

Westfield Township Board of Zoning Appeals

Public Hearing
Morning Star Conditional Use
October 29, 2019

Attending: Stacy- aye, Thor- aye, Fleming- aye, Moore- aye, McGlashan- aye

Also attending: ZI Sims, Trustee Schmidt

Stacy makes a motion to open the Public hearing for the Conditional Use Variance for Morning Star, Ltd.; seconded by Thor.

Roll call: Stacy- aye, Thor- aye, Fleming- aye, Moore- aye, McGlashan- aye

Chairman Fleming stated there was a full board as requested by the applicants.

Exhibit A- Copy of the application including the 2015 meeting minutes from the previous conditional use that was approved for Morning Star Ministries.

Fleming read the rules for the public hearing procedures and the order for public comments.

Exhibits: "A"- application

"B"- Legal Notice

"C"- ZI Sims' written comments

"D"- Addendum

The applicant request 2 changes to the conditional use application; increase in number of people (75 to 90) and request for a perpetual conditional use.

Public Hearing was previously set for October 8, 2019 and rescheduled to October 29th due to not having a full board.

Sworn in was Terry Bower and Donna Bower (applicants), 9241 Friendsville Road, Seville Ohio 44273.

T. Bower stated the farm was bought in 2002 and in 2008 created Morning Star, Inc. The farm is a 17 acre lake property. In 2012 Morning Star Inc. received a 1 year conditional use permit and in 2013 received a 5 year conditional use permit. There have been no issues as a conditional use property.

Board of Director of Morning Star Ministries, Denise Shager was sworn in; 2770 Smith Road, Fairlawn, Ohio 44331. Ms. Shager is the Camp Director and Director of Activities. The farm has participated in fall festivities and 3 weeks of day camp for children. The camp runs from 9:30 am- 3:30 pm with 25 students maximum participating. Safety is their first concern and there are enough adults to chaperone the day camp activities.

Westfield Township Board of Zoning Appeals

Moore- 2015 conditional use fencing was stated to be installed on the North and West side of the property.

T. Bower- planting trees and fence will go up but is not required.

Stacy- Asked what the reason for the increase in guests was.

T. Bower stated for church picnics and they did not want to leave out people who wish to attend. Bower also clarified that there are no regular church services on the property.

D. Bower added that the largest fall group was approximately 50-75 people and as the fishing derby becomes more popular they thought more people might attend.

Moore asked what the largest group was and D. Bower stated it was Lodi Community Church with 60 people. Moore asked if they were approached by a large church would they be staffed.

T. Bower stated that they wouldn't allow for that large of a group and since alcohol wasn't permitted the groups stayed small.

Fleming asked for contiguous property owners that were in favor of Morning Star could speak first. Sager stated that the only time the children from the camp were close to the other properties was during the nature hike that followed the natural deer trail. During this hike the children were very quiet so they would not disturb the wildlife that could be observed.

Fleming made a request for opposition who were contiguous property owners to speak.

Kathleen Lemar was sworn in, 9220 Friendsville Road, Seville, Ohio 44273 clarified she was not against Morning Star Ministries but the neighbors requested a fence to keep people from wandering on neighbors' properties. Lemar also asked for clarification if the variance would run with the land or with the property owner.

ZI Sims state that a variance runs with the land but Morning Star was requesting a perpetual conditional use. Sims clarified that the conditional use was "permitted" regardless of who is running the property.

Lemar asked for clarification of a "perpetual use" would be approved no matter who purchased the property and they would have the same opportunity. Lemar also asked if there was a million dollar event that they would have to comply with the conditional use. Lemar added she did not want the perpetual conditional use grated. She would like to continue the previous 5 year zoning ruling.

Brad Whites was sworn in; 9199 Friendsville Road, Seville, Ohio 44273 asked for who would be liable if someone broke their leg on his property and there was no fence. Whites also stated that he was not against Morning Star Ministries.

Fleming stated liability would be with any property owner.

Westfield Township Board of Zoning Appeals

Sager was asked about free time for the children attending the day camp. She stated they were kept close to the pavilion area and there were no children by the lake. The children were chaperoned at all times.

Patricia Quas of 9161 Friendsville Road, Seville, Ohio 44273 was sworn in. She stated the trespassers were older woman during the fall festival when they became lost. The time was more than 5 years ago.

McGlashan asked about natural barriers that delineated the properties. Quas stated that there were no obvious barriers of the property lines.

Joseph Goodyear of 7251 Seville Road, Seville, Ohio 44273 was sworn in. He stated he was neutral to Morning Star Ministries and explained how his beagles ran onto the property and he apologized to T. Bowers for the loose dogs. He also stated that “no trespassing” signs would create a legal line and protect the property owners.

Quas clarified that T. Bower said he was going to put up a fence at the last conditional use hearing.

T. Bower said that the poles were in but not the wire mesh. He stated that he said the majority of the fence was up but the fence was not required.

Quas stated that the trespassing was 9 years ago in 2010.

T. Bower stated that he had plenty of liability insurance and the insurance would cover.

McGlashan asked T. Bower why he was requesting a perpetual conditional use permit.

T. Bower stated that Morning Star Ministries is a corporation in good standing with the Ohio Secretary of State and the IRS. Without incident they would not have to come back for a conditional use in 5 years.

Susan S. Whitfield of 7483 Greenwich Road, Seville, Ohio 44273 was sworn in. Whitfield read a letter she wrote to the BZA regarding her concern of a perpetual conditional use being too long and a 5 year conditional use would be appropriate.

Stacy makes a motion to close the public input portion of the public hearing at 7:40 pm; seconded by Moore. Roll call: Stacy-aye, Moore- aye, Thur- aye, McGlashan- aye, Fleming- aye.

ZI Sims clarified that Section 606 A. 1, 2, 6 must be reviewed and the Site Plan Reviewed (Section 807) along with Section 303.2.D.

Exhibit “E” were the 2015 conditions from the last public hearing.

T. Bower thanked the BZA and ZI Sims for their time and would not wish to return to a hearing unless there was a violation of the conditional use. Bower also stated that North Coast Soccer has a perpetual conditional use so the BZA has already granted this use.

Westfield Township Board of Zoning Appeals

Exhibit "A1" Site Plan Diagram.

BZA deliberated amongst the members at this time.

Fleming read Section 303 and Stacy continued onto Section 606 A.2 from the zoning code.

Section 606 A.2- Structures and activities will be 100 feet from the property lines (**drawn on exhibit A1**)

Section 606 A. 3- Loud speakers not permitted

Section 606 A. 6- Lighting will not shine on other properties

Section 606 A. 11- Natural or manmade barriers

Section 606 A. 13- Neat and orderly

Section 606 A. 18- Only retail that are part of the park may be sold

Section 606 A. 19- All activities will be supervised

2 Conditions will be reviewed: 1.) Daily guest capacity from 75 to 90 and 2.) Perpetual Conditional Use.

McGlashan stated that 15 additional guests would not be too intrusive. The board had no objections to the increase in guests.

Stacy makes a motion to increase the maximum guests from 75 people to 90 people; seconded by Thur. Roll call: Stacy- aye, Thur- aye, Moore- aye, Fleming- aye, McGlashan- aye. The condition passes.

The BZA discussed the fence being installed to allow the perpetual conditional use. The Board believes this would alleviate the issue with the neighbors. The fence being installed would be a condition to the conditional use.

Fleming states that the granting of Perpetual Conditional Use would only be approved if approximately 1000 feet of farm fence is installed between the property of Schearing and Whitfield westward to Quas and south to the wetlands in the time frame of July 4, 2021 in order to grant a perpetual conditional use with the understanding of any substantial alteration of use or addition of buildings the perpetual conditional use would be voided.

T. Bowers asked about a deed change since he would be donating the land to Morning Star Ministries and the owners would be a select Board that the members would most likely change over the years.

The BZA continued with Section 605

1. The conditional use would be harmonious with the general objectives of the land and the Board was unanimous that the condition would be harmonious.

Westfield Township Board of Zoning Appeals

2. The conditional use was designed and constructed to operate and maintained in a harmonious manner of the intended character of the land and the Board was unanimous that it would be harmonious.
3. The conditional use would not be hazardous or disturb future neighboring uses and the Board was unanimous that it was not hazardous.
4. The conditional use was not a detriment to the immediate properties and the Board was unanimous that it was not a detriment.
5. The conditional use would be served adequately by government services and the Board was unanimous that it was served by government services.
6. The conditional use was in aligning with the Comprehensive Plan and the Board was unanimous that it was aligned with the Comprehensive Plan.
7. The conditional use was not designed to increase vehicular traffic and the Board was unanimous that it would not.

Item #32 Similar Use not applicable

Item # 33 Specific and Supplementary Conditions not applicable

- Compliance of Zoning Code Section 606 A.
- Perpetual Conditional Use with conditions as set forth by the BZA regarding the installation of a fence (approximately 1000 feet) by July 4, 2021

Stacy makes a motion to grant the application to increase the maximum capacity of 75 people to 90 people and to grant the perpetual use with the following conditions:

- 1. Farm fence installed by July 4, 2021 as marked in red on Exhibit "A1"***
- 2. No restrictions to the use of the property***
- 3. 100 feet buffer from property line***
- 4. Compliance with Zoning Code Section 606 A. 2, 3, 6, 11, 18, 19 and Section 303 2. D.***
- 5. Perpetual Conditional Use granted unless substantial alteration of use or addition of buildings; seconded by McGlashan. Roll call: Stacy- aye, McGlashan- aye, Thur- aye, Moore- aye, Fleming- aye. The Perpetual Conditional Use is granted with conditions.***

Stacy makes a motion to close the public hearing at 9:00 pm; seconded by McGlashan. All said aye.

Regular Business:

McGlashan makes a motion to accept the March 19, 2019 meeting minutes as submitted; seconded by Fleming. All said aye.

ZI Sims discussed Westfield Terrace PUD and the Final Plat that is before the Medina County Planning Commission and will be heard on November 6, 2019. Attached to the minutes is the recap of the Westfield Terrace conditions that ZI Sims wrote and discussed with the BZA. This document was submitted on behalf of the BZA as written.

Westfield Township Board of Zoning Appeals

McGlashan makes a motion to adjourn at 9:20 pm; seconded by Fleming. All said aye.

Respectfully submitted by:

Cheryl Porter, Zoning Secretary

Date approved: November 6, 2019

Patrick Fleming, Chairman of BZA

Greg McGlashan, Vice-chair of BZA

Wayne Moore, BZA Member

Jim Stacy, BZA Member

Andrew Thur, BZA Member

Westfield Township Board of Zoning Appeals
