

**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 S.	:	SUPERVISORS
STOLTZFUS	:	
	:	CONDITIONAL USE HEARING
	:	
200 LOCUST DRIVE, HONEY BROOK	:	WRITTEN DECISION OF THE BOARD
TOWNSHIP, CHESTER COUNTY	:	
PENNSYLVANIA	:	NO. 2017- <u>4</u>

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**DECISION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF  
HONEY BROOK UPON APPLICATION OF BENUEL S. 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 200 Locust Drive, Honey Brook Township, Chester County, Pennsylvania, in the Agriculture (“A”) zoning district of Honey Brook Township, Chester County, Pennsylvania, and contains approximately 15.5 acres of land (hereafter “Property”).
2. Applicant is Benuel S. Stoltzfus, an adult individual with a mailing address of 200 Locust Drive, Honey Brook, Pennsylvania 19344 (hereafter “Applicant”).
3. The Property is owned by Benuel S. Stoltzfus and Linda K. Stoltzfus.
4. Applicant submitted an Application for Public Conditional Use Hearing dated May 15, 2016 [sic], and received by the Township on May 30, 2017, 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 June 8, 2017, in which she offered comments regarding the Application’s satisfaction of the zoning requirements for a kennel (See Exhibit B-6).

8. The Honey Brook Township Planning Commission reviewed the Application at its meeting on June 22, 2017, and recommended approval of the Application (See Exhibit B-7).

9. The Honey Brook Township Board of Supervisors conducted a public hearing on the Application at the beginning of its public meeting on July 12, 2017.

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 Beth M. Auman, Esquire.

12. Benuel S. Stoltzfus, Applicant, testified in support of the Application.

13. Kimberly Brumbaugh, an adult individual residing at 29 Windswept Lane in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to the Application, specifically as to concerns about dogs running loose, about traffic and road conditions, about the treatment of the dogs, and about anticipated impacts from the kennel on other residents’ quality of life.

14. Ed Wilson, an adult individual residing at 1280 Suplee Road in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to the Application, specifically as to concerns about dogs barking and other non-kennel related noise from the Property, as well as traffic concerns.

15. Jessica Green, an adult individual residing at 39 Windswept Lane in Honey Brook Township, was granted party status at the hearing and asked questions of the Applicant, but provided no testimony.

16. Jeff Herling, an adult individual residing at 60 Windswept Lane in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to the Application, specifically as to concerns about proper notice of the hearing, about noise from barking dogs, and about the proposed kennel use on the Property not meeting the required setbacks.

17. Eileen Fox, an adult individual residing at 40 Windswept Lane in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified

in opposition to the Application, specifically as to concerns about gunshots coming from the vicinity of the Property.

18. David Jensch, an adult individual residing at 50 Windswept Lane in Honey Brook Township, was granted party status at the hearing and asked questions of the Applicant, but provided no testimony.

19. Greg Lukas, an adult individual residing at 312 Dampman Road in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to the Application, specifically as to concerns about the number and speed of vehicles on Dampman Road traveling to Locust Lane, and about noise from continuous barking of dogs.

20. Steve Arbegast, an adult individual residing at 70 Windswept Lane in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to Application, specifically as to the amount of space provided for the dogs, sanitation within the kennel, and Applicant's prior noncompliance with zoning requirements.

21. Ken Wilson, an adult individual residing at 1210 Suplee Road in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to the Application, specifically as to concerns about noise from dogs barking, and about traffic concerns on a narrow roadway leading to the Property.

22. Barbara Conway, an adult individual residing at 399 Crestview Drive in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to the Application, specifically as to concerns about setbacks from adjoining property and inhumane treatment of the animals.

23. Brad Smith, an adult individual residing at 69 Windswept Lane in Honey Brook Township, was granted party status at the hearing, asked questions of the Applicant, and testified in opposition to the Application, specifically as to concerns about noise from barking dogs, about traffic, about the potential impacts to quality of life and home values, and about the current size of the kennel and potential future expansion thereof.

24. Applicant provided a supplemental drawing to the Township, which provided additional detail beyond that on the drawing contained in the initially submitted Application (See Exhibit B-10).

25. The Property is primarily used as a residence for Applicant and his family, and also houses a shop.

26. The Applicant has a valid kennel license from the Commonwealth of Pennsylvania for the kennel operation, and is therefore subject to unannounced inspections twice per year (See Exhibit B-9).

27. The kennel involves a ten foot by twenty foot (10' x 20') structure on the northeast side of an existing shop/barn.

28. Mr. Stoltzfus testified that he currently has twenty-one (21) adult dogs in the kennel, mainly of small breeds such as poodles and Boston terriers, as well as one (1) husky and two (2) Burmese Mountain dogs.

29. Applicant testified that the space provided for his kennel operation is sufficient under state law to house the number of dogs he currently houses, but that he would have to expand the kennel structure to accommodate the full number of dogs permitted under his state permit at one time, although he has no intention to do so.

30. The kennel advertises its puppies online, sells dogs directly to individual owners, and the Applicant testified that he believes the dogs are used for pets.

31. The kennel has outdoor exercise areas for the dogs that are enclosed by fencing, and indoor areas to house the dogs.

32. Mr. Stoltzfus testified that dogs that can no longer breed are taken by a rescue agency, that he takes sick dogs to the veterinarian, and that his puppies receive multiple vaccinations at various ages.

33. The kennel is not creating notable traffic issues because the kennel receives food deliveries only three (3) times per year, has no employees, and customer traffic is limited by the kennel only being licensed to house, and thus sell, a maximum of 150 dogs per year.

34. There is adequate space on the Property to accommodate customer and delivery traffic and parking.

35. The kennel meets the minimum lot area of 10 acres required for a kennel operation.

36. There are no dog shows or competitions currently held or proposed to be held on the Property.

37. The kennel operation is located at least 300 feet from all "side" lot lines of the Property, being those lot lines along the northwest and southeast sides of the Property.

38. The kennel operation is located 255 feet from the northeast lot line of the Property, and 185 feet from the southwest lot line of the Property.

39. The configuration of the Property prevents there from being any location on the Property that could meet the 300 foot setback requirement in all directions.

40. All property owners having property located within 300 feet of all parts of the kennel operation on the Property had notice and opportunity to appear at the public hearing and to register their objections, but none have so appeared or objected.

41. Applicant has been operating a kennel on the Property for two (2) years, and has never received any complaints from neighbors about the kennel.

42. Prior to the kennel on this Property, the Applicant operated a kennel on North Birdell Road, but has never operated a kennel outside of Honey Brook Township.

43. The Board provided opportunity for public comments from the audience, and received several additional comments in opposition to the Application.

44. After closing the testimony at the July 12, 2017 hearing, the Honey Brook Township Board of Supervisors announced the continuance of the hearing to the beginning of its public meeting on August 9, 2017.

45. The Honey Brook Township Board of Supervisors continued the hearing at the beginning of its public meeting on August 9, 2017, at which time the Board announced its decision on the Application.

46. 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 residential with an accessory rural occupation (See Exhibit B-6).

47. 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.

48. Public notice of the hearing was timely advertised in Daily Local News, a newspaper of general circulation within Honey Brook Township, on June 21, 2017 and June 28, 2017; adjacent property owners were notified of the hearing by mail on June 22, 2017; and the Property was posted with notice of the hearing on June 29, 2017. (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 established compliance with the relevant subsections of Section 27-1604.M of the Zoning Ordinance for the operation of a kennel, with the exception of meeting the required 300 foot setback on two sides of the Property.

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 on following page]*

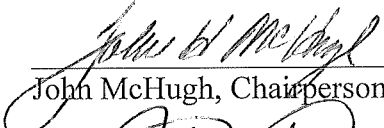
**DECISION**

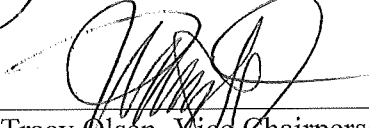
AND NOW, this 9th day of August, 2017, the Board of Supervisors of the Township of Honey Brook, Chester County, Pennsylvania, upon review and consideration of the evidence as presented at the conditional use hearing, and in light of existing laws and regulations, hereby APPROVES and GRANTS the application of Benuel S. 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, subject to the following conditions:

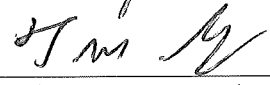
1. No portion of the kennel operation as defined in the Zoning Ordinance shall be moved any closer to the northwestern property line of the Property, that being the shared property line with property presently owned by Gregory and Trish Lukas, than such kennel currently exists.

2. The kennel operation shall remain compliant with all state, county, and Township regulations governing the kennel, except as modified herein.

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 northeastern side of the Property to allow that setback to be reduced to 255 feet, and to the southwestern side of the Property to allow that setback to be reduced to 185 feet.

  
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John McHugh, Chairperson

  
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Tracy Olsen, Vice Chairperson

  
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Travis Stacey, Member

Date of Issuance of Written Decision: September 22, 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.**

