

## COLERAIN TOWNSHIP ZONING HEARING BOARD MINUTES

Ruth K. Stoltzfus Case 2023-02

February 1, 2023 at 7:00 P.M.

Members present were: Tammy Rineer, Vice-Chairman, Doug Eaby, Member, Adrienne Bonser, Alternate Member, Josele Cleary, Zoning Hearing Board Solicitor was present as well as Christy DellaRova Court Reporter. Christy can be reached at 717-299-8091. A listing of others in attendance will be kept on file.

Ms. Rineer shared that the meeting was being recorded.

The January 4, 2023 Meeting Minutes were approved on motion of Mr. Eaby, second of Ms. Bonser and approval of all members.

Ms. Rineer shared the application CASE NO. 2023-02 Application of Ruth K. Stoltzfus concerning property located at 32 Lakeview Road, Kirkwod, within the Agricultural District. Applicant requests a special exception to authorize establishment of a cottage industry consisting of a shop to make and assemble small gifts for wholesale sale under Section 5.01.05.A of the Zoning Ordinance.

Ms. Cleary explained a zoning hearing. The Zoning Hearing Board will consider this hearing in accordance with the requirements of the Municipalities Planning Code. The first item of business is to determine the parties to the hearing. The applicants are parties to the hearing. The township, by law, is a party to every hearing before the Zoning Hearing Board whether or not the township appears and actively participates. Other persons can request to be recognized as parties. You do not have to be recognized as a party if all you would like to do is ask a question or make a statement. If you wish to preserve your right to file an appeal with the Lancaster County Court of Common Pleas if you disagree with whatever the decision of the Zoning Hearing Board is, you should ask to be recognized as a party because only parties have the right to file an appeal. In order to be recognized as a party, you must have an interest in the application that is different from all residents in seeing that all residents comply with the zoning ordinance. Generally if you live in the immediate vicinity of the subject property or own land in the immediate vicinity you would have the right to be recognized as a party. After all of the parties to the hearing are determined the applicant will have the opportunity to present evidence in support of the application. The applicant tonight is represented by their attorney who will call witnesses and ask questions. Each witness will have to be sworn or affirmed. The members of the Board or Ms. Cleary may ask questions for clarification. Other parties will be given the opportunity to ask questions, and then other people in the audience who are not parties will be given the opportunity to ask questions. After the applicants have presented all of their testimony, then any person recognized as a party will have the opportunity to present testimony. Any party who wishes to testify will have to be sworn or affirmed. The applicants' counsel has the right to cross examine such persons, and members of the Board or Ms. Cleary may also ask questions for clarification. After all the parties have testified, then persons not recognized as a party who wishes to make a statement will be given the opportunity. They will also have to be sworn and affirmed and can be questioned in the same manner as any other witness. After the Board has heard all of the evidence, the record will be closed. Under state law, the Board has 45 days after the close of testimony to render a decision. The Board can deliberate tonight, go into executive session, or take the matter under advisement and render a decision within the 45-day period. If the Board takes this case under advisement tonight, it would render a decision at its

regularly scheduled March 1st meeting. There is a court reporter here because state law requires that the Board keep a stenographic record of the proceedings. In order that the court reporter can do her job, only one person can speak at a time. Wait until recognized to speak, give your name and spell your name. The record will show that there were no questions concerning the procedures that the Board will follow for this hearing.

Ms. Cleary asked if there was anyone wishing to be recognized as a party to these proceedings. There were no audience members who wished to be recognized as a party.

Counsel representing the applicant is Mr. James Thomas of the firm Blakinger Thomas, PC. Mr. Thomas shared a booklet containing exhibits with the Board and gave a brief description of a cottage industry. It is Mr. Thomas's belief that Ms. Stoltzfus's request meets the definition of a cottage industry. The first exhibit shared was a deed of the property which shows that the property is owned by Ms. Stoltzfus's parents, Jeff B. and Linda B. Stoltzfus. A letter showing their approval of this cottage industry as also included in the exhibits.

Mr. Thomas shared and Ms. Stoltzfus confirmed that the farm is currently being used as a dairy and crop farm. The Lakeview Gift Shop began in 2012 making crafts and is currently operating on this farm. The business has grown and was moved to a shed on the farm. Ms. Stoltzfus was not aware that she needed a special exception for this operation and did not have any intent to avoid laws.

Ms. Stoltzfus shared a few samples of the types of gift she makes with the Board so they could see the types of products she makes. Ms. Stoltzfus does not sell retail from the farm, only wholesale. She does shows and mostly mail order. Some local stores also carry these products. The products are shipped using UPS, FedEx or freight. UPS and FedEx usually ship 2-3 times per week and freight shipments are made usually 2-3 times per month. A driver delivers the products to the UPS store or post office, there are no pick-ups.

Workers are driven to the farm by a driver. Ms. Stoltzfus uses handicapped workers. There is currently a total of 13 workers. They are not all there at the same time. Typically there are 6-8 workers at a time on Mondays, Tuesdays, Thursdays and Fridays. Hours of operation are 7:30 a.m.-3:30 p.m.

Ms. Stoltzfus will not be putting up signage. No noise, fumes, dust, smoke or lights will disturb surrounding properties or the neighborhood.

The old building that is currently being used will be taken down and replaced with a newer building. Plans were shared as part of the exhibits showing the new structure at approximate scale. The new structure will have a display area, packing area, office, bathroom, lunchroom and warehouse. The downstairs will be used for farm storage for the agriculture portion of the farm. The business will not be open to the public.

The Lancaster Farmland Trust was notified of the plans. A letter from the Trust to Ms. Stoltzfus's parents showing approval was included in the exhibits, based on certain conditions as noted in the letter.

A correspondence to Mr. Thomas's office regarding Clean and Green and taxes was included in the exhibits. This request meets the criteria for a rural enterprise. This is not subject to roll-back taxes.

Mr. Thomas shared the zoning ordinance and Ms. Stoltzfus affirmed the following: She will be residing on the property. The business sells to the local market as well as the global market. This business does not impede on the agriculture area. The request is compatible with other uses in the agricultural district with no negative impact. There is off-street parking for the driver and employees. There will be no negative impact to neighbors, but neighbors will be able to see the building. Employees are staggered. This business provides work for people that normally would not have work due to their disabilities. The sewage officer issued a permit, which was shared in the exhibits. The business will not have any negative impact on the farm. There are no violations to the land or zoning requirements, other than Ms. Stoltzfus was not aware that she needed a special exception for this cottage industry. If this request is approved, Ms. Stoltzfus feels she can operate with any special conditions imposed by the Board. There is no electric service, the business operates on solar power and has potable drinking water. Nothing is standing in the way of the operation based on current land.

Ms. Becky Kleinz asked if ADA regulations are in place for the new building due to the special needs of the employees? Mr. Thomas responded that codes and regulations set by the Zoning Hearing Board will be met and that Ms. Stoltzfus is working with a builder.

Ms. Adrienne Bonser asked what percentage of the product is shipped outside of the immediate counties? Ms. Stoltzfus responded that 80% of the products are shipped. The products wholesale for around \$3.50-\$5.00. The new structure will not occupy more than 20% of the property. All employees are local. Ms. Bonser asked if this is a secondary revenue to the main business, the primary use is agriculture. Ms. Stoltzfus was uncertain of the question and how to answer. Mr. Eaby responded that Ms. Stoltzfus's father rents the farm, the primary use is farming. Ms. Rineer asked if the cottage industry will grow to be more of the primary use? Ms. Stoltzfus responded, no.

Ms. Cleary shared that the Board could impose conditions on the request, if they so choose. Such conditions could be the number of employees limited to "X" at one time and the total number of days of operation not to exceed 4 days per week. Mr. Eaby said in the past the Board has limited the number of employees, he doesn't have a problem with this request, just feels there should be a limit.

Ms. Peggy Borrelli asked what are the ages of the Amish employees? Ms. Stoltzfus shared that they are above school aged, so 14 years and older. Ms. Borrelli asked if Ms. Stoltzfus would ever consider hiring English? Ms. Stoltzfus responded, probably not.

Mr. Thomas called on Mr. Brian Masterson, Project Manager from Register Associates to review the plans for this request. A copy of the plans was included in the exhibits. There were no questions on the information Mr. Masterson shared by those in attendance or the Board.

Mr. Scott Kulicke shared that he lives down the road from the Stoltzfus farm, and has lived there for approximately 12 years. He was not aware Ms. Stoltzfus had this business. He feels there will be no impact on the neighborhood. He shared that the township does not have any mechanism to monitor the limits placed on businesses. He feels there are businesses in violation now. He feels it is unfair to hold Ms. Stoltzfus not knowing she needed an exception against her, and that she should not be punished for being honest. He feels the Board should grant this special exception.

Testimony was closed by motion of Mr Eaby, second of Ms. Rineer and approval of all.

The Board voted to grant approval for Ms. Stoltzfus's request, including special conditions as noted by Ms. Cleary, on motion of Mr. Eaby, second of Ms. Bonser and approval of all.

There being no further comments or items of business, Mr. Eaby made the motion to adjourn, seconded by Ms. Bonser. The motion was unanimous.

Respectfully Submitted,

Cheryl L. Todd, Zoning Hearing Board Secretary