



ZONING HEARING BOARD APPLICATION
YORK COUNTY, PENNSYLVANIA

❖ Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: Jaden Grover / Robert Grover
Address: 255 Stetler Rd.
New Cumberland, PA 17070
Phone: ~~717-265-7513~~ 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~~ 37.0994 acres
Date Purchased: June 17, 1987
Location: Stetler Rd. / off Route 114

PRESENT USE OF PROPERTY:

Agricultural Use / Agritourism

EXISTING ZONE: Single Family Dwelling

❖ Part 2:

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

- () SUBSTANTIVE CHALLENGE
- () SPECIAL EXCEPTION
- (X) 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):

1) A Variance from the condition Letter C of Docket No. 2019-03,
2) 300-33, Buffer and Screen Regulations

❖ Part 3:

DESCRIPTION OF REQUEST:

1) Removal of Letter C, "The entry roadway to the winery + event facility shall be set back a minimum of 40 ft. from the adjoining property line." There is an existing roadway at the location that is wanted to be utilized but does not meet the 40' setback put on the condition. There is only 1 property + the address is 259 Stetler Rd New Cumberland PA 17070.
2) Requesting to remove the additional tree screening that is on the land development plan along the border of carriage road properties. There is an existing tree line on border.

❖ 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 |
| Dunlop Darren W + Robyn S | 240 Stetler Rd., New Cumberland | Residential |
| Dinsmore Thomas L + Lindsey | 242 Stetler Rd., New Cumberland | Residential |
| Dinsmore Thomas L + Linda S | Stetler Rd., New Cumberland | Residential - Auxiliary |
| Procskie 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. M. 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 |
| Pang Roger + Margie Abbie | 15 Carriage Rd. New Cumberland | Residential |
| Micardo James + Coretta | 17 Carriage Rd. New Cumberland | Residential |
| Duke David + W. M. J | 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 |
|-----------------------------------|---------------------------------------|------------------|
| Kurzweil Knecht Gleason + Betsch | 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 |
| Willis Bo | 252 Spanglers Mill Rd. New Cumberland | Residential |
| Uptagraff Wayne + Ruth | 250 Spanglers Mill Rd. New Cumberland | Residential |
| Stumper Shannon | 248 Spanglers Mill Rd. New Cumberland | Residential |
| Williams Robert S Jr. | 244 Spanglers Mill Rd. New Cumberland | Residential |
| Mickel James Lewis + Lynn Pittner | 240 Spanglers Mill Rd. New Cumberland | Residential |
| Ehresman 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 Anhalt | 140 Spanglers Mill Rd. New Cumberland | Residential |
| Bessler George Jr. | 225 Statter Rd. New Cumberland | Residential |

❖ *Part 5 For office use only:*

ZONING HEARING BOARD CHECKLIST

Application Received: _____

Property Zoned: _____

Asking for Special Exception, Variance or Appeal: _____

Case No.: _____

Fees Paid: _____

Hearing Date: _____

Draft Public Notice sent to Attorney for review: _____

Notice sent to Newspaper: _____

Notice Published in Newspaper: _____

Notice Mailed to Property Owners in 225ft. Buffer: _____

Public Notice Posted on Property: _____

ZHB Packets Mailed and Emailed: _____

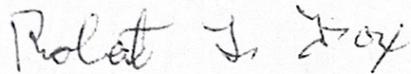
May 11, 2023

To whom it may concern,

I am writing this letter in regards to the property at 255 Stetler Rd. New Cumberland. I am the neighboring property owner located at 259 Stetler Rd. New Cumberland, PA which borders the property stated above.

It is my understanding that there is a 40' roadway set back from the property line that was put on the zoning decision for 255 Stetler Rd. As my house sits over 500' away from the property line and the existing roadway that is currently being used, I have no problem with the property utilizing the same roadway. I also have no problem with that roadway not being 40' from my property line. This entrance and roadway has been utilized for 30 years by customers of the property and has not caused a problem in the past. I also am ok with future customers using the same roadway for the new building that is being constructed and does not need to have a 40' set back from my property line.

Sincerely,

A handwritten signature in cursive script that reads "Robert J. Fox". The signature is written in dark ink and is positioned above the printed name.

Robert Fox



96 South George Street, Suite 520, York, Pennsylvania 17401

Tel: (717) 845-1524 • Fax: (717) 854-6999 • www.mpl-law.com



Christian R. Miller, Direct E-mail:
cmiller@mpl-law.com

June 20, 2023

Robert/Jaden Gruver
255 Stetler Road
New Cumberland, PA 17070

VIA REGULAR MAIL

RE: Fairview Twp. Zoning Hearing Board – No. 2023-08

To Whom It May Concern:

Enclosed please find the fully executed decision of the Fairview Twp. Zoning Hearing Board for Docket No. 2023-08 related to the Gruvers' zoning hearing board application, heard and decided by the Zoning Hearing Board on June 15, 2023.

Thank you.

Very truly yours,

MPL LAW FIRM

A handwritten signature in blue ink that reads 'Christian R. Miller'.

Christian R. Miller, Esquire

Enclosure

Cc: Fairview Township Zoning Hearing Board (c/o Stephen Waller, Zoning Officer)

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*

**BEFORE THE FAIRVIEW TOWNSHIP
ZONING HEARING BOARD**

DECISION

**IN RE: APPLICATION OF JADEN/ROBERT GRUVER
 APPLICATION NO. 2023-08**

APPLICANT(S): Jaden Gruver and Robert Gruver
HEARING DATE: June 15, 2023
DECISION DATE: June 15, 2023
APPEARANCES: Jaden Gruver
 Stephen Waller, Township Zoning Officer
 Robert Hals, Resident
 Dan Stewart, Resident
 Jim Mirando, Resident
EXHIBITS: Exhibit 1 – Application (including all submittals)
SUBJECT PROPERTY: 100 Spanglers Mill Road, New Cumberland, PA 17070
LETTER SUBMISSIONS: David Dukes, dated May 31, 2023

BACKGROUND

This decision of the Fairview Township Zoning Hearing Board (the “*Board*”) is from an application filed with Fairview Township (the “*Township*”) on or about May 17, 2023 (the “*Application*”), seeking zoning relief under the Township’s Zoning Ordinance (the “*Ordinance*”), for (i) a variance from condition letter C from the 2019-03 decision (related to a 40 foot setback as provided in the decision) and (ii) a variance from Section 300-33 related to buffer and screen regulations. The subject property is located at 255 Stetler Road, New Cumberland, PA 17070 within the Township’s Single Family Residential (RS) Zoning District.

A hearing was held on the Application on Thursday, June 15, 2023, with the meeting starting at 6:00 p.m. The Zoning Hearing Board was represented by Timothy Mader (Chairman), Keith Bashore, and Mark Perry (with alternate Daniel Alderman in attendance but not participating in any decisions). All published and posted notices were duly given, with no objection thereto being made in writing or orally at the time of the hearing. No testimony in opposition to the Application was offered or taken, and no parties attended the hearing to provide testimony in opposition. The above referenced residents did provide testimony in support of the request for reduced screening requirements. After hearing the testimony and viewing the evidence in this matter, the Board makes the following determinations:

FINDINGS OF FACT

1. Robert Gruver (“*Applicant*”) is the owner of property located at 255 Stetler Road, New Cumberland, PA 17070 (the “*Property*”).
2. The Property is located in the Township’s Single Family Residential (RS) Zoning District (the “*RS Zone*”) and is currently used as an agricultural operation.

3. Pursuant to zoning hearing case 2019-03, the Property was approved for a special exception for a limited winery as a use not provided for under the then current zoning ordinance, with a decision being issued at Case No. 2019-03 (the "*Decision*").

4. The Decision contained a condition at letter "C" requiring "[t]he entry roadway to the winery and event facility shall be set back a minimum of 40 ft. from the adjoining property line."

5. The existing access drive runs along the rear and side of property located at 259 Stetler Road, and relocation of the access drive would split the current farm operation in the middle, or require the demolition of three (3) agricultural structures used in Applicant's agricultural operation.

6. The existing access drive also runs along the rear of a number of residential properties located at Carriage Road.

7. As testified to by Applicant Jaden Gruver, as well as a number of the residents which abut the Property and access drive on Carriage Road, the residents desire an open view of the Property and natural scenery behind the Property.

8. Strict adherence to the screening requirements of Section 300-33 of the Ordinance would substantially, if not completely block such residents' viewshed of the Property and the natural scenery behind the Property.

9. As to the neighbors of the Property along Carriage Road, the access drive does not encroach on the buffer established by Section 300-33.

10. Stephen Waller, as the Township Zoning Officer, testified that all public notice of the application and hearing was legally conducted, with the hearing being advertised in the newspaper on June 1st and 8th, the Property was posted at multiple locations on June 6th, and the adjoining property owners were notified via letter mailed to them on May 31st.

CONCLUSIONS OF LAW

1. The Applicant has established the elements required by Section 300-99(E)(4) of the Ordinance regarding the general criteria for a variance in order to modify (as provided in the decision below) condition letter C from the 2019-03 decision (related to a 40 foot setback as provided in the decision).

2. The Applicant has established the elements required by Section 300-99(E)(4) of the Ordinance regarding the general criteria for a variance to grant a variance from Section 300-33 to eliminate screening requirements.

DECISION

Mr. Perry moved to grant the zoning relief requested by the Applicant, in the Application as follows: (i) The variance request related to the decision on docket 2019-03 is amended at condition letter "C" to provide: "The access drive to the winery and event facility shall be set back a minimum of 40 feet from the adjoining property lines on Carriage Road. This condition is not applicable to the property located at 259 Stetler Road, New Cumberland PA 17070, meaning the access drive along said property is not subject to any buffer distance (along either the side or rear of such property)." (ii) To grant the variance request from Section 300-33 to eliminate the screening requirements for the adjoining property lines of the property located at 259 Stetler Road and Carriage Road. Specifically, the variance relief is to Section 300-33 subsection A of the Ordinance to remove the 80% minimum opacity requirement and subsection H. The grant of zoning relief is subject to the following condition:

1. The existing screen plantings shall remain in place and shall be maintained permanently in a healthy condition. Any screen plantings that die or are severely damaged shall be replaced by the then current owner of the Property as soon as practical considering growing seasons, within a maximum of 150 days.

Mr. Bashore seconded the motion. Upon a vote, the Fairview Township Zoning Hearing Board unanimously approved the motion.

APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.

APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.

Date

6/20/23



Timothy Mader, Chairman

ANY PERSON AGGRIEVED BY THIS DECISION OF THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA. THE APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS FROM THE MAILING OF THESE FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE ABOVE DECISION.

MAIL DATE:

6-20-23