

TIME RECEIVED

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[REDACTED]

August 6, 2021

Attorney General's Office

[REDACTED] (r the attorney in charge of ACRE Review Requests)  
[REDACTED]

Re: ACRE Review Request / Township Of New Britain Zoning Ordinance

[REDACTED]

Dear [REDACTED] or Sir or Madam:

I represent [REDACTED]. Following is a copy of the Township of New Britain Zoning Officer's letter dated July 12, 2021, to [REDACTED] denying his permit submission.

In the letter, the Zoning Officer states that an A6 Nursery Use may only have a wholesale sales use under the Zoning Code. I respectfully submit that this provision is in violation of title 3 P.S. §953(b) that permits direct sales without limiting such sales to wholesale sales.

In the letter, the Zoning Officer states that [REDACTED] proposed use does not comply with the minimum lot size requirements in the code. I respectfully submit that this provision is in violation of title 3 P.S. §952 that permits "Normal agricultural operation" of lots that have "less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000", which income [REDACTED] anticipates.

Finally, I submit that the Zoning Officer's "one principal use" limitation is unduly restrictive as it prohibits an employee of the normal agricultural operation to reside in the onsite home.

Please let me know if your office will review the Township's code for compliance with the Right to Farm Act.

Very truly yours,

[REDACTED]

cc [REDACTED]



# TOWNSHIP OF NEW BRITAIN

Bucks County, Pennsylvania  
Founded: 1723

## BOARD OF SUPERVISORS

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Township Manager

July 12, 2021

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: Zoning Permit Application [REDACTED]  
[REDACTED]  
[REDACTED]  
C-3 (Commercial) Zoning District

Dear [REDACTED]

This correspondence is regarding a Zoning Permit Application submitted to New Britain Township on June 29, 2021, to propose a change of use of the property located at [REDACTED] (the "Property"). The current approved use of the Property is an existing nonconforming B1 Single-Family Detached Dwelling use. You are proposing to utilize the principal structure on the Property as a primary dwelling while also operating a "nursery" business from the premises. According to your application, the proposed business will operate from 8 am until 5 pm with one (1) fulltime employee and one (1) part-time employee. Your application describes this proposal as a "home occupation nursery."

After review of the Zoning Permit Application and based on the information you have provided, your zoning permit has been **denied** and zoning relief is required from the New Britain Township Zoning Hearing Board (the "ZHB"). The Property is located in the C-3 zoning district. The uses you are proposing are considered a B1 Single-Family Detached Dwelling use and either an A6 Nursery use and/or an A7 Garden Center use. The information supplied with the permit application was not sufficient to determine whether the proposed use is more consistent with an A6 Nursery use, which is a wholesale sales use, or an A7 Garden Center use, which is a retail sales use. The application also did not indicate as to whether the products proposing to be sold will be grown/produced on the Property and/or shipped from another location to be sold upon the Property, nor did it describe the types of products that are proposed to be sold as part of this proposal.

As per the New Britain Township Codified Ordinances (the "Code"), Chapter 27 Zoning, Section 27-1401, an A6 Nursery use, and an A7 Garden Center use are permitted uses in the C-3 zoning district so long as a minimum lot area of 3 acres is provided for all permitted uses in this zoning district. In addition, the A7 use requires a minimum lot area of 5 acres. The property totals 2.78 gross acres and therefore, to conduct either of these uses, a variance is required. Zoning relief is not required to continue the existing nonconforming B1 Single-Family Detached Dwelling use as the only principal use on the Property.

**Per Section 27-305.A6 Nursery:**

**"a. Definition.** The raising of plants, shrubs and trees for wholesale use.

**b. Regulations.**

1. **Minimum lot area:** two acres.
2. Any building or structure including greenhouses shall meet the yard, lot width and setback requirements for the applicable zoning district for Use B1 Detached Dwelling.
3. **Maximum impervious surface ratio:** 20%.
4. All products sold shall be grown on the premises.
5. No retail sales shall be permitted, except for the seasonal sale of Christmas trees.
6. This use may include no more than one (1) single-family detached dwelling unit. This detached dwelling unit must comply with the provisions of Section 305.B1 – Single-Family Detached Dwelling and the lot width and yard requirements of this B1 Use in the applicable Zoning District."

**And Section 27-305.A7 Garden Center:**

**"a. Definition.** The retail sale of floral items, flowers, plants, shrubs and trees in the field or indoors. This includes the sale of related accessory items for lawn and garden decoration or care.

**b. Regulations.**

1. **Lot Area.** A lot area of not less than five acres shall be provided.
2. **Maximum Building Coverage.**  
[Amended by Ord. No. 2018-10-04, 10/1/2018]
  - (a) Garden center: 15,000 square feet.
  - (b) Nursery production facilities (including greenhouses and any seasonal shelter which is impervious, such as overwintering structures): 20,000 square feet.
3. **Impervious Surface.** Not more than 20% of the area of any lot, excluding the ultimate right-of-way and stabilized drives between nursery beds, shall be covered by impervious surfaces. Driveways and parking areas used to service retail customers shall be paved.

**4. Building Height.** No building or structure shall exceed 2 1/2 stories, or 35 feet, whichever is less.

**5. Access.** Ingress to the site and egress from the site shall be provided directly from an arterial or collector road as defined in the Township Subdivision and Land Development Regulations [Chapter 22]."

Based on the information provided for me to review, I am unable to determine which of the above listed uses you are proposing and/or if the proposal complies with the specific requirements for either of these uses.

Per Section 300.a of the Code:

"Except as provided by law or in this chapter, in each district no building, structure or land shall be used or occupied except for the purposes permitted in § 27-305 and for the zoning districts so indicated in Parts 4 through 20. On any property, parcel or tract of land, only one principal use and principal structure shall be permitted unless otherwise stated in this chapter."

The B1, A6, and A7 uses are all considered principal uses whereas only one (1) principal use is permitted to exist on any single parcel of land. However, the A6 Nursery use allows for one single-family detached dwelling (Section 27-305.A6.6)), so long as the dwelling unit complies with the minimum requirements of a B1 Single-Family Detached Dwelling use in the applicable zoning district.

In addition to the above findings, I have also reviewed the existing off-street parking area and the parking requirements of the proposed uses. The plan submitted with your application shows 9 perpendicular parking spaces (10 ft. X 18 ft. stalls) and 2 parallel parking spaces (8 ft. X 22 ft.) totaling 11 parking spaces on the Property. Your application states that a total of 2,500 sq. ft. of space is being used to conduct the proposed business from the dwelling unit and garage that currently exist on the Property. Based upon the off-street parking requirements of Section 27-2901.A6 & A7 of the code, 1 space per 200 square feet of inside sales area is required, plus an additional space for each business vehicle is also required for the A6 use. Based on this information, for either the A6 or A7, a minimum of 13 parking spaces is required. Per Section 27-2901.B1.a) the B1 use requires a minimum of 2 parking spaces for a dwelling unit containing 3 bedrooms or less. Therefore, a minimum total of 15 off-street parking spaces are required for this proposal, or a variance is required.

Please be advised that the findings within this determination are subject to change should new and/or different information be provided for review. Please also be aware, should you be granted approval from the ZHB for any of the zoning relief necessary for this proposal, it is also required that you comply with any applicable regulations from any other outside agencies, including county, state, and federal entities.

In accordance with Pennsylvania Municipalities Planning Code and Article 31 of Chapter 27, Zoning, of the Code, you have the right to appeal this denial of your zoning permit to the New Britain Township Zoning Hearing Board within thirty (30) days from the date of this correspondence. You may also request variances as a part of this application. The Zoning Hearing Board application fee is \$1,200.00. I have enclosed a copy of the application for your convenience.

If you have any questions regarding the above information, please do not hesitate to contact me.

Sincerely,

[Redacted signature block]

Cc: [Redacted distribution list]

Enclosure