

PA Office of Attorney General

Attn: ACRE

15th Floor, Strawberry Square

Harrisburg, PA 17120

I am sorry to bug you with such a small issue, I know your time is important and better spent dealing with more important issues, however I was not sure how best to proceed in our issue and I pray you can be of some assistance. Last year, my wife and I purchased 75.44 acres in Point Twp. Northumberland County, Pennsylvania ([REDACTED]). The land is zoned R-1 and has never been developed and has been used for agriculture use for as far back as I can tell. We fell in love with the property due to the variety in terrain and roughly 35 acres of fields and 40 acres of woods. I became increasingly interested in implementing silvaculture practices to help manage and maintain the health of our forests. We plan to continue to manage the wood lots and produce fire wood from the timber harvested as well as take some to a local mill. We applied to build an ag building at the local township and it was denied according to the zoning officer of point township, [REDACTED] as this is not a permitted "use". We desire to build an ag building on our property to store our equipment in. Recently my chain saw was stolen from our property and I am worried about our other equipment walking off as well if we are unable to build an ag building.

The point township ordinances are difficult to decipher. I have tried to read thru all 183 pages of them and there appears to be multiple places that one would interpret as allowing this. I am not really sure which portion the zoning officer of point township, [REDACTED] was using to deny our permit.

For example, for our property which is zoned R-1

(R-1) Residential – Countryside. The purpose of this district is to provide for a variety of low density residential uses served primarily by on lot sewer and water facilities. Agricultural activities and office uses are acceptable in this district provided they do not conflict with residential uses.

The zoning officer of point township, [REDACTED] stated that we had the opportunity to apply for a variance if we felt we met the criteria for such. I am worried about the expense of applying for a variance when it does not seem to be necessary. It seems like the burden of proof would be on [REDACTED] to show that an agriculture building on a 75-acre parcel of land which is currently being farmed would "conflict with residential uses.". The question is, would necessitating us to apply for a variance place the burden of proof on us?

In her letter she referenced "agricultural activities" which are only mentioned twice in the 183 pages of zoning ordinances, both times in the following phrase relating to R-1 "Agricultural activities and office uses are acceptable in this district provided they do not conflict with residential uses."

I am not very well versed in the intricacies of the law as it is quite difficult to navigate. However, after trying to obtain a rudimentary understanding of this issue and I believe she wrong.

Section 709-A. Applicability of Article to Agriculture.--

Zoning ordinances shall encourage the continuity, development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present unless the agricultural operation will have a direct adverse effect on the public health and safety. Nothing in this section shall require a municipality to adopt a zoning ordinance that violates or exceeds the provisions of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," the act of June 10, 1982 (P.L.454, No.133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances," and the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act."

(709-A added June 22, 2000, P.L.495, No.68)

As well as this:

AGRICULTURAL OPERATIONS - PROTECTION FROM SUITS

Act of Jun. 10, 1982, P.L. 454, No. 133

CL. 03

"Normal agricultural operation." The activities, practices, equipment and procedures that farmers adopt, use or engage in

the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is:

(1) not less than ten contiguous acres in area; or

(2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L.944, No.134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

(2 amended May 15, 1998, P.L.441, No.58)

The township has an ordinance in place to reduce the clutter and "junk" on people's properties. A major concern is that they may now say we are violating this ordinance since we are unable to build an ag building to safely keep our equipment in.

It would be unfortunate if their decision were put us in a position of financial hardship where we might be forced to consider selling our land in search of a township that is more supportive of agriculture and works to promote and protect those that try to engage in responsible agriculture and silvaculture practices. I don't see many people wanting to heat their homes with wet firewood that has sat outside and couldn't properly dry so we will see.

Below I have attached the responses I received from the township [REDACTED] as well as some one else's denied application from Berwick that was attached with our denial, I believe in error. It looks like she has CC'ed in the township so they are well aware of her decisions. Hopefully someone else does not have my information, that would be quite unfortunate as I value my right to privacy. It does appear however that she seems to have a habit of denying permits and carelessly handling people's personal information.

I am greatly appreciative of any assistance in this matter. Please feel free to contact me with any further questions.

Thanks,

[REDACTED]

[REDACTED]

[REDACTED]