

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of January 22, 2015

Members Present

David Dowling
Greg Sirb
Sara Jane Cate
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Amanda Zerbe

SE 15-01

Applicant: Schoffstall Farm, LLC

Address: 5790 Devonshire Road
Harrisburg, PA 17112

Property Owner: Martin Schoffstall

Property Address: 5790 Devonshire Road
Harrisburg, PA 17112

Section 306.B.a.e permits Farm-Related Business as a Special Exception in the R-1 Zoning District, to be approved by the Zoning Hearing Board, to be allowed to advertise and sell various events such as political gatherings, weddings, reunion, and other events for a commercial fee at the property.

Grounds: Section 306.B.a.e

Fees Paid: January 2, 2015

Property Posted: January 14, 2015

Advertisement: Appeared in The Paxton Herald on January 7, 2015 and January 14, 2015

The hearing began at 7:41 p.m.

Mr. Staub was recused from hearing this special exception as he had a business relationship with the applicant.

Mr. Dowling swore in Martin Schoffstall, 5790 Devonshire Road, Harrisburg, Pennsylvania, 17112, who is the owner of the property.

Mr. Dowling noted that Ms. Zerbe was previously sworn in as the Planning and Zoning Officer for Lower Paxton Township.

Mr. Dowling requested Ms. Zerbe to explain what ordinances pertain to this application. Ms. Zerbe answered Section 306.B.a.e permits Farm-Related Business as a Special Exception in the R-1 Zoning District, to be approved by the Zoning Hearing Board, to be allowed to advertise and sell various events such as political gatherings, weddings, reunions, and other events for a commercial fee at the property.

Mr. Dowling questioned if the appropriate fees were paid for this application and was the property posted. Ms. Zerbe advised that the appropriate fees were paid on January 2, 2015, and the hearing was advertised in The Paxton Herald on January 7, 2015 and January 14, 2015. She noted that the hearing notices were posted on January 19, 2015.

Mr. Dowling requested Mr. Schoffstall to explain why the Zoning Hearing Board should grant the special exception.

Mr. Martin Schoffstall noted that Mr. Wolfe told him that he should apologize to the Board as he will have to come back next month on another matter in regards to holidays and the Pennsylvania Liquor Control Board.

Mr. Schoffstall noted in the Farm Related Business which is section seven... Ms. Zerbe explained that Farm Related Business is Section 306. Mr. Schoffstall noted that there is a huge list of farm related businesses, anything from compost to vehicle repair, hair dressing, and woodworking. He noted that it's a very long list of farm related events or issues. He explained that the vineyard and winery is a farm. He noted with regards to vineyards and wineries, one of the very standard things that occurs are weddings and other events, or at least his completion, whether it be Cassel's on Route 39 or Grandview in Manheim Township or Hershey in Hummelstown, this is the normal or customary aspect of a home winery and vineyard.

Ms. Zerbe noted what Mr. Schoffstall is talking about is the definition in Section 403.D.7.

Mr. Schoffstall noted that the Board of Supervisors will discuss, during its upcoming March workshop session, this section of the ordinances but he is present in regards to the timing for the weddings and political events that begin in April and May versus how long a time the Board may take to work on an text amendment to this section of the ordinance.

Mr. Schoffstall explained that his application in a nutshell is that he had done 40 to 50 of these events since he bought the property in 1996 with up to 500 people present. He noted that it is not unusual for that property's usage. He noted in the original submission for land use the building that is called the barn was the center of entertainment, and the courtyard which is half acre, was in fact the basis for the original submission. He noted that it is not completely out of context for where this all began in 1995.

Mr. Sirb questioned if Spring Gate is only wine tasting. Mr. Schoffstall answered that he sells bottles of wine. Mr. Sirb questioned if Mr. Schoffstall does events now. Mr. Schoffstall answered yes. Mr. Sirb questioned if the events are weddings, functions and retreats. Mr. Schoffstall answered yes until he was told about this. He noted that there was an assumption on his part that since he had been doing it for 20 years that it would not be an issue, but it has arisen as an issue and the correction from the respect of the Township was to come here to ask for a special exception.

Mr. Sirb noted that the only reason Mr. Schoffstall is present is because of the functions. Ms. Zerbe answered that this special exception is to allow him to do the special events and functions. Mr. Sirb questioned what a function is, noting that he has been there for a wine tasting event once or twice. He questioned if that was a function, the wine tasting. Mr. Schoffstall answered no. Mr. Sirb questioned if it is something other than wine tasting. Mr. Schoffstall answered that it would be a wedding. He noted that the Township should represent themselves but he believes their position is that a wedding is not primarily about the wine, so it is a separate issue with regards to the Township. He noted that his argument is that it is customary in this industry and it is a competitive industry.

Mr. Sirb questioned if the Township is comfortable with these functions that the parking is good, the in and out egress is good, there is nothing on that property that would put up a red flag to hold these functions. Ms. Zerbe answered that she has not seen a parking plan so she has no idea for the parking.

Mr. Sirb questioned how many parking spaces Mr. Schoffstall has. Mr. Schoffstall answered 100. Mr. Sirb questioned for the functions that you have, what is the largest function that you had. Mr. Schoffstall answered 500 people in two days.

Mr. Dowling questioned for the Zoning Hearing Board to grant the special exception, does it have to be a farm-related business holding these functions. Ms. Zerbe answered that is where the sticking point is. She noted from what she can see for farm related businesses, the tasting is a custom use for what he is doing, but special events are not called out specifically in the definitions. Mr. Dowling questioned as a farm-related use. Ms. Zerbe noted that the tasting rooms are.

Mr. Sirb questioned in the same ordinance if there is a maximum of four employees. Ms. Zerbe answered four employees that are not related to the resident. Mr. Sirb noted for a function with 500 people you would have to have more than four employees. Mr. Schoffstall answered that he does not have any employees, it is different, using another model that he has in the organization to do this. Mr. Sirb questioned if Mr. Schoffstall farms this out to a third party. Mr. Schoffstall answered if the Board doesn't want him to do this, in relation to the employee issue, then all of it will be done by a catering organization.

Ms. Cate noted that it is employees of someone, the people who work for the catering organization. Mr. Schoffstall answered but not of the farm. Ms. Cate answered that is true but they are working on the farm when they are doing something there. Mr. Schoffstall noted if it is

commercial, yes, you could view it that way. Ms. Cate questioned do you have receptions there. Mr. Schoffstall answered yes we do.

Mr. Sirb noted that he was there for a function and it was fantastic. He noted that he did not realize that it was in a violation of an ordinance but it seemed to be a natural extension of what you are doing. Mr. Schoffstall answered that he was surprised when he was informed of this. He noted that he is doing the rectification that the Township requested.

Mr. Sirb questioned if the Board is going to revisit this ordinance. Ms. Zerbe answered at some point it may be adding a text amendment for the ordinance but it has not been proposed yet.

Mr. Hansen questioned if this is the only farm in the township anymore that might come to the Zoning Hearing Board with this application. Ms. Zerbe answered that she is not sure.

Mr. Sirb noted that you have to have 25 minimum acres; he questioned Mr. Schoffstall how many acres he has. Mr. Schoffstall answered that he has 60 acres. Mr. Sirb questioned if there would be any other properties that would have 25 acres. Mr. Schoffstall noted that the acreage is contiguous as part is across the road from each other; one section is 40 acres and the other is 20 acres. He noted that the overall purpose since acquiring the property in 1995 has been to keep it as green space forever. He noted that it is 250 years old and housed the oldest Presbyterian Seminary in the United States and has everything from a schoolhouse with a bell to a log cabin on it. He noted to place it on an economic footing that it can be sustained in its original agricultural purposes, it is really the purpose of this whole exercise with the vineyard and winery.

Mr. Sirb questioned how much of the business makes up the other functions outside the vineyard. Mr. Schoffstall answered that it is probably less than 10% but he hopes that it would be more than 25% in the future.

Mr. Turner noted that he has had similar issues with the Silver Springs Township Zoning Hearing Board as it is a very similar township, and in the last two months, he has had two hearings on this same issue. He noted that they were largely centered on preserving barns with the only economic way to do it being to turn barns into an event place that would generate some income so that people could maintain the barns and allow the property to be undeveloped.

Mr. Sirb noted that it is very popular in the Lancaster areas as there must be a half dozen that are there but he did not notice anything when he was present for the Schoffstall function. He noted that he would have noticed it, but he did not notice any traffic or see anything that would say that it should not be here.

Mr. Dowling noted that we should discuss the issue of traffic as we have something that is zoned agricultural, farmland that would not generate much traffic; however, when you allow events like this the traffic will be expediently increased. He noted for this location, the roads that bi-sect the intersection are both fairly busy roads, Devonshire and Devonshire Heights Roads.

He noted if this were at the base of Blue Mountain, where there is very little traffic and all of a sudden, you are going to have 500 cars, he would think that there would be a concern. He noted that he did not know if the traffic would be that much different at this location when you have an event versus a non-event. Mr. Schoffstall noted that he would be more concerned for the development that is being constructed off of Union Deposit Road, noting that it would have more impact on Devonshire Road and Devonshire Heights Road due to all the houses that are being built at that location, than a Saturday wedding.

Mr. Sirb questioned if the events are normally on a weekend. Mr. Schoffstall noted in 20 years he had four weddings, most were under 100 people.

Mr. Turner questioned how far from where the events are held on your property would it be to the newest public residence other than your residence. Mr. Schoffstall answered 500 to 600 feet, a football field at least.

Mr. Hansen noted that the noise for the entertainment would it be inside the barn. Mr. Schoffstall answered that these are more focused on the weddings and those are on the outside. Mr. Hansen questioned if you had a band with dancing and music would they be playing on the outside patio. Mr. Schoffstall answered that was correct.

Mr. Sirb questioned Ms. Zerbe if she ever received any complaints for noise or lighting. Ms. Zerbe answered no.

Ms. Cate questioned if you have much exterior lighting. Mr. Schoffstall answered no, he noted that most of the events are basically in the "U" and it is down 2,000 feet from his property, near the ten acre McNaughton detainment pond with 40 foot trees. He noted that there is nothing that faces houses for thousands of feet at all. He noted that the Liquor Control Board requires zero decibels at the edge of the property. He noted that the music tends to be much more sedate.

Ms. Cate questioned if Mr. Schoffstall has a plan to change the layout of the property to deal with larger groups. Mr. Schoffstall answered that it is possible but he does not plan to change the layout of the land as people come there now because of the aesthetics so changing anything dramatically would effect the aesthetics.

Mr. Hansen questioned if the current parking is natural or grass and will it stay that way. Mr. Schoffstall answered that it is grass, gravel, macadam and block. Mr. Hansen questioned if it will be staying that way. Mr. Schoffstall answered yes. Mr. Hansen questioned if the driveway will be lite to get into the area where the barn is located. Mr. Schoffstall answered that there is some lighting, but not in the first 70 feet off of Devonshire Road, but once you get inside the property there is some lighting.

Mr. Hansen questioned how long does the wine tasting events occur. Mr. Schoffstall answered that it is the last weekend of the month. He noted that he is not big in advertising or signage.

Mr. Sirb questioned if you are comfortable that you meet all the qualifications for Section 306.B. He noted that he meets the 25 acres, total of four employees we touched on that but he could cater out the events if that is the issue, and it is conducted in an area not to exceed three acres, with only one sign. Mr. Schoffstall noted that he is comfortable that he meets all those requirements as he has one half employee.

Mr. Sirb questioned how Mr. Schoffstall goes out and gets the weddings or advertises for the weddings and sets them up. Mr. Schoffstall answered that there is very little going out, it is basically responding to the people who contact him. He noted in the discussion with Mr. Wolfe, in regards to this section, further discussions will be held during a workshop session in March. He noted that there is the issue of the definition of employee which he suggested they should think about this as a full time equivalence. He noted that it is a very part time kind of situation, so having six people there on a Saturday and having no one there for the other six days has less of an impact than having four employees seven days a week.

Mr. Hansen noted if you have musical events during the summer for wine tasting would it be a special event or would it be connected with the wine tasting and wine use. Ms. Zerbe answered that it would be considered as part of the winery.

Mr. Schoffstall noted in that context we had 100 of those last year. Mr. Sirb noted that he had been to two or three of those events and it is hard to split the hair that says he has a winery, he is allowed to have music, allowed to promote the winery, to bring people there; however, you step over this curb and say now we are going to have a wedding at the winery where they are still drinking wine, and still having music but it falls under a different ordinance. He noted that he has had those events there and he does not see any difference between the two, maybe in the size, but he has probably had 100 people for a Saturday night event.

Mr. Dowling noted that the question is not if drinking wine is related to the farm, rather is having a wedding related to the farm. He noted that most winery's that he is familiar with do this but he did not know if their ordinances are structured like the Township's, noting that Hershey has a winery and they have events there. He noted that he does not know what their ordinance is like.

Mr. Schoffstall noted that Manheim Township or Hershey or Castle, all of us, at the end of the day, have been before Zoning Hearing Boards. He noted that this is a business that almost didn't exist outside of Erie and Philadelphia ten years ago. He noted that we are blessed to sit at a junction of a huge tourism that comes to this area to visit and one of the things that people now come to do as part of tourism is to visit a local winery. He noted that was not true years ago.

Ms. Cate questioned how late would you have a wedding. Mr. Schoffstall answered in discussions with Mr. Wolfe the goal is to have permission from 9 a.m. to midnight. He noted that it give time for getting the people to get in and out and to remove all the equipment and that is what the contracts would state.

Mr. Sirb questioned how does Mr. Schoffstall do it when you do weddings, do you hire out a third party to do it or do you have people in-house. Mr. Schoffstall answered that his wife, himself and son did it in his 30's, and that was perfectly fine. He noted in his 40's it was alright, but in his 50's he doesn't do it anymore. He noted that it has become a little much.

Mr. Dowling questioned how can the Board address this but at the same time make sure the Township undertakes a parking study analysis. He noted that the parking should be addresses. He noted that parking at night, trying to find your car parked out in a field without directions, the concept is good but the parking is an issue and he questioned how we have the Township act on this. He noted that the on lot traffic circulation parking should be clearly marked and that is not the case now, he noted that it will have to be addressed. Ms. Zerbe answered that it can be addressed. She noted that she could require Mr. Schoffstall to provide a parking plan and she can check on the concerns for the entrance and exit of the driveway.

Mr. Turner noted that the Board can make the decision contingent on the applicant providing a parking plan to the satisfaction of the Township.

Ms. Cate questioned if traffic will be generated after 7 p.m. by the people attending the weddings. Mr. Schoffstall answered yes. He noted for the weddings, the parking is in a very specific place and not in the parking area that Mr. Dowling was in. He noted that the designated area for parking for weddings is in front of his house. He noted that satisfying the Township on that matter should be easy.

Mr. Dowling noted that he brought that up since he was stuck in the upper hill once and he got in but has an issue with getting out.

Ms. Cate noted that non-agricultural operations shall not routinely occur in a manner that generates traffic or noise heard by neighbors between the hours of 9 p.m. and 7 a.m. She noted that Mr. Schoffstall would be having traffic after 9 p.m. Mr. Sirb noted that the key word for him is routine. Ms. Cate responded that it would depend on how many wedding events he has as it could become routine.

Mr. Schoffstall noted that May through September is about six months so the rest of the year there are basically none and it is one or two a week maximum. He questioned if that is routine. Ms. Cate noted if it happens frequently, only once or twice a week, but does it mean anything if it is ten weeks in a row. Mr. Turner noted that the noise has to be heard by neighbors.

Mr. Sirb noted that Ms. Zerbe stated that she has not had one complaint. Ms. Zerbe answered that she has never received a noise complaint from that area so if he has had weddings before... Mr. Sirb noted that he knows that he has had weddings before. Ms. Zerbe noted that she has received no complaints.

Mr. Schoffstall noted that he had Representative Ron Marsico's political event in September with 170 people. Mr. Sirb suggested that they would be called social events.

Mr. Dowling suggested that we understand the issues and he questioned if there are any additional questions by Board members.

Mr. Dowling questioned if anyone in the audience wished to be heard in regards to the application. No response was heard.

Mr. Dowling questioned Ms. Zerbe if the Township has any position on this other than the parking plan. Ms. Zerbe answered no.

Mr. Dowling noted that the Board has 45 days to render a decision with respect to this application and he questioned if any members of the Board wish to take action at this time on SE 15-01.

Mr. Sirb made a motion to approve the application as submitted for the Special Exception for SE 15-01 with the condition that the Township do a thorough review of the parking and upon approval of the parking... Mr. Dowling suggested that this meet the parking requirements of the Township. Mr. Sirb agreed. Mr. Hansen seconded the motion.

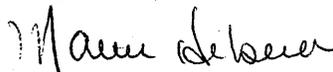
Mr. Sirb questioned if the Township revisits the plan with the Zoning Hearing Board granting this special exception, and the Township make the amendment harder would this application be grandfathered in. Mr. Dowling answered yes. Mr. Sirb suggested that the Township will not make it harder that it will go the other way. He noted that he is comfortable with his motion.

Mr. Dowling noted that generally he would be concerned about this but given the location that it is located at a rather busy intersection, he did not think the additional traffic would be a big deal.

Mr. Turner conducted a roll call vote: Mr. Fisher, aye; Mr. Hansen, aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Dowling, aye. Mr. Dowling noted the application has been approved.

The hearing ended at 8:15 p.m.

Respectfully submitted,



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
SCHOFFSTALL FARM, LLC : DOCKET NO. SE 2015-01

DECISION GRANTING SPECIAL EXCEPTION

The applicant seeks a special exception to conduct a farm related business in the R-1 Low Density Residential District. A hearing on the application was held on January 22, 2015.

Facts

1. The applicant and owner of the property in question is Schoffstall Farm, LLC of 5790 Devonshire Road, Harrisburg, Pennsylvania 17112. The applicant was represented at the hearing by Martin Schoffstall, one of the principals of the LLC.

2. The property in question consists of 60 acres located at the intersection of Devonshire Road and Devonshire Heights Road. Although the property is zoned R-1 and is surrounded by residential development, it is currently used for agricultural purposes, specifically as a winery, as well as for keeping horses. The property also serves as the applicant's residence.

3. The applicant proposes as an accessory to the winery, to host special events, such as weddings and other social and business gatherings. Per LCB regulations, sound volumes would be maintained at 0 decibels at property boundaries. The nearest residence is located 500 to 600 feet away from the special events area.

4. The applicant has been operating the special events for some time as an accessory to the winery without complaint to the Township by any surrounding property owners.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant appeared to testify in favor of or against the proposed special exception.

Conclusions

1. Section 306.A of the ordinance designates accessory agricultural uses in the R-1 zoning district as a special exception subject to the provisions of Section 403.D.7.

2. Section 116.3 of the ordinance grants to the Zoning Hearing Board the power to grant special exceptions where the conditions set forth in this section have been established.

3. The Board finds that the provisions of Section 403.D.7 have been met. No new construction is proposed, the business will not require tractor trailers, nor will it generate noxious odors, noise or glare. No sign is proposed in connection with the use and the use is listed in subsection (i) (16) as permitted as a farm-related business. The Board further notes that the location on two relatively busy thoroughfares will accommodate the traffic generated by the business without impacting the neighborhood adversely.

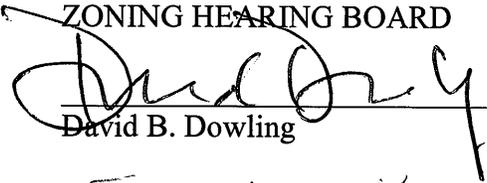
4. The Board finds that the applicant otherwise complies with the ordinance and other relevant laws and regulations. The site has proper circulation although parking should be reviewed by the zoning officer. The operation will not alter the character of the neighborhood and will in fact be of benefit to the neighborhood by making the agricultural use economically viable, thereby preserving open space.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the special exception should be and is hereby granted allowing commercial tourism and special events as a farm related business on the condition that the applicant present a parking plan for review and approval by the zoning officer.

Date: 2/26/15

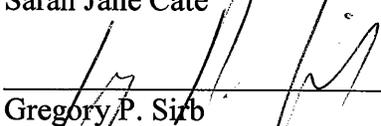
LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



David B. Dowling



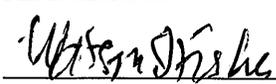
Sarah Jane Cate



Gregory P. Sirb



Alan Hansen



Watson Fisher