

DECISION
OF THE HONEY BROOK TOWNSHIP ZONING HEARING BOARD,
CHESTER COUNTY, PENNSYLVANIA

Re: Application of Christian F. Stoltzfus

No. 2023 - 2

Date of Application: January 13, 2023

Date of Hearing: February 27, 2023

FINDINGS OF FACT

1. The property which is the subject of this zoning application is located at 410 Broad Street, Honey Brook Township, Chester County, Pennsylvania, in the Agricultural (A) Zoning District, being Tax Parcel Number 22-9-1 (the "Property").

2. The applicant is Christian F. Stoltzfus, the owner of the Property ("Applicant").

3. Applicant filed an Application to the Honey Brook Township Zoning Hearing Board on January 13, 2023, requesting a dimensional variance from Section 27-1703.A.(1) of the Honey Brook Township Zoning Ordinance, as amended (the "Zoning Ordinance") to permit the subdivision of a 19.926 acre lot into two (2) lots, a 10.000 acre lot and a 9.926 acre lot, where a minimum gross lot area of 10.000 acres is required. (See Board Exhibit B-1).

4. The Honey Brook Township Zoning Hearing Board was represented at the hearing by Christopher J. Hartman, Esquire.

5. Ron Hershey, a professional surveyor in Pennsylvania, of Hershey Surveying, Inc., testified on behalf of Applicant.

6. The Property borders residential properties to the south and to the west, large wooded properties to the north, and Broad Street to the east

7. The Property is used for agricultural uses.

8. No buildings or improvements are located on the Property.

9. Applicant will continue to use the two subdivided lots for agricultural uses, and will not construct any buildings or improvements on either lot.

10. The proposed property line for the two subdivided lots will run east to west on the Property, resulting in the creation of a lot on the northern part of the Property and a lot on the southern part of the Property.

11. The northern lot will be 10.0 acres, and the southern lot will be 9.926 acres.
12. Applicant choose the location of the proposed property line because the property line will split the fields used for agricultural uses, and because the proposed property line results in one (1) conforming lot of 10.0 acres.
13. Mr. Hershey testified that the subdivision could have produced a property line which would have resulted in each subdivided lot being less than 10.0 acres, which would require a variance for both nonconforming lots.
14. The dimensional variance request is *de minimis* because the nonconforming lot only requires approximately .08 acres to be conforming.
15. The nonconforming lot will be used for agricultural uses, which is a permitted use within the Agricultural Zoning District.
16. The size of the Property makes it impossible to subdivide the Property in strict conformity with the Zoning Ordinance.
17. The creation of a 9.926 acre lot will not alter the essential character of the neighborhood or have a detrimental or negative effect on the neighborhood or public welfare.
18. The variance is the minimum variation which will afford relief and represent the least modification possible.
19. Public notice of this hearing was duly advertised in the Daily Local, a newspaper of general circulation within Honey Brook Township on February 14 and February 20, 2023; adjacent property owners were notified of the hearing by mail on February 16, 2023; and the Property was posted with the notice of the hearing on February 16, 2023. (See Exhibits B-3 through B-5)
20. The Township Engineer submitted a letter, dated February 9, 2023, stating that the Board of Supervisors of Honey Brook Township approved a motion to take a position of support on the variance request at the February 8, 2023 regular meeting of the Board of Supervisors. (See Exhibit B-6)
21. The Board provided opportunity for public comment and Philip Sanger, adjacent property owner at 530 South Broad Street, spoke in support of the Application.
22. After closing the testimony at the February 27, 2023 hearing, the Honey Brook Township Zoning Hearing Board announced its decision on the Application.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to decide this variance application pursuant to Section 27-1409 of the Zoning Ordinance and Section 909.1 of the MPC, 53 P.S. 10909.1.

2. Section 27-1409 of the Zoning Ordinance and Section 910.2 of the MPC, 53 P.S. § 10910.2 provide that no variance shall be granted unless the applicant can demonstrate to the satisfaction of the Board that:

- a. There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located;
- b. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and a variance is therefore necessary to enable the reasonable use of the property;
- c. Such unnecessary hardship has not been created by the appellant;
- d. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
- e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

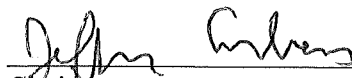
3. The Board has determined that the Applicant has met the requirements for the grant of the dimensional variance requested under Section 27-1409 of the Zoning Ordinance.


4. Applicant has shown that there exist unique physical circumstances and/or conditions of the Property that create hardships and the variance is necessary to enable reasonable use of Property. The hardships have not been created by the Applicant.

5. Applicant has also established that the variance will not alter the essential character of the neighborhood or district in which the Property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

DECISION

AND NOW, this 27th day of February, 2023, the Zoning Hearing Board of Honey Brook Township, hereby APPROVES the request of Christian Stoltzfus for a dimensional variance from Sections 27-1703.A.(1) of the Zoning Ordinance to permit the subdivision of a 19.926 acre lot into a 10.000 acre lot and a 9.926 acre lot, where a minimum gross lot area of 10.000 acres is required.


Chairman


Vice Chairman

Member

Date of Issuance of Written Decision: 3/21, 2023.

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.