

**LITCHFIELD TOWNSHIP ZONING COMMISSION
SITE PLAN MODIFICATION #101
8485 Norwalk Road; Lorain County Excavating**

**JULY 27th, 2021, at 7:00p.m.
AUGUST 17th, 2021, at 7:00p.m. (continuance)
AUGUST 31, 2021, at 7:00pm (continuance)**

<i>Board members</i>	<i>Term</i>	<i>Trustees</i>	<i>Zoning Insp.</i>	<i>BZA</i>	<i>Term</i>	<i>Other</i>
Frank Baluch	2022	Dennis Horvath	Eric Noderer	Rodney Allgire		Secretary Fozio
Chris Barnes	2022			Anna Seitz		
Jerry Koenig	2023					
Mike Roth	2024					
Jason Davis	2021					

CALL THE MEETING TO ORDER:

Jerry called the meeting to order at 7:00pm with the Pledge of Allegiance.

Jerry told Mr. Tini there is only a board of 3 zoning commission members and asked Mr. Tini if he would like to continue the meeting until there is a full board. Tini said he is happy with a board of three.

SITE PLAN #101

Barnes read site plan modification application #101 dated 6-25-21 submitted by Lorain County Excavating Inc. for 8485 Norwalk Road out loud; it is a modification from the original site plan dated June 13, 2019.

Fozio read Exhibit A; a neighbor letter from Mike and Tammy Berghaus-3935 Beat Road (provided to the board the night of the meeting) out loud.

Fozio read Exhibit B; an email dated July 26th from Kathryn Distaulo (provided to the board by Mike Roth the night of the meeting) out loud.

Jerry moved to public comment; Fozio asked that everyone sign-in:

Gregory Hurst presented a letter directly to the board. Fozio read Exhibit C; a neighbor letter from Gregory Hurst-8445 Norwalk Road.

Ginger Roth-3925 Beat Road; Ginger read her letter out loud (Exhibit D-Ginger provided Fozio a copy of her letter for the record at the continued meeting on August 17th). Ginger also provided pictures to the board of the dust on her outdoor furniture from the ongoing dirt issue.

Doug Stevens-8520 Norwalk Road; Mr. Stevens agrees with Ginger; especially working holidays, late in the evening and Sundays and all weekend; on Easter Sunday there were people working and that is not a way to live in a neighborhood; the dirt is a problem. The board should pay attention to this one because it's going to get out of hand and then it will be too late.

John Semmelhaack-4296 Beat Road-He expressed the same concerns even though he is a mile or so away; Memorial weekend it was bad, and he could hear all the noise that went well into the evening; there should be retaining walls; what happens with the dirt run-off. He feels 3 acres is not big enough for what he wants to do; Ginger has told him what business was going in there, but he never expected it to be like this. He finds it ironic that another resident wanted a retail business and was told 'No' because it's unsightly; weekends and holidays is too much; it's common sense and public decency; he doesn't mean for someone to not earn a good living, but 3 acres is not enough land.

Mike Roth-3925 Beat Road; His wife covered a lot of what he wants to say; the first site plan was him doing what he wants to do, and he broke the rules; he is a lawyer and knew what he was doing. After the property transferred, he was told by a neighbor that he tried to buy his property, so it seems that he knew he was doing topsoil. Mike read Section 101 'Purpose' of the resolution... 'to promote public health safety of the residents of Litchfield Township'.....; he said the applicant is a landowner, but not a resident. He has limited their lifestyle in their home as a retired person.

Gregory Hurst-8445 Norwalk Road; He doesn't live there, but his son does; the noise he creates is no louder than the semi's running on Rt. 18; all the property to Erhart Road is commercial property; he doesn't think there is a noise ordinance or that it's legal to regulate work hours.

Doug Stevens said residential people should have a say with what commercial properties can do to protect their own values and protect their property.

Mr. Tinkl said there is a lot of speculation with what they are going to do there, and that needs to be put aside. He does not appreciate attacks on him and his business, but he will out that aside and not get involved in that. He said they are meeting tonight to see if his amended plan, as proposed, comports into the existing zoning category. He said the limits of this board is to determine if what he presents fits in the existing zoning category. He said their water run-off is EPA compliant and they have an EPA approved plan; Medina County comes out periodically and checks the storm water control structures. Dirt delivery took 2 weeks between 7:30-5:00; there was a lot of noise in a limited time; he has to bring it in trucks and take it away in trucks; the comment that he does not deal with local people, he can bring records in; his dirt stays local in Litchfield and Wellington; he is not making an application to sell aggregate and he has no intention to do aggregate; he refers business to Archers if anyone asks for stone; the township can put a condition to not allow him to make aggregate. He likes the dirt pile; if the township tells him what to do with the dirt pile to make it more compatible, aesthetically appealing he is happy to do that. They do not work until 9:15pm because he is in bed at 8:00pm. He said he has cleaned the road with a machine and OSP has stopped by to check; he takes Beat Road/side roads when hauling to not put dirt on heavily traveled roads. He contacted the county on this, yes, they were concerned, but he was compliant with what they asked him to do. He wants to be a good neighbor and has never met his neighbors; if they want to come and talk with him, he is happy to do it; they never came to him about any issues; they want restrictions that are not part of this board.

Jerry said the board, as a zoning commission has the job to uphold the resolution that the board created. The resolution is discussed and worked on publicly and voted on publicly; the resolution is posted online on the township website; it is what they are bound by. Jerry asked board members if there were any comments they would like to make. Barnes read the site plan review definition from the resolution out loud. Fozio asked if it would be helpful to compare the

first site plan was and the need for this modification. Mr. Tinkl explained why he is applying for the modification; the zoning inspector approached him about the pile of dirt on the septic system; Tinkl told him the septic system was moving to the west side of the building and they are going to park topsoil there. Eric told him that didn't show on the plan, it needs to be part of a plan, submit a new plan so that's what he did. They would also like a hoop house that could be a separate operation, but he combined it with this. Eric said he requested a modification from Tinkl because of the dirt being on the buffer zone; the retail material being stored cannot be in the buffer zone; he wants to put in more dirt under Section 307 as outdoor displays of goods and merchandise which has no set limitation except for the buffer zone; he said he wanted to also keep the first dry under a hoop house. Eric told him that required an application too. The original site plan application and site drawing was approved on June 13th, 2019; he read the application out loud. He said also that the current material storage location was apart from the original site plan. Davis said that zoning cannot zone out noise or oversee erosion control, dirt on the road is a county or state issue and movement of the dirt is an EPA issue; other agencies have oversight of the other issues; zoning can only control what is allowed on the property.

Eric said the dirt is what brought attention to the property; the dirt was in the East buffer zone, and it's not allowed there, and he wants to put in more dirt.

Barnes asked Tinkl if any entity has issued a violation; Tinkl said nothing in writing, but Soil and Water visited the site about a channel going up a ditch and silt fence. Jerry asked the board if they are prepared to move forward with the application. Barnes asked if the Health Department approved the septic; Tinkl said they are approved for it and hopefully moving forward this week. Jerry reminded everyone that zoning has no oversight of septic systems. Ginger Roth asked if it is approved to not have a 20-foot buffer around the mound. Barnes said the board will discuss that during the review process.

Barnes went over the property developmental/site plan review following Section 601.6. Barnes said the existing building is compliant from the initial site plan; he noted the board needs to consider the buffer for the septic.

Jerry asked the board if the mound system must have its own buffer. Fozio asked if the Health Department requires a buffer. Tinkl said the H.D. requires it to be 10-feet off the property line.

Jerry asked if the board considers the 30x52 hoop house to be a permanent or temporary structure since it is a kit set in place by blocks and can be disassembled; the board agreed temporary. Tinkl said permanent because of how its built; he does not expect to move it. Davis asked if the Medina County Building Department requires a building permit since it is a temporary structure. Tinkl said he has not addressed the county if it is temporary or not since he must start with the township first. Trustee Pope asked the board if the resolution has a definition for 'Temporary Structure'; Jerry said no but read the 'Structure' definition out loud and said the board can just consider the hoop house a structure. Barnes asked Tinkl about parking; Tinkl said the initial plan was to lease parking areas to other people, but they are not doing that now because they don't have the room. Jerry asked about the material being moved from the backside to that area. Tinkl said right now the area titled 'vehicle parking' is about 50% to the road and they have material stored there now. Barnes asked where someone would park if they came in to get material. Tinkl said they would come in off Rt. 18 and back in between the two buildings; there are 8 hard surface parking spots around the original old building for customers and employees. Barnes asked what the existing buffer is; Tinkl said they planted an orchard on the west side, there is a heavy tree line on the north side of the property; there is no need for a

buffer east or buffer needed at the road. Eric said they do not need screening by the road, but they need a buffer. Jerry asked Eric if anything has changed from the first approved site plan versus what exists today. Eric said he does not believe so other than the dirt; the material storage with the dirt violates the buffer requirement, which is why we are here. Barnes said the outdoor storage area is mainly consistent of soil; Tinkl said yes. Barnes asked Tinkl about a fence; Eric said Tinkl received a zoning permit for the fence by the orchard and the iron gate. Barnes asked about lighting and Tinkl said there would be no lighting for the hoop house, and they use the existing lighting and what was previously approved from the first site plan. Barnes asked if there is a dumpster; Tinkl said yes, it is on the plan. Barnes asked about outdoor display areas; Tinkl said they were approved for a sign out front, but they don't know where to go with that. Jerry noted, and it was confirmed by Eric, that a non-illuminated ground sign was approved in the first site plan. Barnes talked about the proper relationship to surrounding development features. Davis said this is where it can become an issue regarding dirt on the road. Tinkl said they have a mechanical brush and a dustpan implement that goes on a skid steer on site to clean the road. Barnes talked about adverse effects on adjacent properties and open spaces; the board concluded there is not an issue. Barnes discussed architectural design; Jerry felt he is compliant based on being in a commercial zone. Barnes moved to building placement considerations; Jerry said there would be no change to topography. Davis asked if the height of the soil being stored impacts topography; Barnes said there is nothing in the resolution about that. Barnes moved to good design and landscape. Jerry said neighbor comments might prompt screening of some sort. **Tinkl said he would put screening or pine trees on the northeast side of the property for the neighbors and the Roth's.** Barnes asked Tinkl how many businesses are being ran out of the property. Tinkl said a seal coating business, dump trucks, construction equipment, selling topsoil; he has a motor vehicle license to sell trucks; they were permitted to sell trucks and construction equipment from the past site plan. Jerry asked about the hoop house storing dirt to limit dust; Tinkl said the dirt will go into the hoop house to keep it dry; Osbourne had an issue in Medina with dust and had to get a special permit because of it. Tinkl said the screen they run is small; makes less noise than a zero-turn lawn mower; it is a trommel screen, not a sift screen and generates about 30 yards an hour; its purpose is not to make dust; he said they cannot control this dust with moisture; he cannot spray it; he needs to understand if the dust complaints are all his problem; he finds that hard to believe.

Horvath asked Tinkl about the dust issue with Osbourne; Tinkl said they put an aggregate crushing plant there and it was a major fiasco to get the permit; they used water for dust control; the only way to prevent dust is put it in a building or put water on it. Tinkl described other plants he has that are permitted; their rules are cleaning the road or watering the driveway; if they get neighbor complaints, they must shut down until the wind dies down if that is the issue. Jerry let the room know the board is currently in the process of doing resolution amendments; he reminded everyone the purpose of the board is to focus building placement and use of the property; soil disturbance is not written in the code for the board to enforce; he understands there are concerns, but as a zoning commission they do not have authority over some of those things. Davis also noted that Medina City, being a city, may have different ordinances to abide to. Eric referred the board to Section 203 'Prohibited Uses'; Jerry read the section out loud. Horvath said the zoning code does address dust, and it should be taken into heavy consideration by the board. Tinkl said they could put dust monitors on the southeast side of the property; he is willing to see if they are creating a dust problem. Davis said the board needs to consider the dust issue because the original site plan was about storage of material, not processing; processing is what created the noise and the dust.

Jerry noted the original site plan spoke of a ‘contractors’ yard’, and topsoil for retail sales, but Section 203 speaks to prohibited uses that create issues. Fozio asked how the township uses a dust monitor and who determines what ‘normal’ dust is versus an increase in dust when soil production starts. Barnes continued with review standards and the board said existing screening is appropriate. He moved to onsite traffic for safety services; Davis asked if there is a Knox box; Tini said it makes sense and they could do that. Barnes moved to grading and erosion, which the board agrees is a concern. He moved to curb cuts, etc, which is not applicable. He moved to the road authority issue which is not an issue. He moved to the overall development concept; the board noted that zoning is meant to protect residents and property. Barnes noted that lighting is not an issue. He said that based on what the board discovered, he suggests board continue the meeting to a later date so they can research screening considerations to protect the neighbors. Jerry said the board needs to consider Section 203. Horvath said the first page of the proposed use is storage of topsoil for retail use-it does not include screening or the processing of topsoil. Davis said the storage/processing created the issue; the board needs to do their homework and not decide tonight.

Horvath asked if the storage of topsoil for retail use, noted on the original site plan, would also include screening; to him that does not mean screening. Davis agreed the original parameters implied topsoil is just being stored, not processed. Tini said 30% of sale is being sold ‘as is’ and goes out the way it comes in, 70% has to be dried; he said they are ‘improving’ it, not processing it. Jerry said the original site plan was storage for retail sales, not prepping it. Davis said Tini needs to offer the board some information for review

Barnes made a motion to continue the meeting to August 17th in the town hall at 7:00pm; Fozio reminded everyone that since the meeting is being continued, no new notices go out to the public; Davis seconded the motion, and it was approved by all.

Barnes made a motion to adjourn at 8:48pm, seconded by Jerry and approved by all.

Frank Baluch/Chairperson

Jerry Koenig/Vice-chairperson

Please note: Meeting minutes are not verbatim. Approved meeting minutes are the official record of the meeting.

AUGUST 17th, 2021, at 7:00p.m. (continuance)

<i>Board members</i>	<i>Term</i>	<i>Trustees</i>	<i>Zoning Insp.</i>	<i>BZA</i>	<i>Term</i>	<i>Other</i>
Frank Baluch ***	2022	Dennis Horvath	Eric Noderer			Secretary Fozio
Chris Barnes	2022	Mike Pope				
Jerry Koenig	2023					
Mike Roth	2024					
Jason Davis	2021					

Jerry called the meeting to order at 7:00pm with the Pledge of Allegiance.

Jerry noted this meeting is a continuance from the July 27th meeting.

is in There are items to discuss but there is not a quorum; Barnes was unable to attend tonight’s meeting and Frank cannot sit since he did not participate in the July 27th meeting.

Jerry made a motion to continue the site plan to August 31st at 7:00pm in the town hall; Fozio reminded everyone that since the meeting is being continued, no new notices go out to the public; the motion was seconded by Davis and approved by all. Trustee Pope asked why Frank cannot sit; Fozio said Frank did not attend the first meeting and there are no approved meeting minutes for him to even reference since the meeting was continued.

Frank made a motion to adjourn at 7:07pm, seconded by Davis and approved by all.

Frank Baluch/Chairperson

Jerry Koenig/Vice-chairperson

*** Frank Baluch can call this meeting to order and function as the chair, however, since he was not in attendance for the July 27th meeting to know the details of the site plan modification discussion, he is unable to sit on the board for the continued site plan.

Please note: Meeting minutes are not verbatim. Approved meeting minutes are the official record of the meeting.

AUGUST 31, 2021, at 7:00pm (continuance)

<i>Board members</i>	<i>Term</i>	<i>Trustees</i>	<i>Zoning Insp.</i>	<i>BZA</i>	<i>Term</i>	<i>Other</i>
Frank Baluch ***	2022	Dennis Horvath	Eric Noderer			Secretary Fozio
Chris Barnes	2022					
Jerry Koenig	2023					
Mike Roth	2024					
Jason Davis	2021					
						Folder #2

Jerry called the meeting to order at 7:00pm with the Pledge of Allegiance.

Jerry noted this meeting is a continuance from the July 27th and August 17th meetings. The meeting was continued as the board went through the evaluation process of the modification of the original site plan dated June 13th, 2019, to provide for increased material storage for dirt, and approve location of a new hoop house/green house to process and/or dry out dirt.

Jerry asked Davis and Barnes if they had any additional comment. He asked Fozio if there was any correspondence; Fozio said she received none. Davis said looking at the site plan modification and the original narrative, it still does not address what the township has in their Section 203: ‘Prohibited Uses’ which is the screening of the topsoil. He said listening to the concerns of the community, screening is something that wasn’t in the original site plan; it is something Tinkl is currently doing and is the cause of concern and issues; that is the one thing he has reservations about allowing; as far as everything else, he has no concern with it. Davis said storage of the topsoil and #13 of the original site plan regarding trucks entering or returning the property. He knows that has been an issue brought up.

Barnes asked the applicant if he came up with any new developments. Mr. Tinkl said he understands the concerns; he made an application to expand storage and build a hoop house that has turned into more of an objective of the soil screening. His position is that it is quite clear he is going to do outdoor storage of contractor’s materials under Section 216; he might have to come back here if he wants to expand his storage area to receive input and receive conditions after the board hears everything. He is correct that the original application has a limitation on hours of operation, that has since changed. He may have to come back for a modification on that, but they are not here for that tonight; tonight, is for a modification for the hoop house and additional storage, where they go from here; he would like to try and resolve this tonight. He is willing to agree to time limitations on processing dirt; not working on Sundays and holidays; he thinks that is legitimate. They forfeit money not working on Sundays, but that is fine. They can tape their travel alarms. The front mound is going to get bigger and shield the operation from the Roth house; maybe raise it 4 feet and move it west. As far as dust, they out #4’s in the yard and are prepared to put a seal coating on that to try and prevent dust, but it seems to be coming from the truck traffic. He does not think the dust is coming from the screening, he thinks it is more the property. This is where he is with this; they can proceed with application or he can withdraw his application and take it to the Board of Zoning Appeals for a Conditional Use for recycling or manufacturing use, that is an option; he does not know that the screening operation is before the board because he is asking for more storage and a hoop house because he is not asking to screen dirt; if the township feels it is inappropriate he is sure the Zoning Inspector will issue him a citation and he will be in to either modify that plan or he will be before the BZA for a

Conditional Use. If there is something new to do to solve the issues tonight, he is willing to do it. He is willing to compromise and respect the peace and tranquility of the neighborhood.

Davis said he wanted to bring to Tini's attention that a few of the items being asked for tonight are not in regard to the production of dirt but there are things that are possibly outside of the original site plan; if the board approves the hoop house he wants Tini to be aware that if the township does not allow the screening of topsoil he does not want Tini to come back and accuse the Zoning Commission of approving it because they approved the hoop house. Tini said the board can put it in the record to approve the hoop house without the ability to process soil; that will be on him; the record can reflect that; he will understand that. Tini said they also applied for a 'Contractors Yard'; they were given permission for the contractors yard by this board; his initial application he put limitations on the contractors yard operations, but they are clearly allowed to maintain a contractors yard; if they cannot get things resolved he may be back here with another application to better define what he is doing there; contractor yards store dirt and other things; he may store asphalt grindings. Tini said he is open to suggestions.

Jerry said after reviewing the original and modification site plan applications; the original looked at storage of topsoil for retail sales and the modification application of adding the hoop house to dry topsoil for retail sales; to him it looks to be a continuance of the processing of topsoil; it is part of the process; by the board approving the hoop house it looks to add to the processing of that, which once again, seems to be the largest problem they are having in the community with regards to dust and noise. He said the board looked at Section 203-Prohibited Uses at the last meeting and he does not see by approving the hoop house is going to alleviate the problem or enhance the problem; that is where concerns are regarding approval of the modification.

Barnes said he would have to agree. He thinks it is not going to be up to the board to give Tini a suggestion because zoning is not that type of a board. The applicant brings an application to them, they review the application and see if it fits the community standards. For the board to give advice is not the intent of the board. It is his suggestion for Tini to go to the BZA for a conditional permit then come back to the commission for the additional hoop house and additional storage. Jerry said he thinks the board tonight needs to approve or deny the site plan. Davis said if the board looks at the application, and the board did not know what is currently occurring there, the application is asking for increased material storage for dirt and asking for a hoop house; without knowing what he is doing production wise or running his business...just to let the board know what he is basing his vote on. He is in violation of other things that the board needs to let the zoning inspector handle. Tini said he needs the hoop house whether he stores dirt or not, the dirt needs to be dry...the dirt that is already there; he cannot have dirt accept moisture. Irrespective of if he screens it, he needs the hoop house. Tini said that if the board is looking at the current operation, he is doing a screening operation there is question if it is allowable...he is intitled to outdoor storage under Section 216; where he goes from there is determined where the township has to go in regard to his operation, but he believes he is intitled to additional storage. He spent \$15,000.00 to relocate a septic system to give him ¾ more acres of property so he can store equipment and store materials. If the board does not want to let the hoop house up because the board feels it is a foot in the door to make an argument that he can process dirt there, he can live with that, he will continue to tarp...he hates tarps...they are ugly, but that is his option, but he is here now for additional storage, which is a permitted use.

Jerry said the board never determined, from the original site plan, the amount of storage that would be onsite; with the request to increase material storage, he does not believe there was a need for modification of the site plan for just the increased storage; he does not believe the

original site plan noted how much storage is allowed. Barnes said the board approved the proposal of the storage and the storage was noted on the property topography. Tinkl said the initial plan did not consider moving the storage because of the septic location. Jerry said the current topsoil is being stored outside of the area noted on the original site plan map that was not over the leach bed of the septic system. Tinkl said because he wouldn't submit a plan that was against the county regulations; he was constrained by the conditions at that time; he needed to take this step by step. Jerry said he has already gone beyond the original site plan that was approved. Tinkl said the original site plan had proposed roads and he tried to make use of every square foot of the property outside of the septic system; he couldn't go farther because the septic system was there; he needed that in order to keep his building permit. He is looking to free that area up which was always his intention. Barnes said he remembers Tinkl saying he acquired the additional material to store because he got a deal, is this going to continue? Tinkl said they deal in topsoil, it's what they do; he did not expect to get that much when he made the initial proposal, this dirt became available. It is not a windfall, he paid dearly for the dirt; they have other areas where they screen on-site, they won't be taking from those areas; they had an opportunity and took it; he probably only needs 5,000 yards a year. He said based on this experience, he will not bring in 12,000 yards because it gums up his operation and upsets the neighbors. If the township wants to put limitations on what he can bring in a year, he is amenable to that. Barnes said the original site plan noise would be from trucks entering and exiting the property from multiple usage and normal operating hours would be from 6-9pm Monday thru Saturday. Jerry clarified that noise would be from the seal coating trucks; Tinkl said Sundays are the seal coating trucks. Tinkl said they stopped operations there on Sundays except for seal coating, mow the lawn and there is still some construction finish because he is permitted to do that. He will not run any operation regarding processing or loading of topsoil, unless someone wants to come by with a little trailer that they can load up quietly.

Jerry asked Frank if he has any comment even though he will not vote. Frank clarified that the only other material that would be brought in there is asphalt grindings. Tinkl said yes, dirt and asphalt grindings and landscape boulders; he's had those, he is not doing anything else. Frank said if the board puts a proposal to limit the property to asphalt, dirt, boulders, and hours of operation, would Tinkl consider that. Tinkl said absolutely. Jerry said the hours of operation would be the modification of the original ones from the original site plan. Frank said yes, they would be written to be current for what would be happening on Sundays as already discussed. Frank asked what hours they would run during the day. Tinkl said usually 8 to be safe, and he can be done there by 6pm; he will not do that on Sundays or holidays. Jerry defined the holidays to be the federal holidays. Frank said the board will limit the property to Sundays only mowing the lawn and finish excavation until it is done; he would also stipulate the only material allowed is asphalt, dirt, and boulders. The board also discussed the vehicle back-up alarms. Tinkl gave an example of a job where they taped over the beepers, it is not a good thing, he should have a spotter for safety; he would prefer to mute them because it's a safety issue. Frank said that working reasonable hours should limit the backup alarm issue. Frank asked the timeline for the remaining construction so Sundays would only be mowing the lawn. Tinkl explained the work that still needs completed, and said he hopes to be done at the end of the year. Frank said the board can stipulate other work until the end of the year, then only mowing can be done. Jerry said he is still against work on Sundays. Davis asked if the board is allowed to make these conditions if it's not a part of the modification. Tinkl said he thinks they are pre-empting another problem; he is here to compromise if he can make it work; he is not an unreasonable man. Barnes said he wants him to stick to his original site plan proposal as it pertains to the hours, that would be his vote. Barnes asked the zoning inspector to direct him to the hours of operation in the code; Eric said the board is not allowed to impose hours of operation per Ohio Case Law-

Geauga Lake. Jerry said that leads to the point of the application based on the materials and storage; he still thinks the board has not addressed Section 203, which comes down to the issue of dust and noise; he thinks the dust is the biggest issue, and continuing the operation based on the original site plan of retail sales and storage, not processing; he agrees with Davis that the board has a site plan before them for increased material storage and location of a new hoop house that the board is looking at today; Section 203 falls back to the zoning inspector for how these things are enforced in the township. Jerry said the board needs to make a decision with what is before them. Eric said the problem is there are no parameters for dust and noise; he does not see how to enforce that; he would have to prove initially what is reasonable and it will be extremely difficult to prove what a reasonable amount is; he does not have decibel readers or millimeters of dust collecting to test it with an instrument, plus it is not in the zoning. Discussion went on between Tinkl and the audience regarding standards on noise and dust. Fozio asked Eric if the BZA can set hours for Conditional Zoning; Eric said yes.

The board moved back to setting conditions and if the board is allowed to or not. It was agreed that the board can set conditions if the applicant agrees to them. Jerry asked Tinkl if the board set conditions if Tinkl would agree to them; Tinkl said he would.

Eric said he does not have dimensions on the mound in the site plan modification. Tinkl said they are going to agree to extend that mound, he does not have dimensions. Tinkl turned to the audience and explained how he is going to modify the mound; his commentary with the audience was inaudible on the tape. Discussion was regarding the height of the current mound to try and create a privacy barrier; there would be no line-of-site issue. Eric noted he submitted a corrected drawing for the record of the northeast portion of the property; the original one did not properly indicate the right-of-way and the buffer area.

The board went through the submitted site plan documents and labeled each as: The print is Exhibit #1; the hoop house is Exhibit #2; the map from Eric is Exhibit #3; Eric noted Exhibit #3 does reduce the storage area that Tinkl requested by moving the buffer area out. Tinkl clarified with Eric that the mound can be in the buffer area; Eric said a landscape mound, yes, but not material for sale. Horvath asked about the other sites. Tinkl talked about material quantities and the quantity currently on-site, and the board decided on a maximum allowed amount.

The board set the following conditions as approval for site plan modification #101 dated June 25, 2021:

- 1. Monday-Saturday work hours of 8am-6pm.**
- 2. No work on federal holidays.**
- 3. Lawn mowing and finish excavating on Sundays.**
 - a. Exterior construction shall not go beyond December 31, 2021.**
- 4. Only asphalt grindings, dirt and landscape stones are allowed on the site in the storage area.**
- 5. No concrete recycling or stone storage is allowed.**
- 6. The applicant must adhere to Exhibits 1, 2 and 3.**
 - a. Attached to site plan modification #10 dated 6-25-2021.**
- 7. Total material storage shall not exceed 8,500 yards of any material combined.**
- 8. No material shall go beyond the allowable buffer zones per the Litchfield Township Zoning Resolution; Zoning Resolution effective date of May 23, 2018.**
- 9. Continued screening of topsoil/processing dirt into topsoil must go before the Board of Zoning Appeals.**

Davis made a motion to approve site plan modification #101 with the above agree upon conditions, the motion was approved by Barnes; with no further discussion there was a roll call vote; Davis-Yes, Jerry-Yes, Barnes-Yes; the motion carries.

Barnes made a motion to adjourn at 8:03pm, seconded by Jerry and approved by all.

Frank Baluch/Chairperson

Jerry Koenig/Vice-chairperson

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