

**WESTFIELD TOWNSHIP BOARD OF ZONING APPEALS
CON'T OF PUBLIC HEARING-MORNING STAR FARM
MINISTRIES
OCTOBER 4, 2011**

Chair Schmidt called the continuation of the Westfield Township Board of Zoning Appeals public hearing from September 12, 2011 to order at 7:30 p.m. Permanent Board members Schmidt, Simmerer, Daugherty, and Evans were present. Permanent Board member LeMar has recused herself and Alternate board member Courie sat in for a full Board. Other individuals in attendance: Zoning Inspector Witmer, Tom & Lois Yaeger, Richard Phelps, Donna & Terry Bower, Debbie & Robert Langen, Bev Hoffert, Norma Davis, Gary Prough & Barb Prough, Melissa & Randy Willard, Darren & Amy Hamlin, Ruth Hartley, Herbert Hach, Roger & Patricia Kwas, Rosemary Norris, John Scheiring, Gayle Burrough, Ronald Ferris, Kathleen LeMar, Tim Tefs, Mark Whitfield, Stan Scheetz, Denise Borchart, Joe & Tammy Linden, Ron Oiler, Jim Likley, Donald & Susan Long, Gary Harris & Mr. & Mrs. Drake.

MINUTES

Mr. Simmerer made a motion to approve the August 24, 2011 meeting minutes as presented. It was seconded by Mr. Evans.

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

Mr. Daugherty made a motion to approve the September 12, 2011 meeting minutes as amended. It was seconded by Mr. Evans.

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

Executive Session

On the advice of Prosecutor Thorne, Mr. Evans made a motion to adjourn to go into conference with legal counsel. It was seconded by Ms. Courie.

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

The Board went into conference with legal counsel at 7:36 p.m.

The Board came out of conference with legal counsel and Chair Schmidt reconvened the public hearing at 8:20 p.m.

Conditional Use Request Permit – Terry & Donna Bower/Morning Star Farms Ministries, Inc. Address 241 Friendsville Rd. and PP#041-15C-10-014.

Chair Schmidt explained that there are two issues. A request for a conditional use for recreational activities and also one for a place of worship. Chair Schmidt asked Mr. Daugherty to address the issue of a place of worship.

Mr. Daugherty noted that Section 303.b.2 lists as a conditionally permitted use a church or place of worship. He noted that he does not believe they are a church and therefore they do not need a

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conditional use permit. Mr. Simmerer stated that he agreed with that conclusion. They do not conduct regular worship services.

Mr. Terry Bower (9241 Friendship Rd.) asked if he could address the Board, and interjected that he had submitted a document addressing the issue of being a place of worship which he would like to address. Chair Schmidt stated that the public comment portion of the hearing has been closed.

Mr. Simmerer noted that the other activities at the site are not worship related even if they are faith based. There are not worship services and there are not the impacts normally associated with a church or place of worship.

Ms. Courie agreed that the applicant's use does not constitute a place of worship.

Mr. Evans also agreed and noted that the applicant stated on several occasions during the public hearing that they are not a church.

Mr. Daugherty made a motion that the request for place of worship under Section 303.b.2.a be denied for the reasons stated by the Board members. It was seconded by Ms. Courie.

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

Chair Schmidt stated that the Board will now address the issue of the recreational activities under Section 303.b.2.d.

Mr. Evans stated that after all the testimony there are a lot of inconsistencies. He stated that as a result he does not feel comfortable with granting this conditional use permit.

Mr. Daugherty stated that after listening to the testimony and reviewing the evidence presented, the Board's responsibility is to ensure that what is permitted conditionally will fit with the area, will be harmonious, and will not be a distraction. He stated his personal belief is that all of the issues we have heard can be handled with conditions. They are not going to be easy to enforce, but that is not the applicant's problem. I believe this is a pretty good use for that area. It preserves the open space and will be a harmonious use with the proper conditions.

Mr. Simmerer noted that this is a conditionally permitted use in this area for a reason. Recreational uses are low impact and can preserve open space. I feel the impacts can be controlled.

Ms. Courie agreed that the recreational use can work with the proper parameters. The use is staying farming and rural residential in character.

Chair Schmidt stated that he also thought it is an appropriate conditional use. The key is whether the applicant is a good neighbor and complies with the conditions placed by the Board. He added

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with the proper conditions this use will be harmonious with the area. It is still a working farm which is consistent with the rural area.

Mr. Simmerer stated that the permanent conditional use should be changed to a temporary conditional use to create a trial period to test the workability of the operation. Once the Board looks at how it is working out, it can establish a longer period or make it permanent. Mr. Simmerer suggested a calendar year as the appropriate temporary time period. Ms. Courie suggested that the permit run until the end of 2012.

The Board members concurred that the permit should expire December 31, 2012.

Mr. Simmerer stated that he believed a reasonable maximum number of persons would be sixty. Mr. Daugherty agreed and clarified that it was sixty visitors not counting staff.

Chair Schmidt stated that the hours of operation should be limited to control impacts on the adjoining property owners. He pointed out that the hours would not apply to staff, but to when guest using the facility would be permitted to arrive and when they would have to leave.

Mr. Daugherty noted that the hours requested by the applicant were 8:00 a.m. to 11:00 p.m.

Mr. Evans noted that they also said they would not be operating after dark.

Mr. Simmeer stated that he could not support 11:00 p.m.

Ms. Courie suggested 9:00 a.m. until 9:00 p.m.

There was a general consensus of the Board that the hours should be limited to 9:00 a.m. until 9:00 p.m.

Chair Schmidt asked about limits on activities.

Ms. Courie proposed that there be no activities permitted on the north side of the lake.

Mr. Simmerer concurred that there should be no organized activities for guests on the north side of the lake and no activities going into the woods or into the tree line as shown on the map.

Mr. Bower asked whether the walking trail was considered an activity since it was proposed to go on the north side of the lake? The Board said anything involving guests to the site, including the walking trail were activities subject to the limitation no matter what those guests were doing. The Board members noted that all activities have to be at least 100 feet from the property lines.

Ms. Courie noted that the Board was not prohibiting Mr. Bower or his staff from walking around the lake, but that guests could not do so.

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Board members reviewed a map to mark the limits of guest activities on the site. The marked map was identified by the Board as Exhibit A. (See attached to approved meeting minutes)

The Board went through the list of required conditions to determine which would apply and how.

The Board determined that there should be no loud speakers permitted or additional lighting other than already present at the site.

Chair Schmidt noted that item 19, adequate supervision, is a key condition for this operation and is essential for this use to be harmonious with the neighbors.

Regarding the tent the Bowers said they may erect for worship, Mr. Thorne stated a tent was a structure but not a building and could be indicated on the Bower's site plan as to its location and how long it would be up.

Mr. Daugherty stated regarding activities it should also list hayrides as a permitted use per the application submitted.

Mr. Daugherty asked about periodic inspections i.e. 6 months? Ms. Courie stated since it has been discussed and appeared to be the consensus of the Board to only allow this conditional use permit for a year ; she felt that was adequate to wait for an inspection unless issues came up before then that would require the Zoning Inspector to make an inspection.

Mr. Daugherty also said if the Board was to grant the conditional he would propose the conditional use to be given to Donna and Terry Bower and not Morning Star Farm Ministries exclusively. If the Bowers were not part of the operation the conditional use would cease to exist without them. Mr. Thorne stated both names were on the application so the conditional use permit could be granted to both parties jointly.

Mr. Daugherty made a motion to approve a conditional use permit for Terry and Donna Bower and Morning Star Farms Ministries jointly for the operation of recreational activities per Section 303.B.2(d) at the property located at 9241 Friendsville Rd. subject to the following:

1. Conditional Use Permit will expire December 31, 2012
2. The maximum number of guests on the property shall not exceed 60 excluding staff
3. Hrs. of Operation shall be 9:00 a.m.-9:00 p.m. Seven days a week
4. Activities will be limited to designated areas as marked on Exhibit A but these activities shall not be located further west than the eastern most line of the Borchart property; All activities shall be subject to Section 606A.2; the lake and pond are included as activity areas and no guest related activities are to be conducted on the north side of the lake.

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5. Only the following activities are permitted:
Outdoor games, such as basketball, softball, volleyball, hiking, horseshoes, corn hole, equine activities, boating, fishing, winter outdoor activities, and other similar outdoor and indoor games including hayrides.
6. This conditional permit is also subject to Section 606 A. #2, #3, #6, #11, #13, #18 and #19.

It was seconded by Ms. Courie.

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


Having no further business before the Board Mr. Daugherty made a motion to adjourn. It was seconded by Mr. Evans.

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

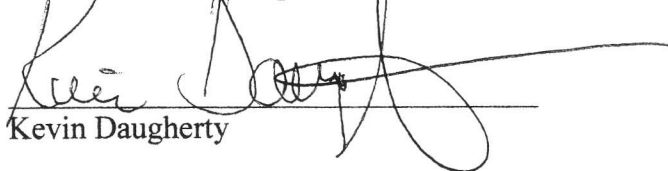
The hearing was officially adjourned at 9:35 p.m.

Respectfully Submitted,

Kim Ferencz-Zoning Secretary

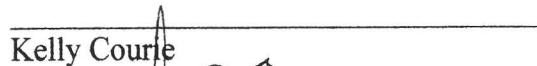


Mike Schmidt, Chairperson

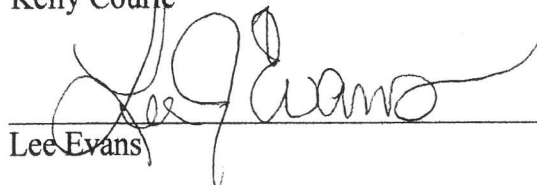


Kevin Daugherty

Keith Simmerer



Kelly Courie



Lee Evans