

**WESTFIELD TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
AUGUST 29, 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, Simmerer and Schmidt were present. Alternate Board member Courie sat in for a full Board due to the recusal of Permanent Board member LeMar being a contiguous property owner. Others in attendance were as follows: Bill Thorne, Kathleen LeMar, Donna Bower, Melissa Willard, Amy Hamlin, Darrell Hamlin, Bev Hoffert, Gary Prough, Barb Prough, Gary Burroway, Ruth Hartley, Herbert Hach, Donald & Emily McNeil, Richard Phelps, Randy Willard, Tom, Harold Lanterman, Beth Hansen, Mark & Susan Whitfield, Whitfield, Patricia Kuvass, Roger Kwass, Rosemary Norris, John Scheiring, Fredrick Young, The Kerrs, Dave Kaufman, Robin Frye, Jean Schmanch, Marge Modlih, John Lane, Katie Burnsworth, Gerald Bernsworth, Tom and Lois Yaeger, Nicole Howard, Lisa Goins, Steph Dean, Lyn Methlie, Maureen Davis, Denise Borchart, David Sturgess, Hallee Borchart, Sam Borchart, Michael Matle, Susan Franz, Marjorie Simmererman, Tammy Linden, Marianne Siddall, Phil Strauss, Ron Oiler, Gary Harris, Jim Carey, Tom Ferrebee and Zoning Inspector Matt Witmer

MINUTES

Mr. Simmerer made a motion to approve the August3, 2011 meeting minutes as amended. It was seconded by Mr. Evans.

ROLL CALL-Daugherty-yes, Simmerer-yes, Schmidt-yes, Courie-abstain (not present at meeting), Evans-yes.

Conditional Use Request Permit-Terry & Donna Bower/Morning Star Farms Ministries, Inc. Address-9241 Friendsville Rd. and PP# 041-15C-10-014.

Chair Schmidt explained the hearing procedure and read the application. The conditional use being requested on the application stated 'requesting permanent conditional use certificate for recreational activities of groups and families and a place of worship under Section 303 (B) 2.a. and (d). Chair Schmidt then read the Purpose and intent of the Rural Residential District, the permitted and conditionally permitted uses in the Rural Residential District, and Article VI on the issuance of Conditional Zoning Certificates.

The applicant, Mr. Terry Bower (9241 Friendsville Rd.) was sworn in. Mr. Bower introduced his wife Donna and the Morning Star Farm Ministries Board of Directors. Mr. Bower introduced Exhibit J which was a newspaper article about the former owner Theodore Martin and that we had an interest in acquiring the property 4 yrs. ago. Morning Star Farms Ministries is grateful that God has given us the opportunity to have this land and to keep it in a natural state. Morning Star Farms Ministries is a non-profit organization and is not funded or backed by any other organization but is supported by its faithful donors and volunteers. We pay the full real estate taxes on this property the same as any of our neighbors. He continued they would like to keep the working hay and horse

farm in operation so urban folks can learn about farming and the land. Our central focus is to help them see the truth of Christian virtues and God's word the bible, if they desire. This would be done through fun stories and activities such as gardening for new or single parents fishing and bible studies. The activities would include fishing, boating, equestrian activities, hiking, hayrides, lawn games and old fashion sledding. Most activities are 5 months out of the year. All activities will be at least 100 ft. from the neighboring property lines with most activities taking place 200 ft. minimum. "No Trespassing" signs or "Private Property" signs will be put up to mark neighboring properties. Natural and manmade barriers are already established to eliminate the effect of intrusion in this area. We see no adverse effects on adjoining properties due to lighting, noise, or traffic. We have personally invited our neighbors to our property for any events that we have had at the property and continue to be open to meeting with them.

Mr. Bower stated they have received approval letters from the Westfield Fire Chief (see attached to approved meeting minutes) the County Building Dept. and the Medina County Health Dept. pending Township zoning approval. (See attached to approved meeting minutes). We have provided all requested information by the Township Zoning Inspector and liaison. Morning Star Farm Ministries, volunteers and donators respectfully request a conditional zoning certificate.

Chair Schmidt asked about the information submitted i.e. Section 303(B) 2. (d) where there are quotation marks "Privately owned and operated recreation areas, such as private parks, playgrounds, picnic areas, activities at an event tent, equestrian activities, and lake activities." That was not the exact wording of the Section. Mr. Bower stated he was just responding to that section and stood corrected that there should not be quotation marks and to please omit them as addressed for that Section of the code.

Mr. Simmerer asked Mr. Bower about Section 606A(2) where it states that most activities will be 2000 ft. from property lines. He commented that he thought that was a typographical error because that could not be true with the size of the property. Mr. Bower stated it was ½ mile back from Friendsville Rd. to his home and most of the activities would take place at least that far back on the property. Mr. Simmerer stated the property size is 2,124 ft. x 1,620 ft. so it was impossible for the activities to be 2,000 ft. away from property lines. Mr. Bower stated the activities would be at least 1500 ft. from the road. Mr. Simmerer responded that the information provided stated from the neighbor's property lines. Mr. Bower stated that he would say the nearest home was at least 1000 ft. way. Chair Schmidt stated it was not about where a home is located but the property lines. Mr. Bower stated he was mistaken but would say 500 ft. from the property line of a neighbor.

Mr. Daugherty stated per the application the request was for a place of worship and recreational activities. He continued he did not see any request for a day camp as he thought was being requested. Mr. Bower responded they were no longer requesting camping. There will be no overnight camping.

Ms. Donna Bower (9241 Friendsville Rd) was sworn in. She handed the Board a picture of the tent where worship would take place but added the tent was not erected at this time.

Mr. Daugherty asked how long Mr. Bower had been conducting such activities on his property? Mr. Bower stated only one year-2010. We voluntarily came before the township trustees in June 2009 to explain the activities we conducted and wanted to conduct at the property.

Mr. Daugherty asked if Mr. Bower had received any complaints during the time these activities were being conducted? Mr. Bower stated no. Mr. Daugherty asked how many “visitors” on average would be coming to the property? Mr. Bower stated it would depend on when there are planned events. Last year there were two, i.e. a family reunion and a church picnic. Mr. Bower stated they have had free events and volunteered as a participant at the Fall Foliage Tour. Mr. Bower read a letter from Dr. Schnabel regarding their participation at the Fall Foliage Tour. (See attached to approved meeting minutes).

Mr. Bower stated typically the numbers of guests would probably range from 10 to 60. He added they would not book two events on the same day like they do at the park. He stated at this time they estimated that 60 guests would be the maximum number due to parking and the requirements of the health department (Morning Star Farm Ministries have a one year permit from the Health Dept.) but added that number could change in the future if parking was added and additional requirements of the health department were addressed.

Mr. Daugherty asked if this was a commercial operation? Mr. Bower responded absolutely not they were a non-profit organization. They only charged a small fee to cover costs. Mr. Daugherty asked what if someone wanted to “rent” the property for a specific function? Mr. Bower stated they had the stated fees on their website but was asked by Zoning Inspector Witmer to take all references to soliciting business off the website. We only function about 4 months out of the year with the tent being up. The fees are very nominal and neighbors loaned us wagons to take individuals on hayrides.

There are no fees charged to make money.

Mr. Daugherty asked about the “worship” portion of the Ministry. If individuals/groups want to come out and worship is part of it, then so be it. Morning Star Farms Ministries worships everyday through hard work and realizing the Lord’s presence and the land He has given us. We do not have a Sunday night worship under the tent. Mr. Daugherty commented he did not see any pews or a steeple or any other artifacts normally associated with a church or services so asked why Mr. Bower was requesting a place of worship? Mr. Bower responded he was told he should apply for whatever it is they wanted to do on the property otherwise it would not be permitted and they would have to come back and request other uses and pay another fee.

Mr. Daugherty stated some of the concerns he heard was what kind of church is this? He added that if MSFM were not going to hold “services” than do you really want to go down the path of asking for a place of worship? Mr. Bower answered that the recreation and worship were connected. Mr. Simmerer stated his concern was if this was more of a “traditional” gathering of people and how it would be handled on a human level and with parking facilities. Mr. Simmerer stated if nominal fees were charged or donations it did not appear that these activities were the financial backbone of the Ministry. Mr. Bower stated that was correct. In 2010 it was 2% of our

budget. Other events actually cost us money. We had a fishathon for children last year and it was a great success.

Ms. Bower stated they would like to be able to have “Christian” groups come out and if they want to play a guitar and sing songs around the campfire they would be free to do that. If children come out we want to be able to tell them bible stories.

Mr. Simmerer asked if there would be any amplification of outdoor service activities as the zoning code does not permit that. Mr. Bower stated there were no loud speakers and the activities did not go past dark. Ms. Bower stated they did have someone come out to play soft music at their “partner appreciation” night and that individual did bring out her own amplification system so if that was a complaint they would not do that again. Mr. Bower interjected even if we did we would not have big, booming speakers but only under the tent and we could have sides on the tent to cut down on any volume.

Mr. Evans stated per the document provided by Morning Star Farms Ministries in response to Section 606A.3 it states, there will be no loud speakers. Mr. Bower stated he was referring to the metal speakers that go outdoors. Mr. Evans stated if microphones are being used it was being amplified. Mr. Daugherty asked if it would be an issue if the Board stated no microphones and or amplification of sound? Mr. Bower asked if there could be a decibel level set instead? Chair Schmidt stated the Zoning Inspector was not equipped or trained to perform such actions. Mr. Bower stated they would comply with no loud speakers.

Ms. Courie asked about ATV or 4 wheelers. Mr. Bower stated those would only be used for utility purposes.

Chair Schmidt asked about lighting. Mr. Bower stated they had one security light per the site plan. He added they rarely had any activities that went past dark if they did it would be for their personal group of friends not “guests” on the property.

Chair Schmidt stated the time stated on the documentation provided stated activities would take place from 8:00 am. to 11p.m. He referenced that a time restriction was placed on Northcoast Soccer that no games were to be played before 9:00 a.m. Ms. Bower interjected they would comply with that requirement if requested.

Mr. Evans asked about Subsection 606A(18) to which the response was limited retail sales. If you are retail sales it is a business. Mr. Bower stated it was agricultural sales, of eggs, hay etc. The extent would be bottled water as we do not serve food. We did have a pop cooler dispenser donated to the ministry. That was a coin dispenser and was controlled by the Health Dept.

Mr. Daugherty asked about the gravel pullouts mentioned by the Fire Chief (See attached to approved minutes.) New driveways need pull off lanes or passing lanes, which need to be 50 ft. long and 10 ft. wide. When Fire Chief Fletcher came out he said it would be nice to have a place

by the pond if there was a fire to access the pond for water. So we built one according to the requirements and Zoning Inspector Witmer came out and helped us measure it off properly. There would be signs that would state "pull off" or "passing lane" by the pond. We put in three (50 ft. long and 10 ft. wide) but we only needed two.

Mr. Simmerer asked about landscaping and screening to buffer these activities in terms of sight and sound from neighboring properties. Mr. Bower responded the previous owner planted large evergreen trees on the north property line. On the 17-acre property there are evergreen trees on the north side of the property, which would be the Borchart property. We would not want to disturb the lowlands because it was for runoff for the lake.

Chair Schmidt asked if the trees were on the property in question? Mr. Bower stated it appears they are on the property line but the trees are so large they go over both properties. Mr. Simmerer asked if there were trees along the ravine side? Mr. Bower responded yes there are a lot of large trees on their property and the Carpenter's property. There are large trees on the north side of the property and an old wire farm fence. The fence is right on the property line. Mr. Simmerer asked about the condition of the fence. Mr. Bower stated he did not know.

Chair Schmidt then asked for comment from the adjoining property owners.

Ms. Denise Borchart (9199 Friendsville Rd.) was sworn in. She stated that her husband David planted the trees on the south property line. They stop just above our barn. From the house to the road there are no trees just the Bower's field. On our eastern property line it really dips down and is very low. There is a creek that runs through there and we have a bridge. It is a natural barrier. There is no fence.

Mr. Mark Whitfield (7458 Greenwich Rd.) was sworn in. He stated we share a common line on our south and Morning Star Farms Ministries northeast property line. It is our woven fence, which is very much in tact. The fence is north of the lake.

Mr. John Scheiring (7830 Greenwich Rd.) was sworn in. He stated Morning Star Farms Ministries property was actually 25 ft. in from the trees. The trees are starting to die from bores. They have been brush hogging up to the trees, which is truly not the end of my property. I maintain 30 ft. on both sides so we can have a hay wagon get in there to bail hay so as to not go onto somebody else's property and if they were ever to fence the property I would still be able to get in there to bale hay and run equipment on both sides.

He continued that the distance from the lake to my property line is approximately 120 ft. The only buffer is undergrowth with a few trees.

Mr. Whitfield stated his house was 100 ft. back from the line. Mr. Scheiring stated his house was approximately 400-500 ft. back from the rear property line.

Chair Schmidt asked Mr. Bower if there were any activities planned on the north side of the lake? Mr. Bower responded the only thing they were proposing was a walking trail around the

lake and at all points it would be within 50 ft. of the water. At some points because of the terrain it would be 50 ft. and so on the east of the lake it would be only 10 ft. on the south side it would be on the line. On the north side it would be within 50 ft. and cuts into the lake to go fishing. There will be signs on the path that this is as far as you go. It would be approximately 100 ft. from neighboring property lines. There are no activities proposed by Mr. Whitfield's or Mr. Scheiring's property.

Mr. Evans stated that per the document submitted by the applicant it states that all activities will be 500 ft. from any property lines. Mr. Bower responded they are on the other side of the lake. Mr. Evans stated what about the trail? This Board needs to know where all activities are located from property lines. Mr. Bower stated no more than 10% would use the trail. I did not say there was no activity on the north side of our property. Chair Schmidt stated one of the conditions in the zoning code states that one needed to be 100 ft. from the property lines. Mr. Bower stated they would comply if that was the law.

Mr. Bower stated the path has not been constructed yet. We started clearing on the east end of the lake. The footpath can be modified.

Mr. Scheiring stated that if they were going to put the path 50 ft. from the lake then that put it 50 ft. from his property line. Signs are great but kids don't read signs. Then there is the liability issue.

Ms. Tammy Linden (7545 Seville Rd.) was sworn in. She stated that she was on the south side 612 ft. For the record my name is on the deed for this property. My house is approximately 1000 ft. from the Bower's house. There is a tree line and old rusty fence.

Ms. Linden commented she had no issue with what the Bower's were proposing.

Ms. Goins (7491 Seville Rd.) was sworn in. She stated she has lived here for 11 yrs. and had no issues with the Bower's and what they want to do. Ms. Goins added she did not even know people lived back there.

Mr. Roger Kwass (9161 Friendsville Rd.) was sworn in. He showed the Board his property. He stated once or twice a year he would brush hog his field.

Mr. Tom Yaeger (9325 Friendsville Rd.) was sworn in. His property was south west of the Bower property. There was a row of trees on the north side of his property as well as pond. His frontage was 224 ft. The Board asked if there was any barrier? Mr. Yaeger stated there was sparse woods that are on his property. He was concerned about his pond and kids wandering around it.

Ms. Kathleen LeMar (9220 Friendsville Rd.) was sworn in. She showed the Board where her property was located. Ms. LeMar's property was on the west side of Friendsville and encompassed almost the entire frontage of the Bower property.

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Mr. Bower asked about the information about the adjoining property owners and their property lines. Secretary Ferencz stated contiguous property owners are required to be notified.

Mr. Thorne stated a larger tax map could be obtained if the Board desired.

Mr. Tom Ferrebee (9250 Friendsville Rd.) was sworn in. His property was located at the extreme southwest corner across the street from the Bower property. Chair Schmidt asked how far back Mr. Ferrebee was and if there was screening? Mr. Ferrebee stated about 200+ ft. and he could view the Bower property.

Chair Schmidt stated that this meeting would probably be continued to a specified date and time. He stated that there were many letters and e-mails that have been forwarded to the Board members and asked Mr. Thorne to address that issue.

Mr. Thorne stated the BZA is a quasi-judicial body. Testimony needs to be given under oath. If somebody wants to read their letter they would be subject to cross-examination. Otherwise they are not read into the record.

Mr. Sam Borchart (9199 Friendsville Rd.) was sworn in. I am here this evening to voice my concerns about the Bower property as well as my father's. I have a signed, hand-written copy of his comments as well. (See attached to approved meeting minutes) There has allegedly been two individuals that wandered onto the Cross property from Morning Star Farms Ministry. There are trees but as apparent they did not prevent these individuals from going onto the Cross property.

Regarding noise, I was awoken on a Friday the 19th at about 7:00 am. to construction noise coming from the back of my barn. A barn roof was being placed on the Morning Star Farm Ministries barn. The closeness of this noise to my home was disconcerting. Groundhogs are a big threat to agriculture and we shoot at them. We are safe but what if someone is behind something that I am trying to shoot at on my property. Mr. Borchart continued that Mr. Bower stated he wanted to have a trail around his lake and the distance from neighboring property lines was a concern. If there was a trail built all around the lake there is swampland one would have to put in a culvert and a bridge and Mr. Borchart was concerned as to how that construction would effect his property?

Mr. Borchart stated Mr. Bower said their activities would take place from 8:am. to 11 p.m. and nothing after dark but would that hold true in the winter when it is dark by 5:00 p.m.?

Regarding safety, the intersection of Friendsville and Greenwich Rd. and Friendsville and Rt. 224 are two of the most dangerous intersections. I am a new driver and my instructor told me those were the two most dangerous intersections he has seen. Mr. Borchart stated he has witnessed several accidents in those areas. If spontaneous events are held at the property with the potential for 60+ individuals to visit the property that would cause more concern for safety in this area as well.

Mr. Bower stated regarding the trail and the swampy area, they did not want to disturb the natural habitat by building a bridge or culvert. That area cannot be traversed in the early spring or fall when it rains. If they did build a bridge it would be done without any excavation to leave the area in its natural state. As far as somebody wandering off they fully intend to put signs up far from property lines as to where individuals could transverse and this would be checked by volunteers to make sure it is followed. The majority of the activities will be on the south side of the lake where the land is mowed and there are picnic tables present.

Regarding shooting, Morning Star Farms Ministries believes in safety first and knew the Borchart Family were accomplished hunters and would take safety first into consideration. Mr. Bower stated they did not shoot guns on their property but did hear guns from the adjacent property. Mr. Bower also questioned who lived at the property.

Regarding traffic, they would maintain the proper access on the property. What happens at other intersections was beyond his control. We preach safety on and off the property.

Ms. Denise Borchart stated she lived at 9199 Friendsville Rd. with her son Sam, daughter Hallee and David Sturgess. Ms. Borchart stated that her sons driving instructor told them how dangerous their driveway was regarding sight distance and they had to weed whip and mow just so we can pull out of our driveway.

Ms. Borchart stated that they too are Christians like Mr. and Mrs. Bower and our opposition to this revision in zoning has nothing to do with religious affiliation. We wouldn't care what religious or non-religious affiliation it was associated with, this is and has been, since we built our home in 1986, a neighborhood of rural distinction. Their wanting to now change that to allow upwards of 100+ people onto their property for a proposed day camp is absurd and frightening.

a) Safety. How do we know what type of people they will be hosting events for? They may feel they want to rehabilitate a group of convicts, sexual predators etc - how would we ever know? We have two teenagers, one of which is a teenage daughter, living in our home. She already is upset and anxious at the prospect of so many people, people we do not know, being right next-door. And what about the safety of the visitors they want to entertain? It's no secret how dangerous Friendsville Rd and its intersections are. You bring "urban" residents out for a day camp that are unfamiliar with the area and it is a recipe for disaster.

b) Noise. We live in this area for a reason - it's rural, it's tranquil and it's quiet. Yes, we hear trains, we hear tractors, we hear animals - we even hear the gravel trucks from Baker Sand and Gravel, BUT we built our home KNOWING those noises were going to exist here and we accepted that. We did NOT build with the intent of hearing 100+ campers on hayrides, riding ATV's, playing volleyball, having concerts right in our backyard. Even if it occurs during the day (which by the way their hours of operation are to be 8am-11pm far from daytime only), it does not make it any less of an annoyance and disturbance. We remember several years ago when the shooting range was put in near Garman and Friendsville Rds. We were assured by

Sheriff Hassinger that we would never hear the shooting. Well guess what? We hear it - loud enough that it sounds like fireworks going off in our yard. Delightful noise at 7:00 in the morning on a Saturday.

c) Privacy. As our daughter said "so there goes my sunbathing on the back deck". There goes eating dinner on the back deck, there goes having morning coffee on the back deck. Again, we live in this area for a reason and one of the most cherished is our privacy. Ms. Borchart stated she saw the cross on the Bower property and questioned if they were not a ministry then why the cross?

d) Liability. We have a German Shepherd. We don't fence our yard because fencing in 4 acres would be ridiculous. So what happens when someone wanders onto our property? It's already happened to our neighbors - Morningstar Farm Ministries guests losing their way and wandering through our backyards. Her instinct is to protect us and her property. But we would be the ones liable. Many of my neighbors have ponds. We shutter to think of a child wandering off. We hunt. We hunt groundhogs in the back of our barn. Another guest loses their way and pops up behind the barn - well, you get my point. It is impossible to think that Mr. Bower would know where 100+ guests would be every minute of their visit to his "camp". Ms. Borchart stated that the pine trees are not a barrier.

e) Ecology and sanitation. She stated that she is concerned about the swampy area. She wants it to remain natural. She doesn't think they can get around the lake without impacting the swampy area.

The Board requested that Mr. Thorne explain the liability for property owners. He explained the extent of the applicant's liability.

Mr. Bower explained that he does not understand the confusion. They are a ministry. He further explained that the swamp does drain into his lake and it does not drain toward Ms. Borchart's property. He believes there is enough room to have a walking path around the lake.

Ms. Bower explained the type of people they want to have at the facility. They want families, not bad kids, but city people who don't get to be on a farm.

Ms. Susan Whitfield (7458 Greenwich Rd.) was sworn in. The back of her home is about 100 feet from their property. She is concerned about: 1) trash and human waste and its disposal; 2) drinking water and bathrooms; 3) additional traffic, traffic safety, and the need for road repairs; 4) noise; 5) conservation of domestic and wildlife habitats; 6) daily hours of operation; 7) possibility of liability for neighboring property owners as a result of people wandering off the property; 8) the charging of fees which will change the status of the property from rural residential; and 9) the effect on adjoining property values.

Mr. Bower explained that the fees are very low. They only charge by the size of the group and unless they want some other activities there is no other charge. The fees are very minimal. We are regulated by the Health Department and have to comply. We are also insured with regard to liability. He stated that they have never had an injury or a claim.

Mr. Simmerer asked, when people come out is it for a specific program or just to relax or is it more structured? Mr. Bower stated that they schedule in advance what they want to do. Mr. Simmerer asked for clarification that it is not structured but is flexible as to what each group would do at the facility. Mr. Bower stated that that was correct.

Chair Schmidt asked Mr. Thorne if the fees charged made a difference. Mr. Thorne indicated that it did not and that the amount of the fees did not change the status. The amount of the fee was not relevant.

Chair Schmidt indicated that the time was late and that the Board would only go for another ten minutes. He indicated that they would have another meeting, but that they would adjourn this meeting at 10:00pm.

Ms. LeMar stated she would like to address the Board. Chair Schmidt stated he would like to recess the meeting in 10 minutes. Chair Schmidt stated there would definitely be another meeting. Ms. LeMar stated she would defer to the next meeting.

Attorney for the applicant, Mr. Frantz addressed the Board. He stated he would only speak for 10 minutes and make a statement that could not be rebutted. Secretary Ferencz stated that in order to give the applicant and/or his representative due process and ample time to present their case, it would be a good idea to continue his testimony at the next meeting. Mr. Thorne agreed.

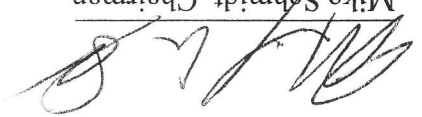
Ms. Courie made a motion to set the continuance of the public hearing for a conditional use permit request for Morning Star Farms Ministries, Inc. for September 12, 2011 @ 7:30 p.m. It was seconded by Mr. Evans.

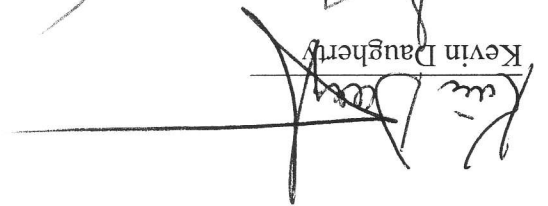
ROLL CALL-Courie-yes, Evans-yes, Simmerer-yes, Daugherty-yes, Schmidt-yes.

Mr. Evans made a motion to recess the hearing. It was seconded by Mr. Daugherty. All members were in favor. The meeting was recessed at 9:55 p.m.

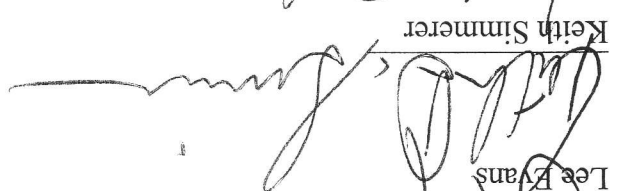
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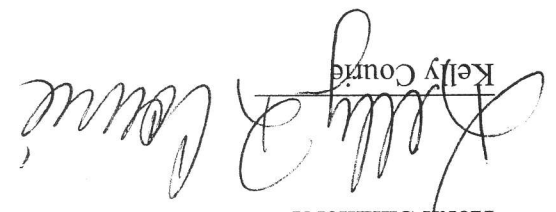
Kim Ferencz-Zoning Secretary


Mike Schmidt, Chairman


Kevin Daugherty


Lee Ryans


Keith Simmerer


Kelly A. Courie