

**IN THE MATTER OF** : **BEFORE THE FAIRVIEW TOWNSHIP**  
**THE APPLICATION OF** : **ZONING HEARING BOARD**  
**ROBERT and JADEN GRUVER** : **YORK COUNTY, PENNSYLVANIA**  
: **DOCKET NO. 2019-03**

**DECISION GRANTING A SPECIAL EXCEPTION PURSUANT TO SECTION 300-4  
OF THE FAIRVIEW TOWNSHIP ZONING ORDINANCE**

The Applicants applied for a special exception pursuant to Section 300-4 of the Fairview Township Zoning Ordinance (Interpretation and Uses Otherwise Not Provided For) for the purpose of constructing a 10,000 +/- square foot building to be used for wine manufacturing, tasting, sales and an event room to host social gatherings at 255 Stetler Road, New Cumberland, PA 17070, in the Single-Family Residential (RS) Zoning District. A hearing on the application was held on March 21, 2019, at 6:30 p.m. at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

**FINDINGS OF FACT**

1. The Applicants are Robert Gruver and Jaden Gruver, both of 255 Stetler Road, New Cumberland, PA 17070. Robert Gruver is the owner of the premises which is the subject of the application. Jaden Gruver, his son, is the operations director of the tree farm business currently conducted at the site. The premises consists of 37.0994 acres with frontage on Stetler Road. The premises is presently improved with three small structures, two equipment buildings and a small sales office for the tree business.

2. The Applicants were represented by Scott Harper, Esquire, 1701 West Market Street, York, PA 17404. Testifying for the Applicants were Jaden Gruver and Chris Hoover, P.E., Hoover Engineering Services, Inc., 658 Gaumer Road, New Cumberland, PA 17070.

3. The Applicants requested a special exception pursuant to Section 300-4 of the Fairview Township Zoning Ordinance for the purpose of adding a wine manufacturing, tasting and sales business to the tree farm at their property. The wine manufacturing, tasting and sales would be conducted from a 10,000 +/- square foot building to be constructed on the property. The building will also have an event room to be used for hosting social events. The wine business would operate under a "limited winery" license issued by the Pennsylvania Liquor Control Board ("PLCB"), which would authorize the manufacturing of up to 200,000 gallons of wine per year. Issuance of the license requires, among other stipulations, local governmental approval of the business. The license allows the licensee to sell the wine to other licensees, sell to individuals, on premises, or by mail, phone, and internet, provide free sampling on premises, and carry on certain other activities, including food sales on premises. The license terms are set out in 47 P.S. §5-505.2.

4. Notice of the hearing was properly advertised; the property was properly posted; and all neighboring property owners required to be notified of the hearing were notified in accordance with the Township Ordinance and the Pennsylvania Municipalities Planning Code.

5. The Applicants have operated a tree farm at this property for 40 years, the business having been started by Robert Gruver. Christmas trees are sold from the farm on a cut-your-own basis and also are retailed and wholesaled by the Applicants. At present, there are 3 acres of wine grapes cultivated on the premises, in addition to the Christmas trees.

6. Chris Hoover, P.E., Hoover Engineering Services, Inc., testified on behalf of the Applicants. Mr. Hoover prepared Applicants' Exhibit 1, a site plan drawing of the Applicants' property and the proposed location of the building for the winery. Mr. Hoover described the building as a bank-barn style, two-story structure which will be 300 feet from the closest property line. The building will be accessed by a paved driveway from Stetler Road. The access drive will run near to the property line for the residences on Carriage Road which adjoins the Gruver parcel to the south. Mr. Hoover described the buffering and landscaping that would be provided to limit the roadway impact upon the neighboring residences. The precise site improvements, including any buffering required by the township ordinances, will be required to be addressed in the subsequent land development plan permitting process.

7. Several residents and property owners on Carriage Road adjoining the property testified. Also, residents adjoining the property on Spanglers Mill Road and Stetler Road appeared and testified. There was no opposition from the neighbors to the proposed limited winery itself. The primary concern of all nearby residents was the traffic impact on Stetler Road and the possible impact upon neighboring residences of the access roadway and on-site traffic to the winery. Some neighbor testimony noted that the continued agricultural uses were desirable in keeping the overall intensity of development in the community more limited.

8. Stephen M. Waller, Codes Administration Director for Fairview Township, testified that the Applicants' property is in the RS district of the township and that an agricultural operation, including a tree farm and grape vineyards, is a permitted use. However, the manufacturing of wine in a limited winery is a use neither specifically permitted nor prohibited in the Township. He discussed that various elements of the driveway entry and exit onto Stetler

Road and the configuration of the driveway from the road to the proposed winery site would be addressed in the Fairview Township land development permitting process. He noted that public sewer was available to the site and the Applicants indicated their intention of connecting the winery facilities to the public sewer.

9. The Applicants, in response to questions with respect to the social event hosting plans, indicated that they did not expect to have large outside events, although a patio area is planned outside the winery building.

10. The Applicants demonstrated that the proposed limited winery meets the requirements of the Ordinance for a Section 300-4 special exception which provides that the proposed use may be granted a special exception if it is “in general conformity” with the Fairview Township Comprehensive Plan and meets the criteria set out in Section 300-4.B(2)-(7) of the Ordinance. The limited winery operation at this location will be equal to or less intensive than other permitted uses which could be made of the property under the Ordinance. Consistency of the application with any special requirements in Article VII of the Zoning Ordinance was established through the Applicants’ witnesses; and the testimony of the Township’s Codes Administration Director did not identify any deficiencies in this regard. Furthermore, the requirements for all special exceptions, in Section 300-99 of the Ordinance were met, subject to the conditions set hereafter by the Board.

11. The hours of operation of the winery, the possibility of noise from outdoor events, and the proximity of the driveway to the adjoining residences are issues that should be considered. Unless reasonably limited, the hours of operation could have a negative impact upon the adjoining residential community. Therefore, the hours of operation should be limited to

Noon to 10:00 p.m. Monday through Saturday and Noon to 8:00 p.m. on Sundays. There should be no outdoor music in connection with any social events. Also, the paved cartway for the entrance drive should be no closer than 40 feet to the property line.

### CONCLUSIONS

1. The Applicants have the burden of establishing entitlement to the requested special exception and demonstrating that all requirements of the Fairview Township Zoning Ordinance are met.

2. On the basis of the testimony and documentary evidence presented, the Board finds and concludes: (1) that the operation of a limited winery, which is not expressly permitted in any zoning district in the township, is a “use not otherwise provided for” which should be allowed as a special exception in the Single-Family Residential (RS) District; and (2) the Applicants have met all the requirements for a special exception under Fairview Township Zoning Ordinances Sections 300-4, 300-76, and 300-99 and thereby established their entitlement to a special exception for a limited winery at 255 Stetler Road, New Cumberland, PA 17070, subject to the following conditions:

- A. The hours of operation shall be Noon to 10:00 p.m., Monday through Saturday; and Noon to 8:00 p.m., on Sunday;
- B. No outdoor concerts or musical events shall be held; and
- C. The entry roadway to the winery and event facility shall be set back a minimum of 40 feet from the adjoining property line.

**DECISION**

On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented to the Board at the hearing, the request for a special exception for the purpose of operating a limited winery at 255 Stetler Road, New Cumberland, PA 17070, is granted subject to the following conditions:

- A. The hours of operation shall be Noon to 10:00 p.m., Monday through Saturday; and Noon to 8:00 p.m., on Sunday;
- B. No outdoor concerts or musical events shall be held; and
- C. The entry roadway to the winery and event facility shall be set back a minimum of 40 feet from the adjoining property line.

The Application was approved as stated upon the motion of Mr. Perry, seconded by Mr. Bashore, and adopted 3-0 by the Board Members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING  
BOARD

Dated: April 18, 2019

By:   
\_\_\_\_\_  
Timothy C. Mader, Chairman

Distribution: Scott Harper, Esquire, *for Applicant*



ZONING HEARING BOARD APPLICATION
YORK COUNTY, PENNSYLVANIA

Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: Robert Grover / Jaden Grover
Address: 255 Stetler Rd.
New Cumberland, PA 17070
Phone: 717-774-3299

EXISTING OWNER OF PROPERTY:

Name: Robert Grover
Address: 255 Stetler Rd.
New Cumberland, PA 17070

PROPERTY LOCATION:

Address: 255 Stetler Rd.
New Cumberland, PA 17070
Lot Size: 37.0994
Date Purchased: June 17, 1987
Location: middle of Stetler Rd. / off
Route 114 / Tree Farm

PRESENT USE OF PROPERTY:

Agricultural use / cut-your-own
Christmas Tree Farm

EXISTING ZONE: Single Family Dwelling

Part 2:

ZONING REQUEST (Identification of the applicable request(s)):

- ( ) SUBSTANTIVE CHALLENGE
(X) SPECIAL EXCEPTION
( ) VARIANCE
( ) APPEAL OF THE ZONING OFFICERS DECISION

SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request):

300-4.B - uses not specifically provided for.

Part 3:

DESCRIPTION OF REQUEST:

Expansion of existing agricultural use to include wine manufacturing, Tasting
+ sales. Proposed use will also include an event room to host wedding receptions
+ other party events.



## ❖ Part 4

LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 200 FEET OF THE PERIMETER OF THE ENTIRE PROPERTY.

| NAME                        | ADDRESS                         | USE TYPE                |
|-----------------------------|---------------------------------|-------------------------|
| KLV Ventures LLC.           | 222 Stetler Rd., New Cumberland | Residential             |
| Lantz Dale + Cheryl L       | 238 Stetler Rd., New Cumberland | Residential             |
| Dunlap Darren W + Robyn S   | 240 Stetler Rd., New Cumberland | Residential             |
| Dinsmore Thomas L + Linda S | 242 Stetler Rd., New Cumberland | Residential             |
| Dinsmore Thomas L + Linda S | Stetler Rd., New Cumberland     | Residential - Auxiliary |
| Prosskie Daniel + Lisa M    | 246 Stetler Rd., New Cumberland | Residential             |
| Stitt Lorraine E            | 248 Stetler Rd., New Cumberland | Residential             |
| Smithson Todd H + Jean M    | 5 Carriage Rd., New Cumberland  | Residential             |
| Brewer Jennifer L           | 7 Carriage Rd. New Cumberland   | Residential             |
| Hals Robert L + W. Ma F     | 9 Carriage Rd. New Cumberland   | Residential             |
| Tomschick John + Beverly    | 11 Carriage Rd. New Cumberland  | Residential             |
| Stewart Daniel + Ann Elia   | 13 Carriage Rd. New Cumberland  | Residential             |
| Peng Roger + Margee Abbie   | 15 Carriage Rd. New Cumberland  | Residential             |
| Miscado James + Coretta     | 17 Carriage Rd. New Cumberland  | Residential             |
| Dike David + W. Ma          | 19 Carriage Rd. New Cumberland  | Residential             |
| Wrightley John              | 21 Carriage Rd. New Cumberland  | Residential             |

## ❖ Part 4

LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 200 FEET OF THE PERIMETER OF THE ENTIRE PROPERTY.

| NAME                              | ADDRESS                               | USE TYPE         |
|-----------------------------------|---------------------------------------|------------------|
| KurzweilKrahe Glenn + Barbara     | 23 Carriage Rd., New Cumberland       | Residential      |
| Smith Jeffrey + Karen             | 270 Spanglers Mill Rd. New Cumberland | Residential      |
| Minchen Jeffrey + Denise          | 262 Spanglers Mill Rd. New Cumberland | Residential      |
| Burnett Kurt + Joyce              | 256 Spanglers Mill Rd. New Cumberland | Residential      |
| Township of Fairview              | 254 Spanglers Mill Rd. New Cumberland | E - Fire Station |
| Willers Bo                        | 252 Spanglers Mill Rd. New Cumberland | Residential      |
| Urbargraff Wayne + Ruth           | 250 Spanglers Mill Rd. New Cumberland | Residential      |
| Stumper Shannon                   | 248 Spanglers Mill Rd. New Cumberland | Residential      |
| Williams Robert J Jr.             | 244 Spanglers Mill Rd. New Cumberland | Residential      |
| Mickel James Lewis + Lynn Tittler | 240 Spanglers Mill Rd. New Cumberland | Residential      |
| Ehrsmann William + Lucille        | 236 Spanglers Mill Rd. New Cumberland | Residential      |
| Angus Harry III + Connie          | 232 Spanglers Mill Rd. New Cumberland | Residential      |
| Shaffer David + Kimberly          | 852 Shaffer Dr. New Cumberland        | Residential      |
| Lehman Andrew + Jill              | 849 Shaffer Dr. New Cumberland        | Residential      |
| Smith Marvin + Deborah Kunkert    | 140 Spanglers Mill Rd. New Cumberland | Residential      |
| Bresler George Jr.                | 225 Stetter Rd. New Cumberland        | Residential      |



2831

S. 850.00  
L 850.00  
T. 1700.00

027517

# This Indenture,

MADE THE *17th* day of *June* in the year of our Lord one thousand nine hundred eighty-seven (1987)

BETWEEN DALE E. HOUCK and GALEN H. HOUCK, Executors of the Last Will and Testament of Catherine Larue Houck, *deceased*, late of Fairview Township, York County, Pennsylvania, deceased, parties of the first part, Grantors,

AND

T. ROBERT GRUVER party of the second part, Grantee,

WHEREAS, Catherine Larue Houck, the decedent above named, being seized in fee of the hereinafter described real estate, died on the 13th day of September, 1981, having made her Last Will and Testament dated February 9, 1977, whereby she named the said Dale E. Houck and Galen H. Houck Executors thereof; and

WHEREAS, said Will was duly probated and filed of record in the Office of the Register of Wills of York County, Pennsylvania, to No. 67-81-1107, and Letters Testamentary thereon were issued to the said Dale E. Houck and Galen H. Houck, Executors, on September 17, 1981; and

WHEREAS, said Executors have sold said property to the grantee for the sum of \$85,000.00;

NOW THIS INDENTURE WITNESSETH, that the ~~parties of~~ <sup>parties of</sup> the first part, Grantors

for and in consideration of the sum of EIGHTY-FIVE THOUSAND (\$85,000.00) ----- Dollars lawful money of the United States, to them in hand paid by the said party of the second part, Grantee,

receipt whereof is hereby acknowledged have at and before the sealing and delivery hereof, the sold, aliened, released and confirmed, and by these presents, do granted, bargained,

party of the second part, his heirs and assigns <sup>grant, bargain, sell, alien, release and confirm unto the said</sup>

ALL THAT CERTAIN lot or parcel of land situate in Fairview Township, York County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a spike in the center line of Stetler Road (T-957) at the northeast corner of lands now or formerly of Robert E. Pletz; thence continuing along said center line South 68 degrees 00 minutes East, 211.32 feet to a point; thence by a curve to the right with a radius of 1501.25 feet and a length of 100.00 feet to a point on said centerline; thence continuing along same, South 64 degrees 11 minutes East, 264.20 feet to a point in said centerline; thence by a curve to the right with a radius of 1051.35 feet and a length of 100.00 feet to a point in said centerline; thence South 58 degrees 44 seconds East, a distance of 160.07 feet to a point on the centerline of said road; thence South 22 degrees 18 minutes West, a distance of 395.24 feet to an iron pin; thence South 58 degrees 18 minutes East, a distance of 206.36 feet to an iron pin; thence South 49 degrees 05 minutes West, a distance of 1044.77 feet to an iron pin; thence North 60 degrees 23 minutes West, a distance of 1341.32 feet to a point near an oak, which point is on the eastern boundary line of property now or formerly of Arthur Sheaffer; thence along same and also along land now or formerly of Larry Sheaffer, North 47 degrees 4 minutes East, 334.17 feet to post, which point is also on the southern boundary of land now or formerly of Earl Bishop; thence along same, South 44 degrees 59 minutes East, 80 feet to a 36 inch cherry tree at the southeast corner of land now or formerly of Earl Bishop; thence North 52 degrees 17 minutes East along land of the said Earl Bishop and lands now or formerly of Susan E. Froelick, 615.22 feet to an angle iron; thence continuing along lands of Forellek, North 51 degrees 21 minutes East, a distance of 502.29 feet to the centerline of Stetler Road, the point and place of BEGINNING.

SAID description being in accordance with "Map of property of Catherine L. Houck Estate dated May 15, 1984 prepared by John C. Billhart, Surveying and Mapping Services".

CONTAINING 37.10 acres, more or less.

(continued on attached sheet)

TOGETHER with all and singular ways, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and also, all the estate, right, title, interest, use, trust, property, possession, claim and demand whatsoever,

in law, equity or otherwise howsoever, of, in, to or out of the same:

TO HAVE AND TO HOLD, the said

hereditaments and premises hereby granted and released, or mentioned and intended so to be, with the appurtenances, unto the said grantee, his heirs

and assigns, to and for the only proper use and behoof of the said grantee, his heirs

or assigns, forever.

And the said parties of the first part, grantors,

covenant, promise and agree, to and with the said party of the second part, grantee, his heirs

the said parties of the first part, grantors and assigns, by these presents, that

have not done, committed, or knowingly or willingly suffered to be done or committed, any act, matter or thing whatsoever whereby the premises hereby granted, or any part thereof, is, are, shall or may be impeached, charged or incumbered, in title, charge, estate, or otherwise howsoever.

WITNESS the due execution hereof the day, month and year first above written.

of the Estate of

ATTEST:

By

President

Secretary

WITNESS:

Dale E. Houck (Seal)

Dale E. Houck

Galen H. Houck (Seal)

Galen H. Houck

Executors of the Estate of

Catherine Larue Houck

State of PENNSYLVANIA

County of Cumberland

On this, the

12th day of June

1987, before me

the undersigned officer, personally appeared Dale E. Houck and Galen H. Houck, Executors of the Estate of Catherine Larue Houck, deceased, late of the State of Pennsylvania County of York, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

DIANNE LENIG, NOTARY PUBLIC

My Commission Expires November 21, 1989

Cumberland County

Title of Officer

CERTIFICATE OF RESIDENCE

I, James R. Bultman, Esq., do hereby certify that the precise residence and complete post office address of the within named grantee is

780 Yocum Town Road  
Etters, PA

Mailing Address: P.O. Box 586  
New Cumberland, PA 17070

BOOK PAGE  
095 Y 0934

**Legal Description (continuation)**

BEING part of the same premises which G.L. Hartman and Lydia E. Hartman, his wife, by their Deed dated April 29, 1942 and recorded in the Office for the Recorder of Deeds of York County, Pennsylvania, in Deed Book G, Volume 29, Page 447, granted and conveyed unto Howard E. Houck and Catherine L. Houck, his wife; the said Howard E. Houck died November 5, 1976 leaving title vested in Catherine L. Houck as surviving tenant by the entireties who died on September 13, 1981.

State of

County of

On this, the

personally appeared himself to be the a Corporation, and that he as such

being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by himself as

BOOK PAGE

095 Y 0935

day of

19 before me

who acknowledged

of

IN WITNESS WHEREOF, I hereunto set my hand

not



Title of Officer.

Date 6-17-87

School District of the Borough-Township of

Fairview

York County, Pennsylvania

In Absence of

"REAL ESTATE TRANSFER TAX RESOLUTION"

Amount of Tax 850.00

Received Payment John C. Morris Collector

Per JMS

15.50

028371

Deed

Guardian's Trustee or Executor or Administrator's

Dale E. Houck and Galen H. Houck, Executors of the Last Will and Testament of Catherine Larue Houck, deceased

AND

T. Robert Gruver

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF REVENUE REALTY TRANSFER JUNI '87 TAX 850.00 00.00

State of Pennsylvania

County of York

RECORDED on this 17th day of June

A. D. 1987 in the Recorder's Office of said County, in Deed Book 95Y

Vol. Page 931

Given under my hand and the seal of the said office, the date above written.

John C. Morris Recorder.

