

CHARLESTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

DECISION AND ORDER

**Application of Russell Becker
For Conditional Use Approval**

February 3, 2020

I. INTRODUCTION

Russell Becker (the "Applicant") filed an application for conditional use approval pursuant to Section 27-1608.1.B(2) of the Charlestown Township Zoning Ordinance ("Zoning Ordinance") in order to construct an accessory use building with an area to be used as a garage and area for a guest quarters, a use which is permitted by conditional use in the FR- Farm Residential Zoning District.

The Applicant proposes the conditional use on the property located at 2130 Conestoga Road, (the "Property"). The Applicant submitted a Conditional Use Plan (the "Plan"), showing the Property improved an existing single family dwelling and showing the proposed accessory use building with the garage and living quarters areas delineated in addition to a proposed new driveway accessing the garage.

A public hearing on the Applicant's conditional use application was commenced on January 6, 2020, with public notice properly provided. The Applicant testified at the hearing in support of the application.

II. RELIEF REQUESTED

The Property that is the subject of this application is owned by Russell Becker and is located at 2130 Conestoga Road, Malvern. The Property consists of approximately 2.3-acres of land improved with a single family dwelling also identified as Tax Parcel # 35-7-10.2. The existing dwelling on the Property has access by way of a private driveway to Conestoga Road. The Applicant proposes to construct the accessory building to the rear of the Property with access by way of an extension of the existing driveway as shown on the Plan, Exhibit A-2. The driveway is proposed to be made of stone.

The accessory building is proposed to include both living space and a garage with 960 square feet dedicated to living space. At the hearing, the Applicant testified that the principal dwelling on the Property is 1508 square feet in size, making the proposed guest quarters approximately 64% of the area of the existing dwelling.

The building is proposed to be located at least 40-feet from the Property's lot lines as required by Section 27-1608.1.B(2)(d) of the Zoning Ordinance. The Plan submitted with the Application, Exhibit A-2, showed the proposed guest quarters connecting to the existing on-lot

septic system on the Property. At the hearing, the Applicant presented an amended plan, identified as Exhibit A-4 showing a new septic tank and septic field servicing the proposed quest quarters building. The Applicant testified that the Chester County Health Department review indicated that the existing on-lot system serving the dwelling on the Property did not have sufficient capacity to accommodate the proposed new guest quarters, therefore a new system is proposed to be constructed. The Applicant testified that the will be designed in accordance with the Health Department's requirements to handle 400-gallons per day and will meet all necessary setbacks.

Section 27-202 of the Zoning Ordinance defines the term "Guest House" as "A building accessory to a single-family detached dwelling used exclusively for temporary residential purposes, having no service connection for electricity, water and/or septic disposal independent of the principal building, and having no facilities for cooking." Section 1608 of the Zoning Ordinance permits a Guest House by conditional use in relevant part as follows:

§ 27-1608 Accessory Uses, Buildings and Structures.

1. Accessory uses, buildings and structures shall include, but not necessarily be limited to the following:

B. Uses, Buildings and Structures Accessory to Dwellings....

(2) Quarters for guests and servants, provided that:

- (a) Such quarters shall only be permitted as a conditional use.
- (b) Only one guest house or servants quarters shall be permitted per lot.
- (c) The gross square footage shall not exceed 1,000 square feet.
- (d) Such quarters shall be no closer to any side or rear lot line than 40 feet.

In addition, Section 1608.2 of the Zoning Ordinance provides:

2. In no event shall accessory buildings on a lot exceed 50% of the ground floor area of the permitted principal structure except if at all upon a grant by the Board of Supervisors of a conditional use permit therefore.

The standards and criteria for conditional uses are set forth in Section 27-1809 of the Zoning Ordinance. Based on those standards, the Applicant's proposed development of a Guest House and garage is consistent with the FR District provisions for an accessory use building and use. While the proposed quest quarters and garage exceed 50% of the ground floor of the residence on the Property, such exceedance is permitted by conditional use pursuant to Section 1608.2 of the Zoning Ordinance. The Plan is consistent with the uses on adjacent lots, which are residential, and is consistent with the character of the neighborhood; and the Plan provides safe and adequate access to Conestoga Road and will not result in excess traffic volumes.

III. FINDINGS OF FACT

1. The Property that is the subject of this application is owned by Russell Becker and is located at 2130 Conestoga Road, Malvern, PA.

2. The Property consists of 2.3-acres of land improved with a single family dwelling also identified as Tax Parcel # 35-7-10.2 and is located in the FR Farm Residential District

3. The Applicant, Russell Becker owns and resides on the Property in the existing single-family dwelling.

4. The Applicant intends for his father live in the proposed guest quarters.

4. The Applicant's proposal complies with the area and bulk regulations of the FR Farm Residential District (Exhibit A-2).

IV. CONCLUSIONS OF LAW

1. The Applicant has standing.

2. The Applicant has satisfied the standards set forth in 27-1809 of the Zoning Ordinance for conditional use approval.

V. ORDER

AND NOW, this 3rd day of February, 2020, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicant, Russell Becker, is granted conditional use approval pursuant to Section 27-1608.1.B(2) and Section 27-1608.2. of the Charlestown Township Zoning Ordinance in order to construct an accessory use building consisting of a garage and guest quarters on the Property located at 2130 Conestoga Road, Malvern, subject to the following conditions.

1. The proposed use is subject to compliance with all terms and provisions of the Zoning Ordinance, and all other Township Ordinances and regulations, and in addition to the regulations of all other government agencies having jurisdiction over the use.

2. The scope of this approval is limited to the requested use as shown on the Applicant's Conditional Use Plan (Exhibits A-2 and A-4) and representations made by the Applicant made as part of the record at the public hearing.

3. The Applicant shall comply with all exhibits, representations, and record evidence, including the November 22, 2019 Review letter from Advanced Geoservices (Exhibit T-3), which are incorporated herein as part of this approval.

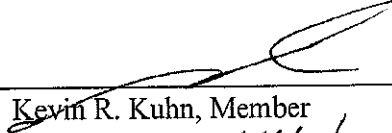
4. The Applicant shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, its agreement to the above conditions or the Application is denied; the Board expressly finding and concluding that the Application in the absence of compliance with the said conditions is inconsistent with the objective criteria set forth in the applicable provisions of the Zoning Ordinance.

CHARLESTOWN TOWNSHIP

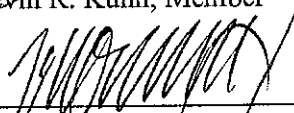


Frank Piliero, Chairman

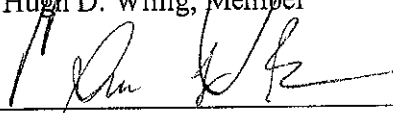
Charles A. Philips, Vice Chairman



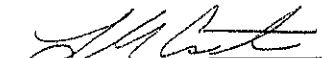
Kevin R. Kuhn, Member



Hugh D. Willig, Member



Susan Bednar, Member



Linda M. Csete, Secretary