

**F I N A L**

**SPRINGETTSBURY TOWNSHIP  
ZONING HEARING BOARD  
OCTOBER 6, 2022**

**MEMBERS IN**

**ATTENDANCE:** Dale Achenbach, Chairman  
David Seiler, Vice Chairman  
Sande Cunningham, Secretary  
Mark Bair  
Chris Shuttlesworth (via Zoom)  
Stacey Ankrum, Alternate (via Zoom)

**ALSO IN**

**ATTENDANCE:** Timothy Holmes, Zoning Officer  
Gavin Markey, Solicitor  
Abby Gibb, Communications Manager

**1. CALL TO ORDER**

**A. Pledge of Allegiance**

Chairman Achenbach called the meeting to order at 5:59 p.m. and led the Pledge of Allegiance. He introduced the members of the Board and Springettsbury Township staff. Chairman Achenbach recognized Stacey Ankrum's last meeting with the Zoning Hearing Board, as she is moving out of the area. Chairman Achenbach extended his appreciation to Ms. Ankrum for her service over the years to the Zoning Hearing Board and wished her best of luck in the future.

**2. ACTION ON THE MINUTES**

**A. SEPTEMBER 1, 2022**

**MR. SEILER MOVED FOR APPROVAL OF THE SEPTEMBER 1, 2022 ZONING HEARING BOARD MINUTES AS PRESENTED, SECONDED BY MR. BAIR. MOTION UNANIMOUSLY CARRIED.**

**3. OLD BUSINESS - NONE**

**4. NEW BUSINESS**

**ZHB-2022-0027 - David Kahley, 40 Roselyn Drive**

All witnesses were sworn in.

Chairman Achenbach asked if the case was properly advertised. Mr. Holmes responded that notification was made. Mr. Holmes stated the property at 40 Roselyn Drive was issued a violation in late April of this year, due to numerous bee hives on the property, which is zoned R10 Medium Lot Single-Family Residential District. Apiary is defined as agricultural, and under the Ordinance is not a permitted use in the R10 residential district. The Township elected to hold off enforcement since another resident, Mr. Tom Kearney met with Township officials to discuss the possibility of amending the ordinance to allow

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bee hives in areas outside of the Rural Residential district. In May, a presentation was given by Chris Smith, President of the York Area Beekeepers' Association. The Board discussed a possible ordinance change to lessen the beehive restrictions, but were concerned about unintended consequences and wanted to research the issue further. In July, the Township received a complaint about the bees from a neighbor with a swimming pool. Complaints focused on the number of bees flying around their property, on hummingbird feeders, around the pool, and bee feces on vehicles.

After receiving the violation notice, Mr. Kahley contacted the Township to report that a former Township staff member had originally told him there were no regulations on beekeeping, which is why they pursued this activity. Mr. Kahley had addressed the Board of Supervisors to plead his case. Solicitor Rausch contacted Mr. Holmes the following day to discuss the case and it was determined it would have to go before the Zoning Hearing Board to request a variance.

Mr. Kahley and his wife Krista Kahley own and reside at the residence 40 Roselyn Drive since 2008 and have three children ages 16, 13, and 11. Mr. Kahley presented the following exhibits to support his case.

- Exhibit A1 - Map of the neighborhood
- Exhibit A2, A3, A4 - Photos of the residence and locations of the various hives
- Exhibit A5 - North American Colleges that offer beekeeping
- Exhibit A6 - Additional Organizations that offer beekeeping to improve mental well-being
- Exhibit A7 - Packet containing list of newspaper articles and studies that show the therapeutic aspect of beekeeping that improves mental health
- Exhibit A8 - Health Summary for Mr. Kahley showing his allergy to honeybee venom
- Exhibit A9 - Photos from home surveillance system of Mr. Kahley walking up to hives with no issue.
- Exhibit A10 - Surveillance photos of daily activities around the house and people walking by the property.
- Exhibit A11 - Map of five-mile radius around the residence showing the distance the Kahley's bees can fly, as well as the distance bees from other hives can fly around the neighborhood.
- Exhibit A12 - Petition signed by neighbors that support the hives
- Exhibit A13 - Map of the neighborhood showing the location of residents in favor of the bees
- Exhibit A14 - Case law from White Marsh Township vs. Cummings
- Exhibit A15 - Map of the property where the hives are located
- Exhibit A16 - Requested proposed restrictions

The residence is within the R10 residential district single family dwelling medium lot lower density housing. The property is .35 acres, has numerous trees, flowers and plants on the property. The neighborhood, Stonybrook Heights, is 45.81 acres and consists of 79 single family residential dwellings and is robust with trees, plants, flowers and a stream that runs through the southeast end of the neighborhood.

Mr. Kahley stated in 2018 Mrs. Kahley decided to start beekeeping as a hobby as a type of therapy for her well-being. Mr. Kahley stated elimination of the apiary would create an unnecessary hardship for his wife's well-being. Therefore, he is requesting a zoning variance to Article IX R-10 Medium Lot Single-Family Residential District 325-19 for a permitted use to allow an apiary; specifically, to allow storage, use, maintenance of man-made beehives with the honeybees with certain exceptions.

Mr. Kahley provided an historical overview of honeybees, which were domesticated for honey production and crop pollination. He noted residential beekeeping has increased in the last decade to help save the

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declining honeybee population and to improve our ecosystem. There are hundreds of local and state beekeeping organizations and colleges that now offer beekeeping programs. Research has shown that beekeeping can be very therapeutic, improving mental health and well-being by reducing stress, anxiety and increasing self-esteem.

Mr. Kahley addressed safety concerns, including the difference between honeybees and other stinging insects, such as yellow jackets, wasps and hornets. Honeybees are mostly docile, and not dangerous unless hives are threatened. Ninety (90%) percent of stings are caused by yellow jackets. About 5% of the population is allergic to bee stings; 3% are adults with severe allergic reactions. Less than 1% are children with severe allergic reactions. Mr. Kahley is not aware of anyone living outside his residence being stung while on his property. Mr. Kahley himself is allergic to bee stings; however, with education and experience with the bees, he has no concerns for his safety, his children's safety, or the safety of the neighbors around his residence.

Concerns about noise agitating bees were addressed. Mr. Kahley indicated family members are able to operate vehicles within four feet of the hives, and mowers and leaf blowers within a foot of the hives with no issues.

Concerns about the swarms were addressed. Mr. Kahley stated bee swarms are not dangerous. When bees swarm, it is a sign that the colony is healthy and large and in search of a new home. The applicant has experienced hives that swarmed to a neighbor's tree. The bees were recaptured safely. The applicant had foreign honeybee hives swarm to the trees of his property, which he was able to capture with their own swarm boxes. Dozens of adults and children walk or ride bikes past the property within 50 feet of the hives. Friends visit and deliveries are made with no problems. When bees leave the hive, they fly upwards, higher than the average person, and do not affect people walking by. The hives face the residence, providing an additional barrier of protection. The presence of the bees has not deterred people from enjoying the community. Honeybees can fly 5-6 miles from their hives and will benefit the neighborhood and surrounding area through pollination. They are a vital part of the ecosystem, pollinating a third of the plants that rely on pollination. Proper pollination provides food and cover for wildlife, helps to create medicines, prevents soil erosion, produces oxygen and absorbs carbon dioxide, benefiting the community and local farms. Mr. Kahley added there are tens of thousands of wild bees in the community, not just the bees maintained by the Kahley's.

Mr. Kahley reported the majority of his neighbors are in favor of the bees on his property and many are present this evening. Many have stopped using chemicals on their lawns and are planting more flowers and gardens due to the beehives. They are aware of one neighbor's complaint about bees in their pool; however, there is no way to prove that the offending bees belong to the Kahleys, another hive in the community or wild bees. Bees are attracted to water and mineral sources. This issue was addressed by the applicant adding additional water sources such as bird baths and salt blocks near the hives on their own property.

Defecation on vehicles: Bee waste can be washed off with warm water. Mr. Kahley shared information on case law from *White Marsh vs. Cummings* which resulted in a decision that bee defecation was not enough of an annoyance to create a nuisance.

Taking into consideration all the factors noted above, Mr. Kahley determined it was reasonable that the presence of honeybees would not negatively alter the character of the zoning district or the neighborhood, and would not impair the use of the adjacent properties, nor be detrimental to the public welfare.

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Krista Kahley

Krista Kahley shared information on her personal journey to becoming a beekeeper and the various ways that she benefits from it. She first educated herself on the subject and attended Beekeeper Association meetings. Before purchasing her first bees, she visited the Springettsbury Township Office to find out if there were any restrictions on beekeeping because she wanted to ensure she would not be violating such regulations if they already existed. The Township employee she spoke to looked up the residential address and said there was nothing she needed to do other than register with the state. She then spoke to her neighbors (who lived there at that time) to see how they felt about the possibility of her pursuing this activity. One neighbor was allergic, but neither were opposed to her having the bees. During the pandemic she became more interested in it because she found it difficult to enjoy the things she normally enjoyed. She also took a nine-hour Penn State Extension course on beekeeping.

Mrs. Kahley stated she currently has 11 hives, 6 nucleus hives (smaller hive known as a nucleus colony), 3 queen mating boxes, and swarm boxes on her property. The swarm boxes are homes that a healthy hive may move into, instead of someone's attic or other part of a property. The hives are located in the front of the home so the bees benefit from the morning sun, which wakes them up and lets them know it is time to work. It also is the area with the least amount of pesticides from neighbors who use them to treat lawns. Queen mating boxes are used for a short amount of time to make queens in the event one of the other hives loses its queen. The season for bees is very small. Having a queen on hand, ensures the survival of the hive. The nucleus boxes are used to prevent swarms and replenish loss of bees over the winter. According to the Pennsylvania Beekeepers Association, beekeepers must register with the state and local township, receive a minimum of eight hours of education, and may have two hives per every 2,000 square feet. The Kahley's lot is over 15,000 square feet which equates to 14 hives, not including the nucleus hives or mating boxes. Ms. Kahley has offered to close hives upon request when anyone is hosting outdoor events. There is a sign on the property stating the presence of honeybees so people are aware.

Caring for and maintaining hives are therapeutic for Ms. Kahley because they provide a purpose, help to reduce feelings of stress and anxiety, and require problem-solving. Mrs. Kahley stated she finds beekeeping calming. It creates a sense of community and has allowed her to be more comfortable interacting with others. Beekeeping is a daily activity, even in the winter when the bees are less active. When asked by the Board what would happen if the variance is denied and she might no longer be permitted to have the bees, she stated she would become sad and disappointed and would need to request more medication from her doctor.

Mr. Kahley added that the elimination of the hives would create an unnecessary hardship as they are considered therapy for his wife. The Federal Fair Housing Act prohibits people being denied the use of therapy animals. He requested an exception with the following conditions:

1. Maximum of 15 hives as recommended by the Beekeepers' Association.
2. Minimum distance from the street: 30 feet
3. Minimum distance from the neighboring structures: 30 feet
4. Minimum distance from property lines: 4 feet

Mr. and Mrs. Kahley responded to additional questions from the Board.

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Without violating any HIPAA requirements, Mr. Bair asked if she could produce evidence from a licensed medical professional confirming her disability and recommending beekeeping as a therapeutic remedy. Mrs. Kahley has a primary care physician and a counselor, but not an official diagnosis.

Chairman Achenbach asked if there was anyone in attendance who would like to speak for or against the applicant.

All witnesses were sworn in.

Sarah Dusman - 291 Lynbrook Drive North

Ms. Dusman purchased her property in 2018. She and her children, ages 7 and 9, take walks with the dog past the Kahley property. They like to look at the bees and bee boxes, which are very creative. She noted that the bees have never been aggressive. Ms. Dusman stated that Krista Kahley is very knowledgeable about the bees, knows what she is doing, and Ms. Dusman feels safe having them in the neighborhood.

Deb and Gene Schrum - 61 Roselyn Drive

Mr. and Mrs. Schrum filed a complaint against the Kahleys with the Township prior to the meeting. They moved into the neighborhood before the Kahleys started the apiary. When there were only two or three hives, there were no issues. Now that there are so many hives, they have experienced negative issues with the bees. Their vehicles are frequently covered in bee waste, which must be scrubbed off. They have a pool and are not able to sit outside and enjoy it due to the large number of bees which congregate on the water, which presents a hazard to their grandchildren. Their children and other family members have been stung while in or walking around the pool. They presented exhibit P-1 - Photos of bee waste on vehicles after going to the car wash, and bees around the pool area. Mrs. Schrum acknowledged that they are beneficial, but not in the neighborhood due to the negative impact it has on them.

Keith Berkheiser - 41 Lynbrook Drive South

Mr. Berkheiser has lived at the residence since 2015, has 11 children with 8 living at home. They have been able to take walks, garden, and swim at other pools in the neighborhood with no issues. His gardens benefit from the bees. He has no concerns and supports having the hives in the neighborhood. He stated that he and his family are here to support Mr. and Mrs. Kahley because they do not think it is a problem and are not impacted negatively.

David Greisler - 180 Lynbrook Drive North

Mr. Greisler has lived at this address since 1988. He walks the neighborhood often and feels very comfortable walking past the house and being in their front yard watching the process. Discussions with neighbors about the bees have been very positive and have been great for the neighborhood. Because of the need to be more environmentally conscious, this type of development is positive for the neighborhood and the surrounding area. He noted that the hives are artwork, and represent classic neighborhood life. He strongly endorses the apiary and thanked the Board for the process and the opportunity to discuss the issue among neighbors, as it represents the way a society should function.

Rae Jean Panaro - 20 Roselyn Drive

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Ms. Panaro is Dave and Krista's neighbor to the north and has lived there since 2015. Ms. Panaro made numerous renovations to the home over the years without the bees reacting negatively to the noise created through renovations. There is no bee waste on the patio furniture or the vehicles. Ms. Panaro shared that she helps out at a local farm in Red Lion, which contracts with a beekeeper in Lancaster who delivers the bee hives to the farm. She provided an explanation of how the process is conducted. She noted during the process the bees have to be smoked to keep them calm. Their main purpose on the farm is pollination. Ms. Panaro stated her support of Krista Kahley's beehives.

Chairman Achenbach asked Ms. Kahley to explain what is used in the smoking process. She responded that she uses pine needles which are set on fire in the canister to produce the smoke.

Roger Geiger - 170 Lynbrook Drive North

Mr. Geiger stated that he echoes everything the other neighbors have said and thinks the hives have had a positive effect on the neighborhood. Mr. Geiger has a pool and does not have an accumulation of bees. The bee population has not been a problem for him.

Chairman Achenbach asked if anyone else in the group has had a negative experience with their pool and the bees. Mrs. Schrum shared that their swimming pool and cars are totally in the sun which may make a difference. Mr. Geiger shared that his pool is in the sun during the heat of the day and becomes shady later in the day.

Mr. Kahley responded to the Schrums' concerns, noting with regard to the photo they presented of the bees, Mr. Kahley confirmed they are honey bees, but there is no way to confirm they are from the Kahley's hives or are wild bees or from other hives in the area. With regard to concerns of bees in their pool, he does not know what is causing the issue, but it is apparently not an issue for other residents. Mr. Kahley did have baby pools and sprinklers set up in their yard when his children were younger and never had issues with those attracting bees or anyone getting stung.

Chairman Achenbach asked, if the Board were to limit the number of hives maintained to ten, how would they be able to reduce the amount they currently have to ten. Mrs. Kahley responded that she would hope she would be given time to do this because over the winter, she will naturally lose some and could end up with eight hives by spring time, as some bees die over the winter for various reasons.

Mr. Schrum asked why the number of hives cannot be limited to two, to which Mr. Kahley responded that part of the therapy is maintaining and caring for the hives, and it is beneficial to Mrs. Schrum to have the current amount. Mrs. Schrum added that it is difficult to maintain just two hives because one or both could be lost over the winter, requiring her to purchase bees each season.

Ava Kahley - age 16, oldest daughter of Mr. and Mrs. Kahley

Ava Kahley shared that she babysits for neighbors that have swimming pools. She has never experienced bees on or around the pools and no children in her care have been stung. She has not seen honeybees going into open drink containers, but has seen yellow jackets do so. Ava confirmed that she is aware of first aid protocols for bee stings and finds out in advance where first aid kits are located.

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Solicitor Markey summarized the case. A review of the case law from White Marsh indicates that it was nuisance-based and not related to a zoning violation. The Kahley's case is a use variance request for something that is not allowed in that zone. Apiaries are not totally excluded in the Township, but are allowed in a different zone from the R-10 residential zone. The use variance has a very high burden of proof. The accommodation requested cuts against the use variance standard. The applicants did offer testimony on the adverse impact on the public safety, health and welfare in an attempt to demonstrate that there may not be significant adverse consequences. In the application, they raise the Fair Housing Support Animal concept. There has to be direct sufficient evidence that there is a protected disability—a psychological disability in terms of anxiety—from a physician or counselor as proven evidentiary basis for a protected disability, which they did not provide. In addition, the applicant would need to provide a statement from a licensed medical professional that states honeybees in the quantity requested directly help with the treatment and provide a therapeutic purpose for the individual. Solicitor Markey noted that it would be the Township's responsibility to suspend enforcement of the citation.

Chairman Achenbach stated the Board does not have the authority to grant a variance in this case because the request is squarely inconsistent with the ordinance, nor does the Board have the ability to interpret facts or testimony to the full extent needed to approve a variance absent from the ordinance.

Mr. Bair stated the most expedient solution is to deny the variance since the Township may be willing to work with the applicant toward a resolution.

**MR. BAIR MOVED IN THE CASE ZHB-2022-0027 TO DENY THE VARIANCE REQUEST AND TO NOTIFY THE BOARD OF SUPERVISORS OF THE ZONING BOARD'S INCLINATION TO SUPPORT THE BOARD OF SUPERVISORS' SUSPENSION OF THE ENFORCEMENT OF THE APPLICANT'S CITATION. MR. SHUTTLESWORTH SECONDED THE MOTION. THE MOTION CARRIED WITH A VOTE OF 3 AYES AND 2 NAYS.**

Chairman Achenbach notified the applicant that he would need to move forward by working with the Township and Board of Supervisors to file an appeal to amend the ordinance.

**8. ADJOURNMENT**

**CHAIRMAN ACHENBACH ADJOURNED THE MEETING AT 8:00 P.M.**

Respectfully submitted,

Secretary  
/jht