

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

Re: Application of Benuel Riehl

No. 2023 -   1  

Date of Application: January 17, 2023

Date of Hearing: March 20, 2023

**FINDINGS OF FACT**

1. The property which is the subject of this zoning application is an 18.2 acre property located at 2707 Cambridge Road, Honey Brook Township, Chester County, Pennsylvania, in the Agricultural (A) Zoning District, being Tax Parcel Number 22-6-33 (the "Property").
2. The applicant is Benuel Riehl, the owner of the Property ("Applicant").
3. Applicant filed an Application to the Honey Brook Township Zoning Hearing Board on January 17, 2023, requesting dimensional variances from Section 27-1705.G.(1) and 27-1705.F.(2) of the Honey Brook Township Zoning Ordinance, as amended (the "Zoning Ordinance") to permit the creation of a three (3) acre residential lot from the Property. (See Board Exhibit B-1)
4. The January 17, 2023 application also requested a dimensional variance from Section 1002.B.(1) of the Zoning Ordinance to permit a freestanding accessory dwelling unit on the Property where such freestanding accessory dwelling unit cannot be feasibly subdivided from the Property. (See Board Exhibit B-1).
5. The Honey Brook Township Zoning Hearing Board was represented at the hearing by Christopher J. Hartman, Esquire.
6. Ron Hershey, a professional surveyor in Pennsylvania, of Hershey Surveying, Inc., testified on behalf of Applicant.
7. The Property currently is improved by a single family dwelling, barns, and a mill house.
8. Applicant desires to subdivide from the northern portion of the Property a three (3) acre lot (the "Proposed Lot").
9. Applicant proposes for the Proposed Lot to be used as a residential lot.
10. The Proposed Lot will also contain a produce farm as an agricultural use.

11. Section 1705.F.(2) of the Zoning Ordinance provides that any lot created from an agricultural lot for residential use shall have a maximum gross lot area of two (2) acres.

12. Section 1705.G.(2) of the Zoning Ordinance provides that any lot created from an agricultural lot for residential use shall not exceed ten percent (10%) of the gross area of the agricultural lot.

13. The Proposed Lot will exceed ten percent (10%) of the gross area of the Property.

14. The Proposed Lot is required to be three (3) acres in order for the Proposed Lot to contain residential structures and to permit the use of a produce farm on the Proposed Lot.

15. No commercial uses other than the produce farm will be located on the Proposed Lot.

16. Applicant also proposes to convert a mill house presently on the Property into an accessory dwelling unit.

17. The mill house is located on the eastern side of the Property and is presently unused.

18. The portion of the Property containing the mill house is narrow.

19. Section 27-1002.B.(1) of the Zoning Ordinance provides that freestanding accessory dwelling units are permitted where it is located such that the property could be subdivided into two conforming lots, each containing one dwelling unit, and with each dwelling unit meeting all area and bulk regulations for single-family detached dwellings.

20. Applicant is able to subdivide a portion of the Property containing the mill house into a 1.8 acre lot (hereinafter the "Mill House Lot").

21. The Mill House Lot would meet all area and bulk regulations for a single-family detached dwelling for a 18.2 acre lot.

22. The Mill House Lot would be unable to meet all area and bulk regulations for a single-family detached dwelling and therefore be unable to comply with Section 27-1022.B.(1) of the Zoning Ordinance for a lot that is 15 acres.

23. If the Proposed Lot is subdivided from the Property, then, due to the unique shape of the Property and the present existence of the mill house, Applicant will be unable to convert the mill house into an accessory dwelling unit such that the accessory dwelling unit could be subdivided into a conforming lot.

24. Applicant created the proposed Mill House Lot for the purpose of addressing the requirements of Section 27-1002.B.(1). Applicant has no actual plans to subdivide the Mill House Lot.

25. There are unique physical circumstances or conditions of the Property, including the irregular shape of the Property and the existence of the mill house, that make it impossible for Applicant to create the Proposed Lot and convert the mill house into an accessory dwelling unit in strict conformity with the Zoning Ordinance.

26. The hardships were not created by Applicant because the shape of the Property and the existing mill house were not created by Applicant.

27. The requested variances will not alter the essential character of the neighborhood or have a detrimental or negative effect on the neighborhood or public welfare.

28. The variances are the minimum variances which will afford relief and represent the least modification possible.

29. Public notice of this hearing was duly advertised in the Daily Local, a newspaper of general circulation within Honey Brook Township on March 7 and March 14, 2023; adjacent property owners were notified of the hearing by mail on March 8, 2023; and the Property was posted with the notice of the hearing on March 7, 2023. (See Exhibits B-3 through B-5)

30. 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 no position on the variance requests at the February 8, 2023 regular meeting of the Board of Supervisors. (See Exhibit B-6)

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

32. After closing the testimony at the March 20, 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 variances 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 variances are necessary to enable reasonable use of Property. The hardships have not been created by the Applicant.

5. Applicant has also established that the variances 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.

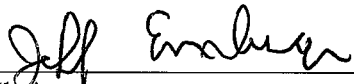
7. The following condition is necessary to implement the purposes of the MPC and Zoning Ordinance:


- a. The mill house, after its conversion into an accessory dwelling unit, cannot be subdivided from the Property.


**DECISION**

AND NOW, this 20th day of March, 2023, the Zoning Hearing Board of Honey Brook Township, hereby APPROVES the request of Benuel Riehl for a dimensional variance from Sections 27-1705.G.(1) and 27-1705.F.(2) of the Zoning Ordinance to permit the creation of a three (3) acre residential lot from the Property and the dimensional variance from Section 1002.B.(1) to permit a freestanding accessory dwelling unit on the Property where such freestanding accessory dwelling unit cannot be feasibly subdivided from the Property, subject to the following condition:

- a. The mill house, after its conversion into an accessory dwelling unit, cannot be subdivided from the Property.

  
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Chairman

  
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Vice Chairman

  
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Alternate Member

Date of Issuance of Written Decision: May 1, 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.**