

LAW OFFICES OF
ROBERT W. SCOTT, P.C.

205 NORTH MONROE STREET
P.O. BOX 468
MEDIA, PENNSYLVANIA 19063

[REDACTED]

September 10, 2019

Robert A. Willig, Senior Deputy Attorney General
Office of Attorney General
1251 Waterford Place
Mezzanine Level
Pittsburgh, PA 15222
[REDACTED]

Re: Borough of Swarthmore – ACRE Complaint of [REDACTED]

Dear Mr. Willig:

I am writing in my capacity as the Solicitor to the Borough of Swarthmore (the "Borough") in response to your letter dated August 19, 2019.

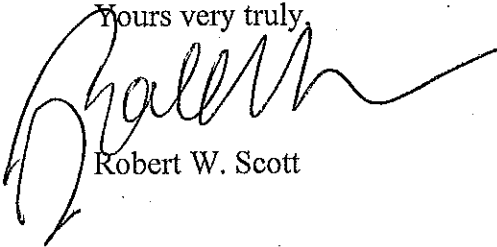
It is the Borough's understanding that the agricultural operations at issue are not located in the Borough. Reading between the lines of [REDACTED] letter, note that he says that he has "sold produce that I've grown on my farm, from my house at [REDACTED]". His farm and his house are two separate properties. His house sits on a parcel located at [REDACTED] in the Borough that measures 70' by 79'. There is no farm on this property. It is the Borough's understanding that his farm is located in the State of New Jersey. As such, it is the Borough's position that ACRE is not triggered or relevant to this matter, as there are no agricultural operations in the Borough that are being limited or prohibited.

To the contrary, what is at issue with respect to [REDACTED] is the retail sale of products grown elsewhere in a residential zoning district. The ordinance that [REDACTED] challenges is a garden variety zoning ordinance that restricts the use of his property to residential uses and no-impact home-based businesses. I have enclosed a copy of the provisions of the Borough's zoning ordinance that defines what is a permissible home-based business; the zoning ordinance requires that "there shall be no outside appearance of a business use, including, but not limited to ... signs, except ... a ... sign not exceeding six inches by eighteen inches...." I have also enclosed a photograph of the [REDACTED] property – consistent with [REDACTED] own statement of the facts, there is a 8' by 4' sign, a tent and a commercial refrigerator located outside - all visible from the street.

While I believe under these circumstances you will agree that the Office of the Attorney General has no jurisdiction over this dispute, for your information please understand that the Borough's intent is to require [REDACTED] to remove the sign, tent and refrigerator. As stated above, there are no agricultural operations at issue or in dispute with respect to the property located at [REDACTED] the Borough of Swarthmore.

Please feel free to call me if you have any questions.

Yours very truly,



Robert W. Scott

Encls.

cc: Council and Mayor
Jane C. Billings, Borough Manager
[REDACTED]

driveways, retaining walls, gravel areas, pavers, and walkways. (Ord. 1072. Passed 12-21-15.)

(51) "Height of building" means a building's vertical measurement from the mean level of the ground abutting the building to a point midway between the highest and lowest points of the highest roof.

) "Historic value" shall mean any structure that is:

A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

C. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved program of the Commonwealth of Pennsylvania; or

D. Historic resources identified in the most updated version of the Borough of Swarthmore "Historic Resources Survey" (originally compiled in 2001).

(Ord. 1056. Passed 11-12-13.)

(52) "Home-based business" means a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential property and which involves no more than two customer, client and/or patient vehicular visits per hour, and/or ten vehicular visits per day, and no pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential use. The business or commercial activity must satisfy all of the following requirements:

A. The business activity shall be compatible with the residential use of the property and with surrounding residential uses;

B. The business shall employ no more than two employees other than family members residing in the dwelling. If there is more than one business activity, then all business activities must not, in the aggregate, employ more than two employees other than immediate family members residing in the dwelling;

C. There shall be no display of retail goods and no stockpiling or inventory of a substantial nature;

D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights, except that a home-based business may be identified by a non-internally lighted sign not exceeding six inches by eighteen inches, stating only the name and general nature of the business. A permit for such sign shall be of limited duration and shall expire after one year;

E. The business activity may not use any equipment, materials or processes which create noise, vibration, glare, fumes, odors or electrical or electronic interference, including but not limited to interference with radio or television reception, which is detectable in the neighborhood;

F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood;

G. Except as allowed in the Borough's regulations concerning accessory structures, the business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area in the dwelling unit. If there is more than one business activity, then all business activities must not, in the aggregate, occupy more than 25% of the habitable floor area of the dwelling unit;

H. Employee, customer, client, or patient visits and pickup, delivery and removal functions cannot occur earlier than 7 a.m. or later than 10 p.m.;

I. No space may be rented out or otherwise allocated for use by anyone other than the owner or tenant of the premises and their employees.

(Ord. 973. Passed 12-8-03.)

3) "Industry, heavy" means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in the storage of, or manufacturing processes using, flammable or explosive materials, or the storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

(54) "Industry, light" means a use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including the processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such

