

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of February 26, 2015

Members Present

David Dowling  
Greg Sirb  
Sara Jane Cate  
Alan Hansen  
Watson Fisher  
Jeff Staub

Also in Attendance

James Turner  
Amanda Zerbe

**SE – 2015-02**

Applicant: Schoffstall Farm, LLC  
Address: 5790 Devonshire Road  
Harrisburg, PA 17112  
Property Owner: Schoffstall Farm, LLC  
5790 Devonshire Road  
Harrisburg, PA 17112

The property is zoned R-1, Low Density Residential District. The applicant, Martin Schoffstall, is seeking a special exception for use of a residential property to operate a brewpub that will be part of the permitted brewery. The brewery is permitted as part of the agricultural use at the property.

Grounds: Article 4, Section 403 D  
Fees Paid: February 4, 2015  
Property Posted: February 17, 2015  
Advertisement: Appeared in The Paxton Herald on February 11, 2015 and February 17, 2015.

The hearing began at 7 p.m.

Mr. Dowling explained to the large crowd that was in attendance that the applicant would make his presentation, the Township will then offer testimony, and at that time he will open the proceedings for questions from the audience. He noted that the audience may ask the applicant questions, and or you may testify or both. He noted if it comes to a point where the comments are getting repetitive with the same types of objections or comments, he may cut it off or have

someone summarize the comments on behalf of a group. He noted for now, everyone will be able to testify if they want to subject to reasonable limitations.

Mr. Dowling direct Mr. Schoffstall to the seat.

Mr. Dowling swore in Amanda Zerbe, Planning and Zoning Officer.

Mr. Dowling questioned if the appropriate fees have been paid for this application. Ms. Zerbe answered that the fees were paid February 4, 2015. Mr. Dowling questioned if this hearing was properly advertised and posted. Ms. Zerbe answered that the hearing was advertised in the Paxton Herald on February 11, 2015 and February 18, 2015 and posted on February 17, 2015.

Mr. Dowling requested Ms. Zerbe to summarize what Township ordinances are at issue and provide some history explaining what this Board did last month with the applicant. Ms. Zerbe answered that the applicant has applied for a special exception for the use of a residential property to operate a brewpub that will be part of the permitted brewery. The brewery is permitted as part of the agricultural use at the property. She noted that last month Mr. Schoffstall came before the Zoning Hearing Board for a special exception for the R-1 zoning district to be allowed to advertise and have various events such as political gatherings, weddings, reunion and other events for a commercial fee at the property. She noted that the Zoning Hearing Board granted the special exception with the condition that the Township receive a review for parking.

Mr. Dowling questioned if the parking review has been submitted yet. Ms. Zerbe answered that it has not.

Mr. Dowling noted that Ms. Zerbe indicated in her summary that the brewery is permitted as part of the agricultural use of the property. He questioned how we arrived at that opinion. Ms. Zerbe answered that Article 4, Section 403 reads that a farm related business with a minimum lot area of 25 acres is defined as a low-intensity commercial or industrial activity that functions as a customary accessory use to an on-site principal agricultural use. She noted that breweries are a permitted use under the Agricultural Act Mr. Dowling questioned if that is because you or the applicant believes that producing and brewing beer is part of a farm related business. Ms. Zerbe answered that the applicant will testify to that. Mr. Dowling questioned if the Township is neutral on that position or does it have a firm opinion one way or the other. He explained, before we get into the issue of a brewpub, there is an issue to him whether or not brewing beer is even part of a farm related business. Ms. Zerbe noted that the Township is neutral to that. Mr. Dowling noted that is perhaps another issue for the Board this evening.

Mr. Jeff Staub noted that he would have to recuse himself from the hearing as he has a business interest with the applicant. Mr. Dowling recused Mr. Staub from the hearing.

Mr. Dowling questioned Mr. Schoffstall if anyone else would be testifying on his behalf. Mr. Schoffstall answered that there may be some comments made by people in the audience. Mr.

Dowling noted that we will take that as we move along. He proceeded to swear in Mr. Schoffstall.

Mr. Schoffstall explained that he has a power point presentation to make to the Board. Mr. Dowling noted that it will enable the Board and those in the audience to view it as well.

Mr. Dowling explained that the microphones are not working at this time. He asked those who will be speaking to speak up.

Mr. Schoffstall noted that things have changed in a month's time as last month no one was in the audience. He noted in raising children in Lower Paxton for the past two decades he used to use a term with his kids, a brouhaha. He noted that it is very literal in this situation. He noted that his presentation is about sustaining agricultural land in the Township, and he wrote his presentation in response to questions he has heard from the citizens of Lower Paxton while he was on vacation in Florida.

Mr. Schoffstall noted that the alternative to agriculture is residential development, tract housing. He noted that this area has been well executed in the Township for decades going back to what Timothy and Nyes Roads looked like in 1962 when he was living in the Township. He noted that agricultural families sell raw land to one of four developers in the Township, the family leaves, developers don't live in what they build, and we basically rinse and repeat.

Mr. Schoffstall noted that the last time he looked, the operating costs of a new development in the Township to include the Central Dauphin School District, about seven years ago for a single family were negative for the first 20 years and the incremental tax does not pay for incremental costs of the single family housing. He noted that he has brought this up in past meetings before the Board of Supervisors. He noted that regardless, single family one time permitting fees are down 58% over ten years, sale of, and payroll is down \$10 million through the Earned Income Tax and there are over 150 abandoned homes in the Township.

Mr. Schoffstall noted that the problem for him and others in the Commonwealth according to Penn State is "local ordinances often prevent farmers from changing or expanding their operations, despite the prohibitions of state law. Since it is frequently necessary for farmers to expand their operations in order to generate sufficient income or provide opportunities for the next generation, ordinances that prevent expansion may constitute the fatal blow for many family farms."

Mr. Schoffstall noted that his request from his perspective is agricultural. He noted that he does not agree with the Township's interpretation of State law (PA 953 et al) and its effect on its ordinance but he felt this is the most communicative way to do this. He noted that residential zoning is not in play here as this farm has been under a constant agricultural use for 250 years plus, and it is grandfathered.

Mr. Sirb noted that his first big question concerns its location in a R-1 District and if he is grandfathered in as agriculture because of continued use. Ms. Zerbe answered that it is pre-existing non-conforming use but it is still zoned R-1. Mr. Sirb noted that he is still zoned R-1 so the agricultural use is encompassed by an R-1 District. Ms. Zerbe answered that was correct. Mr. Sirb noted that he can't... Mr. Schoffstall noted that there is no confusion on Mr. Sirb's part but seeing some of the things that were posted out there to the public, the R-1 issue became bigger than it really is. Mr. Sirb noted that Mr. Schoffstall is in an R-1 District. Mr. Schoffstall answered yes, but under Pennsylvania Statute any land over ten acres used for agriculture and having a \$10,000 per year income is agricultural land, no matter what. He noted under PA Statute what is produced must be allowed to be sold and also, "Every municipality shall encourage the continuity, development and viability of agricultural operations within its jurisdiction." He noted from his perspective, agriculture is a \$66 billion business in Pennsylvania and the largest business and employs one out of six people in the State. He believes that the burden is the Township's and not his. He suggested that the Township needs to encourage him to do agricultural practices.

Mr. Schoffstall noted, in law, we need to determine who is preeminent starting at the Federal level and then get down to the local level. He noted that he has to deal with everything from the Alcohol and Tobacco Tax and Trade Bureau (TBB) with the State's Constitutional provisions on agriculture, which were there before any Statement about municipalities. He noted that there is long standing legislation on the Pennsylvania Right to Farm Act and the Pennsylvania Acre Act provides farms with various immunities noting that no one in the audience can sue him as he is immune to suit if he is practicing agriculture as it is confer on him by the State of Pennsylvania. He noted that there is a Pennsylvania requirement for Township's to have Agricultural Security Boards, something that is not in operation in this Township. He noted that there are various Pennsylvania Department of Agricultural Provisions and the Pennsylvania Liquor Control Board (PLCB) legislation and regulations, and finally we get to the Township Ordinances.

Mr. Schoffstall noted that the catch 22 is that Pennsylvania Agriculture Statues would suggest that he can produce and sell beer as a brewery for off licensed site consumption. Mr. Sirb noted that it is a catch 22 noting that he agrees with everything Mr. Schoffstall displayed on the screen and he knows the PLCB laws fairly well and he does agree with what he has said but the problem is that you are in a R-1 District, and all the items you started at the federal level he agrees with. He noted that there is no gray area that the emphasis is to continue farm land so it does not become a strip mall or more homes built, you know that it is the continuation of agricultural use, but again the problem is you are in a R-1 District and he does not know how to get around that.

Mr. Schoffstall noted for the brewery it is a moot issue... Mr. Dowling noted that it would be helpful if you would deviate from the presentation a moment to tell us what do you do with the farm, what you propose to, and what exactly is a brewpub. Mr. Schoffstall explained that he lives on the farm with his family and beyond that there is an orchard, sheep herd, chickens, grapes that are grown, wine that is fermented, hops that are grown, and soon, beer to be brewed that is permitted as anyone can brew beer in their basement for personal consumption.

He noted that is the big picture. He noted the State law which is different from the Federal law, there is a brewery and a brewpub. He noted that they are two distinct concepts. He explained that the brewery is where you make the beer to be sold to be consumed off the license premise, whereas the brewpub is permitted to sell beer to be consumed on the licensed premises. Mr. Dowling noted which has been brewed on the license premises. Mr. Schoffstall answered not necessarily. He noted that he can move his wine 22 feet and sell it in a brewpub but he can't move his beer from the brewpub to the winery. He noted that a further difference between the brewery and the brewpub is as follows: the brewpub allows him to glass beer, to sell it by the glass. He noted that is the other distinction with the brewery is that he can sell by the keg, bottle, growler, and taste beer but he can't sell by the glass.

Mr. Dowling questioned if Mr. Schoffstall has a brewery in operation. Mr. Schoffstall answered no, he noted that he is weeks away from that. Mr. Dowling questioned if it is Mr. Schoffstall's position that because you are a farm you are allowed pursuant to the Township Ordinance to brew beer. Mr. Schoffstall answered that it was subject to a meeting held in the beginning of January where Ms. Zerbe, Mr. Wolfe, Mr. Hornung and Mr. Stine were present in that if you want to use the word concessions were made for the 51% constituency of what was made at the brewery itself. He noted that the triggering issue is the 51%. He noted that it would include anything that he makes including lamp chops.

Mr. Turner questioned if the brewery is using the ingredients, 51% of which are raised on this property. Mr. Schoffstall noted that the word is not raised according to Pennsylvania statute, the word is produced. He noted that water and hops both count.

Mr. Dowling noted when we began the meeting, he asked Ms. Zerbe the Township's position, and you stated that it was neutral. He noted that Mr. Schoffstall stated that there was some kind of concession made during a meeting, are you aware of any such concession that would allow the brewing of beer on this farm. Ms. Zerbe noted that Mr. Schoffstall made the statement and the Township Solicitor agreed with him that the water makes up 51% and it would fulfill the requirement.

Mr. Sirb noted that he agreed with that statement, the right to brew on your farm, he suggested that you have a right to do that under the statute and it is something that that Township cannot override. Mr. Dowling noted that the ordinance stated processing and storage of agricultural products. He questioned if that includes brewing. Mr. Schoffstall noted that it would not be in his position to answer that question. He noted that it is fermenting and is fermenting his grapes allowed or not. He noted that is the parallel question. Mr. Sirb questioned what license you have now with the PLCB. Mr. Schoffstall answered that he has a winery license and in another couple of weeks he will have the brewery license. Mr. Sirb noted that you have a winery license and you sell wine on the farm. He noted, under the ordinance, we are allowing the selling of the wine, but why are we having an issue with the selling of the beer.

Mr. Turner noted as he understands it, the Township's position is he can produce the beer and he can sell it by the case. Ms. Zerbe noted that is the PLCB requirements and Mr. Schoffstall can speak to that. She noted that the issue becomes part of his permitting process with the PLCB as they require him to have food and that is what kicks off the interest of the Township as it now becomes a restaurant. Mr. Schoffstall noted that she moved from the brewery to the brew pub license. Mr. Turner noted from the Township's standpoint if all he

wanted to do was to brew beer and put it on a truck and send it somewhere there would be no issue. Ms. Zerbe answered that is correct. Mr. Turner noted that it is the next step where he intends to sell the beer by the glass and operate a restaurant associated with the brewpub and that is where the issue lies.

Mr. Schoffstall noted the PLCB Statues for a brewpub require that he sell food which is not true for a winery, for onsite licensed consumption. He noted that we are talking about 2,000 square feet of the 60 acres. He noted that he does not want a restaurant, Hershey Vineyard and Brewery does not want a restaurant and very few of the farm winery organizations want a restaurant. He noted that we have enough with getting the grapes and the brewery done, but he has to meet the Pennsylvania Statute. He explained, the way it is done in many places is that we hold frozen hot dogs and frozen hot dog buns and we have a microwave and we sell them for \$10 or \$15 and effectively we don't sell any hot dogs, but we have met the letter of the law. He noted that Rebecca and he have walked with the PLCB inspector and they are quite happy with what he has because they have seen it time and time again. He noted that it is a normal situation for them.

Mr. Schoffstall noted that now we have made that distinction. He noted that he is asking to operate a microwave for some hot dogs. He explained that he has committed to the Township by letter, early in February, that what he was going to do is the minimum, the hot dogs, required by Pennsylvania Statute. He noted if the State decides two years from now that you also have to have relish then he will have relish for the hot dogs.

Mr. Schoffstall noted that this is an amenity for the Township with 2,000 square feet of indoor space on 60 acres that will serve an artisan beer produced by local people and the majority of the ingredients will be local. He noted that the majority of guests will be local and in fact most of the people who will serve it will be involved in the production of it to include growing the hops. He noted that it is not a bar, nor is it Olive Garden, nor is it a Starbucks. He noted that it will sustain 60 acres of land in a novel way. He noted since moving back into the areas years ago, he has watched barn after barn burn down, taken down, destroyed, and acre after acre turned into subdivisions. He noted that he mourns the loss of the barn on Devonshire Heights where he asked the Township about doing some kind of commercial purpose in it to save what it was, as it was the largest barn in Dauphin County. He noted that he is trying to save the history, this part of Lower Paxton in a particular way.

Mr. Dowling questioned if that concluded Mr. Schoffstall's presentation. Mr. Schoffstall answered yes.

Mr. Dowling questioned Mr. Schoffstall if he can't operate the brewpub and sell beer by the glass would somehow the farm will be turned into an apartment complex or the farm itself will fail. Mr. Schoffstall answered no.

Mr. Sirb noted that he agrees with Mr. Schoffstall's statement concerning the federal laws in regards to farming. He noted that we are encouraged to maintain farming and over the years, part of that encouragement was that many farms have become wineries. He noted that we have seen a number of wineries for the past ten years open up in Central Pennsylvania to help sustain the farm. He noted that the brewpub gets us into an odd situation. He noted that it will force the restaurant issue on Mr. Schoffstall and there is no way around that. He noted that the Township has to give you the authority to operate a restaurant regardless if you sell food or not.

Mr. Sirb noted that another question that he had was that the business as found in Section 403.d of the ordinance, shall not generate odors, noise, or glare in amounts from a typical generated agricultural operation; non-agriculture operations shall not routinely occur in a manner that generates traffic or noise heard by the neighbors between the hours of 9 p.m. and 7 a.m. He questioned if the brewpub would generate traffic and noise between the hours of 9 p.m. and 7 a.m. Mr. Schoffstall answered that portion of the ordinance does not apply because this is part of doing agriculture, it is not a non-agricultural. He noted that PA Statute 953, says that every municipality shall encourage the continuity, development and viability of agricultural operations within its jurisdiction. Every municipality that defines or prohibits a public nuisance shall exclude from the definition of such nuisance any agricultural operation conducted in accordance with normal agricultural operations so long as the agricultural operation does not have a direct adverse effect on the public health and safety. Mr. Sirb noted that you stated normal agricultural operations. He noted that you can't have me believe that brewing beer is a normal agricultural operation. He noted that he agrees for what we have but the laws are really hard here. He noted that you are in an R-1 District.

Mr. Brendan Degenhart, 6551 New Providence Drive, Harrisburg, PA was sworn in by Mr. Dowling. Mr. Dowling questioned if he had a relationship with the applicant. Mr. Degenhart answered no, he explained that he just met him two minutes ago.

Mr. Degenhart noted that the question was how you consider brewing agricultural. Mr. Sirb noted the word was "normal". Mr. Degenhart answered that it is normal, noting if you go back in your history books the brewing of beer was all agricultural as that is how they used the grains, saved them, and they made beer. He noted that they went from hunting and all of a sudden locations started establishing Townships and communities and if you read the history books, beer has a tremendous history especially as an agricultural product. He noted that he is an accountant by trade, but he has a minor in history and he has studied it and considers it to be normal agriculture based on how we emerged as a society. He noted that he has no doubt about that.

Mr. Sirb noted that we have the farm-related business, which is what this is. Mr. Schoffstall noted that the brewpub can be construed as a farm-related business but with brewing that is what he responded to.

Mr. Sirb noted if he agreed that Mr. Schoffstall is entitled to brew beer under the code and the federal and state law, particularly because of the 51%, although the water issue is a little stretched but he would provide him the benefit of the doubt for that one. He noted if you can brew beer at your establishment currently, there is still the issue that the business cannot generate traffic or noise heard by the neighbors between the hours of 9 p.m. and 7 a.m. Mr. Schoffstall questioned if he was speaking to the brewpub. Mr. Sirb answered yes, noting that they put a specific time in that section of the ordinance. He questioned if his brewpub could meet those requirements. Mr. Schoffstall noted that state law states that he can do this until 2 a.m. in the morning. Mr. Sirb noted under the LCB you can do that. Mr. Schoffstall noted that the answer is, are you suggesting that the brewpub be only open between those hours. Mr. Sirb answered that he is suggesting that it has created an enormous pickle to put this Board in. He noted if you get the LCB license for the brewpub and you are allowed to do that until 2 a.m. under the state law. He noted that it contradicts with what we have in the ordinance. Mr. Schoffstall answered

that he does not disagree that it contradicts but there is another process that begins next month, which is discussion of this whole section of the ordinances at the workshop. He noted that his view is that those times are not particularly contextual to a 25 acre site, let along a 60 acre site. He noted that we are not talking about the Eagle Hotel which is a great local establishment on  $\frac{1}{4}$  of an acre, fully exposed on two of its sides. He noted that we are talking about something that is dead center, 1,500 feet from anything, a public road and is shielded with camouflage from the universe.

Mr. Sirb questioned Mr. Schoffstall if he thinks if we granted the brewpub and you secure your license from the PLCB would it generate more traffic and more noise for the neighbors. Mr. Schoffstall answered, noise no. Mr. Sirb questioned about the traffic. Mr. Schoffstall answered, compared to what. Mr. Sirb questioned compared to what it is now. Mr. Schoffstall noted compared to 150 homes that could be built there. Mr. Sirb noted that he agreed with Mr. Schoffstall on that point. He noted that it could be 150 homes but it is not, it is a brewpub. Mr. Schoffstall answered of course it would have additional traffic.

Ms. Cate noted that the ordinance reads that any retail sales shall only be occasional in nature and shall occur by appointment or during a maximum of 20 hours per week except customary retail sales as a part of a barber or beauty shop which has nothing to do with this. She noted that this provision shall not restrict the permitted sale of agricultural products. She stated that she does not consider beer an agricultural product nor wine. Mr. Schoffstall stated that the Department of Agriculture and the agricultural department at Penn State would certainly disagree with you noting that they have researched faculty as part of the agricultural department of Penn State that specialize in brewing.

Mr. Turner suggested that the Township has determined that by the Township Solicitor. Mr. Dowling noted in all due respect to Mr. Stine, he is not sure he agrees, growing the crops for beer are agricultural but processing those crops into beer, he is not so sure. Mr. Schoffstall noted that the parallel would be that we should only drink raw milk because applying 160 degrees at 25 seconds in pumps would be not producing milk. He noted that there is no part of agriculture that does not have a processing step in the United States at some time. Mr. Sirb answered that is true. He noted that he would concede that the Township is correct and that Mr. Schoffstall for the most part can do this, and it is being done all over Pennsylvania, however, he has an issue with it being done in a R-1 District. He noted if it was in an agricultural district he would vote yes.

Mr. Schoffstall questioned Mr. Sirb if he can concede that State Law preempts ordinances. Mr. Sirb noted that he can't concede that because if he does then why do we have these types of ordinances. He noted the reason it is R-1 is because that is where people live every day and do day-to-day business. He noted that we separate it out to commercial and the rest including agriculture. He noted if we don't separate it out it is meaningless to say that someone is in the comfort of an R-1 District. He noted that he knows that there can't be a McDonald's right next to his house. Mr. Schoffstall noted that for four years ago the State trumps the zoning to allow a Township to put in gambling. He noted that he understands the context of ordinances as they are passed by elected officials at the local level. He noted that the law is this, is that the legislature makes law, which needs to be approved by executives who are also elected. He noted that ordinance are a lower tier of legality in any commonwealth. He noted that his position is because of what the law says, passed by the legislature, signed into law by the

governor, and found time and time again by the courts that agricultural stuff trumps the ordinances in this specific case. He noted that this is Plan A and he has been asked to come here for Plan A but there is also Plan, B, C and D. He noted that Plan B might be to do egg salad sandwiches because he does eggs which he can sell and met the PLCB requirements, at which point in time, what would you say to that. He noted that he does not have to ask permission to sell an egg salad sandwiches since it is a product of the farm. He noted that it is not a great scenario.

Mr. Hansen requested Mr. Schoffstall to explain a little more about the brewing process that you want to do and how long during the day you would operate it.

Mr. Schoffstall noted that the brewing process would occur during the day, Monday, through Thursday, for four to five hours. Mr. Hansen questioned how much of the product has to be brought onto the property. Mr. Schoffstall answered about three to four percent more. Mr. Sirb questioned what would that be. Mr. Schoffstall answered that it would be specialty grains, malt, noting that there is a new person in York County who is selling malt.

Mr. Hansen questioned what kind of machinery will you use and where will you house the equipment to make the beer. Mr. Schoffstall answered in his tractor barn. Mr. Hansen questioned if that is where you are planning to have the dances and what we talked about last month. Mr. Schoffstall answered no as what we talked about last month was outside. He noted that there will be no dances inside.

Mr. Dowling noted that before he opens the hearing to the members of the audience, in three to four minutes explain how the brewing process works, from growing the crops to drinking the beer. Mr. Schoffstall noted that he has grown the grain and wheat in Lower Paxton and he has grown hops in Lower Paxton and he has used the spring water from his farm. He noted that water is an essential element to beer. He noted that bad water means bad beer. He noted that there are very successful brewing organizations that do the research to find out exactly what the water looked like in Edinburgh 125 years ago because the British were really big, like our town now, by monitoring their water quality and creating that water with a recipe from that period of time to make the beer that was made 125 years ago style. He noted that water in the business is very important, so you have to take the grain and grind it, you take some of the grain and you malt it, boil it, cool it, you ferment it, then you bottle or keg it, and from the bottle or keg you pour your glass.

Ms. Cate questioned how much of the wheat do you grow on your farm. Mr. Schoffstall answered that he is not growing any wheat on his farm. Ms. Cate questioned what you are growing on your farm to make the beer. Mr. Schoffstall answered hops. She questioned how much of that. Mr. Schoffstall answered that it is about 25% this year and probably 100% the following year.

Mr. Sirb questioned what would be the hours for the brewpub. He questioned if he would go with the normal hours, what they would be. Mr. Schoffstall answered that it would be less than the winery as he closes that at about 10 p.m. except on New Year's Eve. He noted that it would probably be to 9 p.m. or 10 p.m. at night. Mr. Sirb questioned if it would be seven days a week. Mr. Schoffstall answered, for this year it would be Saturday or Sunday and maybe Thursday. He noted, in the destination agricultural business of wine and beer, this particular instance for Spring Gate, the beer is a small plate of a larger amount of wine. He noted that it is

mainly for the women who want to bring their boyfriend or spouse a second time that month instead of coming with her girlfriends. He noted that is his view from his perception for his customers.

Mr. Sirb questioned when we did the winery we granted that as there was no issue with the Township for the winery part. Ms. Zerbe answered that he did not have to come to the Board for the winery part, he only came in for the special events. He noted that he was allowed to do the winery part. Ms. Zerbe answered yes. Mr. Sirb questioned if he was allowed to sell the wine. Ms. Zerbe answered yes. Mr. Sirb noted that this is contradictory, as we are in the Township allowing him to do the wine but not the beer. He questioned is it just because it is beer or is it because of the restaurant issue. Ms. Zerbe answered it is because of the restaurant issue. Mr. Sirb noted if it was not for the restaurant issue, would we not allow him to sell the beer as he is selling wine.

Mr. Schoffstall noted while you have used the word restaurant and he did as well, it is not legally a restaurant, there are definitions. He noted that Geoff at St. Thomas Roasters does not have a restaurant by State definition because of the limited things that he does including the nonuse of an open flame. He noted while we have been using the word restaurant, it is actually a much reduced thing. Mr. Sirb noted that it still kicks in the ordinance according to the Township.

Mr. Dowling noted that we will open it up for comments at this time. He noted he would like to see a show of hands of those people who for whatever reason are oppose the application. (It was noted that one third of the room raised their hand.) He requested a similar show of hands for those who are in favor of it. (It was noted that roughly two thirds of the room raised their hand.)

Mr. Turner questioned if there is counsel in the audience who plans to enter testimony for either side. No one responded to Mr. Turner.

Mr. Dowling noted that we will start with one person in opposition.

Mr. Joe Dehner, 5901 Devonshire Road was sworn in by Mr. Dowling. He distributed information to the Board members. Mr. Turner questioned where he lived in relation to the property. Mr. Dehner answered that he lived across the street.

Mr. Dehner noted that he built his house 44 years ago and spent 33 years as a risk manager for AMP for a \$500 million a month responsibility majoring in bankruptcy, and then 18 years as a State Constable in Lower Paxton Township. He noted that he is completely familiar with behavior patterns when it comes to alcohol. He noted that Mr. Schoffstall's winery is fine as no one has any objections and the notification system that is used now is totally inadequate because no one knew that he spoke to at the first hearing. He noted that he received a note in the mail about this meeting and he and his wife knocked on 219 doors on a 16 degree day, three days in a row, and no one knew about this process at all. He noted that the two signs that were posted on the poles were covered with snow and the bottom you could not even read them. He suggested that it was hard to post those signs.

Mr. Dehner noted that one of his concerns, because he went through this process before with another business that he was involved with, is the traffic issue. He noted that contrary to what Mr. Schoffstall said, no one mentioned the word restaurant. He noted that there was no mention with 97 people of the word restaurant or an objection to a restaurant. He noted they view

pub as a bar minus hard liquor. He noted what he gave to the Board were nation statistics from Mothers against Drunk Driving (MADD) that shows most drunken driving issues occur on the weekends. He noted that it also shows that there is an increase in drinking among youth and Pennsylvania has the highest drinking level for high school use in the United States.

Mr. Dehner noted that he tried to get an accurate count for traffic for Devonshire Road from the Township but it is not available. He noted that he went to the State to get information for Nyes Road from Derry Street to Old Jonestown Road and he was told that there are 11,000 vehicles a day. He noted on Locust Lane there are 11,000 vehicles a day and from Prince Street to Fairmont Drive there are 7,179 vehicles per day. He noted from Locust Lane on Nyes Road out to Jonestown Road there are 11,671 vehicles per day. He noted that there has never been a traffic count on Devonshire Road or Devonshire Heights Road in the last 15 years. He explained that he was the victim of a drunk driver 40 years ago and is still paying for that. He noted that he did not have a bottle of liquor or wine, he had six empty bottles, quarts of beer in the back of his vehicle and no insurance from the state of Connecticut. He noted that according to MADD, selling any combined source of alcohol expediently increases the drunk driving activity by four or five fold. He noted that wine is very acceptable although they are against all alcohol, wine is a neutral product. He noted that it produces the least problem and the least violations.

Mr. Dehner noted that currently on Devonshire Road, where he lives at the corner of Greenhill Lane, there is a traffic trap that the police put up. He noted, when they work it, they work one hour at a time and they get three to five stops an hour and that is only in a one-block area. He noted that there are no statistics for what happens where Devonshire Heights and Devonshire Road go out to Route 22. He noted at the spot where Devonshire Heights comes off Nyes Road he spoke to an old woman who stated that she is afraid to go get her mail.

Mr. Dehner questioned how we do an approval of a commercial business without a traffic impact study. He noted that he bought the house and built it himself and hunted on the farm that Mr. Schoffstall bought when Cornell Smith bought it. He noted that we had fox hunts, Black Angus walk across the lawn and the people that bought the houses then built it for one reason; it was residential. He noted that he has a real estate license and he is a licensed auctioneer and he would never advertise a house that said buy it because it is 150 yards from a bar. He noted that that last thing that you do is advertise something associated with alcohol when you try to sell residential property.

Mr. Dehner noted that the roads in the area are 25 mph, rural road design. He noted that the curve outside of Mr. Schoffstall's farm is 15 mph. He noted that we constantly have deer around that curve. He stated, as far as his dumpster is concerned, he takes exception to his statement, as he has an 84-year old neighbor awoken by Waste Management emptying his dumpster at 5:14 a.m. He noted that it woke him up on several occasions. He noted that it is not his fault, it is because they are trying to get a heads up on the day, but when you start waking people up with noise from a dumpster that smells like the outside of a brawl that is ridiculous, especially for an 80-year old people. He noted that most of these people are not proactive and they didn't complain as it is a minor thing. He noted that there have been noise levels with parties that people complained about in his survey.

Mr. Dehner noted in 2012, according to the alcohol violation records, there were 29.1 million people who were stopped and admitted to drunk driving. He noted that is the population

of Texas. He noted that his concern and the people who he has contacted, many of whom could not be here because of their age, but it is for their investments. He noted they are worried about accidents, alcohol interaction, and the egress of Mr. Schoffstall's farm onto Devonshire Heights Road is a traffic abortion. He noted that he has almost been t-boned there three times in the last couple of months. He noted that people slammed their brakes with people coming out of that lane. He noted that it is a lane and not a three-way stop sign or a light. He noted that people egress out of there and shoot up Devonshire Road without even looking so there are a couple of issues involved beside buying hops and brewing beer, for the safety of the community and the fact that we have a heavy investment in the community as a residential owner. He questioned if any of the Board members have bought a house because it was a half a block from a bar. He doubted if any of the members would say yes.

Mr. Dowling requested Mr. Dehner to wrap up his comments.

Mr. Dehner noted those are his objections, the traffic issue, the counts and the fact that were are building 200 more homes next to the VoTech, so we are considering the danger of the people drinking beyond the winery.

Mr. Dowling noted that he would like to hear from someone who is in favor of granting the special exception.

Mr. Dowling sworn in Lori Ricard, 207 Atmore Street, Harrisburg, PA, 17112.

Ms. Ricard noted with the winery that is already there, are you allowed to serve food. She questioned Mr. Schoffstall if he has a license to sell food. Mr. Schoffstall answered no. She noted since the winery opened, and she has been down there, the property has improved, the traffic will be there no matter what. She questioned if the winery is allowed to be open until 2 a.m. Mr. Schoffstall answered yes. She noted that he is allowed to do that whether there is a brewery or not. She questioned if noise would be an issue. She noted that she has been there for several events and works at Penn State and they have events at his property and with her coming in to park, if there is an event, she doesn't hear anything, any noise when she is walking down. She stated that she does not see that there is a noise issue but the traffic issue will occur no matter what. She noted that she believes that the Township needs to work on that corner because it is a danger, whether you open a brewpub or not. She noted that she lives within walking distance, less than a mile to the business.

Ms. Beth Bingaman, 5840 Longview Road was sworn in by Mr. Dowling. She noted that Longview Road is one street off of Devonshire Heights. She noted that she used to play on the property when she was in elementary and junior high school and played in the barn. She noted that she has nine plus comments, some of which have already been touched upon. She noted that it is R-1 and there is already business going on and she just heard about the winery. She noted that she does not want to open the door for anything else. She noted that it is residential and she very much wants it to stay that way. She noted that an increase in traffic, we have talked about it, the roads are already bad enough in terms of potholes and we don't need more. She noted that traffic flow, she is not interested in another stop sign, roundabout which is waste of money, or light in her neighborhood. She noted that the costs for sewer have already risen considerably, and in the last decade, in part due to the support of all the building that has already been permitted. She noted that it sounds like it can be small but can the sewer system increase and do I have to pay for it. I am not interested in it. She noted that she believes at night

it is to be dark, and she likes to look at the stars. She stated that she enjoys a nighttime stroll and she does not want to look out her front windows at the glow of parking lot lights which there are already far too many on Route 22 in evidence from her house. She noted that she sees what might be a planned sign and she wondered what it would look like, as she is absolutely opposed to anything neonish, bar looking, bright, gaudy. She noted that once she leaves Route 22 she would like to have peace in her eyes as well as her heart. She noted that those who need alcohol to enhance their lives can stay on Route 22 or travel another three fourths of a mile further to get to Route 22. She noted that there are sufficient drinking establishments to have their needs met, better yet, do it at home and stay off the roads. She noted for her personally, she runs a lot in her neighborhood and beyond it. She rides her bike in and around her neighborhood and she walks in and around her neighborhood, and she wants to enjoy those times and do it safely. She noted that it is already bad enough, hoping that the drivers will respect the walkers, runners and bikers rights to the road and their safety. She noted that she does not want to experience now sharing her neighborhood roads with the probable increase in drivers who have been consuming alcohol and are thus impaired. She questioned how many more strings of barbed wire will have to be added to the two already present to protect this precious pub. She noted that she finds the barbed wire incredibly offensive in what is a pleasant neighborhood. She note that he is neither keeping cows in or out, nor is it Philly, Pittsburgh, York, Reading or even Hall Manor. She noted that brings her to an increase in crime and these are some statistics that her husband dug up for her. She noted that the number of alcohol outlets is related to violent assaults, noting that one study showed that each individual alcohol outlet was associated with 3.4 additional assaults per year. He noted that she does not want them in her neighborhood, not at all. She noted that the alcohol outlet density has been shown to be the single most important environmental factor explaining why violent crime rates are higher in certain areas of the city then in others. She noted that this is not a city. She noted that there are a greater number of alcohol related injury crashes in cities with higher outlet densities. She noted that a 1% increase in outlet density means a .54% increase in alcohol related crashes. She noted that Mr. Dehner addressed this issue. She noted that she would stop to allow someone else to express themselves.

Mr. Brenden Degenhart, 6551 New Providence Drive noted that he was previously sworn in, and from what he heard, it was a lot of speculation. He noted that there are some studies but this is a different environment, different neighborhood, and different settings. He noted that this is not a bar where people will be going to until two in the morning, drinking Bud Lite, Coors Lite, and watching the NASCAR Race or the Steelers. He noted that he has been there for the wine perspective, he doesn't drink wine; he drinks bottled water there, as his wife likes wine. He noted that it would add more if he could go in and enjoy a drink. He noted that it is a beautifully landscaped place and he would love to have it as a home as it is very quiet and relaxing. He noted that the clientele that will be going to the place will be meeting people like me, well educated. He noted that he and his wife have master's degrees and we spend a little time there, meeting other people on a nice summer afternoon after a tough week of work enjoying a nice cold beer and not being disrespectful to the neighborhood as we have children and have responsibilities. He noted that we are not all Billy Carter's getting liquored up. He noted that this proposal is a wonderful thing for Lower Paxton Township. He explained that he and his wife spend an obscene amount of money on entertainment and dining and none of that is in the Township. He noted that there is no place worthwhile to go to. He noted that we have Red

Lobster, Olive Garden, Arooga's, but there is nothing mom and pop related, everything is commercial. He noted that he does not want to sit at a bar with 20 people waiting for a table, he would like a nice quiet relaxing atmosphere and what Mr. Schoffstall is proposing sounds wonderful. He noted that coming out of the tax season as it is a buy time of the year, it is nice to be able to kick back and relax. He noted that the people have a vision of a bar, dark seated with a bunch of people drinking, getting in fights and he can guarantee that is the furthest thing that people should be concerned about. He explained that he would like to stay in the Township and put the money he spends in Hershey and downtown Harrisburg here.

Mr. Degenhart noted that it is hard to gauge what the traffic flow will be as he uses the road all the time to get to Target and so does everyone else. He noted that we have a gigantic strip mall down the street and that probably has a greater impact on the traffic flow. He suggested that it would be difficult to do a traffic study to know what the impact would be versus what the impact would be from the mall. He noted that it seems that the big issue is the beer not the wine due to the stereotype of a person who drinks beer as males and wine drinkers are female. He noted that he is offended by that. He explained that it is a novelty to be able to sample a microbrew just like people like to drink wine. He noted that it is a wonderful thing for the Township as we need something local, something that is not a big chain where people can stay in their own community and just go a few blocks down from their home.

Mr. Degenhart noted that the gentlemen discussed real estate and said it would impact property values but the property value impact already occurred when Costco's was built as no one wants to live next to a shopping center. He noted that he would pay a significant amount over market value to be able to live in a neighborhood with this type of entertainment. He noted that we need to change in Pennsylvania as we are losing the young people; not many want to stay as we are antiquated and have it in our head that this is what is going to happen, drunk drivers and there is nothing to prove that it will happen. He noted if you go to Mr. Schoffstall's establishment, it is a nice place to visit after a long day of work to have a beer and go home, go grocery shopping, pay bills etc. He noted that he would recommend that Lower Paxton have something of our own that is not a national chain would be extremely valuable and it is a shame that we have to go to Hershey and other places and spend a significant amount of dollars there.

Mr. Dowling questioned Ms. Zerbe if the Township has any brewpubs in it. Ms. Zerbe answered no. Mr. Dowling noted that we don't have any in the R-1 Zone. Ms. Zerbe answered that was correct. Mr. Dowling noted in his research, the brewpubs that he has found, most are in commercial business districts, but he has not located one in Central Pennsylvania in R-1. Mr. Sirb noted that there is one in Hershey. Mr. Schoffstall noted that the brewpubs that are associated with wineries are different, noting that there are some in Erie, Philadelphia, and Hershey. He noted that there are two or three currently going through the licensing process. He noted that the analysis is that this is a rounding off of libation offering of the wineries.

Mr. Dowling noted that we have heard the comments for and against, and he questioned if there is anyone who has something different or unique to add for or against the application.

Mr. Dowling swore in Patricia Stull, 5604 Devon Drive. She noted that she lives in the neighborhood and walks down to his establishment. She noted that she has a problem with the traffic, it is not a hypothetical problem as she has lived there for 50 years. She noted that she

raised a child there, and we ride bikes, we run, we are very sports athletic geared people. She noted that these people here are my neighbors. She explained that the 25 mph speed zone is rarely adhered to. She noted that we have had close accidents with our children, we had problems, we asked the police to set there and catch these speeders. She noted that she has no problem with this man's establishment as she has drank his wine. She noted that she does have a problem with the landscaping. She noted if you drive on down around the corner, there are big roots and trees that have been pushed over by storms, and the bank, you cannot see the oncoming traffic and we have been dealing with this for how many years, how many years' neighbors. She noted that nothing has been done about that bank and Mr. Schoffstall addressed it by saying that it is the Township's problem and when we call the Township they say it is his problem. She noted that she wants that Township to remove the trees so we can see the oncoming traffic and level down that bank. She noted that next thing is the roads. She noted they are potholed. She noted that Devonshire Road is terrible and it is getting terrible by the day. She noted that we have these bad storms and everything but the roads need to be improved. She noted if you are going to okay this then you need to improve those roads and you need to get rid of the obstructions so that we don't have to risk our lives when we are turning from Devonshire Road on to Devon Drive. She noted that she is not a person who lives out, she lives right beside him and when she walks she waves to him and he has waved back. She noted that he is my neighbor and those are my issues, enforce the speed limit, get some landscaping done where we can see ongoing traffic if he is going to do this and fix the road.

Mr. Dowling swore in Anita Chesek 4458 Dunmore Drive. Ms. Dowling questioned where that is in relationship to this property. Ms. Chesek answered that it is off of Colonial Road and Goose Valley Road. Mr. Dowling questioned if it is near the property. (Loud rebuttal heard from audience.) Ms. Chesek answered no she does not live close but she is at the winery quite often. She noted that your problem is not created by the winery. She noted that we have the same problem on Goose Valley Road, potholes. She noted that the problem Ms. Stull addressed were not problems that the winery created. Mr. Dowling noted that we are not talking about the winery. Ms. Chesek noted or the brewpub. She noted those issues are outside of this topic. She suggested for those of you who are opposed, if you have not been to the winery, you need to take a walk down there. Ms. Stull noted that it is her neighborhood. Ms. Chesek questioned her if she has been there. Ms. Stull answered yes. Ms. Chesek questioned if it was a bad experience. Mr. Dehner noted that we are not combatting the winery, we are combatting the brewpub, you have it totally wrong. He noted that the winery is fine, it was a great decision, and well kept. He noted that mixing beer and wine together produces a total different result and the customer base for all those who have been the Appalachian Brewery and other sites, changes. He noted that the customer base now seems fine, and no one complained so obviously no one is really upset with the winery.

Ms. Chesek noted that last year she was at the Hershey winery, her second visit and the complexion, the personality of it did not change from the prior year.

Ms. Stull noted that you don't live in our neighborhood on a day to day daily basis, let's build the brewpub in your neighborhood. Ms. Chesek noted that she would love to have it there.

Mr. Dowling swore in Ms. Allison Funk, 207 Atmore Street. Mr. Dowling questioned where her address was in relationship to the property. Ms. Funk answered, the same as Lori Ricard, she is less than a mile away.

Ms. Funk noted that everyone is bringing up the big issue of alcohol, but what causes the crashes and the violent nature for the people in this area and all the fights and things that people talk about are when you have the \$2.50 shots downtown or the dollar shops. She noted that is not what Mr. Schoffstall is doing, what he is doing is to allow people to hang out. She noted that she goes to the winery all the time, she went there last night, what did she do, she had a glass of wine and sat there for two hours to just hang out with each other. She noted that it is not a bar, not somewhere where people go and say hey, I am going to get trashed. She noted that people are saying if you want to drink then go do it on Route 22, but they will still drive through your neighborhood and it will still be your problem, whether it is around the corner or it is on 22 or downtown. She noted that she does not see what the issue is, where serving wine is fine, people get drunk on wine all the time, but that is okay because it is wine, but the second you say beer, there is such a negative connotation. She stated that she does not understand what the negativity is. She noted that the roads are a separate issue as she has been in car accidents in the area, t-boned in the area, and no one bats an eyelash. She noted that you need to get the road fixed and that is not his problem, it is not his fault that your roads are messed up, or that the corner is going like that. She noted that more people go through that area and create more traffic because it is an easier way to go. She noted you will get more traffic whether he has a brewpub or not. She noted that the area is expanding, people are driving more and it is something that is inevitable to happen.

Mr. Dowling noted that this is the people's Township and your Zoning Hearing Board and he wants everyone to feel that they had an opportunity to have their position heard, not necessarily by each person, but at least advanced. He noted that the Board understands the legal issues and the people's comments. He questioned if anyone had something unique to add that has not already been advanced or advocated by someone else.

Ms. Pat Stull questioned the Board, if Mr. Schoffstall would get his brewpub, would the Township improve the roads and cut down that bank and landscape it decently so we can see ongoing traffic. She noted that she has been traveling on that road and she goes 25 mph and people toot at her as they are in a hurry to get where they need to go. She noted that she has been at that corner when people have been coming out of his place. Mr. Dowling explained that the Zoning Hearing Board can take notice to the fact that it is not a well-designed intersection. Ms. Stull questioned what the Township will do about that if he gets his brewpub, will we get our decent roads. Mr. Turner answered that this Board does not have any authority over...Ms. Stull questioned who does. Mr. Turner answered that it would be the Board of Supervisors.

Mr. Dowling swore in Nancy Toth, 5600 Devonshire Road. She noted that it is not the agriculture, as it is wonderful what they are doing selling the vegetables, it is being an entrepreneur. She noted that he is bringing in a business in a R-1 area and she has heard about bands, rock bands, 500 people, parking issues, parking off the property and other places, that people will have to walk on these roads, she has had family members who have been to great big affairs at the farm and we are a residential area. She noted that there was a purpose to have it residential. She noted that his presentation on agriculture was very nice and no one is arguing the

fact that he has a right to grow anything, or have any livestock that he wants, but she thinks that it is not right to consider a business when it is an R-1. She noted that she would like to know about the issues of bands and entertainment, knowing that he has caterers and many of the people here work for him for his caterer. She suggested that this is wrong as it is a business.

Mr. Dowling questioned Mr. Schoffstall, as a result of the comments that he heard if he had anything to add. Mr. Schoffstall answered WOW!

Mr. Dowling noted that Mr. Schoffstall does not have to address the traffic issue that is a Township issue and you would concede that the intersection is not a well-designed intersection for a variety of different reasons. He noted that a brewpub would add some more traffic as we can agree to that.

Mr. Schoffstall noted that as a guy who was the co-founder of Internet back in the 1980's and 1990's he was tagged with creation of the internet porn industry. He noted that he worked on routers, software, licensing, design, and things like that and this concept of causality that this causes this and he is responsible for that connections is not unusual with his experience. He noted before this was ever residential or residential zoning in Lower Paxton Township it was agriculture. He noted that is why by law, which is open to the public to know, the land can be used for agricultural purposes. He noted that details like the noise of the dumpster is disturbing but he has had a dumpster for 20 years. He noted where we go from here is up to you guys.

Mr. Sirb questioned Mr. Schoffstall if he had the brewpub would it change the characteristic of the neighborhood. Mr. Schoffstall answered no. (Some members of the audience yelled out yes.) Mr. Sirb questioned Mr. Schoffstall if the winery changed the characteristics of the neighborhood. Mr. Schoffstall answered slightly. Mr. Sirb questioned for the good or bad. Mr. Schoffstall answered that it is a point of view issue but he would say that it is kind of neutral, as it has brought more people into the neighborhood and some positive times for some people, additional tax revenues to the Township. He noted that there is higher probability of a second generation taking over the land as agricultural, his sons as it were. He noted that the difference between the winery and brewpub, there is no difference as the demographics are going to be pretty much the same, a little bit more male. He noted in talking to Tim Lamar from the PLCB, the supervisor for the region, he asked him on two occasions where the PLCB has problems with licensing. He questioned in regards to wineries and the answer was that they do not have problems. He questioned him in regards to if they have problems with brewpub and breweries and the answer was no. He noted that the problem from the PLCB's perspective, which is different from the State Police, but once upon a time, they were interchangeable, is that the issues are distilleries which he has no interest in. He noted that the R License which is how everyone serves liquor and the E License which is the beer license in places like pizza shops that are in the State of Pennsylvania, there have not been problems with the winery and the brewpubs, but the issue to him is liquor that is 90% of the ratio.

Mr. Joe Dehner noted that people who had comments about the positive nature of winery are fine but the one thing that remains that none of those things have experience, he has 25 years of experience with real estate, that we who have invested in the R-1 zoning area consider it to be a detriment to the resale value of the homes. He noted that you can't do anything about the roads, but we have invested in the area.

Mr. Schoffstall noted that the Township is blessed by having his neighborhood for the last 40 to 50 years but the real estate issue goes both ways. He noted that he has had neighbors who perceived that their real estate values have increased and there are reasons for that. He noted that the specific reason from his perspective is to look out upon rows and rows of vines and grapes is a positive thing. He noted that would be the experience in the real estate market in California, New York, Virginia. He noted at this very time and day, maybe not, but some of the neighbors have said exactly the opposite.

Mr. Dowling noted that he will call this for a vote in a moment but he wanted to provide his observations. He noted that the winery is a first class operation and he has been there. He noted that the farm is a spectacular piece of property and we are very fortunate to have it, and the Township is fortunate that you do have it. He noted that it seems to him that a brewpub is a ratchet or two up from the winery, not much, but somewhat a ratchet. He noted that he does not entirely disagree with Mr. Degenhart comments about the type of person that you will have there. He noted that he is not sure that it is entirely accurate but he does not think that you will have people coming from far outside the Township to drink a few beers there on a regular basis. He noted that it will not be quite as Mr. Degenhart described it but the overriding issue in his mind is the fact that it is zoned R-1. He noted that he has been on the Board for almost 30 years and that has been a sacrosanct issue with him that allowing a business, almost of any kind, but some are allowed in R-1, it has to be a very compelling set of facts to do that or it has to be pretty clear under the ordinance. He noted those are his comments and observations and if no one else on the Board has anything else to say, he will entertain a motion to grant the special exception or deny it.

Ms. Cate made a motion to deny the special exception. Mr. Dowling seconded the motion to bring it to a vote.

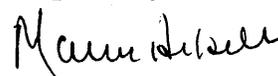
Mr. Sirb noted that anywhere else except in an R-1 Mr. Schoffstall would be well within his rights to do what he is doing as he loves the winery and he thinks that it is spectacular and the people that you bring in are a source of tax revenues to this Township that we did not have before. He noted that the R-1 is his sticking point.

Mr. Dowling requested Mr. Turner to conduct a roll call vote: Mr. Fisher, nay; Mr. Hansen, nay; Mr. Sirb, aye... Mr. Dowling wanted to make a point of clarification... Mr. Turner noted that the motion is to deny the special exception... Mr. Dowling noted that both Mr. Fisher and Mr. Hansen are voting against the denial... Mr. Hansen noted that he is voting for this special exception. Mr. Turner continued with the roll call vote: Mrs. Cate, aye and Mr. Dowling, aye. He noted that the request for the special exception has been denied.

Mr. Dowling stated that he would like to take a five minute break.

The hearing ended at 8:40 p.m.

Respectfully submitted,



Maureen Heberle  
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON  
: TOWNSHIP ZONING HEARING BOARD  
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA  
:  
MARTIN SCHOFFSTALL : DOCKET NO. SE 2015-02

**DECISION DENYING SPECIAL EXCEPTION**

The applicant seeks a special exception to operate a Brew Pub in an R-1, low density residential district. A hearing on the application was held on February 26, 2015.

**Facts**

1. The applicant and owner of the property in question is Martin Schoffstall of 5790 Devonshire Road, Harrisburg, Pennsylvania 17112.
2. The property in question consists of a multi-acre parcel which has agricultural uses which predate the ordinance. The parcel is zoned Residential, R-1. It is improved with a dwelling house, various outbuildings and a vineyard/winery.
3. The applicant is in the process of developing a brewery which has been determined to be a permitted use due to the historic agricultural use of the property. The brewery would have 50% or more of its content coming from the farm.
4. Accessory to the brewery, the applicant proposes to create a brewery pub in order to comply with PLCB regulations permitting the sale of alcohol for on-premises consumption. Although the applicant's intent is to provide food on a very limited basis, once approved there would be nothing to prevent its operation as a full service brew pub.
5. The proposed pub would be located some 1500 feet from the closest neighboring dwelling and hours would be limited to three days per week with closing by 9:00 p.m.
6. In addition to the applicant, a number of persons appeared before the Board to testify regarding the request for a special exception. The testimony from

adjoining property owners generally opposed the application due primarily to noise and/or traffic concerns. Other testimony, primarily from non-neighbors, was in favor of the request on the grounds that the business would be a plus for the community.

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

### **Conclusions**

1. Section 306.B.1.e of the ordinance provides that farm related businesses may be approved as an accessory use in the R-1 district as a special exception. Section 403.D of the ordinance provides additional criteria for the Board to evaluate a farm related business and Section 116.C sets forth the general criteria for special exceptions.

2. The Board finds that the applicant has not met the criteria set forth in Section 116 in that the proposed use would substantially alter the character of the surrounding residential neighborhood. The traffic generated by the use, particularly with the possibility of expansion over time, is not compatible with the R-1 district. If successful the traffic generated would have a negative impact.

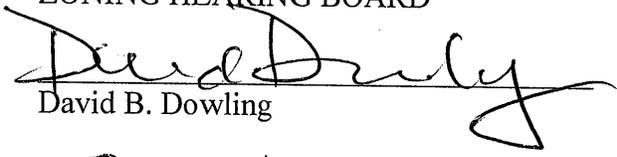
3. The Board also notes that a farm related business is intended to have only occasional retail sales, other than the permitted sales of agricultural products. While it may not be the intent of the applicant to offer a broad menu, the approval sought would necessarily violate this condition.

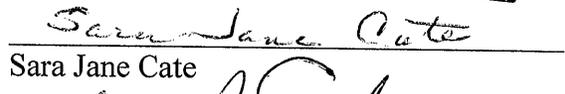
Decision

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 denied.

Date: 4/2/15

LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD

  
\_\_\_\_\_  
David B. Dowling

  
\_\_\_\_\_  
Sara Jane Cate

  
\_\_\_\_\_  
Gregory P. Sirb

Board members Hansen and Fisher dissent from the decision.