

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

Re: Application of Levi P. Fisher

No. 2023 - 6

Date of Application: May 2, 2023

Date of Hearing: June 26, 2023

FINDINGS OF FACT

1. The property which is the subject of this zoning application is located at 973 Twin County Road, Honey Brook Township, Chester County, Pennsylvania, in the Agricultural (A) Zoning District, being Tax Parcel Number 22-3-48 (the "Property").

2. The owner of the Property is Levi P. Fisher ("Applicant").

3. Applicant filed an Application to the Honey Brook Township Zoning Hearing Board on May 2, 2023, requesting a variance from Section 27-1035.D.(2) of the Honey Brook Township Zoning Ordinance, as amended (the "Zoning Ordinance") to permit a proposed dog kennel to be located within 25 feet of the rear lot line of the property. (See Board Exhibit B-1).

4. Section 27-1035.D.(2) of the Zoning Ordinance provides that buildings, structures, other appurtenances and outside runs be located 60 feet from the all lot lines in the Agricultural Zoning District.

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

6. Applicant plans for the proposed dog kennel to be 11' by 25', containing nine (9) runs, 4' by 5' inside boxes, and 5' by 8' outside runs within the rear yard setback.

7. Applicant chose the location of the proposed dog kennel because, if the dog kennel was located further away from the rear property line, the dog kennel would be closer to the single-family dwelling located on the Property and closer to Twin County Road.

8. The proposed location shields the dog kennel from Twin County Road.

9. The neighboring property adjacent to the rear property line is used for agriculture, and no residences or structures are located in the area of the proposed dog kennel.

10. The Applicant currently has a Pennsylvania Department of Agriculture kennel license to operate a non-commercial dog kennel.
11. The kennel has room for no more than nine (9) breeding dogs, and Applicant will not expand the kennel.
12. The prior owner of the Property operated a dog kennel at the location of the proposed dog kennel.
13. The prior dog kennel was larger than the proposed dog kennel.
14. The proposed dog kennel will completely consist of portable structures.
15. The variance will not alter the essential character of the neighborhood or have a detrimental or negative effect on the neighborhood or public welfare.
16. The variance is the minimum variation which will afford relief and represent the least modification possible.
17. Public notice of this hearing was duly advertised in the Daily Local, a newspaper of general circulation within Honey Brook Township on June 8 and June 15, 2023; adjacent property owners were notified of the hearing by mail on June 5, 2023; and the Property was posted with the notice of the hearing on June 14, 2023. (See Exhibits B-3 through B-5)
18. The Board of Supervisors of Honey Brook Township submitted a letter, dated June 19, 2023, taking the position of support on the variance request. (See Exhibit B-6)
19. The Board provided opportunity for public comment, but none was presented.
20. After closing the testimony at the June 26, 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 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.

6. Section 27-2004.3 of the Zoning Ordinance and Section 910.2(b) of the MPC, 53 P.S. §10910.2(b) provides that the Board may attach reasonable conditions and safeguards it deems necessary to implement the purposes of the MPC and the Zoning Ordinance.


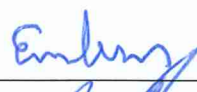
7. The following condition is necessary to implement the purposes of the MPC and Zoning Ordinance:

- a. The Applicant shall obtain all applicable permits and approvals for the proposed kennel use.
- b. The dog kennel shall be consistent with the plans attached to the Application.

DECISION

AND NOW, this 26th day of June, 2023, the Zoning Hearing Board of Honey Brook Township, hereby APPROVES the request of Levi P. Fisher for a variance from Section 27-1035.D.(2) of the Zoning Ordinance to permit the location of a proposed 11' by 25' dog kennel to be located within 25 feet of the rear lot line of the property, subject to the following condition:

1. The Applicant shall obtain all applicable permits and approvals for the proposed kennel use.
2. The dog kennel shall be consistent with the plans attached to the Application

 _____ Chairman	 _____ Vice Chairman
 _____ Member	

Date of Issuance of Written Decision: August 10, 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.