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In Re: William C. Hogeland and  
Marie A. Hogeland - Petition  
for Variance

: MILLCREEK TOWNSHIP  
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:  
: LEBANON COUNTY, PENNSYLVANIA  
: CASE # 2-23

**DECISION OF THE ZONING HEARING BOARD  
OF MILLCREEK TOWNSHIP**

**I. INTRODUCTION**

The Zoning Hearing Board of Millcreek Township (hereinafter "ZHB"), Lebanon County, Pennsylvania, met on Tuesday, August 29, 2023 at a duly advertised public session to hear a Petition for Variance submitted by William C. Hogeland and Marie A. Hogeland. The hearing was continued to Wednesday, October 18, 2023 and concluded on that date.

**II. FINDINGS OF FACT**

1. The Petitioners are William C. Hogeland and Marie A. Hogeland, with an address of 5 Hogeland Road, Newmanstown, PA 17073. Their interests were represented by Jill E. Nagy, Esquire of Summers Nagy Law Offices. (Hearing Exhibit 1).
2. The Petitioners are the owners of a property consisting of approximately sixty-five (65) acres, GPIN #24-2394545-371426-0000, 5 Hogeland Road, Millcreek Township, Newmanstown, PA 17073. (Hearing Exhibits 1, 2).
3. The Subject Property is located in the R-1 – Residential Suburban District. (Hearing Exhibit 1).

4. The Subject Property is improved with a single-family dwellings and two (2) barns. (Hearing Testimony).

5. Petitioners propose to convert an existing barn on the site into an event space. (Hearing Exhibit 1).

6. A Variance is being sought to Section 7.02 of the Millcreek Township Zoning Ordinance, related to Permitted Uses, to allow the proposed event space, which is neither a permitted use nor a special exception or conditional use in the R-1 zoning district. (Hearing Exhibit 1).

7. A hearing to consider Petitioners' request for a Variance was scheduled for Tuesday, August 29, 2023, at 7:00 p.m. at the Millcreek Township Municipal Building, 81 East Alumni Avenue, Newmanstown, PA 17073. (Hearing Exhibit 4).

8. Notice of the zoning hearing was duly advertised in the *Lebanon Daily News* on Tuesday, August 15, 2023 and Tuesday, August 22, 2023. (Hearing Exhibit 5).

9. Notice of the zoning hearing was sent to Township officials and neighboring property owners by United States First Class Mail. (Hearing Exhibit 6).

10. Notice of the zoning hearing was posted on the Subject Property on August 17, 2023. (Hearing Exhibit 7).

11. The Petition for Variance was heard by the Millcreek Township ZHB before Zoning Hearing Board Members Robert Beisel, Chairman; Timothy Bartow, Vice-Chairman; and Malcom Sonnon, Alternate member.

12. Present at the August 29, 2023 zoning hearing were:

Robert Beisel – ZHB Chairman

Timothy Bartow – ZHB Vice-Chairman

Malcolm Sonnon – ZHB Alternate member

William Hogeland – Petitioner/Property Owner

Jill Nagy, Esq. – Counsel for Petitioner

Kimberly Paugh – Zoning Officer, Lebanon County Planning Department

Kathy J. Sheffy, Court Stenographer

Amy B. Leonard, Esquire – ZHB Solicitor

Courtney Hogeland

Dan Hogeland

Craig Thompson<sup>1</sup>

13. Petitioner William Hogeland, along with his counsel, Jill Nagy, presented the case for the variance, along with Courtney Hogeland, who intends to operate the proposed event space. (Hearing Testimony).

14. Petitioner and Ms. Hogeland testified that the barn on the property is not presently used and was built in 1950. It is approximately 40 feet by 80 feet in size. (Hearing Testimony).

15. Petitioner noted that the Zoning Ordinance does not contain provisions regarding event spaces. (Hearing Testimony).

16. Courtney Hogeland would operate the event space, with the intention being to only operate seasonally, as the barn has no heating or air conditioning. (Hearing Testimony).

17. Petitioner presented an initial sketch plan that showed parking areas, which would not be paved but would remain grass, and provided for ADA parking. (Hearing Testimony).

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<sup>1</sup> Dan Hogeland and Craig Thompson attended the August 28, 2023 hearing only. All other attendees were present at both the August 28, 2023 and October 18, 2023 hearings. The date and time of the continued hearing were announced prior to adjournment of the August 28, 2023 hearing.

18. Ms. Hogeland testified that there would be no cooking facilities in the barn, and any food would be catered only. (Hearing Testimony).

19. There is no plan for any exterior renovations to the barn, which has two (2) points of ingress and egress. (Hearing Testimony).

20. The barn has no utilities other than electricity.

21. The intention is to operate the event space on weekends during the months of April through October, with events concluding by 10:00 P.M. (Hearing Testimony).

22. Petitioner stated that no traffic impacts are anticipated and this use would have no impact on the community. He noted that the nearest residences are owned and/or occupied by relatives of the Petitioner. (Hearing Testimony).

23. The main access road to the barn is Hogeland Road. (Hearing Testimony).

24. Although the actual capacity of the barn is 203 persons, the Petitioner understood the maximum capacity to be 99 people based on the understanding that there are no water/sewer facilities. (Hearing Testimony).

25. After further review of the Millcreek Township Zoning Ordinance, Petitioners requested a continuance of the hearing to enable them to proceed under Article 4, Section 4.05 of the Zoning Ordinance, which states:

When a specific use is neither permitted nor prohibited in the schedule of district regulations, the Zoning Hearing Board with a recommendation from the Planning Commission shall make a determination as to the similarity or compatibility of the use in question to the permitted uses in the district basing the decision on the overall intent stipulated for the district.



26. Petitioners were granted a continuance to Wednesday, October 18, 2023, at which time the hearing reconvened.

27. On October 18, 2023, Petitioners presented a letter from the Millcreek Township Planning & Zoning Commission. (Hearing Exhibit 8).

28. The Planning Commission's letter indicated that the proposed event venue could be considered similar to churches and/or country clubs, which are allowed uses in the R-1 zoning district, and which would also have functions such as weddings and social events. (Hearing Exhibit 8).

29. The Planning Commission recommended approval of the zoning relief requested based upon similar allowed uses and compatibility with the character of the area. (Hearing Exhibit 8).

### **III. HEARING EXHIBITS**

Hearing Exhibit 1 – Petition for Variance

Hearing Exhibit 2 – Building/Zoning Plan for 5 Hogeland Road prepared by C2C Design Group

Hearing Exhibit 3 – Signed variance criteria

Hearing Exhibit 4 – Notice of Public Hearing

Hearing Exhibit 5 – Proof of Publication in the *Lebanon Daily News* on August 15, 2023 and August 22, 2023

Hearing Exhibit 6 – Mailing List

Hearing Exhibit 7 – Photo of public notice posted on the property

Hearing Exhibit 8 – Letter from Millcreek Township Planning & Zoning Commission

#### **IV. DISCUSSION**

The Petitioners are William C. Hogeland and Marie A. Hogeland, with an address of 5 Hogeland Road, Newmanstown, PA 17073. Their interests were represented by Jill E. Nagy, Esquire of Summers Nagy Law Offices. The Petitioners are the owners of a property consisting of approximately sixty-five (65) acres, GPIN #24-2394545-371426-0000, 5 Hogeland Road, Millcreek Township, Newmanstown, PA 17073. The Subject Property is located in the R-1 – Residential Suburban District. The Subject Property is improved with a single-family dwellings and two (2) barns. Petitioners propose to convert an existing barn on the site into an event space. Initially, a variance was sought to Section 7.02 of the Millcreek Township Zoning Ordinance, related to Permitted Uses, to allow the proposed event space, which is neither a permitted use nor a special exception or conditional use in the R-1 zoning district. However, after further consideration, Petitioners opted to proceed with their request for zoning relief pursuant to Article 4, Section 4.05 of the Millcreek Township Zoning Ordinance, which states:

When a specific use is neither permitted nor prohibited in the schedule of district regulations, the Zoning Hearing Board with a recommendation from the Planning Commission shall make a determination as to the similarity or compatibility of the use in question to the permitted uses in the district basing the decision on the overall intent stipulated for the district.

Because Petitioners chose to proceed pursuant to Section 4.05 of the Zoning Ordinance, the Zoning Hearing Board's decision focused on whether the event space was "similar to" or "compatible with" the permitted uses in the R-1 District. This language in Section 4.05 of the Zoning Ordinance is similar to the language of Article 21, Section 21.02.E.8. (relating to Special Exceptions), which indicates that the Zoning

Hearing Board should consider the “[g]eneral compatibility with adjacent properties and other properties in the district” in determining whether a special exception use should be approved.

In fact, in assessing the similarity to and compatibility with other permitted uses in the R-1 zoning district, the Zoning Hearing Board also considered other factors related to special exception uses as set forth in Section 21.01.E., such as ingress/egress to the property and the structure, traffic flow, vehicular and pedestrian safety, off-street parking areas, the potential impact on neighboring properties in terms of noise, refuse removal, utilities, screening/buffering, and signs. The Zoning Hearing Board concluded that certain conditions would be appropriate to safeguard the neighboring residential properties and preserve compatibility with existing uses.

The Zoning Hearing Board gave weight to the recommendation of the Millcreek Township Planning & Zoning Commission, and also considered whether the proposed use had a similar impact as churches, recreation areas and structures operated by membership clubs, and golf courses and country clubs. All of those uses, like the proposed use, have increased activity and traffic on weekends rather than weekdays. In addition, those uses are not limited to seasonal use, as Petitioners have proposed for the event venue use. Further, Petitioner’s proposed capacity of 99 persons is presumably less than may be routine at churches, membership clubs, or golf courses and country clubs. The Zoning Hearing Board also gave consideration to the acreage of the property, which limits the impact to neighboring property owners by providing a natural buffer. Further, Hogeland Road serves only a few property owners and any traffic related to the proposed use would therefore have minimal impact to the overall neighborhood.



The Zoning Hearing Board concluded that the proposed use, a seasonal event venue, was similar to and compatible with other permitted uses in the R-1 zoning district, and determined that conditions should be imposed to ensure ongoing compatibility with the other uses in that zoning district.

Because the Zoning Hearing Board determined that zoning relief should be granted in accordance with Section 4.05 of the Millcreek Township Zoning Ordinance, based upon similarity or compatibility of the use to the permitted uses in the R-1 zoning district, the Zoning Hearing Board did not make a determination as to whether Petitioners could establish all the elements to be entitled to a variance.

## **V. DECISION**

Now, therefore, this 18<sup>th</sup> day of October, 2023, the Zoning Hearing Board of Millcreek Township, by a 2-0 vote, hereby GRANTS the Petition requesting relief pursuant to Section 4.05 of the Millcreek Township Zoning Ordinance, with the following conditions:

1. The use shall be operated only on Friday, Saturday, and Sunday;
2. The use shall be seasonal, beginning April 1 and ending October 31 of each calendar year;
3. No permanent signage shall be permitted; and
4. Petitioners must comply with all applicable local, county, and state regulations.<sup>2</sup>

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<sup>22</sup> Petitioner suggested that no water/sewer facilities would be constructed to serve the barn; rather, the barn would be served by portable toilets. There was some conversation as to whether this would be allowed. As this determination is beyond the scope of the Zoning Hearing Board's authority and its interpretation of the Millcreek Township Zoning Ordinance, the Zoning Hearing Board included the fourth condition in the decision to clarify that Petitioners were expected to comply with any other regulations of Millcreek Township, Lebanon County, or the Commonwealth of Pennsylvania that may apply to the proposed use, and that this decision was not intended in any way to supersede those requirements.



Upon roll call vote, Mr. Beisel and Mr. Sonnon voted to grant the Petition, and Mr. Bartow abstained from voting.

A handwritten signature in dark ink, appearing to read "Robert Beisel", written over a horizontal line.

Robert Beisel, Chairman  
Millcreek Township  
Zoning Hearing Board

Date: November 29, 2023