

**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 HONEY BROOK : SUPERVISORS
GOLF CLUB, L.P. :
: CONDITIONAL USE HEARING
: .
: .
1422 CAMBRIDGE RD, HONEY BROOK : WRITTEN DECISION OF THE BOARD
TOWNSHIP, CHESTER COUNTY :
PENNSYLVANIA : NO. 2017-5

**DECISION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
HONEY BROOK UPON APPLICATION OF HONEY BROOK GOLF CLUB, L.P. FOR
CONDITIONAL USE UNDER SECTION 27-1604.L OF THE HONEY BROOK
TOWNSHIP ZONING ORDINANCE OF 2003, TO MODIFY AN EXISTING
PERMITTED GOLF COURSE USE TO ALLOW A RESTAURANT USE ON THE
PROPERTY TO BE OPEN TO THE PUBLIC**

FINDINGS OF FACT

1. The property which is the subject of this land use application is located at 1422 Cambridge Road, Honey Brook Township, Chester County, Pennsylvania, located entirely in the current Agriculture (“A”) zoning district of Honey Brook Township, Chester County, Pennsylvania, having Tax Parcel Numbers 22-7-91 and 22-7-92, containing a total of 164.4 acres of land (hereafter “Property”).
2. Applicant is Honey Brook Golf Club, L.P., a limited partnership with an address of 1422 Cambridge Road, Honey Brook, Pennsylvania 19344 (hereafter “Applicant”).
3. The Property is owned by Honey Brook Golf Club, L.P.
4. The Property has frontage upon both Cambridge Road and Park Road, and contains a golf course, accessory residential use, and accessory restaurant use, spread throughout multiple structures on the Property (See Exhibit A-5).
5. On May 14, 1997, the Board of Supervisors granted conditional use approval to Applicant’s predecessor in title to the Property authorizing the use of the portion of the Property that was at that time zoned R-1 as a public golf course, pursuant to Section 402.1(b)(1) of the Zoning Ordinance in effect in 1997.
6. On July 14, 1997, the Honey Brook Township Zoning Hearing Board granted Applicant’s predecessor in title to the Property a special exception pursuant to the provisions of

Section 302.3(d) of the Zoning Ordinance in effect in 1997 allowing the use of the portion of the Property then located in the A-Agriculture zoning district to be used as a commercial golf course.

7. The Board's May 14, 1997 Order and the Zoning Hearing Board's July 14, 1997 Order both contained the following condition: "Any food service proposed within the clubhouse shall be limited to items customarily served to golfers. Food service shall be available as an accessory use to the golf course and shall be served only to golfers and employees of the facility and not open to the general public. 'Banquet-type' dinners may be made available to participants in tournament or group outings but not available to the general public."

8. Applicant currently operates a restaurant known as the Greenside Grill inside of the clubhouse, year-round, as part of the golf course operation.

9. Since approximately 2013, the customers of the restaurant have included members of the public, in addition to golfers and employees.

10. Applicant submitted an Application for Public Conditional Use Hearing dated June 14, 2017, and received by the Township on June 16, 2017, to allow the restaurant use on the Property to be open to the public and not be limited to serving food only to golfers and employees of the golf course facility (hereafter "Application") (See Exhibits T-1, A-1).

11. On June 26, 2017, the Applicant sent a letter to the Township waiving the sixty (60) day required time period in which the Township was required to conduct a hearing on the Application, and requesting that the matter be scheduled for hearing on September 13, 2017 (See Exhibit T-2).

12. 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 August 15, 2017, in which she offered comments regarding the Application (See Exhibit T-8).

13. The Honey Brook Township Planning Commission reviewed the Application at its meeting on August 24, 2017, and recommended approval of the Application (See Exhibit T-9).

14. On August 30, 2017, the Applicant sent a letter to the Township amending its Application to request that as part of the relief sought the Township consider waiving the requirement of Section 27-1402(6)(B) that no sign in the A-Agricultural District be indirectly or internally illuminated, in order to allow one (1) sign advertising the uses on the Property to be externally illuminated in accordance with the illumination requirements in Section 27-1402(6) (See Exhibits T-3, A-2).

15. The Honey Brook Township Board of Supervisors conducted a public hearing on the Application at the beginning of its public meeting on September 13, 2017.

16. Applicant was represented at the hearing by Kristin S. Camp, Esquire.

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

18. Deb Dovin, Paul Dovin, and Jean Dovin, all adult individuals residing at 701 Park Road in Honey Brook Township, were granted party status at the hearing and were unrepresented.

19. Donna Horvath, owner and managing partner/business manager of Honey Brook Golf Club, testified on behalf of the Applicant in support of the Application.

20. Both the physical space of the restaurant use on the Property, and the menu offerings at such restaurant, have expanded over time in response to demand from golfers.

21. Ms. Horvath further testified that the desire to open the restaurant to the public arose from golfers wanting to bring their families to dine at the restaurant, from the surrounding community wanting to dine at the restaurant, as a marketing opportunity by allowing community members onto the Property to see the golf course, and as a source of revenue to allow the seasonal golf course use to remain economically viable.

22. Ms. Horvath testified that many other golf courses in the surrounding area have public food service establishments as part of their operation, and that having such a public restaurant is necessary for the Applicant to compete with other public and private golf courses for customers (See Exhibit A-6).

23. Ms. Horvath testified that she is unaware of any complaints about the restaurant use from any neighboring property owner or the public at large.

24. The Property has approximately 194 parking spaces in the main parking lot, and an additional 20 spaces for employees behind the golf shop building, for a total of 214 spaces, which exceeds the combined number of spaces required for the golf course and restaurant uses under the Zoning Ordinance (See Exhibit A-7).

25. The Property has experienced no traffic or parking problems to date.

26. In addition to the main entrance on Cambridge Road, emergency vehicles can access the Property and the restaurant use from Park Road.

27. The Applicant has permits for a private well and on-lot septic system on the Property, both of which can accommodate the restaurant use, at its current size, being opened to the public (See Exhibits A-8 through A-12).

28. The restaurant use is currently open from approximately 11:00am to 10:00pm.

29. The Applicant does host outdoor music as part of the restaurant use, and stops the music by 10:00pm, in compliance with the Township's noise ordinance.

30. Tom Piersol, a principal of Honey Brook Golf Club, L.P., testified on behalf of the Applicant in support of the Application, and provided details about the proposed sign which Applicant intends to illuminate.

31. The Applicant intends to replace an existing 23” high x 57” wide sign, having an area of 10.2 square feet, at the entrance to the Property on Cambridge Road with a new 54” high x 57” wide sign, having an area of 21.9 square feet, at the same location, which proposed sign will include the words “Greenside Grill” on it.

32. The Applicant proposes to illuminate the proposed sign on both sides, each side using one (1) 110-volt flood light, to be directed right at the sign rather than onto adjoining properties, and creating a maximum of 15 footcandles of light per square foot of sign face (See Exhibits A-13 and A-14).

33. Jeffery Beck, an adult individual residing at 3470 Horseshoe Pike in Honey Brook Township, testified in support of the Application, specifically that he had no objections to the music events held at the restaurant, had no concerns about traffic or the proposed sign illumination, and believes that the golf course needs more than golf to remain a viable golf course operation.

34. Henry Henning, an adult individual residing at 3 Summerlin Drive in Honey Brook Township, testified in support of the Application, specifically to his belief that supporting the viability of the golf course use is important to avoid the Property being converted to a housing development.

35. Charles W. Kennedy, an adult individual residing at 1408 Cambridge Road in Honey Brook Township, testified in support of the Application, specifically that he has no objection to the music emanating from the restaurant use on the Property.

36. Dale Yeager, an adult individual residing at 9 Summerlin Drive in Honey Brook Township, testified in support of the Application, specifically that the Applicant is a good neighbor, that the restaurant is a great addition to the community, and that the music at the restaurant is pleasant and barely audible.

37. Jean Dovin offered comments about concerns related to golf balls leaving the Property and entering her property.

38. Deb Dovin testified in opposition to the Application, specifically to her belief that opening the restaurant to the public should not occur in an agricultural zoning district and fundamentally changes the character of the Property and the use thereon.

39. Ms. Deb Dovin testified about her concerns about noise emanating from music and voices at the existing restaurant use and related outdoor concerts throughout the year, which she can hear from her property, including after 10:00pm (See Exhibit D-1).

40. Ms. Deb Dovin testified to her belief that the restaurant was expanding its hours to include breakfast (See Exhibit D-2).

41. Ms. Deb Dovin testified as to concerns about the presence of beer bottles and golf balls in her yard, and as to potential health, safety and welfare concerns for restaurant patrons arising from the use of pesticides and manure on neighboring farm fields.

42. The Dovins' property at 701 Park Road is located immediately adjacent to the Property, and the residential structure on 701 Park Road is located approximately one thousand feet (1000') away from the restaurant use on the Property (See Exhibits A-3, A-4).

43. The restaurant use on the Property does not pose any threat to the health, welfare or safety of adjoining properties or the community at large.

44. Opening the restaurant use to the public, as an accessory use to the golf course, is beneficial to the community.

45. The proposed illumination of the golf course's proposed sign will not create any unnecessary glare or create a negative impact on neighboring properties.

46. The Board provided opportunity for public comments from the audience.

47. Public notice of the hearing was timely advertised in Daily Local News, a newspaper of general circulation within Honey Brook Township, on August 30, 2017 and September 5, 2017; adjacent property owners were notified of the hearing by mail on August 29, 2017; and the Property was posted with notice of the hearing on August 31, 2017. (See Exhibits T-4 through T-7).

48. Counsel for the Township clarified that the notice that was used for all advertising and posting contained an error in that it referenced the Applicant's desire to allow an accessory banquet facility use at the Property; Applicant's Application is not seeking this relief.

49. After closing the testimony at the September 13, 2017 hearing, the Honey Brook Township Board of Supervisors announced its decision on the Application.

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.D 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 golf course is permitted as

a conditional use, when in accordance with the standards set forth in Section 27-1604.1.L of the Zoning Ordinance.

4. Section 27-202 of the Zoning Ordinance defines a “golf course” as follows:

“Either a publicly or privately owned and operated course which shall have a minimum of nine holes of golf. Neither a commercial driving range nor a commercial miniature golf area shall be considered a golf course for purposes of this chapter.”

5. Section 27-1604.1.L of the Zoning Ordinance does not contain any specific permissions or prohibitions related to the operation of restaurants or other food service facilities as part of the standards for approval of a golf course use.

6. Section 27-402.2 of the Zoning Ordinance provides that accessory buildings and uses customarily incidental to any permitted use, when in accordance with the standards in Section 27-1602.C and all other applicable provisions of Chapter 27, are permitted in the A-Agricultural District.

7. The golf course is considered a permitted use since Conditional Use and Special Exception approvals for such use were previously granted.

8. The limited service restaurant was previously permitted as an accessory use.

9. The Board of Supervisors has determined that the Applicant, through the Application and testimony at the Conditional Use Hearing, has established that the proposed use of the Property as a golf course with an accessory public restaurant use, will not pose any threat to the health, safety and general welfare of the community.

10. The Board of Supervisors has determined that the Applicant, through the Application and testimony at the Conditional Use Hearing, has established that changed circumstances in the golf course industry, specifically the need for additional sources of revenue, exist to justify removing the condition that the restaurant not be open to the public.

11. 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

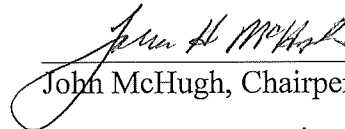
AND NOW, this 13th day of September, 2017, the Board of Supervisors of the Township of Honey Brook, Chester County, Pennsylvania, upon review and consideration of the evidence as presented at the conditional use hearing, and in light of existing laws and regulations, hereby APPROVES and GRANTS the application of Honey Brook Golf Club, L.P. for conditional use

approval under Section 27-402.3.D and 27-1604.1.L of the Honey Brook Township Zoning Ordinance of 2003, to remove the condition of the prior conditional use and special exception approvals which limited food service only to golfers and employees of the golf course facility, and to instead allow the restaurant use on the Property to be open to the public, subject to the following conditions:

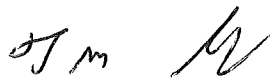
1. The restaurant use shall be accessory to the principal golf course use on the Property, and shall not be permitted to continue operation upon termination of the golf course use;
2. The accessory restaurant use must continue to operate in compliance with the testimony provided by Applicant at the hearing; and
3. The accessory restaurant use must comply with all state and local regulations.

FURTHER, pursuant to Section 27-1910.4.B of the Zoning Ordinance, the Board of Supervisors hereby waives the enforcement of the regulation contained in Section 27-1402(6)(B) of the Zoning Ordinance requiring that no sign in the A-Agriculture zoning district be illuminated, such waiver to be granted solely with regard to the application of that prohibition to one sign, at the main entrance to the Property along Cambridge Road, subject to the following conditions:

1. The proposed sign illumination must be illuminated in accordance with the testimony provided by Applicant at the hearing; and
2. The proposed sign and illumination must comply with all applicable state and Township regulations.



John McHugh, Chairperson



Travis Stacey, Member

[Vice Chairperson Tracy Olsen was absent.]

Date of Issuance of Written Decision: October 11, 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.