

# Westfield Township Board of Zoning Appeals

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Public Hearing Continue from January 11, 2017  
Westfield Lakes, LLC  
January 12, 2017

Daugherty opened the continuation public hearing at 7:00 PM. Roll call: Simmerer- aye, Moore- aye, Daugherty- aye, Stacy- aye, McGlashan- aye.

Also in attendance: ZI Sims, Alternate Fleming and Alternate Thur

## Site Plan Review

**Exhibit “G” Application for Site Plan Review and received Exhibit “N” from Medina County Planning Services Report from Mr. Bennett.**

**The plan proposes a Suburban Residential Planned Development with fee simple single family lots on a private street served by public central water and sanitary sewer.**

Mr. Walsh (Project Engineer) testified that the East side of road doesn't have 30% of open space off a public road as per Section 606.29 of the Westfield Township zoning code.

Walsh also stated there is a strip of open space and the right of way is on East Lake Road.

The Board reviewed testimony requirements from Section 29.c.1:

A. Density-The Westfield Lake LLC representatives discussed how they calculated density and the deduction of wetlands and right of ways and testified they were in compliance with the density requirements.

B. Does not apply to this property.

C. SR District- Complies

D. Regarding Oil/Gas wells

E. Usable area for single acre complies with regulations.

Density calculation is 1 unit per .25 acres. Square footage of a 25 acres is 10,890 square feet.

.89 acres would compensate for the 13 feet added to lot sizes that would not comply with the .25 acres per unit.

Board decided the Site Plan has appropriate open spaces to compensate for the intent of the resolution.

606.29.c2 Minimum area requires 1 contiguous property. The site plan reflects at least 30 contiguous acres. There is presently no Rail Road Easement as testified by Bennett and it does not bisect the property.

606.29.c3.A. Preliminary approval from Medina County Department of Planning Services.

606.29.c3. B. Conditions set forth from the MC Planning Services for final approval (report attached as per exhibit:

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- BZA approval
- Road Survey
- Testing on water and sewer lines
- Variance approvals (100' setback from gas/oil well and home square foot area)
- Tax Map Accounts

Bennett testified that there are no lots fronting the existing roads as per the zoning code.

606.29.c.3C. Not applicable- all wet lands will be part of the open spaces.

606.29.c.3D. Setbacks are 75 feet from existing roads

606.29.c.3E. Interior Roads are 35 feet

606.29.c.3F 20 feet between units.

606.29.c.3G. 35 feet setbacks for structures to wetlands.

606.29.c 4. Uses: Single family lots

606.29.c.5. Open Space- (Applicant testifies to the following);

A. 30% (27.37 acres is required and the site plan is 58.311 acres.)

B. Out of the 58.311 acres, 21% or 11.3 acres is wetlands.

C. Open Spaces are preserved in their natural state.

D. Site Plan complies

E. Open space is protected and recorded. Homeowners' Agreement (HOA) owns the open space and will maintain. HOA document is Exhibit "K" and the HOA is tied to the property through the deed restrictions

HOA was reviewed by Assistant Prosecutor Thorne and discussed with ZI Sims although there is nothing at this time in writing (just notations). Thorne expressed to ZI Sims that the Township will not be responsible for the retention basins. The applicant stated that the retention basins are deeded to the HOA. ZI Sims suggested changes to the *1<sup>st</sup> draft HOA*:

- ***1.4 Impeding Drainage***
- ***Protected Property 4.611- Corps- change to Corp of Engineer***
- ***Recorded at the MC Recorders through 4.6.1.8.***
- ***Submit to the MC Prosecutor's Office for final Review***
- ***4.6.2- (NORM) Northeast Ohio Rail Road easement may or may not be addressed in this section. (NORM owner Kostekak testified on the 11<sup>th</sup> during the Oil and Gas well discussions that he has an easement but that the wetlands made it economically unfeasible. Simmerer stated that whether or not an easement exists it would not affect accessibility and was a non-issue.)***

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- *Thorne responded to Rob Henwood through email that he could not approve the HOA as written.*

*Applicant will provide the Zoning Secretary with updated HOA document to be reviewed by the Prosecutors' Office.*

*ZI Sims accepted the application with the understanding that there was a Rail Road Easement dividing the parcel. There was a discussion requesting clarification of the existing easement.*

*Bennett was unable to testify if there is an easement in this area.*

*Testimony- Bennett testifies to the ownership but not to knowledge of an easement in this area and even if the easement does exist it does not affect the Board's decision.*

807.D Site Plan Application Requirements

1. Site Plan Application Received

2. Site Plan Drawing Received

807 D.2a. n/a

807 D 2b. n/a

807 D. 2c. n/a

807 D.2d n/a

807 D.2e. entrance sign plans required

807 D. 2f. n/a

807 D. 2g.. n/a

807 D. 2h. land scape plan for entrances and sign needed

807 D. 2i. n/a

807 D. 2j. n/a

807 D.2k. n/a

807 D. 2l. n/a

807 D. 2m. n/a

205 H (agreement with the county)

The Board agrees that submitted exhibits are appropriate for this Site Plan Review.

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Trip Generation Study- original is 1999 and is not relevant since there have proposed less homes than previously approved for.

Board discussed Site Plan approval with 6 conditions:

1. HOA Document changed and reviewed by Prosecutor's Office
2. Wetland setbacks are to be platted
3. Revised Site Plan with 200 feet setback for oil/gas well
4. Entrance Sign Plans provided and reviewed to the BZA
5. Landscape Plan provided and reviewed to the BZA
6. Must comply with Medina County Planning Services Requirements

Section 606.E. was read by the Board (Special Procedures) preliminary approval of a conditional zoning certificate for a planned development.

## **Board Discusses Conditional Use application**

*The Plan proposes a SR Suburban Residential district Planned Development with fee simple single family lots on a private street served by public central water and sanitary sewer. The Planned Development meeting the requirements of Section 606.29 which is a Conditional Use within said district. Access to the development will be off of Lake Road and East Lake Road. With this development preservation of open space and natural areas will be accomplished which will add to the variety of residential opportunities in the township. We believe that this project will be compatible with adjacent properties and will not contribute to any substantial economic, noise, glare or odor effects on adjoining properties.*

Section 605

- A. **Harmonious was unanimous by the Board**
- B. Harmonious and will not change the essential character of the area was unanimous by the Board.
- C. Would not be hazardous or disturbing to the neighboring areas was unanimous by the Board
- D. Not detrimental to the community as a whole was unanimous by the Board.
- E. Public Services will be adequately served was unanimous by the Board.
- F. Compliance with state, county, township regulations was unanimous by the Board.
- G. Vehicular approaches to the property and there will not be any interference with traffic surrounding the public streets was unanimous by the Board.

Section 606.29- Planned Development was reviewed through the Site Plan was unanimous by the Board.

Bennett was asked to send a electronic version of the HOA Draft agreement to be sent to the zoning secretary and then electronically sent to MC Prosecutors' Office.

The Board discussed if the procedures for approving a conditional use certificate could be provided without the final site plan. Bennett requested a written conditional use certificate so they could move forward with the MC Planning Services. The Board discussed if this was appropriate and ZI Sims was called to provide her understanding of the Zoning Procedures. ZI Sims referred the Board to 606.29.e

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Special Procedures, stating that the BZA may grant preliminary approval pending other outstanding information. ZI Sims stated that if she did not have an answer then she would always error on the side of caution and proceed after legal advice from the Prosecutor's Office.

Discussion to set another meeting date for January 25, 2017 was discussed and Bennett once again asked the Board to consider providing him with a Conditional Use Certificate so he may proceed with MC Planning Services. He read an email that stated the MC Planning Services wanted the BZA to provide a signed Conditional Use Certificate. Moore and McGlashan both stated they felt this would be fine and it would not be a conflict since the Planned Development would not go forward until the conditions which were previously stated were met.

Moore makes a motion to move forward with the approval of the Conditional Use Certificate; seconded by McGlashan. Roll call: Simmerer- no, Moore- yes, Daugherty- no, Stacy-yes, McGlashan- yes. The motion passes to move forward.

Moore makes a motion for the granting of the Conditional Use Certificate with the following conditions according to Section 606.29 and Section 605 of the Zoning Text: 1.) Site Plan Review and Approval by the Medina County Department of Planning Services; 2.) BZA review for Site Plan Approval; seconded by McGlashan. Roll call: Moore- yes, McGlashan- yes, Simmerer- no, Daugherty- no, Stacy- yes. The Conditional Use Certificate is granted with the conditions mentioned.

McGlashan makes a motion to adjourn at 10:05 PM; seconded by Stacy. Roll call: all said aye.

Respectfully submitted by:

Cheryl Porter, Zoning Secretary

Date Approved:

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BZA Chair Kevin Daugherty

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BZA Vice-Chair Keith Simmerer

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BZA Board Member Wayne Moore

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BZA Board Member Jim Stacy

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BZA Board Member Greg McGlashan