

**BOARD OF SUPERVISORS
OF THE TOWNSHIP OF HONEY BROOK
CHESTER COUNTY, PENNSYLVANIA**

IN RE: PUBLIC HEARING FOR A	:	BEFORE THE TOWNSHIP OF
CONDITIONAL USE; ZONING	:	HONEY BROOK BOARD OF
APPLICATION BY AARON KING	:	SUPERVISORS
	:	
	:	CONDITIONAL USE HEARING
	:	
297 OLD PEQUEA LANE, HONEY	:	WRITTEN DECISION OF THE BOARD
BROOK TOWNSHIP, CHESTER	:	
COUNTY, PENNSYLVANIA	:	NO. 2016-4

**DECISION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
HONEY BROOK UPON APPLICATION OF AARON KING FOR CONDITIONAL USE
UNDER SECTIONS 27-502.3.E AND 27-1604.M OF THE HONEY BROOK TOWNSHIP
ZONING ORDINANCE OF 2003, TO OPERATE A KENNEL**

FINDINGS OF FACT

1. The property which is the subject of this land use application is located at 297 Old Pequea Lane, Honey Brook Township, Chester County, Pennsylvania, in the Agriculture (“A”) zoning district of Honey Brook Township, Chester County, Pennsylvania, and contains approximately 39.6 acres of land (hereafter “Property”).
2. Applicant is Aaron King, an adult individual with a mailing address of 297 Old Pequea Lane, Honey Brook, Pennsylvania 19344 (hereafter “Applicant”).
3. Applicant, along with his wife, is an owner of the Property.
4. Applicant submitted an Application for Public Conditional Use Hearing dated April 29, 2016, to operate a kennel on the Property (hereinafter “Application”) (See Exhibit B-1).
5. Section 27-402.3.I of the Honey Brook Township Zoning Ordinance of 2003, Chapter 27 of the Code of Ordinances of Honey Brook Township (hereinafter “Zoning Ordinance”), establishes that within the Agriculture zoning district, a kennel is permitted as a conditional use, when in accordance with the standards set forth in Section 27-1604.M of the Zoning Ordinance.
6. Section 27-202 of the Zoning Ordinance defines a “kennel” as follows:

“The use of land, building or structure for the purpose of breeding, training or grooming customary household pets for compensation, or the maintenance of

more than five dogs that are more than 6 months old. For regulatory purposes, "kennel" shall also include nonprofit animal shelters and boarding kennels. Kennels shall conform to the regulations set forth in §27-1604.M."

7. In response to Applicant's Application, Jennifer L. McConnell, P.E., of Technicon Enterprises Inc., II, which company serves as Honey Brook Township Engineer, Zoning Officer, and Code Enforcement Officer, prepared a review letter dated May 18, 2016, in which she offered comments regarding the Application's satisfaction of the zoning requirements for a kennel (See Exhibit B-5).

8. The Honey Brook Township Planning Commission reviewed the Application at its meeting on May 26, 2016, and recommended approval of the Application (See Exhibit B-6).

9. The Honey Brook Township Board of Supervisors conducted a public hearing on the Application at the beginning of its public meeting on June 8, 2016.

10. Applicant was not represented at the hearing by legal counsel.

11. The Honey Brook Township Board of Supervisors was represented at the hearing by Christopher J. Hartman, Esquire.

12. Aaron King, Applicant, testified in support of the Application.

13. Carrie Lane, an adult individual residing at 1655 Walnut Road in Honey Brook Township, which property adjoins the Property, was granted party status at the hearing and testified in opposition to the Application.

14. Donald Kline, an adult individual residing at 1625 Walnut Road in Honey Brook Township, which property adjoins the Property, was granted party status at the hearing and testified in opposition to the Application.

15. Joseph Alphonse, an adult individual residing at 117 Whitehorse Drive in Honey Brook Township, which property adjoins the Property, was granted party status at the hearing and testified in opposition to the Application.

16. Donna Kratz, an adult individual residing at 121 Whitehorse Drive in Honey Brook Township, which property adjoins the Property, was granted party status at the hearing and testified in opposition to the Application.

17. Mr. King testified that Applicant has operated a kennel on the Property for approximately one (1) to two (2) years.

18. Mr. King testified that Applicant obtained a kennel license from the Commonwealth of Pennsylvania in March 2016.

19. Mr. King testified that he currently has one (1) male and four (4) female adult dogs on the property, of lab and collie breeds, and that the females have 1-2 litters of puppies per year, at approximately 7-10 puppies per litter.

20. Mr. King identified on an aerial image and a hand-drawn sketch the location on the Property of the kennel operation, and also identified that there is a house, dairy barn, heifer barn, corn shed, woodworking shop, horse barn and chicken coop on the Property (See Exhibit B-1).

21. Mr. King testified that a 12' x 16' pasture area adjacent to the kennel building was enclosed in pasture fence and used as pasture for horses and exercise area for dogs, but that such fence is not currently in place; Applicant intends to replace said fence around a slightly larger enclosed area within the next sixty (60) days.

22. Mr. King testified that all on-site traffic and parking for the kennel, for both customers and deliveries, occurs in front of the woodworking shop / horse barn, and that there is adequate room in that location to accommodate such traffic and parking.

23. Mr. King testified that the kennel is set back from the lot line on the easterly side of the Property by a distance of 240 feet, and is set back at least 300 feet from all other lot lines on the Property.

24. Mr. King acknowledged that a minimum lot area of 20 acres is required for a kennel operation, and testified that the lot area of his property is 39 acres.

25. Mr. King testified that dog waste is temporarily stored in an area under the kennel building, and is disposed of by spreading it in the fields on the Property.

26. Ms. Lane testified about her concerns regarding noise from barking dogs, and expressed concern that the number of dogs could increase, thereby increasing the perceived noise problems.

27. Mr. Kline testified about his concerns regarding noise from dogs barking at all hours of the day and night.

28. Mr. Alphonse testified about his concerns regarding noise from barking dogs.

29. Ms. Kratz testified about her concerns that the dogs are not properly contained on the Property, as the Applicant's dogs have left the Property and entered the adjoining neighborhood, on one occasion resulting in her daughter being nipped by one of said dogs.

30. The Board heard public comments from several additional residents.

31. After closing the testimony at the June 8, 2016 hearing, the Honey Brook Township Board of Supervisors announced the continuance of the hearing to the beginning of its public meeting on July 13, 2016.

32. The Honey Brook Township Board of Supervisors continued the hearing at the beginning of its public meeting on July 13, 2016, at which time the Board announced its decision on the Application.

33. The kennel shall be considered a second principal use of the Property, pursuant to Section 27-1604.M(2)(a) of the Zoning Ordinance (See Exhibit B-5).

34. The intent of the conditional use regulations for kennels is to provide for the operation of kennels in compliance with State laws that are compatible with the enjoyable use of properties by adjoining and neighboring residents and property owners, pursuant to Section 27-1604.M(1) of the Zoning Ordinance.

35. Public notice of the hearing was timely advertised in Daily Local News, a newspaper of general circulation within Honey Brook Township, on May 24, 2016 and May 31, 2016; adjacent property owners were notified of the hearing by mail on May 26, 2016; and the Property was posted with notice of the hearing on May 26, 2016. (See Exhibits B-2 through B-4).

CONCLUSIONS OF LAW

1. The Board of Supervisors has jurisdiction to decide this land use application pursuant to Section 27-402.3 of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10101, *et seq.*

2. The Property is located in the Agriculture (A) Zoning District.

3. Section 27-402.3.I of the Zoning Ordinance permits kennels within the Agriculture (A) Zoning District by conditional use, in accordance with the standards of Section 27-1604.M of the Zoning Ordinance.

4. The Board of Supervisors has determined that the Applicant, through the Application and testimony at the Conditional Use Hearing, has established compliance with the relevant subsections of Section 27-1604.M of the Zoning Ordinance for the operation of a kennel.

5. Section 27-1910.4.B of the Zoning Ordinance provides that in granting an application for conditional use approval, the Board of Supervisors may waive or modify applicable area and bulk regulations and design standards when said waiver or modification is deemed by the Board of Supervisors to be in the public interest and in furtherance of the goals as set forth in the Zoning Ordinance.

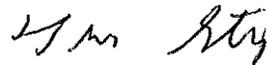
DECISION

AND NOW, this 13th day of July, 2016, the Board of Supervisors of the Township of Honey Brook, Chester County, Pennsylvania, upon review and consideration of the evidence as

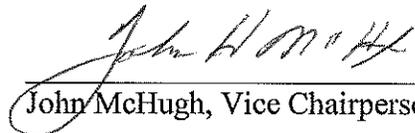
presented at the conditional use hearing, and in light of existing laws and regulations, hereby APPROVES and GRANTS the application of Aaron King, for a conditional use under Sections 27-402.3.I and 27-1604.M of the Honey Brook Township Zoning Ordinance of 2003, to operate a kennel on the Property, subject to the following conditions:

1. The kennel must have a fenced outdoor exercise area, with fencing material sufficient to contain dogs;
2. All dogs that are part of the kennel must be kept at all times in either the fenced outdoor exercise area or the kennel building; and
3. Applicant must plant a vegetative screen around the north, south, and west perimeter of the fenced exercise area and the kennel building, such vegetative screen to consist of evergreen or equivalent plantings, a minimum of four feet (4') tall at the time of planting, planted at intervals along such perimeter to include at least 8 plants per 100 feet of perimeter, said planting species and locations to be subject to the approval of the Township Engineer for Honey Brook Township.

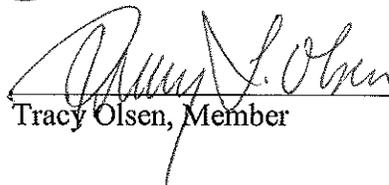
FURTHER, pursuant to Section 27-1910.4.B of the Zoning Ordinance, the Board of Supervisors hereby waives the enforcement of the setback regulation contained in Section 27-1604.M.5(b) of the Zoning Ordinance requiring that a kennel be located at least 300 feet from all lot lines, such waiver to be granted solely with regard to the application of that setback to the easterly side of the Property to allow that setback to be reduced to 240 feet.



Travis Stacey, Chairperson



John McHugh, Vice Chairperson



Tracy Olsen, Member

Date of Issuance of Written Decision: July 22, 2016.

ANY AGGRIEVED PERSON MAY APPEAL THIS DECISION TO THE COURT OF COMMON PLEAS OF CHESTER COUNTY WITHIN THIRTY (30) DAYS FROM THE DATE OF ISSUANCE OF THE WRITTEN DECISION.