



Zoning Opinion

Willistown Township
688 Sugartown Road Malvern, PA 19355
Phone 610.647.5300 Fax 610.647.8156

Ryan M. Heenan _____

6 Castlebar Lane Malvern, PA 19355

Re: UPI #: 54-6-52.4H 8 Castlebar Lane Malvern, PA 19355

I am preparing this Opinion in response to your request of February 17, 2021 regarding potential use and activity at 8 Castlebar Lane. Your request indicates that the property is classified as a farm. As an aside, the Chester County Tax Assessment Office classifies the Property as R-residential with a land use code of R80, which is a residential accessory use and notes the property is 4.6-acre barn lot. Notwithstanding the statement above, I offer the following opinions as requested. Your questions are in *italics*, my opinions and comments are noted, and the applicable zoning section is included in a different font.

1) *that the existing farm use is permitted as a primary use on the Property;*

Farm use of 8 Castlebar Lane is consistent with §139-12 Use regulations (as amended).

D. Farm use, including tilling of the soil to raise field crops, fruits or vegetables, the planting, grafting, raising and harvesting of trees and shrubs, or the keeping of livestock, poultry, and horses, provided that any building used for the keeping of livestock, poultry and horses shall be located not less than 100 feet from any street line and not less than 50 feet from any other property line. (as amended)

While the barn on the Property is situated approximately 340 feet from the Castlebar Lane and 130 feet from the nearest property line, which comply with the dimensions set forth in §139-12.D above, the following needs to be addressed. While the first portion of §139-12.D states farm use including the tilling of soil to raise various crops, trees and shrubs, which not specific to flowers, appears consistent with what is proposed, the second portion states raising of livestock, poultry, and horses provided that any building used for the keeping of such animals is setback as noted above. The existing barn does not appear to be proposed for the keeping of livestock, poultry, and horses.

2) *that the sale of farm or other products is a permitted accessory use on the Property, provided that 50% of the products sold are processed or merchandised on the Property;*

The sale of farm or other products is permitted under §139-12.G(4) as an accessory use provided that more than 50% of such processed or merchandised products are produced on the property where offered for sale. The key phrase is 'more than 50% of such processed or merchandised products are produced on the property', which is slightly different than articulated in #2 above.

G.(4) The sale of farm or other products if more than 50% of such processed or merchandised products are produced on the property where offered for sale. provided that any stand or structure used for such sale shall be located not less than 40 feet from any street line; not more than two signs

advertising the sale of such products may be erected and maintained in compliance with the provisions of §139-110I; and any such roadside stand shall be removed or kept in good condition during seasons in which products are not being offered for sale. (as amended)

- 3) *the existing barn structure is an acceptable structure for such sales, as it is more than 40 feet from any street line;*

As noted in the response to #1 above, the barn is situated approximately 340 feet from the street line of Castlebar Lane, which conforms with the standard listed in §139-12.G(4).

G.(4) The sale of farm or other products if more than 50% of such processed or merchandised products are produced on the property where offered for sale, provided that any stand or structure used for such sale shall be located not less than 40 feet from any street line; not more than two signs advertising the sale of such products may be erected and maintained in compliance with the provisions of §139-110I; and any such roadside stand shall be removed or kept in good condition during seasons in which products are not being offered for sale. (as amended)

- 4) *that events or sales specifically related to the marketing of farm products shall be permitted (i.e., bouquet building workshop, Mother's Day plant sale, etc.).*

Similar to the response in #2 above, the sale of farm or other products is permitted under §139-12.G(4) as an accessory use provided that more than 50% of such processed or merchandised products are produced on the property where offered for sale. Parking for an event that offers such sales needs to be accommodated on the Property without impacting adjacent properties. Parking is not permitted along Castlebar Lane. ADA accessibility for both parking areas and the events for the sale of farm products within the barn must be addressed. Events within the barn are limited to the sale of farm or other products of which more than 50% of such processed or merchandised products are produced on the property.

G.(4) The sale of farm or other products if more than 50% of such processed or merchandised products are produced on the property where offered for sale, provided that any stand or structure used for such sale shall be located not less than 40 feet from any street line; not more than two signs advertising the sale of such products may be erected and maintained in compliance with the provisions of §139-110I; and any such roadside stand shall be removed or kept in good condition during seasons in which products are not being offered for sale. (as amended)

The entire §139-12 of the Zoning Ordinance is listed below.

§139-12 Use regulations. [Amended 4-24-1984 by Ord. No. 3-1984]

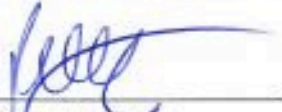
A building may be erected, altered or used and a lot may be used or occupied for any one of the following purposes, and no other:

- A. Single-family detached dwelling.
- B. Woodlands, game preserve or other conservation purpose.
- C. Public school and public park owned and operated by a public agency.
- D. Farm use, including tilling of the soil to raise field crops, fruits or vegetables, the planting, grafting, raising and harvesting of trees and shrubs, or the keeping of livestock, poultry, and horses, provided that any building used for the keeping of livestock, poultry and horses shall be located not less than 100 feet from any street line and not less than 50 feet from any other property line. [Amended 10-27-1997 by Ord. No. 5-1997; 9-11-2000 by Ord. No. 6-2000; 6-25-2001 by Ord. No. 4-2001]
- E. Township or governmental use. [Amended 4-12-1994 by Ord. No. 1-1994; 12-15-2014 by Ord. No. 8-2014]
- F. The following uses when authorized by the Zoning Hearing Board as a special exception, subject also to the requirements of §139-122:
 - (1) Educational or religious use, other than as permitted above.
 - (2) Two- or three-family dwelling converted in accordance with the provisions of §139-92.
 - (3) Private nonprofit country club, hunt club or similar club or lodge for recreational, fraternal or social purpose, provided that the principal activity shall not be one which is customarily carried on as a business.
 - (4) Private nonprofit recreational area.
- G. Notwithstanding the limitations set forth above, permitting one principal use only on each lot, accessory uses are also permitted on the same lot with the principal use, provided that such accessory use is on the same lot with the permitted principal use and is customarily incidental to the principal use on said lot, which principal use shall be any one of the uses permitted in

Subsections A through F above, inclusive. The term "accessory use" shall not include a business, but shall include: [Amended 4-24-1984 by Ord. No. 3-1984]

- (1) Private swimming pool, garage, stable, greenhouse or tennis court.
- (2) A home occupation use, subject to the provisions for no-impact home-based business contained in Act 247, the Pennsylvania Municipalities Planning Code (MPC), as amended, and as herein listed: [Amended 7-10-1990 by Ord. No. 3-1990; 12-9-2002 by Ord. No. 10-2002]
- (3) An accessory apartment, provided that: [Amended 9-26-1995 by Ord. No. 7-1995]
- (4) The sale of farm or other products if more than 50% of such processed or merchandised products are produced on the property where offered for sale, provided that any stand or structure used for such sale shall be located not less than 40 feet from any street line; not more than two signs advertising the sale of such products may be erected and maintained in compliance with the provisions of §139-110i; and any such roadside stand shall be removed or kept in good condition during seasons in which products are not being offered for sale. [Amended 9-11-2000 by Ord. No. 6-2000]
- (5) Signs when erected and maintained in accordance with the provisions of Article XVIII of this chapter.

Respectfully submitted.



Robert Smiley
Zoning Officer

March 4, 2021