

**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 REUBEN S. KING	:	SUPERVISORS
	:	
	:	CONDITIONAL USE HEARING
	:	
295 OLD PEQUEA LANE, HONEY	:	WRITTEN DECISION OF THE BOARD
BROOK TOWNSHIP, CHESTER	:	
COUNTY, PENNSYLVANIA	:	NO. 2017- <u>6</u>

**DECISION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
HONEY BROOK UPON APPLICATION OF REUBEN S. KING 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 295 Old Pequea Lane, Honey Brook Township, Chester County, Pennsylvania, in the Agriculture (“A”) zoning district of Honey Brook Township, Chester County, Pennsylvania, and contains approximately 36 acres of land (hereafter “Property”).
2. Applicant is Reuben S. King, an adult individual with a mailing address of 295 Old Pequea Lane, Honey Brook, Pennsylvania 19344 (hereafter “Applicant”).
3. The Property is owned by Levi S. King and Ruth Ann King, adult individuals with a mailing address of 293 Old Pequea Lane, Honey Brook, Pennsylvania 19344.
4. Applicant submitted an Application for Public Conditional Use Hearing dated June 17, 2017, and which was received by the Township on June 30, 2017, to operate a kennel on the Property (hereinafter “Application”) (See Exhibit Board-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 30, 2017, in which she offered comments regarding the Application’s satisfaction of the zoning requirements for a kennel (See Exhibit Board-6).

8. The Honey Brook Township Planning Commission reviewed the Application at its meeting on July 27, 2017, and recommended approval of the Application (See Exhibit Board-7).

9. The Honey Brook Township Board of Supervisors conducted a public hearing on the Application at the beginning of its public meeting on August 9, 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 Christopher J. Hartman, Esquire.

12. Reuben S. King, Applicant, testified in support of the Application, and about the details of the operation of the kennel.

13. Samuel L. Dallas, an adult individual residing at 116 Red Oak Court in Honey Brook Township, was granted party status at the hearing and testified about concerns related to noise from the kennel.

14. Therese Griffin, an adult individual residing at 140 Red Oak Court in Honey Brook Township, was granted party status at the hearing and testified about concerns related to noise from barking dogs and traffic on the private drive leading to the Property.

15. Georganna Lenssen, an adult individual residing at 138 Red Oak Court in Honey Brook Township, was granted party status at the hearing and testified in opposition to the Application citing concerns related to traffic, noise, dogs running loose, impacts on her quality of life, and diminution of neighboring property values.

16. James Jensen, an adult individual residing at 138 Red Oak Court in Honey Brook Township, was granted party status at the hearing and testified about diminution in his property value, noise from dogs barking, traffic on Old Pequea Lane, and how those concerns would increase if the kennel operation grows.

17. David Dippold, an adult individual residing at 108 Red Oak Court in Honey Brook Township, was granted party status at the hearing and testified about his concerns related to noise and property values.

18. James Leisse, an adult individual residing at 130 Red Oak Court in Honey Brook Township, was granted party status at the hearing and testified about his concerns related to noise from the dogs in the kennel.

19. Cynthia Filoromo, an adult individual residing at 105 Red Oak Court in Honey Brook Township, was granted party status at the hearing and testified in opposition to the Application, citing concerns about noise and its effect on quality of life and property values.

20. Red Oak Court is located to the east of the Property.

21. There is, and will be, very little traffic on Old Pequea Lane resulting from the kennel operation.

22. There was no expert testimony that the kennel causes, or would cause, a negative impact on Red Oak Court property values.

23. The concerns about property values expressed by Red Oak Court residents were speculative.

24. Applicant has a lease with owner Levi S. King to rent the entire Property.

25. The Property contains a dairy barn, a heifer barn, a horse barn, a house, a kennel, and another barn, with the majority of the remainder of the property being tilled fields and pasture.

26. The kennel is located next to, and just to the west of, the dairy barn on the Property, and just to the north of the horse barn on the Property, which barns shield any view of the kennel from the east and south sides of the Property.

27. The Applicant has a valid kennel license from the Commonwealth of Pennsylvania for the kennel operation (See Exhibit Board-2).

28. The Property receives kennel-related deliveries approximately one time per month, has no employees associated with the kennel, and has adequate area on the property for all on-site traffic, parking, and deliveries related to the kennel.

29. No dog shows or competitions are held or proposed to be held on the Property.

30. The kennel is set back from the lot line on the north side of the Property by a distance of 872 feet, from the west side by 864 feet, from the east side by 446 feet, and from the south side by 203 feet.

31. The adjoining property to the south of the Property is owned by Alvin R. Zook, who upon notice and opportunity to appear at the public hearing, did not do so, and upon whose property no residence is located within 300 feet of the kennel that is the subject of this Application.

32. The kennel has fenced outdoor exercise areas for the dogs in the kennel to run.

33. Dog waste is not stored on site; rather it is spread in the pasture on the Property.

34. The Board provided opportunity for additional public comment, but none was presented.

35. After closing the testimony at the August 9, 2017 hearing, the Honey Brook Township Board of Supervisors announced the continuance of the hearing to the beginning of its public meeting on September 13, 2017.

36. The Honey Brook Township Board of Supervisors continued the hearing at the beginning of its public meeting on September 13, 2017, at which time the Board announced its decision on the Application.

37. 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 Board-6).

38. 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.

39. Public notice of the hearing was timely advertised in Daily Local News, a newspaper of general circulation within Honey Brook Township, on July 26, 2017 and August 2, 2017; adjacent property owners were notified of the hearing by mail on July 24, 2017; and the Property was posted with notice of the hearing on July 28, 2017. (See Exhibits Board-3 through Board-5, Board-8).

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 the south side 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.

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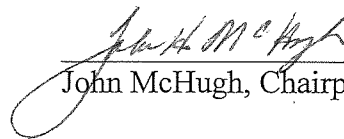
DECISION

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 Reuben S. King, 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 kennel must continue to operate in compliance with the testimony provided by Applicant at the hearing;
2. The kennel must comply with all state and local regulations; and
3. No portion of the kennel operation as defined in the Zoning Ordinance shall be moved any closer to Red Oak Court, located to the east of the Property, than such kennel currently exists.

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 southern side of the Property to allow that setback to be reduced to 203 feet.





John McHugh, Chairperson



Travis Stacey, Member

[Vice Chairperson Tracy Olsen not present.]

Date of Issuance of Written Decision: October 6, 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.