
**BEFORE THE BOARD OF SUPERVISORS
OF CUMBERLAND TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA**

In the Matter of:	:
	:
Roy D. Pool and	: Premises: 1030 Mason Dixon Road,
Ginger Bryant	: Gettysburg, Cumberland Township
	:
Conditional Use Application	: Case No: 2026-158
	:

MEMORANDUM OPINION
FINDINGS OF FACT

1. The real estate that is the subject of this conditional use application consists of 215.70 acres +/- of property situated at 1030 Mason Dixon Road, Gettysburg, Cumberland Township, Pennsylvania, also known as Adams County Tax Parcel Number 09F14-0031---000 (the "Property").

2. The Applicants seeking conditional use approval are Roy Pool and Ginger Bryant (the "Applicants").

3. The Property is owned by Roy Pool, of 1545 Old Westminster Pike, Westminster, Maryland 21157 (the "Owner").

4. The Property is presently used for the agricultural use of animal husbandry.

5. The zoning regulations of the Township of Cumberland (the "Township") are found in Chapter 27 of the Township of Cumberland Code of Ordinances (the "Code").

6. The Property is located in the Township's Agricultural (A) District, in accordance with the Cumberland Township Zoning Map.

7. The Township received an application from the Applicants for conditional use approval for certain activities on a thirty-five (35) acre portion of the Property north of Mason Dixon Road and east of Barlow Road (the "Subject Portion").

8. The activities that Applicants propose that require conditional use approval are the corn maze use, the sunflower photo use, and the wagon rides (the “Proposed Use”).

9. The Applicants also propose to utilize the Subject Portion for pumpkin sales, flower sales, vegetable sales, and corn sales which are permitted as a use by right in the Agricultural District in accordance with Section 27-1601.3 of the Code (the “Permitted Uses”).

10. The Proposed Use constitutes “For Profit Open Space and Recreation Use” which is a conditional use in the Agricultural District in accordance with Chapter 27, Part 4, §27-402 of the Code.

11. A hearing was held on the Conditional Use Application on July 28, 2026.

12. The following documents were entered, without objection, into the record by Lisa Trimmer, the Township Zoning Officer:

- a. Township Exhibit A – Applicants’ Conditional Use Application with an attached project narrative and sketch plan of the Property received June 2, 2026
- b. Township Exhibit B – Cumberland Township Planning Commission’s recommendation
- c. Township Exhibit C – Legal notice of the hearing as advertised in the *Gettysburg Times*
- d. Township Exhibit D – List of adjacent property owners and notice of the hearing mailed to surrounding citizens as required by the Code
- e. Township Exhibit E – Diagrams of locations where notice of the hearing was posted at the Property.

13. The following documents were entered, without objection, into the record by the Applicants:

- a. Applicants’ hearing binder consisting of the application for conditional use, the property location map, the proposed rural enterprise map, narrative of the proposed rural enterprise, and the utility shed plans.

14. Applicant Ginger Bryant testified that the proposed sunflower picture area, corn maze, and wagon rides would likely operate in September and October.

15. Ms. Bryant testified that portable lights (generator lights) will be installed at the parking area for the Proposed Use.

16. Ms. Bryant testified that lighting will also be provided at the proposed corn maze at the Property.

17. Ms. Bryant testified the Proposed Use will not impair adequate supply of light and air to adjacent properties.

18. Ms. Bryant testified that the Proposed Use will not adversely affect transportation or unduly burden water, sewer, school, park or other public facilities.

19. Ms. Bryant testified that the Proposed Use would not detract from the use and enjoyment of adjacent properties.

20. Ms. Bryant testified that the Proposed Use is consistent with the purpose of the agricultural zoning district.

21. Ms. Bryant testified that the Proposed Use would not have a detrimental effect on to adjacent property owners because the Corn Maze and Sunflower Photo field will be approximately 100-200 yards away from any property.

22. Ms. Bryant testified that traffic associated with the Proposed Use would not endanger the safety of persons or property.

23. Ms. Bryant testified that the Proposed Use will not cause an increased danger of fire or otherwise endanger the public safety.

24. Applicant Roy Pool testified that he anticipates three hundred (300) to four hundred (400) people will utilize the Proposed Use and Permitted Uses at the Subject Portion.

25. Mr. Pool testified that the Applicants would hire a professional company to assist with traffic ingress and egress at the Property while the Proposed Use is in operation.

26. Mr. Pool testified that fencing would be utilized to keep patrons off neighboring properties.

27. Mr. Pool testified that a fence or barrier will be utilized along Mason Dixon Road and Barlow Road to prevent ingress or egress from occurring from undesignated areas.

28. Mr. Pool testified that there will be no loud entertainment or noise from the Property.

29. Ms. Bryant testified that the sunflower picture area, corn maze, and wagon rides would be open from 10:00 AM to 6:00 PM on Saturdays and Sundays.

30. Mr. Pool testified that one hundred (100') feet to two hundred (200') feet of gravel will be utilized to prevent mud from accumulating at the ingress/egress point on Mason Dixon Road to the parking area.

31. Mr. Pool testified that the Applicants will comply with the illumination requirements in the Zoning Ordinance.

32. Mr. Pool testified that ten (10) to twelve (12) employees will be utilized for the Proposed Use and Permitted Uses at the Subject Portion of the Property.

33. Mr. Pool testified that he intends to utilize his own vending trailers to sell retail items (food and beverages) to members of the public at the Property.

34. Ms. Bryant testified that four hundred (400) parking spaces are available at the Property.

35. Mr. Pool testified that once parking has reached capacity, any additional admissions at the Property would be rejected.

36. Ms. Bryant testified that in the event there is some form of erosion or sedimentation or compaction at the designated parking area that would impair filtration, the Applicants will take appropriate action to quickly remediate that condition in a manner that is acceptable to the Township Engineer or to the Adams County Conservation District.

37. Ms. Bryant testified that the Applicants will seek approval from the Adams County Land Preservation Board for the Proposed Use.

38. Ms. Bryant testified that the Applicants will comply with special event permit and amusement permit requirements of the Code.

39. Several members of the public appeared at the hearing to provide public comments regarding concerns including: the uses impact and consistency with a preserved farm, the impacts of increased traffic, and safety concerns.

40. Additionally, several members of the public appeared at the hearing to provide public comments concerning the retail sales on the South Side of Mason Dixon Road.

41. No objector sought to gain party status at the hearing.

CONCLUSIONS OF LAW

The Board of Supervisors of Cumberland Township has been called upon to exercise its jurisdiction to hear and render a decision in the matter of this Conditional Use request. Section 913.2¹ of the Pennsylvania Municipalities Planning Code (“MPC”) authorizes municipalities to make exceptions to their zoning ordinances, in the form of conditional uses, as long as the ordinances set forth express standards and criteria governing such exceptions. A conditional use is a permitted use absent proof that an adverse impact on the public interest is greater than might be expected under normal circumstances.² The fact that a use is permitted as a conditional use evidences a legislative decision that the particular type of use is consistent with the zoning plan and presumptively consistent with the health, safety, and welfare of the community.³

The Applicants presented testimony regarding a number of uses which they desire to engage in on the Property. This Decision deals solely with the Proposed Use, namely the corn maze use, the sunflower photo use, and the wagon ride use. The balance of the potential uses discussed by Applicants are not conditional uses but rather uses permitted by right in the Agricultural District, provided that such uses are conducted in accordance with the requirements thereof. For example, the retail sale of vegetables, flowers, pumpkins, and corn grown on the Property is permitted under Section 27-401.3.A of the Code, provided that such use complies with Section 1604.3 of the Code. The same is true of the potential sale of beef at the Property. The Board is cognizant of the provisions of 3 P.S. §953(b), which provides:

Direct commercial sales of agricultural commodities upon property owned and operated by a landowner who produces not less than 50% of the commodities sold shall be authorized, notwithstanding municipal ordinance, public nuisance or zoning prohibitions. Such direct sales shall be authorized without regard to the 50% limitation under circumstances of crop failure due to reasons beyond the control of the landowner.

¹ 53 P.S. §10913.2.

² *Robinson Township v. Westinghouse Broadcasting Co.*, 440 A.2d 642 (Pa. Cmwlth. 1981).

³ *Northampton Area School District v. East Allen Township Bd. of Supervisors*, 824 A.2d 372 (Pa.Cmwlth. 2003), *appeal denied*, 834 A.2d 1144 (Pa. 2003); *Bailey; In re Saunders*, 636 A.2d 1308 (Pa.Cmwlth. 1994), *appeal denied*, 657 A.2d 494 (Pa. 1995); Robert S. Ryan, 1 Pennsylvania Zoning Law and Practice 5.2.6 (2003) (hereinafter Ryan).

Accordingly, to the extent that the Applicants desire to pursue the retail sales of commodities grown or raised on the Property, they must apply for the required permits from the Township.

The Proposed Use, the corn maze use, the sunflower photo use, and the wagon ride use, which constitute “For Profit Open Space and Recreation Use”, is listed in Section 27-402 as a conditional use. The Zoning Ordinance does not contain express criteria specific to a “For Profit Open Space and Recreation Use”. However, Section 27-1801.7 contains requirements for conditional use applications and Section 27-1801.9 directs that the Board apply the criteria and standards set forth in Section 27-1902, subsections 7 and 8.

A conditional use must be granted by the governing body where there is compliance with specific requirements set forth in the zoning ordinance, provided it is not shown to be detrimental to public health, safety, or general welfare.⁴ Once the applicant for a conditional use has demonstrated compliance with applicable standards, the permit must be granted, unless objectors come forward with evidence that the conditional use would pose a substantial threat to the community.⁵

In addressing an application for a conditional use, a local governing body must employ a shifting burden of persuasion; first, the applicant must persuade the local governing body that its proposed use is a type permitted by conditional use (which is demonstrated here by the text of the zoning ordinance) and the proposed use complies with the requirements in the ordinance for such a conditional use, and once it does so, a presumption arises that the proposed use is consistent with the general welfare, and the burden then shifts to objectors to rebut the presumption by proving, to a high degree of probability, the proposed use will adversely affect the public welfare in a way not normally expected from the type of use.⁶ Where the terms of an ordinance have not expressly placed the burden of persuasion regarding general detrimental effects to the health, safety, and welfare on an applicant, the applicant has the burden of

⁴ *Warren v. Collier Township Bd. of Commissioners*, 437 A.2d 86 (Pa. Cmwlth. 1981).

⁵ *Susquehanna Township Bd. of Commissioners v. Hardee's Food Systems, Inc.*, 430 A.2d 367, (Pa. Cmwlth. 1981).

⁶ *Aldridge v. Jackson Township*, 983 A.2d 247 (Pa. Cmwlth. 2009).

persuasion only for specific requirements, while objectors have the burden as to all general policy concerns and general detrimental effects.⁷

Section 27-1902, subsections 7 and 8 of the Code are set forth below:

*§27-1902.7. **Public Interest Criteria.** In determining whether the allowance of a special exception or a variance is contrary to the public interest, the Zoning Hearing Board shall consider whether the application, if granted, will:*

- A. Be detrimental to appropriate use of adjacent properties.*
- B. Cause undue congestion of pedestrian or vehicular traffic.*
- C. Endanger the safety of persons or property by improper location or design of facilities for ingress or egress.*
- D. Increase the danger of fire or otherwise endanger the public safety.*
- E. Overcrowd the land or create an undue concentration of population.*
- F. Impair an adequate supply of light and air to adjacent property.*
- G. Adversely affect transportation or unduly burden water, sewer, school, park, or other public facilities.*
- H. Adversely affect the public health, morals, safety, or general welfare.*
- I. Run counter to the spirit and purpose of this Chapter.*

*§27-1902.8 **General Standards.***

The Board shall:

- A. Consider the suitability of the property for the use desired and assure itself that the proposed change is consistent with the spirit, purpose, and intent of this Chapter.*
- B. Determine that the proposed change will not substantially injure or detract from the use of neighboring property nor from the character of the neighborhood and that the use of the property adjacent to the area including the proposed change or plan is adequately safeguarded.*
- C. Determine that the proposed change will serve the best interests of the Township and the public welfare.*
- D. Consider the effect of the proposed change upon the logical, efficient, and economical extension of public services and facilities such as public water, sewers, police and fire protection, and public schools.*
- E. Consider the suitability of the proposed location of an industrial or commercial use with respect to probable effects upon highway traffic and ensure adequate access arrangements in order to protect all streets from undue congestion and hazard.*
- F. Be guided in its study, review, and recommendation by sound standards of subdivision practice, where applicable.*
- G. Impose such conditions, in addition to those specifically required in accordance with individual district regulations, as are necessary to assure that the intent of this Chapter is complied with, which conditions may include,*

⁷ *Spencer v. McKean Twp. Zoning Hearing Bd.*, 537 A.2d 943 (Pa. Cmwlth. 1988).

but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, the minimizing of noxious, offensive, or hazardous elements, and adequate standards of parking and sanitation.

H. Impose such conditions on the application for Special Exception or Variance as are necessary to assure that the Board has adequate information on which to base a decision, which conditions may include, but are not limited to, the submission of traffic, water, storm drainage, sanitary sewer, and historic and environmental resources studies.

The Objectors expressed many concerns regarding the potential increased traffic generated by the Proposed Use. However, there was no evidence presented that the traffic generated by the Proposed Use is different than the traffic normally associated with a For Profit Open Space and Recreation Use. The burden that is placed upon any objectors requires more than mere speculation of possible harm.⁸ An application may be denied on traffic grounds only: (1) where there is a high probability that the proposed use will generate traffic not normally generated by the type of use; and (2) that the abnormal traffic threatens safety.⁹ Proof of adverse traffic effects usually requires a mixture of proof in the form of traffic counts, accident records, and expert evidence.¹⁰ The Objectors did not present traffic counts, accident reports, or testimony or evidence from a traffic expert. The Board was not presented with substantial evidence that the traffic associated with the Proposed Use will pose a substantial threat to the health and safety of the community, therefore, the Board is unable to deny the Applicants' request on the basis of the Objectors' concerns regarding traffic generated by the use.

While the Board is not unsympathetic to the concerns raised by Objectors, the Board must provide such concerns with the appropriate weight and consideration as provided by the relevant caselaw. "[E]vidence in opposition to the use... 'must show a high probability that the use will generate adverse impacts not normally generated by this type of use and that these impacts will pose a substantial threat to the health and safety of our community.'"¹¹ Apprehensions, even if they are "*very real and potential* threats (to the health, safety, and

⁸ *In re Application for Conditional Use Approval of James Saunders*, 636 A.2d 1308, 1311 (Pa. Cmwlth. 1994), petition for allowance for appeal denied, 657 A.2d 494 (Pa. 1995).

⁹ *Orthodox Minyan of Elkins Park v. Cheltenham Township Zoning Hearing Board*, 552 A.2d 772, 773 (Pa. Cmwlth. 1989).

¹⁰ Ryan, 1 Pennsylvania Zoning Law and Practice 5.3.1 (2003).

¹¹ *Appeal of Dippolito*, 833 A.2d 336, 342 (Pa. Cmwlth. 2003) (quoting *Greaton Properties, Inc. v. Lower Merion Township*, 796 A.2d 1038, 1045 (Pa. Cmwlth. 2002)).

welfare of the citizens of the area) are, in the absence of substantial evidence to the contrary”, insufficient to deny a conditional use.¹² Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”¹³ As set forth above, the Applicants demonstrated compliance with Sections 27-1902.7 and 27-1902.8 of the Code “For Profit Open Space and Recreation Uses” at the Property. The Applicants have demonstrated compliance with the generally applicable zoning requirements, the use is entitled to a presumption that the Board has determined the use to be appropriate in the district and therefore consistent with the health, safety, and general welfare of the community.¹⁴

Section 913.2(a) of the MPC provides that, “[i]n granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance” The Board has elected to impose conditions as suggested by the Cumberland Township Planning Commission, as well as additional conditions that the Board has determined as appropriate to integrate the Proposed Use in the subject neighborhood. Those conditions are set forth in the Order below.

The approval granted herein is limited to the Proposed Use, as described in the Application and depicted on the Plan; a seasonal corn maze, sunflower photo area, and on-site wagon rides. The Applicants shall operate the Proposed Use in substantial conformity with the Plan and with the testimony and exhibits of record. Any addition of, or material change to, the uses conducted on the Property, including but not limited to animal exhibits or petting areas, haunted attractions, amplified entertainment, other assembly events, snack bar, concession stand, or food vending shall require separate conditional use approval.

CONCLUSION

As set forth herein, the Applicants have demonstrated compliance with the general provisions of the Zoning Ordinance applicable to the Proposed Use.

The Board’s determination set forth herein is based upon a determination of the credibility of the testimony presented, the consideration of the testimony presented, consideration of the exhibits presented, and a determination of the weight of the evidence.

¹² *Id.*

¹³ *Valley View Civic Association v. Zoning Board of Adjustment*, 462 A.2d 637, 640 (Pa. 1983).

¹⁴ *Kern v. Zoning Hearing Bd. of the Township of Tredyffrin*, 449 A.2d 781, 783 (Pa. Cmwlth. 1982).

Accordingly, it is the decision of the Board of Supervisors, pursuant to a motion passed by a majority of the members of the Board, that the following order be entered:

ORDER

AND NOW, this _____ day of _____ 2026, after reviewing the testimony and evidence presented, it is hereby ordered that the application of Roy D. Pool and Ginger Bryant, Case No: 2026-158, is approved, subject to the following conditions:

1. A land use permit for the Proposed Use shall not be granted until such time as Applicants provide written confirmation of approval of the Proposed Use from Adams County Land Preservation Board.
2. Approval of the Proposed Use is limited solely to the Subject Portion.
3. The access drive on the Subject Portion shall be, for no less than 200 feet inward from the Mason Dixon Road right-of-way, stabilized and surfaced with an aggregate material to minimize dirt and mud being transferred to Mason Dixon Road in accordance with standards established by the Township Engineer. The aggregate portion of the access drive shall be wide enough for two vehicles to pass each other without leaving the aggregate surface.
4. Applicants shall be responsible to obtain any required highway occupancy permit for the access drive.
5. To the extent that the Applicants utilize any artificial light with the use, Applicants shall comply with illumination requirements of Section §27-103 of the Zoning Ordinance.
6. Applicants shall comply with special event permit requirements of Chapter 13, Part 2 of the Code.
7. Applicants shall comply with amusement permit requirement of Chapter 24, Part 1 of the Code.
8. In the event that the Proposed Use results in erosion, sedimentation, or compaction that impairs infiltration on the Subject Portion, the Applicants shall promptly take appropriate action to remediate the erosion, sedimentation, or compaction in a manner that is acceptable to the Township Engineer and the Adams County Conservation District (if the ACCD has jurisdiction over the matter).
9. Hours of Operation associated with the Proposed Use shall be no earlier than 9:00 A.M. and no later than 6:00 P.M.
10. The installation of fencing or alternative barriers along Mason Dixon Road and Barlow Road is mandatory to restrict all vehicular and pedestrian access

exclusively to the designated driveway access point on the Subject Portion and is subject to the requirements of Section 27-1504 of the Zoning Ordinance.

11. Applicants shall provide the Township with a list of any equipment that the Applicants desire to utilize for the Proposed Use. Prior to receiving a land use permit for the Proposed Use, the Applicants shall submit to the Township, at the Applicants' sole cost and expense, a noise study that meets the following criteria:
 - a. The Noise Study shall be completed by a Board Certified member of the Institute of Noise Control Engineering or a professional engineer licensed in the Commonwealth of Pennsylvania whose practice includes acoustical engineering; and
 - b. The Noise Study shall measure and document the existing ambient sound level at appropriate compliance points approved by the Township Engineer. Ambient sound level shall be expressed as the A-weighted ninetyeth-percentile sound level (L90) measured over a continuous period of not less than twenty-four (24) hours, reported separately for daytime hours (7:00 a.m. to 8:30 p.m.) and nighttime hours (8:30 p.m. to 7:00 a.m.). The baseline measurements shall be submitted to the Township Engineer and once accepted, shall constitute the "Baseline Ambient Level" for purposes of this Condition.
 - c. The operation of all equipment on the Property associated with the Proposed Use, whether operating individually or in combination, shall not cause the A-weighted equivalent sound level (Leq) measured over any one (1) hour period at any Compliance Point to exceed the applicable Baseline Ambient Level by more than five (5) decibels. No equipment shall produce sound containing a discernible pure tone, impulsive, or repetitive-beat character at any Compliance Point; where such character is present, five (5) decibels shall be added to the measured level before comparison to the standard.
 - d. Compliance shall be measured at the property line of the Property.
 - e. All measurements required by this Condition shall be performed using a sound level meter meeting applicable ANSI requirements. The Noise Study shall identify the instrumentation, calibration records, meteorological conditions, measurement locations by coordinates, the equipment in operation during each measurement, and the raw data.
 - f. The Noise Study shall identify all noise-generating equipment, its location, its hours of operation, and any noise control measures incorporated into the design.
 - g. If Applicants desire to materially change equipment or its location Applicants shall provide the Township with an updated Noise Study demonstrating that such change can meet the requirements hereof.

- h. Applicants shall at all times meet the requirements of Chapter 10, Part 3 of the Code.
12. During all hours the Proposed Use is open to the public, Applicants shall station not less than one parking area attendant in the designated parking area to direct arriving vehicles to the designate parking area and appropriately manage the on-site queue so that no stacking of vehicles occurs on a public road.
 13. No parking for the Proposed Use shall be permitted along the shoulder of Mason Dixon Road or Barlow Road.
 14. No parking for the Proposed Use shall occur anywhere except within the designated area on the Subject Portion.
 15. Within sixty (60) days following the close of the first operating season, the Applicants shall submit to the Zoning Officer a written report documenting, for each operating day: total attendance, peak hourly attendance, peak on-site vehicle count, and each occasion on which vehicles queued upon the public right-of-way or where any attendee parked off the Subject Portion. If the report documents queuing upon the right-of-way on more than 1 occasion, the Applicants shall, within thirty (30) days, submit a written mitigation plan proposing measures located entirely upon the Subject Portion, including but not limited to additional parking attendants, extended on-site stacking, adjusted ticketing intervals, or reduced maximum simultaneous attendance, and shall implement the approved plan before the commencement of the next operating season.
 16. All unpaved parking areas and vehicle circulation areas shall be maintained in a dust free condition. The Applicants shall apply water or a non-toxic dust palliative as necessary to prevent the generation of dust. All parking areas shall be restored and vegetatively stabilized at the end of the seasonal operation of the Proposed Use and prior to the next season of operation.
 17. Applicants shall ensure daily that the Proposed Use does not result in any uncollected garbage or refuse. Applicants shall be required to provide sufficient trash receptacles to collect all trash or refuse generated during the operation of the Proposed Use. Adequate facilities shall be provided for the collection of all garbage and refuse and its disposal off-site.
 18. The Special Event Permit obtained by the Applicants shall specify when Applicants shall be required to supply personnel who are authorized to direct, control, or regulate traffic. All such personnel shall meet the requirements of 67 Pa. Code §101.2 or 75 Pa.C.S. §3102, as applicable. Any approvals required from the Pennsylvania Department of Transportation shall be obtained by the Applicants.
 19. Prior to operation of the wagon ride, the Applicants shall obtain approval from the Pennsylvania Department of Agriculture in accordance with the regulations set forth at 7 Pa. Code § 139.4(d)(7)(ii) for hayride attractions. All wagon rides must occur solely on the Subject Portion.

Board members, voting as follows:	<u>APPROVE</u>	<u>DENY</u>	<u>ABSTAIN</u>
Phiel	<u> X </u>	<u> </u>	<u> </u>
Biggins	<u> X </u>	<u> </u>	<u> — </u>

Brauning	<u> X </u>	<u> </u>	<u> </u>
Sheppard	<u> X </u>	<u> </u>	<u> </u>
Wampler	<u> X </u>	<u> </u>	<u> </u>

ATTEST:

CUMBERLAND TOWNSHIP BOARD
OF SUPERVISORS

By: Lisa Black
Lisa Black, Secretary

By: 
Shaun Phiel, Chairperson

Dated: 8-27-26