeney commented that people come from all over to play at this facility. If individuals get stuck they will not come back. Mr. Sweeney stated he just wanted to make sure that a determination was made on the driveway as it pertained to its measurement so he did not have any more issues with the Zoning Inspector.

The Board discussed how the width of the drive should be measured and the issue of allowing the vegetation to grow up in the parking areas. Mr. Evans stated the easiest way to handle this was not to allow the "grass" to grow. You will never get the width of the parking areas if you allow grass to encroach. The grindings need to be laid and the parking lot needs to be defined especially with the drainage ditch along the side of it to prevent anyone from driving into the ditch.

ZI Witmer stated this started August 2010. It was obvious Northcoast Soccer laid new grindings down the middle of the drive and into portions of the parking area but did not completely cover the entire surface like in May 2010 as was stated by the Board that they should do. There was nothing done to the parking lot in the rear either and the weeds did not grow in just a short period of time. New grindings were supposed to be laid edge-to-edge 62 ft. in width by August 1, 2010 and that was not completed. ZI Witmer stated he took pictures that were submitted to the Board back in November to show the non-compliance.

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Mr. Daugherty read the May 2010 meeting minutes where Mr. Micklas stated new grindings were suppose to be laid over the entire site but it was not made part of the formal motion. Mr. Evans interjected that in that same meeting the minutes reflect that Mr. Sweeney agreed to that stipulation and the time frame of August 1, 2010 to complete.

Mr. Sweeney stated that new grindings were laid and they had the contractor (Mr. Buckwald) who completed the work, come to a meeting to confirm it was done. Regarding the rear, there are a lot of complications with the County i.e. Engineer and Watershed District in order for anything to be done back there. If we want to put in grindings we have to dig all the old grindings up and put them back in again.

Chair Schmidt asked if a curb line could be installed to give some delineation as to the drives? Mr. Sweeney stated when they voluntarily paint the lines for a tournament for their customers they would voluntarily add that line. He added that again as soon as a distance is placed on the drive we would be back to the same issue in regard to enforcement and measurement.

Ms. LeMar asked why the entire property was not rezoned to Local Commercial and then this would not be an issue? Mr. Sweeney stated they tried that before and if it occurred then they would have to meet all the requirements of the Local Commercial District Ms. LeMar stated this is what happens when a business is allowed to operate in the Rural Residential District. Chair Schmidt stated recreation is a conditional permitted use in the Rural Residential District. Mr. Simmerer stated that a recreational use was permitted for this property because of its location in a flood zone so there would be a reasonably permitted use of the property. Agricultural is really not a legitimate "use" of one's property. Mr. Sweeney stated the soccer fields were originally a sod farm.

Ms. LeMar stated she was hesitant to grant a variance to allow for "grass" to grow in the parking areas because if this land is sold, the variance runs with the land. She added that this Board has been told time and time again we are a quasi-judicial Board and these issues have been going on with Northcoast Soccer since 1997. Mr. Sweeney stated why would the situation change? There are clearly designated roads that are plenty wide and there is more than adequate parking. He added he has sat down with Mr. Thorne and ZI Witmer numerous times and have tried to come up with a solution. Mr. Thorne stated why should we be concerned with the number of parking spaces? Mr. Sweeney stated he did not want to go backwards he wanted to move forward with a solution to a crazy situation so he did not have an issue with zoning again and again. Mr. Daugherty stated that the variance could be tied to the conditional use permit. Northcoast Soccer's conditional use permit is for 5 yrs.

Mr. Steve Dembowski, 5702 Buffham Road, was sworn in. He stated he owned the adjacent property to the east of Northcoast Soccer. Mr. Dembowski continued that he thought the mounds were going to be adjacent to all residential properties surrounding Northcoast Soccer not just the property to the west. It was not a big deal at first as he and



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his wife had other interests but now we are home a lot and the noise is unbelievable. It is like the kids are playing in our back yard. Also we shoot firearms on our property and have a backstop in place but every time we shoot the sheriff comes out. Mr. Dembowski suggested that trees could be planted on their side to provide a barrier. The Board stated that the Muskingum Watershed owned a 100 ft. easement along the creek and if anything was planted it would have to be with their approval. Mr. Evans stated the easement is for the Watershed to maintain the ditch and added it would be another 4 yrs. before Northcoast Soccer would come before the Board to renew their conditional so it would not be until then that the issue of a mound on the east would/could be addressed. Mr. Debowski asked if the mound was supposed to be put in on the east as well but was never completed? The Board stated the mound was only required along the property to the west (former Hanna property). Sweeney stated Northcoast Soccer had no intention of putting up a barrier on the east. Mr. Evans stated Mr. Dembowski could check with the Muskingum Watershed to see if they would permit trees to be planted in their easement. Chair Schmidt suggested Mr. Dembowski do a title search to confirm the easement, when it was established and its location.

Mr. Tim Kratzer (5669 Greenwich Rd.) was sworn in. He stated he and his grandson were asked by Mr. Carrasco to come over to the soccer fields and do some measurements. He continued they went there in May/June 2011. They started measuring from the gas well to the cul de sac on West Valley Rd. He stated they did not find one spot in that section that was less than 63 ft. in width. After the mound the area opened up to 70+ ft. Mr. Kratzer stated they measured from where Northcoast Soccer put the lines for the parking area. Yes there were weeds and grass growing in the edge where Northcoast Soccer had pulled away the topsoil and laid grindings but you would get that in anybody's driveway if it was not driven on constantly. The ZI measured from where the weeds were located and therefore there was a deficiency in the required width. Then we measured east to west on the drive down the center and the majority of that was 62 ft. In the back where Northcoast Soccer has overflow parking, there are trees in the area and therefore those parking spaces should be eliminated but when measuring it was 63 + ft. in width on either side of the existing trees. To the north of that parking area it was only 49 ft. Mr. Carrasco then had a contractor come in and cut topsoil out and laid grindings to make it 63 ft. in width.

Mr. Kratzer stated his concern was the Zoning Inspector said he was out at the property in July 2010. It is August 2011. Why hasn't he been out there to inspect or to see if anything had been done at the property? Mr. Kratzer stated he took Trustee Oiler out to the property and called Trustee Harris about the situation. He added roundup or mowing could take care of the weed situation. The County Commissioners in 2009 passed new regulations that if you fill in a floodplain area you had to compensate for it in another area. Therefore in order to add grindings, the existing grindings would need to be removed and then rolled back in because Northcoast Soccer could not increase the floodplain unless it compensated for someplace else.

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ZI Witmer responded to Mr. Kratzer's comments. He said he was at the property up to and including November and December of last year. Nothing was corrected at that time. It has taken that long to get to this point. He stated he had no reason to go back because Northcoast Soccer never contacted him to let him know what had been corrected and/or addressed.

Chair Schmidt polled the Board members about the mound being able to be left in a natural state. Board member Evans stated the zoning code says the mound is to be maintained and that was also a condition of their permit and it should remain. How many times is this Board going to set standards only to back away or change them? Northcoast Soccer has asked for numerous variances and has been granted numerous variances and now they find something else they don't want to comply with.

Mr. Sweeney stated the issue of the mound started with Joe Hanna. We originally put in the taxus trees and a fence. It was then Mr. Hanna asked for us not to maintain the mound as the growth provided additional barrier. Chair Schmidt stated he believed allowing the mound to continue in a natural state would provide more screening. The rest of the board agreed except for Mr. Evans.

Ms. LeMar stated she would like the conditional use permit to only be for one year. If somebody else buys the property they may not like the mound being full of weeds as there is a difference between that and the mound being left in a natural state. Chair Schmidt stated Northcoast Soccer currently has a conditional permit for 5 yrs. so any modifications, deletions etc. to the permit would be addressed when that conditional use permit expires. Again, Mr. Daugherty stated the variance could be tied to the conditional.

Mr. Sweeney stated this is an issue. Mr. Hanna bought the property knowing there was a soccer facility next to it and then comes to the Township demanding mounding and trees and we complied. What if somebody buys the Hanna property and wants to now demand Northcoast Soccer do something else? This cannot continue to happen. Ms. LeMar stated this shows what can happen when one conducts a business in a Rural Residential District. Chair Schmidt stated if anyone bought the Hanna property they would see and know what the property consists of and the surrounding area.

Mr. Evans asked the other Board members if they had a problem with the portajohn being located in the parking area where cars could potentially block them or hit them? There should be some type of barrier. Mr. Sweeney stated they always have. For tournaments they X out a spot along side the portajohns so one could not block the access. The portajohns are located along the edge of the playing fields, drainage ditch and parking spot.

Mr. Simmerer stated his opinion is because this is Rural Residential area, leaving the mound in a natural state made more sense. It made a minimal impact and it was probably more desirable to increase the screening. Mr. Daugherty stated he had no problem with

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the mound going back to a natural state. Chair Schmidt stated leaving the mound in a natural state was probably an advantage to provide more screening.

Mr. Sweeney stated the other reason he wanted to review the conditions was because it was agreed to when Mr. Hanna was living next to the site to have a 9:00 a.m. start time but he would like the Board to consider allowing them to have an earlier start time. Mr. Dembowski stated he did not want to see an earlier start time than 9:00 a.m. The Board stated the 9:00 a.m. start time would remain.

Chair Schmidt made a motion to permit as part of the conditional use permit for Northcoast Soccer located at 8809 Lake Rd. for the existing mound on the west side of the property to consist of natural growth between the property line and the parking area with the condition that the existing trees and fence be maintained. It was seconded by Mr. Daugherty.

ROLL CALL-Schmidt-yes, Daugherty-yes, Simmerer-yes, LeMar-yes, Evans-no.

The Board went into a lengthy discussion regarding the request to allow for vegetation to grow up amongst the grindings and how/where the driveway width should be measured. The Board debated the issue of setting a width for the driveways, if grindings needed to be laid and where the measurement of the driveway widths would now be taken to ensure compliance. ZI Witmer commented that he had no problem with setting parameters but felt it would be difficult to do so with the back parking area. If Northcoast is required to lay grindings they would have to obtain permits and the grindings would need to be removed and then new grindings put in to the height that it was currently. He continued that if the Board allows the back area (overflow parking i.e. area next to the Chippewa Creek) to be mowed that would suffice. The Board stated they would mark that specific area "A" for reference purposes when considering a motion.

Mr. Sweeney stated the driveway is 22 ft in width. What is going to be there is 99% of what has been there for the last 10 yrs. If we are allowed to have some growth encroach it is going to be mowed not just let go wild and take over. It will be mowed along the edges.

Ms. LeMar made a motion to grant a variance to Section 505 B. to allow for vegetation to grow in all driveways/parking areas on the site plan reviewed on August 3 2011. All parking areas shall be covered in grindings no less than 55 ft. in width except for designated area "A" which shall have no minimum width or grinding requirement. This variance will run with the conditional use permit granted to Northcoast Soccer located at 8809 Lake Rd., which expires October 31, 2015.

It was seconded by Mr. Evans.

ROLL CALL-LeMar-yes, Evans-yes, Simmerer-yes, Daugherty-yes, Schmidt-yes.



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### **Setting of Hearing Dates**

Ms. LeMar stated an interested property owner would like for the conditional use permit request for Morning Star Farm Ministries, Inc. to be heard on a Friday or a Monday as he would have to come in from out of town to be present. Property owner Ms. Bower stated she has been trying to get this request heard by the BZA as soon as possible. The Board set the following hearings per the Board members schedules, and legal notification requirements:

The Board set a public hearing for a conditional use permit request for Morning Star Farms Ministries, Inc. for August 29, 2011 @ 7:30 p.m.

The Board set a public hearing for a variance request for Clean Energy and a conditional use permit request for Strawser Construction on August 24, 2011 @ 7:30 p.m.

### **Procedural Issues**

Ms. LeMar asked the Board members to consider putting in the Rules of Procedure that when the Board is going to vote to poll the Board members to see if everyone is prepared to vote and it would have to be unanimous. If a member does not want to vote then the vote would be postponed. She stated she is suggesting this because meetings go late and often times a vote is made incorrectly or out of haste. Chair Schmidt stated the Board already follows that procedure in that a member is not forced to vote if they are not prepared to do so. He added that hearings have been continued to receive further information or clarification. Mr. Simmerer stated he was not sure that one member should be able to hold up the proceedings if the majority of members were prepared to make a motion and vote.

Ms. LeMar also brought up using written forms for voting. That way the vote is final that evening, made part of the record and the appeal process would begin from that evening. Ms. LeMar commented that she felt it was unfair that an applicant had to wait until the Board met again to approve minutes before the decision was final. Mr. Daugherty stated the Board could start using a written form without it being a formal procedure. The Board stated they would use written forms going forward from today. Ms. LeMar stated she would make copies of the forms. Secretary Ferencz stated she had two written forms to use, one for an area variance, and another for a use variance and could get them to the Board members accordingly.

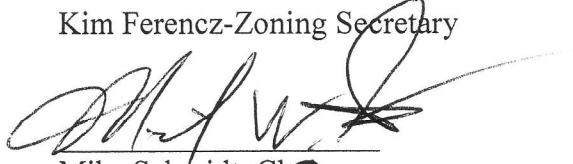
Ms. LeMar asked for mandatory training for BZA members starting in 2012 of two workshops a year. It was discussed that the Dept. of Planning Services puts on free or minimal cost training throughout the year. The Board stated they would discuss this at a later date.

Having no further business before the Board, Mr. Evans made a motion to adjourn. It was seconded by Ms. LeMar. All members were in favor. The meeting was officially adjourned at 9:52 p.m.

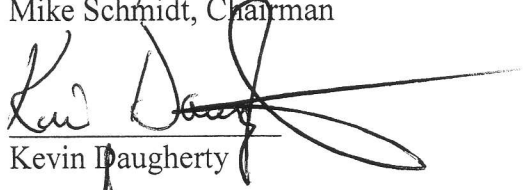
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Respectfully Submitted,

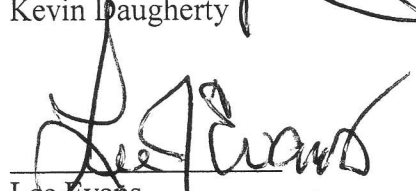
Kim Ferencz-Zoning Secretary



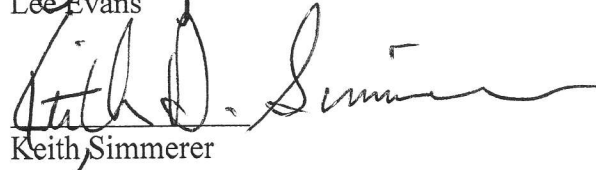
Mike Schmidt, Chairman



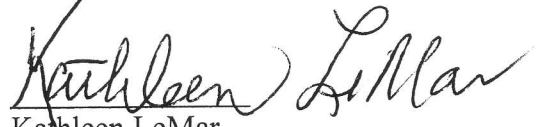
Kevin Daugherty



Lee Evans



Keith Simmerer



Kathleen LeMar