

**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 BENUEL M. : SUPERVISORS
KAUFFMAN, JR. :
: CONDITIONAL USE HEARING
:
1991 BEAVER DAM ROAD, HONEY : WRITTEN DECISION OF THE BOARD
BROOK TOWNSHIP, CHESTER :
COUNTY, PENNSYLVANIA : NO. 2017- 1

**DECISION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
HONEY BROOK UPON APPLICATION OF BENUEL M. KAUFFMAN, JR. 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 1991 Beaver Dam Road, Honey Brook Township, Chester County, Pennsylvania, in the Agriculture (“A”) zoning district of Honey Brook Township, Chester County, Pennsylvania, and contains approximately 12 acres of land (hereafter “Property”).
2. Applicant is Benuel M. Kauffman, Jr., an adult individual with a mailing address of 1991 Beaver Dam Road, Honey Brook, Pennsylvania 19344 (hereafter “Applicant”).
3. The Property is owned by Benuel M. Kauffman, Jr. and Fannie S. Kauffman.
4. Applicant submitted an Application for Public Conditional Use Hearing dated March 6, 2017, to operate a kennel on the Property (hereinafter “Application”) (See Exhibit 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 March 20, 2017, in which she offered comments regarding the Application’s satisfaction of the zoning requirements for a kennel (See Exhibit 7).

8. The Honey Brook Township Planning Commission reviewed the Application at its meeting on March 23, 2017, and recommended approval of the Application (See Exhibit 8).

9. Applicant granted an extension of time to the Board of Supervisors of Honey Brook Township to hold a Conditional Use Hearing on the Application, thereby consenting to the hearing taking place on Wednesday, May 10, 2017 (See Exhibit 2).

10. The Honey Brook Township Board of Supervisors conducted a public hearing on the Application at the beginning of its public meeting on May 10, 2017.

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. Benuel M. Kauffman, Jr., Applicant, testified in support of the Application.

14. The Applicant is also the owner of a parcel of real estate adjacent to the Property, located at the corner of Beaver Dam Road and Route 10, known as Tax Parcel Number 22-9-28.2, such property containing 7.2 acres of land.

15. The kennel operation is located at least three hundred feet (300’) from all side and rear lot lines of the Property.

16. Portions of the kennel operation are located closer than three hundred feet (300’) from the front property line along Beaver Dam Road.

17. The two (2) existing houses directly across Beaver Dam Road from the Property are located one hundred feet (100’) and two hundred feet (200’), respectively, from the kennel operation, resulting in both of such houses being located a minimum of three hundred feet (300’) from the kennel operation.

18. The Applicant has a valid kennel license from the Commonwealth of Pennsylvania for the kennel operation.

19. The Applicant 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, a barn, and several other outbuildings on the Property.

20. The kennel has outdoor dog exercise areas that are enclosed by fencing.

21. There is adequate room on the Property to accommodate customer and delivery traffic and parking.

22. The Applicant acknowledged that a minimum lot area of 20 acres is required for a kennel operation, and testified that the lot area of the Property is 12 acres.

23. The Board provided opportunity for public comments from the audience, but none were heard.

24. After closing the testimony at the May 10, 2017 hearing, the Honey Brook Township Board of Supervisors 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; the other principal use of the property is agriculture (See Exhibit 7).

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 April 21, 2017 and April 28, 2017; adjacent property owners were notified of the hearing by mail on April 21, 2017; and the Property was posted with notice of the hearing on April 26, 2017. (See Exhibits 3 through 6).

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.

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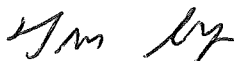
DECISION

AND NOW, this 10th day of May, 2017, 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 Benuel M. Kauffman, Jr. 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 Applicant must continue to be an owner of both the Property and the adjoining parcel known as Tax Parcel Number 22-9-28.2 in order to continue to operate a kennel on the Property.
2. No portion of the kennel operation on the Property may be moved any closer to the property line along Beaver Dam Road than exists on the date of this Decision.

FURTHER, pursuant to Section 27-1910.4.B of the Zoning Ordinance, the Board of Supervisors hereby waives the enforcement of the lot area regulation contained in Section 27-1604.M.5(a) of the Zoning Ordinance requiring that the minimum net lot area for a kennel must be 20 acres, such waiver to be granted to allow the kennel to operate on the Property which contains 12 acres.

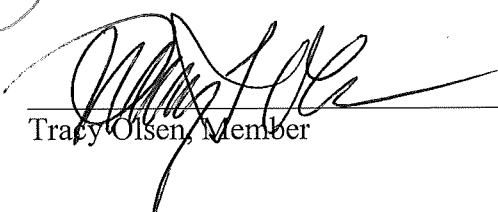
FURTHER, pursuant to Section 27-1910.4.B of the Zoning Ordinance, the Board of Supervisors hereby waives the enforcement of the setback regulation contained in Section 27-1604.M.5(b) of the Zoning Ordinance requiring that a kennel be located at least 300 feet from all lot lines, such waiver to be granted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



Travis Stacey, Chairperson



John McHugh, Vice Chairperson



Tracy Olsen, Member

Date of Issuance of Written Decision: June 14, 2017.

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.