

**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 STEPHEN K.	:	SUPERVISORS
STOLTZFUS	:	
	:	CONDITIONAL USE HEARING
	:	
375 PLEASANTVIEW ROAD, HONEY	:	WRITTEN DECISION OF THE BOARD
BROOK TOWNSHIP, CHESTER	:	
COUNTY, PENNSYLVANIA	:	NO. 2016-5

**DECISION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
HONEY BROOK UPON APPLICATION OF STEPHEN K. STOLTZFUS FOR
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**

FINDINGS OF FACT

1. The property which is the subject of this land use application is located at 375 Pleasantview Road, Honey Brook Township, Chester County, Pennsylvania, in the Agriculture ("A") zoning district of Honey Brook Township, Chester County, Pennsylvania, and contains approximately 2.1 acres of land (hereafter "Property").
2. Applicant is Stephen K. Stoltzfus, an adult individual with a mailing address of 375 Pleasantview Road, Honey Brook, Pennsylvania 19344 (hereafter "Applicant").
3. Applicant is an owner of the Property.
4. Applicant submitted an Application for Public Conditional Use Hearing dated May 20, 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. 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.

8. In response to Applicant’s Application, Jennifer L. McConnell, P.E., of Technicon Enterprises Inc., II, prepared a review letter dated June 9, 2016, in which she offered comments regarding the Application’s satisfaction of the zoning requirements for a kennel (See Exhibit B-6).

9. The Honey Brook Township Planning Commission reviewed the Application at its meeting on June 23, 2016, and made a recommendation of “no position” on the Application, noting that the kennel did not meet the lot area or setback requirements (See Exhibit B-7).

10. The Honey Brook Township Board of Supervisors conducted a public hearing on the Application at the beginning of its public meeting on July 13, 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. Stephen K. Stoltzfus, Applicant, testified in support of the Application.

14. Mr. Stoltzfus testified that he had been operating a kennel on the Property since 2011.

15. Mr. Stoltzfus testified that he has a valid kennel license from the Commonwealth of Pennsylvania for the kennel (See Exhibit A-2).

16. Mr. Stoltzfus testified that his kennel license permits him to have 50 to 100 dogs on the property, and to sell up to 59 puppies per year.

17. Mr. Stoltzfus testified that he currently has only 12 breeding dogs, consisting of 8 females and 4 males, breeds the dogs once per year, and sells an average of 30-35 puppies per year.

18. Mr. Stoltzfus testified that outdoor, fenced exercise areas are provided for the dogs at the rear of the kennel building.

19. Mr. Stoltzfus testified that sales of dogs and deliveries of supplies occur at the house on the Property, and that there is adequate parking at the house for such sales and deliveries.

20. Mr. Stoltzfus testified that dog waste goes into a holding tank, and is pumped by a contracted septic hauler (See Exhibit A-1).

21. Mr. Stoltzfus testified that the kennel is set back 20 feet and 150 feet, respectively, from each of the two side lot lines, 260 feet from the front lot line, and 185 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.

22. Mr. Stoltzfus testified that the Property contains 2.1 acres; he acknowledged that under the Zoning Ordinance the minimum lot area for a kennel is 10 acres.

23. After closing the testimony at the July 13, 2016 hearing, the Honey Brook Township Board of Supervisors announced the continuance of the hearing to the beginning of its public meeting on August 10, 2016.

24. The Honey Brook Township Board of Supervisors continued the hearing at the beginning of its public meeting on August 10, 2016, at which time the Board announced its decision on the Application.

25. 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-6).

26. The intent of the conditional use regulations for kennels is to provide for the operation of kennels in compliance with State laws and in a manner which is 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.

27. Public notice of the hearing was timely advertised in Daily Local News, a newspaper of general circulation within Honey Brook Township, on June 28, 2016 and July 5, 2016; adjacent property owners were notified of the hearing by mail on June 28, 2016; and the Property was posted with notice of the hearing on June 30, 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 27-402.3 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.

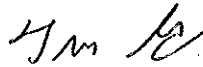
3. Section 27-402.3.I of the Zoning Ordinance permits kennels within the Agriculture (A) Zoning District by conditional use, in accordance with the standards of Section 27-1604.M of the Zoning Ordinance.

4. The Board of Supervisors has determined that the Applicant, through the Application and testimony at the Conditional Use Hearing, has 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 any of the minimum setback requirements in Section 27-1604.M(5)(b).

5. The Board of Supervisors finds that a waiver of the minimum lot area requirements and minimum setback requirements is inappropriate in this case because the purpose of such requirements is to minimize the risk that noise from a kennel would have a detrimental impact on neighboring property owners, the proposed kennel is substantially out of compliance with those requirements, and therefore granting of such waiver would not be in the public interest and furtherance of the goals of the Zoning Ordinance.

DECISION

AND NOW, this 10th day of August, 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 Stephen K. Stoltzfus, 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.



Travis Stacey, Chairperson



John McHugh, Vice Chairperson

Tracy Olsen, Member

Date of Issuance of Written Decision: August 10, 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.