

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

Re: Application of Stoltzfus Construction

No. 2023 - 9

Date of Application: July 10, 2023

Date of Hearing: August 21, 2023

**FINDINGS OF FACT**

1. The property which is the subject of this zoning application is located at 5011 Horseshoe Pike, Honey Brook Township, Chester County, Pennsylvania, in the Business Industrial (BI) Zoning District and partially within the Floodplain Hazard (FH) Overlay District, being Tax Parcel Number 22-3-75.1 (the "Property").
2. The applicant is Stoltzfus Construction ("Applicant").
3. The Property is owned by Larry R. Buckwalter.
4. Applicant filed an Application to the Honey Brook Township Zoning Hearing Board on July 10, 2023, requesting a special exception pursuant to Section 27-802.F.(2) and Section 27-802.F.(7) of the Honey Brook Township Zoning Ordinance, as amended (the "Zoning Ordinance") to construct a driveway and stormwater facilities within the FH Overlay District. (See Board Exhibit B-1)
5. The Honey Brook Township Zoning Hearing Board was represented at the hearing by Christopher J. Hartman, Esquire.
6. Mikhail A. Grishchuk, a certified engineer in Pennsylvania, of Timber Tech Engineering, testified on behalf of Applicant.
7. The Property is currently improved with a commercial building and parking lot.
8. Access to the Property is from a driveway at Horseshoe Pike, which borders the Property to the south.
9. Applicant proposes to convert the existing commercial building into a church.
10. Applicant plans to relocate the driveway from Horseshoe Pike and construct a driveway at Todd Road, which borders the Property to the east.

11. Applicant will maintain the parking lot presently located on the Property.
12. Applicant further plans to construct stormwater facilities at the existing parking lot.
13. The proposed driveway and the parking lot are located in the FH Overlay District solely due to the presence of alluvial soils and not by FEMA delineation.
14. Section 27-802.F.(2) of the Zoning Ordinance provides that the establishment of driveways and any other paved at-grade surfaces are permitted within the FH Overlay District by special exception.
15. Section 27-802.F.(7) of the Zoning Ordinance provides that the establishment or expansion of subsurface sanitary and storm sewers and utility crossings are permitted within the Flood Hazard Overlay District by special exception.
16. Horseshoe Pike generates more traffic than Todd Road.
17. The purpose of relocating the driveway is for the safety and convenience of the community and church visitors by having ingress and egress to the Church be from Todd Road rather than Horseshoe Pike.
18. The driveway will not be flooded and water will not pool on the driveway under normal storm conditions.
19. The stormwater facilities will not cause flooding on the Property and any disturbance caused by the stormwater facilities will be minimal.
20. The special exception is an appropriate use in the area and is consistent with the character and development of the surrounding area.
21. The special exception serves the health, safety, and welfare of the Township.
22. Mr. Grishchuk stated that the special exception will comply with the Township Subdivision and Land Development Ordinance and that a Subdivision and Land Development plan has been submitted.
23. Public notice of this hearing was duly advertised in the Daily Local, a newspaper of general circulation within Honey Brook Township, on August 7 and August 14, 2023; adjacent property owners were notified of the hearing by mail on August 3, 2023; and the Property was posted with the notice of the hearing on August 9, 2023. (See Exhibits B-3 through B-5)
24. The Township Engineer submitted a letter, dated August 11, 2023, stating that the Board of Supervisors of Honey Brook Township approved a motion to take a position of support on the special exception request from Section 27-802.F.(2) and Section 27-802.F.(7) at the August 11, 2023 regular meeting of the Board of Supervisors. (See Exhibit B-6)

25. The Board provided opportunity for public comment but none was presented.

26. After closing the testimony at the August 21, 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 special exception application pursuant to Section 27-1401 of the Zoning Ordinance and Section 912.1 of the MPC, 53 P.S. § 10912.1.

2. Section 27-1410.A. of the Zoning Ordinance provides that the Board shall hear and decide requests for special exceptions pursuant to the following standards and criteria:

- a. The size, scope, extent and character of the special exception request is consistent with the Honey Brook Township and Borough Multi-Municipal Comprehensive Plan and with the purpose and intent of the zoning district involved.
- b. The proposed special exception character and type of development constitutes an appropriate use in the area consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter, or detract from the use of surrounding property or from the character of the neighborhood, the number, extent, and scope of nonconforming uses in the area, and the presence or absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which the applicant seeks approval.
- c. The proposed special exception serves the health, safety, welfare, and the best interest of the Township.
- d. The proposed modification is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water and sewers, police and fire protection, transportation and public schools.
- e. The proposed special exception shall comply with the Township Subdivision and Land Development Ordinance.
- f. The recommendations of the Planning Commission on the proposed development plan should be reviewed, where such plan is required. The Board shall not be bound by such recommendations, nor shall the Board be bound by the action of the Board of Supervisors in relation to the development plan.
- g. The proposed use shall limit the total number of new access points, reduce the need for on-street parking, and encourage the frontage of buildings on parallel marginal roads, or on roads perpendicular to the highway.

- h. The proposed special exception is suitable with respect to traffic on the roads or highways in order to protect streets and highways from undue congestion and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.
- i. The natural features and processes characterizing the proposed site and its surroundings shall not suffer unmitigated degradation, that the management of stormwater, the provision of water or sewer service, and any other alterations to the site's predevelopment condition, shall be consistent with Township's goals, practices and plans in these regards, and that demand for water and energy by the proposed use shall be minimized to the optimal extent.
- j. All commercial or industrial parking, loading, access or service areas shall be illuminated at night while in use, in accordance with Part 9, General Regulations, and that such lighting, including sign lighting, shall be arranged so as to protect neighboring properties from discomfort or hazardous interference of any kind.

3. The Board has determined that the Applicant has met the requirements for the grant of the special exception requested under Section 27-1410 of the Zoning Ordinance.

4. Applicant has shown that the special exception is consistent with the Honey Brook Township and Borough Multi-Municipal Comprehensive Plan and is of the character and type of development appropriate to the area.

5. Applicant has shown that the special exception serves the health, safety, welfare, and the best interests of the Township.

6. The proposed modification will comply with the Township Subdivision and Land Development Ordinance.

7. The proposed special exception is suitable with respect to traffic on nearby roads and will not cause the site and its surroundings to suffer unmitigated degradation.

8. Section 27-1410.A. of the Zoning Ordinance and Section 912.1 of the MPC, 53 P.S. §10912.1(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.

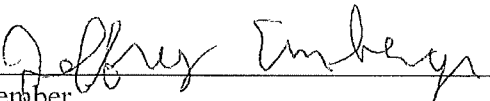
9. The following conditions are necessary to implement the purposes of the MPC and the Zoning Ordinance:

- a. Applicant shall be bound by all testimony and evidence presented at the hearing held on August 21, 2023.
- b. Applicant shall comply with all other applicable Township Codes, Ordinances, and Regulations.

**DECISION**

AND NOW, this 21<sup>st</sup> day of August, 2023, the Zoning Hearing Board of Honey Brook Township, hereby APPROVES the request of Stoltzfus Construction for a special exception pursuant to Sections 27-802.F.(2) and Section 27-802.F.(7) of the Zoning Ordinance to permit the construction of a driveway and stormwater facilities in the Floodplain Hazard Overlay District, subject to the following conditions:

- a. Applicant shall be bound by all testimony and evidence presented at the hearing held on August 21, 2023.
- b. Applicant shall comply with all other applicable Township Codes, Ordinances, and Regulations.

  
\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Date of Issuance of Written Decision: October 5, 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.**