

**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 BENJAMIN K.	:	SUPERVISORS
STOLTZFUS	:	
	:	CONDITIONAL USE HEARING
	:	
251 GOOSEBERRY LANE, HONEY	:	WRITTEN DECISION OF THE BOARD
BROOK TOWNSHIP, CHESTER	:	
COUNTY, PENNSYLVANIA	:	NO. 2016-3

**DECISION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
HONEY BROOK UPON APPLICATION OF BENJAMIN K. STOLTZFUS 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 251 Gooseberry Lane, Honey Brook Township, Chester County, Pennsylvania, in the Resource Conservation ("RC") zoning district of Honey Brook Township, Chester County, Pennsylvania, and contains approximately 2.36 acres of land (hereafter "Property").
2. Applicant is Benjamin K. Stoltzfus, an adult individual with a mailing address of 922 S. Birdell Road, 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 May 4, 2016, to operate a kennel on the Property (hereinafter "Application") (See Exhibit B-1).
5. Applicant submitted additional information to supplement his Application for Public Conditional Use Hearing on June 6, 2016 (See Exhibit B-6).
6. Section 27-502.3.E 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 Resource Conservation 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.
7. 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.”

8. In response to Applicant’s Application, Jennifer L. McConnell, P.E., of Technicon Enterprises Inc., II, 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-7).

9. The Honey Brook Township Planning Commission reviewed the Application at its meeting on May 26, 2016, and recommended that approval of the Application, along with certain waivers from Section 27-1604.M of the Zoning Ordinance, not be granted due to the Application not meeting the Zoning Ordinance requirements (See Exhibit B-8).

10. 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.

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

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

13. Benjamin K. Stoltzfus, Applicant, testified in support of the Application.

14. Greg Shanahan, an adult individual residing at 111 Logging 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. Scott Whited, an adult individual residing at 125 Logging Road in Honey Brook Township, which property adjoins property of Greg Shanahan, was granted party status at the hearing and testified in opposition to the Application.

16. Mr. Stoltzfus testified that he submitted an application for a kennel license to the Commonwealth of Pennsylvania in January 2016, which license was issued in February 2016.

17. Mr. Stoltzfus testified that he currently had 13 dogs on the Property, four (4) of which are pets or retired breeding dogs, six (6) of which are breeding dogs, and three (3) of which had been sold but not yet removed from the Property.

18. Mr. Stoltzfus testified that the kennel is located in an existing barn on the Property, and that there is also a residential dwelling on the Property.

19. Mr. Stoltzfus testified that breeds of dog at the kennel are Yorkies and Yorkipoos, which range in weight from 5-12 pounds, and that the breeding dogs produce one (1) litter of puppies per year.

20. Mr. Stoltzfus testified that an outdoor, fenced exercise area, with dimensions of 50 feet by 200 feet, is located next to the barn housing the kennel.

21. Mr. Stoltzfus testified that no deliveries are made to the Property, and that there is ample parking next to the barn for customers.

22. Mr. Stoltzfus testified that dog waste is stored in a 20 gallon trash can, and later disposed of in a dumpster on the Property located where the driveway meets Gooseberry Lane.

23. Mr. Stoltzfus testified that the kennel is set back 80 feet and 150 feet, respectively, from each of the two side lot lines, 100 feet from the front lot line, and 240 feet from the rear lot line; he acknowledged that under the Zoning Ordinance, the required minimum setback from all lot lines for a kennel is 300 feet.

24. Mr. Stoltzfus testified that the Property contains 2.36 acres, and that he also owns two (2) adjoining parcels containing 3.19 acres and 0.40 acres; he acknowledged that under the Zoning Ordinance the minimum lot area for a kennel is 10 acres.

25. Mr. Shanahan testified about his concerns regarding noise from barking dogs, and the precedent that the Township would set by granting approval of the kennel use when the lot area and setbacks were so far out of compliance with the requirements of the Zoning Ordinance.

26. Mr. Whited testified about his concerns regarding noise from barking dogs, proper storage of animal waste, and how dead animals are to be disposed.

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

28. 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-7).

29. 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.

30. 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-5).

CONCLUSIONS OF LAW

1. The Board of Supervisors has jurisdiction to decide this land use application pursuant to Section 27-502-3 of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10101, *et seq.*
2. The Property is located in the Rural Conservation (RC) Zoning District.
3. Section 27-502-3.E of the Zoning Ordinance permits kennels within the Rural Conservation (RC) 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 not established compliance with the relevant subsections of Section 27-1604.M of the Zoning Ordinance for the operation of a kennel; specifically the Application did not meet the minimum lot area requirements in Section 27-1604.M(5)(a), nor did it meet the minimum setback requirements in Section 27-1604.M(5)(b).

DECISION

AND NOW, this 8th day of June, 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 DENIES the application of Benjamin K. Stoltzfus, for a conditional use under Section 27-502.3.E and 27-1604.M of the Honey Brook Township Zoning Ordinance of 2003, to operate a kennel on the Property.



Travis Stacey, Chairperson


John McHugh, Vice Chairperson
Tracy Olsen, Member

Date of Issuance of Written Decision: July 25, 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.