

2025 | CONSERVATION EASEMENT INSPECTION



# Firely Enterprises, LLC

2782 LEIDY ROAD (FKA SULOMAN'S FARM)

## 2025 - New Hanover Township Conservation Easement Monitoring Reporting Form

Entity	Easement Program	Ownership Verification
Firely Enterprises, LLC	Agricultural Conservation Easement Program	Date Landowner(s) Contacted March 19, 2025
Landowner(s) <i>(Must match names on the current deed.)</i>	Parcel Number(s)	Method of Contact
Firely Enterprises, LLC	47-00-04324-00-3, 47-00-04324-00-9, 47-00-04324-01-8, 47-00-04324-01-2, 47-00-04324-02-1	Township Letter dated March 19 2025
Monitoring Date	Monitoring Type	Easement Monitor Name
Tuesday, April 22, 2025	Onsite	Daniel E. Gray (Township Eng.) Mark Donovan (Twp P & Z Director)

### Reporting Questions

<p>1. If there is new landowner, were they notified of the easement and have records been updated?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/></p> <p style="text-align: right;"><i>If yes, new landowner(s) information:</i></p>	<p>Original Conservation Easement was between Larry L. and Darlene K. Suloman. Firely Enterprises, LLC purchased the property on October 21, 2021 (Deed recorded February 23, 2022, Deed Book 6269, Page 00543). Additionally, on March 6, 2025, a Stipulated Settlement and Release Agreement was made between Sunset Hill, New Hanover Township (NHT) and the New Hanover Township Zoning Hearing Board, which agreed to revise the Conservation Easement to reflect an altered Retail Area and Conserved Area, among other Retail Area operational items.</p>
<p>2. Is there any follow up requested from the landowner (s)?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p style="text-align: right;"><i>If yes, describe:</i></p>	<p>1. Complete the removal of unauthorized mulch parking from Easement Area and construct the new parking area in accordance with the Stipulated Settlement and Release Agreement. Partial removal of parking area has been completed, however, full restoration to pre-construction conditions has not been completed.</p> <p>2. Removal of unauthorized Mobile Food Truck in Easement Area.</p> <p>3. Continued remediation and stabilization of partially removed parking areas on Parcel 47-00-04324-01-2.</p> <p>4. Continued Streambank Erosion occurring on Parcel No. 47-00-04324-01-2. Landowner is recommended to contact the Montgomery County Conservation District to discuss streambank stabilization restoration methods to reduce sediment being directed into the stream and downstream water bodies.</p>
<p>3. Are the terms and conditions of the easement deed being met? E.g., no unauthorized uses, change in land use, new utilities, buildings outside of approved building envelopes, etc.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p style="text-align: right;"><i>If no, list issue(s):</i></p>	<p>1. Unauthorized construction of an off-street parking area (partially removed as of the date of inspection) within the Easement Area on Parcel No. 47-00-04324-01-2 in violation of Deed Restriction No. 2 (Construction of Buildings and Other Structures) and Deed Restriction No. 3.b (Land Development). Area is not fully restored to pre-construction conditions. This, coupled with the storage of vehicles and storage of trash, have limited growth of grass in the previously restored areas. The area requires additional restoration and protection from unauthorized acts. (See Figures No. 8, No. 9 and No. 23). It should be noted that on July 2, 2204, Township Manager stated that he was satisfied with the restoration of the removed parking area as of the date of his letter. However, our April 22, 2025 inspection revealed that the restoration activities had ceased, the area had not reverted to pre-development conditions (vegetated), and the area was being used to stage a Mobile Food Truck and trash/debris. The area shall be restored to pre-construction condition and protected from unauthorized acts. (See Figure No. 77)</p> <p>2. Unauthorized use of the Easement Area for parking of the Mobile Food Truck in Easement Area on Parcel No. 47-00-04324-01-2 in violation of the Stipulated Settlement and Release Agreement, paragraph 4.d, which specifies where on the site the permitted Food Truck may be parked while operating. (See Figure No. 8). A follow up inspection was performed on June 25, 2025 (after the owner was advised of the violation) which revealed that the Mobile Food Truck had been moved to the area designed in the Stipulated Settlement and Release Agreement. No parking of unauthorized vehicles shall be permitted in the Easement Area.</p>
<p>4. Are threatened or endangered species present on or proximal to this land?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p style="text-align: right;"><i>If follow up is needed, list actions required:</i></p>	
<p>5. Are there landowner, partner, or entity suggestions or comments?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p style="text-align: right;"><i>If yes, describe:</i></p>	
<p>6. Additional notes and observations:</p> <p>Attached to this report is a Site Photograph Report that provides photographs from the April 22, 2025 Site Investigation. In general, the site investigation revealed limited agricultural activities being performed on the site. A small portion of the preserved farm was being used to generate produce for the brewery operation as purported by Marty Firely. Limited area was used (2024) for pumpkins (Figure No.13) and hops (Figures No. 28, No. 30, No. 35), with an additional small area being covered for vegetables (See Figure No. 22). A small area along the perimeter of an existing farm field had been (2023) replanted with tree whips supplied by the Township for reforestation purposes, not as a crop. A few off-site encroachments by adjacent residential properties were apparent, however, without a boundary survey of the property, the extent of the encroachments could not be determined. Landowner should work with the neighboring properties to remove the encroachments into the Easement Areas. A mobile Chicken Coop was present (Figure No. 36) to the rear of the Retail Area in the Easement Area, noting a minor concern with the proximity of the coop to adjacent neighbors. Continued streambank erosion was prevalent on Parcel No. 47-00-04324-01-2, <u>causing sediment to enter stream that crosses the site.</u></p>	
<p>7. Is there an additional monitoring photo report merged and enclosed within this PDF?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	
<p>8. Present at Inspection: Marty Firely* (Landowner), Mark Donovan (Township Planning and Zoning Director), Daniel Gray (Township Engineer) * Mr. Firely was only present for a portion of the inspection.</p>	

**PROPERTY OWNER NOTIFICATION**

**MARCH 19, 2025**



# Township of New Hanover

Municipal Building · 2943 North Charlotte Street, Gilbertsville, PA 19525-9718

Phone: (610) 323-1008 · Fax: (610) 323-5173

Website: [www.newhanover-pa.org](http://www.newhanover-pa.org)

March 19, 2025

**Via Certified Mail and E-Mail (jmfirely@aol.com)**

Firely Enterprises  
Attn: John M. Firely  
364 Maple Drive  
Harleysville, PA 19438

**Re: 2782 Leidy Road – Conservation Easement Annual Inspection Notice**

Dear Mr. Firely:

In accordance with Section 7 of the enclosed *Deed of Conservation Easement to the Township of New Hanover in Perpetuity*, the Township has the right to annually enter the Easement Area to inspect for compliance with the Deed's provisions.

I would like to schedule this year's inspection for Tuesday, April 22, beginning at 10:00 AM. Please confirm if this date and time are convenient for you. Your presence during the inspection would be greatly appreciated.

Sincerely,

Jamie L. Gwynn  
Township Manager

**DEED OF CONSERVATION EASEMENT TO THE TOWNSHIP OF NEW HANOVER IN PERPETUITY**

**APRIL 8, 2019**

Prepared by: Andrew J. Bellwoar, Esquire  
Siana, Bellwoar & McAndrew, LLP  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425-3510  
610-321-5500

RECORDER OF DEEDS  
MONTGOMERY COUNTY  
2019 APR 10 A 8:39

Return to: Andrew J. Bellwoar, Esquire  
Siana, Bellwoar & McAndrew, LLP  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425-3510  
610-321-5500

Montgomery County  
APR 18 2019  
Recorder of Deeds

Tax ID/Parcel Nos. 47-00-04324-00-3, 47-00-04324-00-9, 47-00-04324-01-2, 47-00-04324-01-8, 47-00-04324-02-1

DEED OF CONSERVATION EASEMENT TO THE TOWNSHIP OF  
NEW HANOVER IN PERPETUITY

This deed of Conservation Easement, is made this 8<sup>th</sup> day of April, 2019, by and between Larry L. Suloman and Darlene K. Suloman ("Sulomans" or "Grantors") and New Hanover Township ("Township" or "Grantee").

BACKGROUND

- A. Grantors are the owners of all that certain land situate in New Hanover Township, Montgomery County, Pennsylvania, more particularly described in Exhibit "A" attached hereto consisting of 34.56 acres and all buildings and improvements erected thereon ("Subject Property");
- B. The local government unit of New Hanover Township, Pennsylvania, has determined to purchase a conservation easement on and over the entirety of the Subject Property with the exception of 1.16 +/- acres on which the retail farm store is located, on the northwest side of Leidy Road and depicted in the plan attached hereto as Exhibit "B" (the "Retail Area"). The area of the conservation easement – less the Retail Area exception -- is referred to hereinafter as the "Easement Area";
- C. All holders of liens or other encumbrances upon the subject land have agreed to release or subordinate their interests in the Subject Property to this Deed of Conservation Easement and to refrain from any action inconsistent with its purpose.

**NOW THEREFORE**, in consideration for the sum of Seven Hundred Thousand Dollars (\$700,000.00), the receipt and sufficiency of which is hereby acknowledged, Grantors do voluntarily grant, bargain, sell, and convey to Grantee, its successors and assigns, and

Grantee voluntarily accepts, a conservation easement in perpetuity on the Easement Area, under and subject the following terms and conditions:

1. Permitted Acts – During the term of the conservation easement conveyed herein, the Easement Area shall be used for the following purposes:
  - a. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, and furs;
  - b. The production, growing and/or harvesting of crops;
  - c. Timber, wood, and other wood products derived from trees;
  - d. Residential uses consistent with the Zoning Ordinance. There are two existing family dwellings with accessory improvements. Nothing herein shall be construed to limit Grantors' right to use the Easement Area as residential parcels in compliance with the Township Zoning Ordinance;
  - e. As conservation of open land in its natural state including, but not limited to, woodlands, fallow field and managed meadow;
  - f. Such other uses as are similar to the aforesaid uses described in Subsections 1(a) through (e) above and are not prohibited under Section 3 hereof, or as otherwise approved by the Township in writing.
  
2. Construction of Buildings and Other Structures – The construction or use of any building or other structure on the Easement Area, other than those existing on the date of the delivery of this Deed, is prohibited except that:
  - a. The erection of fences for agricultural production and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.
  - b. The construction or use of any building or other structure for agricultural production is permitted.
  - c. The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted if the preexisting residential structure is razed or removed, and the replacement residential structure is either: erected within the footprint of the residential structure it replaces, or erected pursuant to paragraph 3.b below.
  
3. Restricted Uses – The following restrictions are hereby imposed and shall apply to the use of the Easement Area:
  - a. Industrial or Institutional Use. No industrial or institutional activities shall be conducted or permitted on the Easement Area. Agricultural activities which are conducted in accordance with the following requirements shall not be considered an industrial use and are therefore permitted:
    - i. Agricultural activities shall include, but are not limited to the production and/or growing and/or harvesting of crops, livestock (including the breeding, boarding and raising of cattle for dairy purposes) and livestock products subject to applicable regulations to minimize soil erosion,

stormwater run-off, stream sedimentation, pollution, overgrazing, nutrient loading, and other damaging occurrences.

- b. Land Development. Grantors and Grantee agree that no land development shall be permitted on the Easement Area, as such term is defined by the New Hanover Township Subdivision and Land Development Ordinance, except that the construction of a replacement residential structure and use outside the footprint of the existing residential structure shall only be permitted if (1) the dwelling is for the property owner's principal residence; (2) the construction of the residence and the access driveway will not significantly harm the economic viability of the subject land for agricultural production or commercial equine activity, and it will otherwise comply with Township ordinances; and (3) one of the two existing residential dwellings is formally abandoned prior to issuance of a building permit for the new residence and is removed immediately following the completion of the new residence and prior to a Use and Occupancy Certificate is issued for the new residence.
  
4. Soil and Water Conservation – All agricultural production activity on the Easement Area shall be conducted in accordance with a conservation plan approved by the County Conservation District. Such plan shall be updated every ten (10) years and upon any change in the basic type of agricultural production being conducted on the Easement Area. In addition to the requirements established by the County Conservation District, the conservation plan shall include an installation schedule and maintenance program and a nutrient management component which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land and shall require that:
  - a. The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on the Easement Area is conducted in a location and manner that preserves the viability of the Easement Area for agricultural production.
  
5. Condition of Title – In the event the Subject Property is ever sold, title to the Subject Property is subject to this Easement. The foregoing restriction on development and use shall be a covenant running with the land and shall be binding upon successors in title and assigns. In the event the Township acquires the Subject Property or any part thereof, the Subject Property shall not be restricted by this conservation easement as to municipal use including, but not limited to, the following: sanitary sewer, treatment, disposal and conveyancing; municipal offices and facilities (which offices can be rented or utilized from time to time by the Township to non-municipal entities for non-municipal uses); and active and passive recreational use.
  
6. Responsibilities of Grantors Not Affected – Except as specified herein, this Deed does not impose any legal or other responsibilities on the Grantee, its successors or assigns. Grantors shall continue to be solely responsible for payment of all taxes and assessments levied against the Subject Property and all improvements erected thereon. Grantors shall

continue to be solely responsible for the maintenance of the Subject Property and all improvements erected thereon.

Grantors acknowledge that Grantee has no knowledge or notice of any hazardous waste stored on or under the Subject Property. Grantee's exercise or failure to exercise any right conferred by the Conservation Easement shall not be deemed to be management or control of activities on the Subject Property for purposes of enforcement of the Act of October 18, 1988 (P.L. 756, No. 108), known as the Hazardous Sites Cleanup Act.

Grantors, their heirs, executors, administrators, successors or assigns agree to hold harmless, indemnify and defend Grantee, its successor or assigns from and against all liabilities and expenses arising from or in any way connected with all claims, damages, losses, costs or expenses, including reasonable attorney's fees, resulting from a violation or alleged violation of any State or Federal environmental statute or regulation including, but not limited to, statutes or regulations concerning the storage or disposal of hazardous or toxic chemicals or materials.

7. Enforcement – Annually, Grantee, its successors, assigns or designees shall have a right to enter the Easement Area for the purpose of inspecting to determine whether the provisions of this Deed are being observed. Written notice of such annual inspection shall be mailed to Grantors, their heirs, executors, administrators, successors or assigns at least ten days prior to such inspection. The annual inspection shall be conducted between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth of Pennsylvania at a date and time agreeable to the Township and the landowner.

Grantee, its successors, assigns or designees shall also have the right to inspect the subject land at any time, without prior notice, if Grantee has reasonable cause to believe the provisions of this Deed have been or are being violated.

Grantors acknowledge that any violation of the terms of this Deed shall entitle Grantee, its successors, assigns, or designees to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantors, their heirs, executors, administrators, successors or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred, including reasonable attorney's fees.

8. Duration of Easement – The Conservation Easement created by this Deed shall be a covenant running with the land and shall be perpetual in duration. Every provision of this Deed applicable to Grantors shall apply to Grantors' heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantors.
9. Conveyance or Transfer of the Subject Property – Grantors, their heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantors, shall, within thirty (30) days of a change in ownership, notify the Township in writing of any conveyance or transfer of

ownership of the subject land. Such notification shall set forth the name, address and telephone number of the Grantors and the party or parties to whom ownership of the Subject Property has been conveyed or transferred, and the price per acre or any portion thereof and a reference to the volume and page in which the transfer has been recorded by the Montgomery County Record of Deeds.

This obligation shall apply to any change in ownership of the Subject Property. Whenever interest in the subject land is conveyed or transferred to another person, the deed conveying or transferring such land shall explicitly reference this Easement.

10. Severability – This Deed shall be construed in its entirety; however, in the event that any provision of this Deed or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Deed, and the application of such provision to persons and circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
11. Interpretation – This Deed shall be interpreted under the laws of the Commonwealth of Pennsylvania. For purposes of interpretation, no party to this Deed shall be considered to be the drafter of the Deed.
12. Entire Agreement – This Deed constitutes the entire understanding and agreement of the Parties. The Deed may not be amended, revoked, changed, altered or modified in any manner whatsoever, other than by written unanimous agreement of the Parties.

To have and to hold this Deed of Conservation Easement unto the Grantee, its successors and assigns in perpetuity.

AND the Grantors, for themselves, their heirs, executors, administrators, successors and assigns do specially warrant the Conservation Easement hereby granted.

IN WITNESS THEREOF, the undersigned have duly executed this Deed on the day first written above.

GRANTORS

 [Seal]

Larry L. Suloman

 [Seal]

Darlene K. Suloman

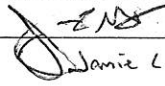
GRANTEE

Witness:



\_\_\_\_\_  
[Seal]

New Hanover Township

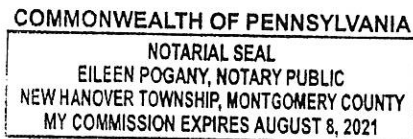
By:   
Jamie L. Gwynn

Title: Township Manager

COMMONWEALTH OF PENNSYLVANIA :  
: SS  
COUNTY OF Montgomery :

On this, the 8th day of April, 2019, before me, the undersigned officer, in and for the said County and State, personally appeared Larry L. Suloman and Darlene K. Suloman who acknowledged themselves to be the owners of the Property, and in that capacity, executed the foregoing instrument for the purposes therein contained by each signing their name.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

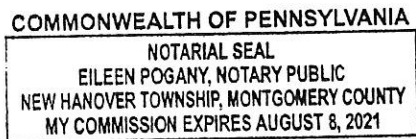


Eileen Pogany  
Notary Public

COMMONWEALTH OF PENNSYLVANIA :  
: SS  
COUNTY OF Montgomery :

On this, the 8th day of April, 2019, before me, the undersigned officer, personally appeared Jemie L. Gwynn, who acknowledged himself/herself to be the Township Manager of **New Hanover Township** Board of Supervisors of, and that he/she, as such Township Manager, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of New Hanover Township by himself/herself as Township Manager.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Eileen Pogany  
Notary Public

ALL THAT CERTAIN message and 5 contiguous tracts of land.

SITUATE in the Township of New Hanover, County of Montgomery and State of Pennsylvania bounded, limited and described as follows, to wit:

TRACT NO. 1:

BEGINNING at a post, a corner in a line of late Daniel York's land; thence by the same South 34 1/2 degrees, West 25.7 perches to a post, a corner of William H. Schneider's land; thence by the same the 3 following courses and distances, to wit: North 49 degrees West 38.2 perches to a stone; thence South 40 1/2 degrees West 24.3 perches to a post; thence North 49 1/4 degrees West 28 perches to a post in the road, a corner in the line of late Solomon Levengoods land; thence by the same North 40 1/4 degrees East 41.1 perches to a post, a corner of late Benjamin Smith's land; thence by the same South 66 1/2 degrees East 32 perches to a post; thence by the same and lands of David Gilbert's South 35 degrees East 34.4 perches to the place of beginning.

CONTAINING 14 acres and 119 perches of land, more or less.

TRACT NO. 2:

BEGINNING at a post in the road, a corner of George Richard's land; thence by the same North 45 3/4 degrees, West 33.1 perches to a post, a corner of late Solomon Levengood's land; thence by said land the following 5 courses and distances, to wit: North 57 1/4 degrees East 36.6 perches to a post; thence North 78 degrees East 12.1 perches to a post; thence South 52 1/2 degrees East 4.4 perches to a post; thence North 42 3/4 degrees East 13 perches to a post; thence South 56 1/2 degrees East 13 perches to a post in the road, a corner in the line of Benjamin Smith's land; thence partly by the said land and partly by land of said Jacob Reigner's and partly by William H. Schneider's and by A.S. Knous and South 42 3/4 degrees West 63.6 perches to the place of beginning.

CONTAINING 9 acres and 2 perches of land.

TRACT NO. 3:

BEGINNING at a post, a corner of James S. Knous' other land; thence along said land the 3 following courses and distances, to wit: North 56 3/4 degrees West 3 perches to a post; thence South 28 1/2 degrees West 7.8 perches to a post; thence South 54 1/2 degrees West 7.2 perches to a post, a corner of said Jacob Feigner's other land; thence along said land South 52 3/4 degrees East 2.4 perches to a post; thence along said land North 43 degrees East 15 perches to the place of beginning.

CONTAINING 27 perches of land.

TRACT NO. 4

BEGINNING at a post in the road, a corner of Jesse Eickels land; thence along the same North 50 1/4 degrees West 29.7 perches to an apple tree on said Buckels land; thence by said land the 5 following courses and distances, viz: North 42 1/4 degrees East 25.5 perches to a post; thence North 48 1/4 degrees West 11.2 perches to an elm tree; thence North 56.3 degrees East 3 perches to a post; thence South 48 1/4 degrees East 10.7 perches to a post; thence North 42 1/4 degrees East 31.4 perches to a post, a corner of John H. Srunsts other land; thence along said land South 45 1/2 degrees East 30.8 perches to a stone in the road, a corner in the line of Edward H. Knous' land; thence along said road South 43 1/4 degrees West 56.3 perches to the place of beginning.

CONTAINING 11 acres and 23 perches of land.

EXCEPTING AND RESERVING out of Tract No. 4 above described a certain tract of land containing about 1/6 of an acre conveyed by the said Howard Yerger, and wife to Harry C. Krause by Deed Dated March 20, 1919 and recorded in Deed Book No. 790 page 293.

TRACT NO. 5:

BEGINNING at a post, a corner in a line of John Scheetz' land; thence by the same South 34 1/2 degrees West 30.2 perches to a post; and South 41 degrees West 3.8 perches to a post, a corner of Amos Knous' land; thence by the same North 49 degrees West 69.2 perches to a post, a corner in a line of Moses H. Kehirs land; thence by the same North 40 1/2 degrees East 9.9 perches to a post, a corner of Israel Smiths land; thence by the same South 49 1/4 degrees East 28 perches to a post; thence by the same North 40 1/2 degrees East 24.3 perches to a stone; thence by said land South 49 degrees East 38.2 perches to the place of beginning.

CONTAINING 10 acres.




EXCEPTING THEREOUT AND THEREFROM those certain 9 lots granted and conveyed unto Joseph Suloman and Ethel M. Suloman, his wife by the Deeds recorded in the Office of the Recorder of Deeds from Montgomery County as set forth in the Deed Books and pages set forth immediately hereafter to which Deeds reference is made for a complete description of said conveyed lots; (a) Deed Book 3648 page 100; (b) Deed Book 3664 page 391; (c) Deed Book 3668 page 504; (d) Deed Book 3675 page 386; (e) Deed Book 3683 page 279; (f) Deed Book 3683 page 544; (g) Deed Book 3666 page 361; (h) Deed Book 3890 page 444; (i) Deed Book 4798 page 2029.

Tax ID / Parcel No. 47-00-04324-00-3, 47-00-04324-00-9, 47-00-04324-01-2, 47-00-04324-01-8 and 47-00-04324-02-1

Being the same premises which Larry L. Suloman by Deed dated 11-18-2015 and recorded 11-24-2015 in Montgomery County in Deed Book 5979 page 2320 conveyed unto Larry L. Suloman and Darlene K. Suloman, his wife, in fee.

# Untitled Map

Farm Store Lot-238.1' x 211.7'

- Legend**
-  2782 Leidy Rd
  -  Feature 1
  -  Suloman's Milk

2782 Leidy Rd

238.1' x 211.7'

Google Earth

200 ft



**NEW HANOVER TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**RESOLUTION 19-07**

**A RESOLUTION AUTHORIZING THE PURCHASE OF A CONSERVATION  
EASEMENT OVER REAL PROPERTY**

**WHEREAS**, the Board of Supervisors has determined that it is in the best interest of the Township to obtain a conservation easement over certain real property located within the Township which is owned by Larry L. Suloman and Darlene K. Suloman (“Grantors”) and more specifically known as Tax Map #s 47-054-027 & 034, 47-055-007, 069 & 008 (the “Property”);

**WHEREAS**, the conservation easement over the Property is being purchased in accordance with the Conservation and Preservation Easements Act, 32 P.S. 5051, et seq., and the Open Space Lands Act, 32 P.S. 5001, et seq.;

**WHEREAS**, the Township desires to purchase the Property for a sum not to exceed \$700,000.00 in accordance with the terms and conditions of a Conservation Easement Preparation, Processing and Purchasing Agreement, to be approved by the Board of Supervisors;

**WHEREAS**, the Township desires to use revenue from the Open Space Earned Income Tax in accordance with Section 5007.1 of the Open Space Lands Act to pay the purchase price;

**WHEREAS**, in accordance with Section 5006 of the Open Space Lands Act, the Township has held the required public hearing which was duly advertised in accordance with the Open Space Lands Act;

**NOW, THEREFORE, BE IT RESOLVED**, the Board of Supervisors of New Hanover Township hereby resolves as follows:

**RESOLVED**, the proposed purchase of the conservation easement over the Property by the Township from the Grantor for a sum not to exceed \$700,000.00 is hereby authorized and approved.

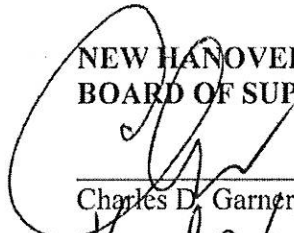
**FURTHER RESOLVED**, that the Township agrees to purchase the conservation easement over the Property as detailed in the Conservation Easement Preparation, Processing and Purchasing Agreement;

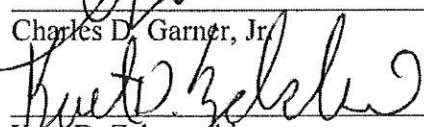
**FURTHER RESOLVED**, the Board of Supervisors is authorized to pay out of the revenue from the Open Space Earned Income Tax the purchase price for the conservation easement over the Property.

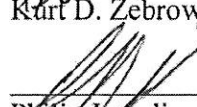
**FURTHER RESOLVED**, that the Chairman and Vice-Chairman of the Board of Supervisors, the Township Manager, and Township Solicitor are authorized and directed to take any and all necessary action to complete the purchase of the conservation easement over the Property and to pay the purchase price and other associated costs and fees to consummate the transaction contemplated hereby.

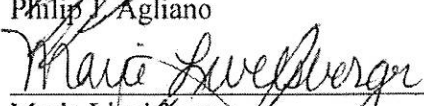
**RESOLVED and ENACTED** this 4<sup>th</sup> day of April, 2019 by the Board of Supervisors of New Hanover Township, Montgomery County, Pennsylvania, in lawful session duly assembled.

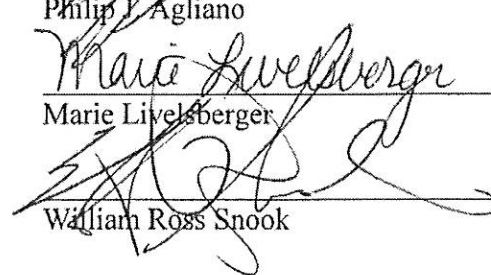
**NEW HANOVER TOWNSHIP  
BOARD OF SUPERVISORS**

  
\_\_\_\_\_  
Charles D. Garner, Jr.

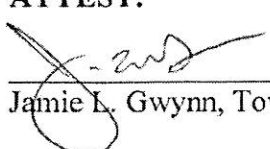
  
\_\_\_\_\_  
Kurt D. Zebrowski

  
\_\_\_\_\_  
Philip J. Agliano

  
\_\_\_\_\_  
Marie Livelberger

  
\_\_\_\_\_  
William Ross Snook

**ATTEST:**

  
\_\_\_\_\_  
Jamie L. Gwynn, Township Manager

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

47-00-04324-00-3 NEW HANOVER

2782 LEIDY RD

SULOMAN LARRY L & DARLENE K

B 054 U 027 L 0319 DATE: 04/18/2019

\$15.00  
HW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

47-00-04324-00-9 NEW HANOVER

LEIDY RD

SULOMAN LARRY L & DARLENE K

B 054 U 034 L 2900 DATE: 04/18/2019

\$15.00  
HW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

47-00-04324-01-2 NEW HANOVER

LEIDY RD

SULOMAN LARRY L & DARLENE K

B 055 U 007 L 2900 DATE: 04/18/2019

\$15.00  
HW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

47-00-04324-01-8 NEW HANOVER

LEIDY RD

SULOMAN LARRY L & DARLENE K

B 054 U 069 L 2900 DATE: 04/18/2019

\$15.00  
HW

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

47-00-04324-02-1 NEW HANOVER

LEIDY RD

SULOMAN LARRY L & DARLENE K

B 055 U 008 L 2900 DATE: 04/18/2019

\$15.00  
HW



# REALTY TRANSFER TAX STATEMENT OF VALUE

See reverse for instructions.

RECORDER'S USE ONLY	
State Tax Paid	0
Book Number	6132
Page Number	2245
Date Recorded	4/18/2019

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. If more space is needed, please attach additional sheets. A Statement of Value (SOV) is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. However, it is recommended that a SOV accompany all documents filed for recording.

**A. CORRESPONDENT - All inquiries may be directed to the following person:**

Name Suburban Abstract Agency, Inc.		Telephone Number: (610) 734-2300	
Mailing Address 1418 Bywood Avenue		City Upper Darby	State   ZIP Code PA   19082

**B. TRANSFER DATA**

Date of Acceptance of Document 04 / 08 / 2019			
Grantor(s)/Lessor(s) Larry L. Suloman and Darlene K. Suloman		Telephone Number: N/A	
Mailing Address 2782 Leidy Road Et al		Mailing Address 2943 North Charlotte Street	
City Gilbertsville	State PA	ZIP Code 19525	City   State   ZIP Code Gilbertsville   PA   19525

**C. REAL ESTATE LOCATION**

Street Address 2782 Leidy Road et al		City, Township, Borough New Hanover Township	
County Montgomery	School District Bovertown Area School District	Tax Parcel Number see attached	

**D. VALUATION DATA**

Was transaction part of an assignment or relocation?  Y  N

1. Actual Cash Consideration 700,000.00	2. Other Consideration +0.00	3. Total Consideration = 700,000.00
4. County Assessed Value 337,340.00	5. Common Level Ratio Factor x 1.96	6. Computed Value = 641,586.40

**E. EXEMPTION DATA - Refer to instructions for exemption status.**

1a. Amount of Exemption Claimed 100%	1b. Percentage of Grantor's Interest in Real Estate 0.00 %	1c. Percentage of Grantor's Interest Conveyed 0.00 %
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**2. Check Appropriate Box Below for Exemption Claimed.**

- Will or intestate succession. \_\_\_\_\_ (Name of Decedent) \_\_\_\_\_ (Estate File Number)
- Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)
- Transfer from a trust. Date of transfer into the trust \_\_\_\_\_  
If trust was amended attach a copy of original and amended trust.
- Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)
- Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)
- Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)
- Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)
- Statutory corporate consolidation, merger or division. (Attach copy of articles.)
- Other (Please explain exemption claimed.) This is a grant of easement only. The grantors remain the fee title holders. PA Act 319

**Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.**

Signature of Correspondent or Responsible Party Suburban Abstract Agency, Inc. By:	Date 04/08/19
---	------------------

**FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.**

## Realty Transfer Tax Statement of Value Attachment

Tax Parcel Numbers:

47-00-04324-003, 47-00-043324-009, 47-00-04324-012, 47-00-04324-018 and

47-00-04324-021

**STIPULATED SETTLEMENT AND RELEASE AGREEMENT**  
**MARCH 6, 2025**





WHEREAS, the Property is the subject of a Deed of Conservation Easement to The Township of New Hanover In Perpetuity, being recorded against the Property with the Montgomery County Recorder of Deeds on or about April 10, 2019, at Book 6132, Page 0225 ("**Conservation Easement**");

WHEREAS, the Township, the ZHB, Potential Intervenor and Sunset Hill hereby agree to resolve the Land Use Appeals, the Request for Nonconforming Use Status, and the Conservation Easement dispute, pursuant to the terms of this Agreement, without admission of liability or wrongdoing on the part of any Party, and in the interest of memorializing the scope of the ongoing use by Sunset Hill of the Retail Store Area pursuant to the Zoning Ordinance and Conservation Easement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, and intending to be legally bound, the parties agree as follows.

### **TERMS**

1. **Incorporation of Background**. The background of this Agreement is incorporated as if fully set forth at length.

2. **No Admission of Liability**. Nothing in this Agreement shall be construed to be an admission of liability by any party. The parties agree that this Agreement has been entered into for the purpose of resolving this limited dispute among and between the parties arising out of this appeal, without the burden and expense of further litigation and for other good and valuable reasons. This Agreement may be used for no other purpose and is limited to the specific facts and circumstances of this matter.

3. **Release**. The parties release and discharge each other and all past, present or current officials, employees, agents or attorneys, and each of them, from any or all actions or omissions or claims solely pertaining to the denials and conditions set forth in the Decision, that include any possible challenges to any municipal regulation, ordinance, statute, or other provisions regarding the Decision that gave rise to the Land Use Appeals.

4. **Scope and Parameters of Use(s) on the Property**. The purpose of this Agreement is to allow all parties to cease litigation, serial special event permit applications, enforcement notices, pending or future ZHB applications, and to affirm and restate Sunset Hill's operation of the brewery at the Property, according and subject to the following conditions:

a. Except and subject to the modifications herein, Sunset Hill shall comply with the conditions in Paragraph 4(a)-(j) of the Decision (as well as Paragraph 4(m) to the extent that any portable restrooms are used by Sunset Hill in its events beyond the restrooms provided within the building on site). To the extent of any conflict between the conditions in the Decision and this Agreement, the terms of this Agreement shall control.

b. Sunset Hill is permitted to operate the brewery at the Property. The Township shall not require special event or temporary community event permits for the operation of the brewery that include the activities set forth in the chart at Exhibit A. Exhibit A lists activities that are part of the routine brewery operations conducted within the Retail Store Area. The scope of such activities, including the estimated number of attendees on site at any one particular point in time, a description of the location within the Property where the activities may occur, and a description of the expected parking for each are set forth within Exhibit A. Activities that the Township regulates in Section 27-305(9)(D) and not listed on Exhibit A may be permitted, subject to a special/temporary community event permit issued by the Township, if applicable ("**Special Events**"). Sunset Hill may conduct four (4) Special Events per year. Sunset Hill shall submit such Special Event permit applications to the Township for review not less than 60 days prior to the Special Event and the Township shall act on the application within 30 days of submission. Other than the brewery use, Sunset Hill shall not conduct activities within the Retail Store Area, beyond those set forth on Exhibit A, without further approval or applicable permits. Subject to the foregoing, all such uses shall be under the control or direction of Sunset Hill.

c. Sunset Hill may provide non-amplified live music at the Property outdoors but within the Retail Store Area. Sunset Hill may only provide amplified music within the brewery building or within the Retail Store Area during Special Events, subject to existing noise standards and mindful of the peace and quiet enjoyment of the neighboring residential parcels. Nothing herein shall be construed as a waiver or variance from ongoing compliance with the existing Township Ordinance noise standards. There shall be no outdoor speakers for use except for the noted Special Events.

d. Sunset Hill may provide a single food truck to operate at the brewery within the Retail Store Area, at the location identified in Exhibit B. The food truck may operate until 8:30 p.m. and only on Thursdays, Fridays, Saturdays and Sundays (or those days for which the same is approved under a Special Event permit). The food truck shall be located along the side of the building closest to the creek while operating, as reflected in Exhibit B.

e. The Township and Sunset Hill shall revise the Conservation Easement through a mutually agreeable amendment thereto, recorded with the Montgomery County Recorder of Deeds, to reflect the Retail Store Area and Conserved Area, as depicted on Exhibit "B."

f. Sunset Hill shall expand its existing improved parking lot and add additional parking spaces, stormwater management improvements and landscaped buffer plantings within the Retail Store Area portion of the Property. The improvements are depicted on a plan prepared by Richard C. Mast Associates, P.C. captioned "Conceptual Sketch Plan for 2782 Leidy Road, dated May 13, 2024 and last revised November 11, 2024 and further amended with additional buffer plantings by Daniel E. Gray of Knight Engineering, Inc., attached hereto and marked Exhibit "B" ("**Plan**"). The Plan may be reasonably revised to the mutual satisfaction of the parties. The addition of the improvements on the Plan, including the parking spaces shall not be considered land development under the terms of any New Hanover Township regulations or ordinances including the Subdivision and Land Development Ordinance or the Zoning Ordinance. Sunset Hill shall submit an Erosion & Sediment Control plan and a stormwater management permit application and a zoning

permit application to the Township ("**Applications**"). The Applications shall be subject to this Agreement. The Township shall process the Applications promptly and as part of the settlement of litigation. Sunset Hill shall provide any required stormwater management area or BMP for the Applications on the Property within the Retail Store Area as shown on the Plan and not within the conserved area of the Property. The Township waives SWM Ordinance sections 23-401 and 23-105.3/Table 23-105. Sunset Hill may operate as set forth herein, subject to the limitations that the extent and scope of the uses reflected in Exhibit A shall be restricted to this Agreement, the existing twenty-three (23) off-street parking spaces, (previously agreed off-site parking arrangements as may be reasonably revised by the parties). In addition:

- Sunset Hill shall submit the Applications within 90 days of the court order approving this Agreement. The Township Engineer shall review the Applications within 30 days thereafter. Should revisions be required by law or the Municipalities Planning Code, the Township Engineer shall identify such requirements in a written review. Sunset Hill shall have 30 days from the receipt thereof to submit revised plans and the Township Engineer shall have 30 additional days to issue subsequent written reviews.
- The parking and buffering improvements shall be installed on or before June 1, 2026.

The sequencing of the installation of the parking lot, stormwater management and buffer planting improvements shall be determined upon the agreement of the parties' engineers, inclusive of any temporary measures to mitigate the potential of any vehicles headlights into residential dwelling units. Following completion of the additional parking spaces, Sunset Hill shall provide at its expense, a signed and sealed plan depicting the Retail Store Area together with a legal description.

No off-site parking of cars associated with the brewery use shall be permitted along Leidy Road and except as provided herein, within the Conserved Area of the Property. Sunset Hill shall take reasonable steps to alert its patrons not to park in such areas. Nothing herein shall be construed as a limitation on employee parking associated with the brewery or agricultural uses or as part of any approved Special Event use within the Conserved Area. To the extent Sunset Hill anticipates or causes a need for off-site parking for its regular operations and Special Events that may cause parking loads beyond what can be accommodated within the Retail Store Area, Sunset Hill shall provide the Township written documentation of reasonable off-site overflow parking accommodations with vehicular shuttle service being provided (noting that pedestrian and/or golf cart transportation to and from any overflow parking locations shall not be permitted).

g. Nothing herein shall prohibit Sunset Hill from selling take-out beer and other novelties of the brewery to patrons when the brewery is open. The hours of operation of the brewery shall not extend past 10:00 p.m.

h. Sunset Hill may use any outside area within the Retail Store Area, except for parking spaces, for patrons eating, drinking, and other brewery activities as further

delineated in Exhibit A. Sunset Hill may erect and use tents not exceeding 2,400 square feet in the aggregate, from May 1 through October 31 each year. Tents not exceeding 1,200 square feet in the aggregate may be erected the remainder of the year.

i. Sunset Hill shall maintain a brewery license in good standing with the Pennsylvania Liquor Control Board.

j. Condition 4(j) of the Decision has been satisfied based on installed plantings in Exhibit B.

k. Condition 4(m) is stricken as not relevant, except to the extent that Sunset Hill utilizes portable outdoor restrooms for any events on the Property.

5. **Conservation Easement.** Sunset Hill shall pay the Township \$4,712.90 for costs the Township incurred concerning the Conservation Easement. The payment is a one-time payment and is not to be interpreted as a Sunset Hill ongoing obligations or as an annual Conservation Easement inspection fee.

6. **Court Approval.** From the date of execution of this Agreement, the Township, the ZHB, the Proposed Intervenors, and Sunset Hill shall take reasonable actions necessary to submit and issue the Approvals required by this Agreement and to secure Court approval of the terms and conditions herein. Upon the entry of any Order approving this Agreement, the Township and Sunset Hill shall withdraw any pending enforcement notices and ZHB appeals that shall be moot.

7. **Entire Agreement.** This Agreement is the entire agreement among the parties. No amendment, waiver or discharge of any provision of this Agreement shall be effective against any party unless that party shall have consented thereto in writing.

8. **Miscellaneous.**

a. This Agreement, together with any exhibit attached hereto, constitutes the entire agreement between the parties and no prior written documents, and no prior or contemporary oral statements, representations, promises, or understandings not embodied in this Agreement shall be of any force and/or effect.

b. The representations, warranties, covenants, conditions and obligations herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties.

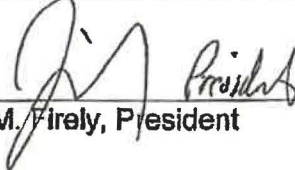
c. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. To facilitate execution and delivery of this Agreement, the parties may execute, and exchange executed counterparts by facsimile or e-mail in a PDF file to the other party or to the other party's counsel. Facsimile or signatures in a PDF file shall have the same legal effect as original signatures.

d **Enforcement.** The Parties agree that enforcement of the terms herein by the Township may be pursuant to the Section 616.1, 617 and 617.2 of the Pennsylvania Municipalities Planning Code and the corresponding enforcement provisions of the New Hanover Township Zoning Ordinance (inclusive of any consideration by the Court, in its discretion of the revocation or limitation on future events for material violations.) The Parties otherwise agree that enforcement of this Agreement may be brought before the Court of Common Pleas pursuant to law including as a Petition to Enforce the Agreement, and that should either party be in violation hereof, it shall be responsible for the other Party's reasonable attorneys' fees and costs.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals on the dates set forth below.

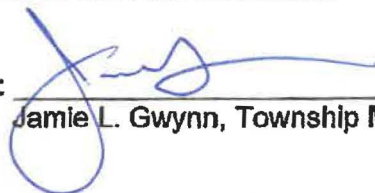
**SUNSET HILL BREWING COMPANY**

Date: Jan. 13, 2025

By:   
John M. Firely, President

**NEW HANOVER TOWNSHIP**

Date: March 6, 2025

By:   
Jamie L. Gwynn, Township Manager

**NEW HANOVER TOWNSHIP  
ZONING HEARING BOARD**

Date: 27 February 2025

By: , Chairman

**PROPOSED INTERVENORS**

Date: 1/14/2025

  
Frank Delvecchio

Date: 1/14/2025

  
Tori Delvecchio

EXHIBIT "A"

REPRESENTATIVE CHART OF BREWERY ACTIVITES

<b>Activity Description</b>	<b>Where will it be held/parking</b>	<b>Scope of Use/Maximum number of attendees</b>
Food Truck – limited to a single food truck at any one point in time, subject to its compliance with Section 319 of the International Fire Code (2018)	Within the 1.16 acre Retail Store Area, in the designated food truck parking location immediately adjacent to existing building	46 on-site, off-street parking spaces for patron use, with no more than 150 people at any one point in time. (The parking and limitations herein shall not be construed as a limitation on employee parking or parking associated with Sunset Hill's agricultural operations within the Conserved Area).
Yoga – certified yoga instruction for a one hour increment. Participants can then enjoy a beverage afterward.	Within 1.16 acre Retail Store Area.	
Comics, Trivia, Bingo and similar indoor organized events.	Within the brewery building.	
Non-amplified music	Within the 1.16 acre Retail Store Area.	
Outdoor yard games (bocce ball, volleyball, ladder ball, cornhole)	Within the 1.16 acre Retail Store Area.	
Live outdoor music events (amplified) and other outdoor events or activities not listed above – up to and no more than 4 times per year, subject to a special event permit issued by the Township.	Within the 1.16 acre Retail Store Area.	

Brewery Use – The on-site preparation/brewing of alcohol, direct point sale of the same to consumers, and on-site consumption of the same (including associated sale of food).

**EXHIBIT "B"**

**BUFFERING AND PARKING PLAN EXPANSION**



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**BEFORE THE ZONING HEARING BOARD  
OF NEW HANOVER TOWNSHIP**

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**IN RE: APPLICATION OF  
SUNSET HILL BREWING COMPANY**

**PREMISES:  
2782 LEIDY ROAD**

**DECISION AND ORDER**

**I**

**NATURE OF THE APPLICATION**

Applicant seeks a variance from ordinance 27-305.1.G to allow the sale of products that it does not produce on site, and to host various entertainment events. Applicant also seeks a variance from the 2,000 square foot limit on floor area to 4,000 square feet for the installation of removable tents, also set forth in ordinance 27-305.1.G.

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## **II**

### **FINDINGS OF FACT**

1. Applicant is Sunset Hill Brewing Company, tenant on land owned by Firely Enterprises, LLC.
2. Applicant filed an application seeking the above-referenced relief on November 30, 2023 and a timely hearing was held at the Township building on January 22, 2024.
3. The Subject Property is located within the R-25 zoning district.
4. Applicant was represented by Kelsey Frankowski, Esquire.
5. The following citizens sought and obtained party status:
  - a. Frank and Tori DelVecchio, 2747 Leidy Road.
  - b. Matthew Landis, 2793 Leidy Road.
  - c. Chad LaBar, 2751 Leidy Road
  - d. Jeffrey Connolly, 2750 Leidy Road
  - e. Sophia and Paul Schneible, 2755 Leidy Road
6. During the Hearing, the following exhibits were admitted into the record:

Board's Exhibits:

- B-1 Copy of Application
- B-2 Legal Notice
- B-3 Proof of Publication of Notice
- B-4 Verification of Mailing
- B-5 Affidavit of Posting

Applicant's Exhibits:

- A-1 Copy of property deed
- A-2 Lease
- A-3 Site plan
- A-4 Updated floor plan
- A-5 Series of photographs
- A-6 Not admitted into evidence
- A-7 Photos of proposed tents
- A-8 CV of engineer Rick Mast

7. Applicant's first witness was Joshua Firely, a co-owner of Firely Enterprises. That entity is the record owner of the involved land, and the brewery operates on site though a lease, which was admitted into evidence.
8. The testimony included a summary of the prior agricultural use of the property, which included farming and a store, which sometimes sold items not created on site.
9. Mr. Firely acknowledged the preservation easement in favor of the Township and stated that 33.4 acres are covered by the easement, while 1.16 acres is the retail area and is outside of the easement.
10. A site plan was reviewed. The retail building is 3,000 square feet on one floor. It includes 38 seats and 830 square feet of sales area. The front room, which includes the seating, is for tasting. The processing and storage of ingredients is behind that area.
11. As demonstrated through photos, there are 23 pre-existing parking spaces on an established parking lot.
12. Referencing the admitted plans, Mr. Firely described how different fields on the property have been used in the past and how they are used now. Crops are rotated and some areas are currently planted with trees.
13. Across Leidy Road, there are two unused residences and a hay barn with animals. All of that pre-dates their occupation of the site, as does the retail area.
14. There are presently 8 employees, two of whom do farming on the property. Hours are Thursday noon to 8:00 PM, Friday and Saturday 11:00 AM to 9:00 PM, and Sunday noon till 8:00 PM.
15. Although not expressly referenced in the application, a request was made to allow food trucks to operate when the business is open. The Board views this as a part of the request to sell products not produced on site.
16. The square foot limitation for floor area in the ordinance is 2,000 square feet. The business currently has 830 square feet of indoor floor area, and goes to the limit of 2,000 square feet through the addition of a 1200 square foot removable tent set up outside. Applicant is requesting variance relief to take the total square footage to 4,600 square feet through the addition of additional tents. The tents are a commercial type and photos of them were admitted into evidence.
17. Mr. Firely acknowledged the conservation easement and understands that any positive ruling by the Zoning Hearing Board would be contingent on the

Township acting positively with respect to their request to modify that easement.

18. Applicant does not intend any land development in connection with the current requested relief, as it does not seek to add any structures. The witness acknowledged that additional parking or stormwater requirements could possibly trigger land development.
19. Per the testimony, using the ordinance requirement of 1 parking space per 200 square feet of sales area, sufficient parking spaces exist even if the floor area is expanded to 4,600 square feet. The application does not include a request for zoning relief with respect to parking, although the observation was made that additional parking could be established in the conservation area.
20. Mr. Firely testified that large events have been held in the past without any incident.
21. Per his testimony, the building is ADA compliant. It does not appear that any consideration was given with respect to bathrooms and what might be needed additionally with expanded floor area.
22. In response to a question from board member Butler, Mr. Firely stated that wastewater is applied to crops. Mr. Butler also expressed a concern with respect to noise.
23. Board member Little asked about the intended frequency of amplified sound. The testimony was that it is only intended on special occasions.
24. Board member Butler asked about EDU's. Three are presently allotted to the property.
25. Board Chairman Maskrey asked whether the sale of products produced elsewhere would impact required seating, as a result of removing seats to create more product display. The witness answered no.
26. Special events are intended in the area across the street from the sales area. There was a dialogue on the specific location of intended special events and the direction in which any amplification would be pointed.
27. Licensed civil engineer Rick Mast was sworn and accepted as an expert witness. He was retained to assist with preparing the site plan, evaluating the ordinances, where to place mulch for pedestrian travel, and to assist in planning for any overflow parking.
28. Mr. Mast considered the zoning ordinance definition of floor area and suggested that it refers only to permanent structures.

29. In response to a question about noise, Mr. Mast stated that it could be reduced through the use of landscaping. He also offered the observation that conventional farming and the equipment used in farming includes considerable noise at all hours.
30. In response to a question from board member Quinn, the witness stated that there is room for 80 reserve parking spaces in the easement area, and some additional parking possible in the retail sales area.
31. The witness testified that the square footage requirement in the ordinance does not account for the overall size of the property.
32. Sunset Hill's operations manager and event coordinator, Morgan Davidheiser, was sworn and testified.
33. Mr. Davidheiser testified that breweries and conventional farms are increasingly offering more and more varied events to lure customers to their location.
34. The witness stated that although Sunset Hill recently won an award in a statewide contest as "best new brewery of 2023", competitors are increasingly offering more. He gave examples of other breweries in the area, including Sly Fox.
35. He believes that zoning relief is required in order for the business to make full use of the property and remain competitive.
36. Board chairman Maskrey asked the witness whether any of his competitors have sought to operate on conservation easements (answer was no). He had the witness acknowledge that he read and understood section "1" of the conservation easement, which does not include live entertainment as something permitted within the easement.
37. Board member Butler asked for confirmation that beer sales would all be from within the retail area.
38. Parties and other citizens offered various questions and comments:
  - a. Sophia Schneible, 2755 Leidy Road, lives adjacent to the property. She stated that the tent was previously up for six months not just for a special event. She asked whether there would be parking in the easement area. She feels the essential character of the neighborhood would be negatively impacted. Crowds in the past had never been loud.
  - b. Frank DeVecchio, 2747 Leidy Road, stated that only ten of the represented 23 parking spaces were ever approved by the Township. He

- asked whether the noise ordinance measures decibel levels at the property line. He opposes the application.
- c. Matthew Landis, 2793 Leidy Road, stated that the prior owner only ever had one event. He asked about a change in the parking lot size and asked when the tents would return.
  - d. Tori DelVecchio, 2747 Leidy Road, expressed concern about the movement of patrons across the street to the stage area. She asked about the hours of operation and stated that the posted hours were not observed last summer. She also asked about overflow parking and how many parking spaces were for handicapped persons. Also, she made a reference to a prior Board of Supervisors meeting where the witness referred to 6 to 8 permits per month. She opposes the application and states that there are too many ideas that are not reduced to formal plans.
  - e. Karl Stuart, 601 Layfield Road, asked about retail sales, whether tents would come down every week after being used, and asked about retail sales in the easement area. He also offered the opinion that amplified music is inconsistent with farming. He also stated that at a prior Board of Supervisors meeting, the business described activities on a much smaller scale than that now requested. He opposes the application.
  - f. Paul Schneible, 2755 Leidy Road, inquired of Mr. Firely whether the application satisfies the variance requirements in ordinance 27-2606. He recalled there being prior amplified music events four days a week.
  - g. Michael Bobek, 3041 Lutheran Road, asked about the property's designation as a tavern on county records and whether this impacts the application. He asked about the source of the grain and hops used in making the beer.
  - h. Matthew Landis, 2793 Leidy Road, asked about the topography of the parcel and how stormwater will be directed. He also questioned whether the described competitors of the business are located on a small rural road with houses. He opposes live music. He opposes the application.
  - i. Ashley DiCicco, 130 Fairbrook Drive, expressed concern about amplified music.
  - j. William Moyer, a member of the Township Planning Commission and the Township Fire Marshall, stated that he understands the challenges facing the business, and that the easement was created to limit housing. He also stated that tents are not considered permanent structures pursuant to section 108 of the International Building Code.

- k. Russell Oister, a member of the Planning Commission and Sewer Authority, stated in his capacity as a citizen that he is in favor of the application.
  - l. Briley Marchetti, 2376 Romig Road, is in favor of the application.
  - m. Jessica Ferraro, 2320 Cedar Lane, is in favor of the application.
  - n. Susan Kreiner, 2478 Swamp Pike, is opposed to the application on the basis of the precedent it will set.
  - o. Keith Bardman, 551 Buchert Road asked for a compromise with respect to the music, and suggested using the EDU's from the vacant homes for additional bathrooms.
  - p. Ryan Kapinski is in favor of the application.
  - q. Russell Oister, Jr., a member of the Zoning Hearing Board who recused himself from this proceeding, stated that he is in favor of the application because the site in its past and present uses has seen financial struggles.
39. At the conclusion of the testimony and comments, the Board deliberated briefly but was unable to decide the matter. It scheduled a release of its decision for the night of February 22, 2024.

### **III**

### **DISCUSSION AND CONCLUSIONS OF LAW**

40. Pursuant to the Municipalities Planning Code and Ordinance §143-168.A, the following must be established by the Applicant in order for the Board to grant the requested variances:
- (1) There are unique circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
  - (2) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the

authorization of a variance is therefore necessary to enable the reasonable use of the property.

- (3) Such unnecessary hardship has not been created by the applicant.
- (4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. Tri-County Landfill, Inc. v. Pine Township Zoning Hearing Board, 88 A.3d 488, 520 (Pa. Cmwlth. 2014) appeal denied, 101 A.3d 788 (Pa. 2014) and appeal denied, 101 A.3d 788 (Pa. 2014); 53 P.S. § 10910.2..

41. The application to expand the square footage of the floor area is a request for a dimensional variance. With respect to dimensional variances, the Pennsylvania Supreme Court held in *Hertzberg v Zoning Board of Adjustment of Pittsburgh*, 721 A.2d 43 (Pa. 1998), that with respect to dimensional variance requests, the above-stated hardship requirement may be satisfied by a demonstration of economic hardship if the request is denied.
42. In the present case, unrebutted testimony was to the effect that the expansion is to remain competitive with other breweries, and to avoid a failure of the business.
43. The expansion of the floor area is necessary to effectuate the additional sale of items and the events intended to draw in patrons, and it is not a significant increase of area in the context of the size of the parcel.
44. The request to sell items not created or produced on site, and the request to allow various forms of entertainment on the property, require a different analysis.
45. Ordinance 227-305.G by its terms allows agricultural sales as an accessory use. The principle use is the farming of the crops and the brewing of the beer.
46. The ordinance language requires only that the accessory use be subordinate to the primary use. Given the size of the parcel and the farming use over the majority of it, there is no scenario in which the expansion of the floor area or the sale of products from off site causes the retail sales to be the primary use

and farming the subordinate uses, certainly not in light of the conditions attached to the approval granted herein.

47. With respect to the special events proposed to draw patrons to the business, these are not themselves retail sales, but they are undertaken in support of the retail sales with an expectation that more patrons on site will result in greater retail sales.
48. There is no language in the zoning ordinance that expressly prohibits the proposed entertainment activities.
49. Entertainment of this type has become widely used by farms and is generally seen as complimentary of them. See, "Agritainment: Many small-scale and part-time farms may increase income by offering agritainment opportunities", Penn State Extension, <https://extension.psu.edu/agritainment>. From that article: "Examples of agritainment enterprises include pick-your-own fruits and vegetables, farm markets, festivals/fairs, interactive animal displays, corn-maze enterprises, for-fee fishing, bed and breakfasts, and farm-stay vacations".
50. There was testimony, questions and comments all related to the sufficiency of parking, and the ordinance does include a formula for the number of required parking spaces. However, Applicant made no request for zoning relief with respect to parking, other than a reference to "additional parking" in its list of proposed entertainment activity. The testimony demonstrates that parking will comply with ordinance 27-305.1.G, and the Board declines to consider the parking issue further. No relief with respect to parking is granted.
51. There were questions and comments on the issue of whether the proposed commercial tents are merely temporary or structures, which assume permanence.
52. On the one hand, the zoning ordinance's definition of "Floor Area" refers to "structures", and there was testimony from the fire marshal that tents are viewed by the International Building Code as temporary.
53. However, for zoning purposes, and in the context of this application, the Board finds that the proposed tents must be included in any calculation of floor area. The ordinance, notwithstanding its reference to structures, is clearly focused upon human habitability.
54. While it may be the case that a tent erected for a backyard wedding need not be treated as a structure, here the Board is faced with a situation where the proposed tents are intended to be used by patrons throughout the year anytime that the business is open. Even if the size were limited to the 2,000 square feet

set forth in the ordinance, this creates a situation where the majority of the seating area is under the tents, not inside.

55. For these reasons, the Board does find that the area underneath the tents must be included in the calculation of floor area.
56. The Board finds that the Applicant has satisfied its burden of proof with respect to the requested relief.
57. The Board imposes conditions on its approval in order to effectuate the relief granted, as permitted by law. These conditions are imposed in recognition of numerous legitimate concerns raised by people residing in the vicinity of the property.
58. The Board reserves the right to modify this decision by adding references to the record in the event of an appeal.
59. An order follows.

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**BEFORE THE ZONING HEARING BOARD  
OF NEW HANOVER TOWNSHIP**

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**IN RE: APPLICATION OF  
SUNSET HILL BREWING COMPANY**

**PREMISES:  
2782 LEIDY ROAD**

**AND NOW**, this 22<sup>nd</sup> day of February, 2024, the requested variance relief is granted subject to the conditions set forth herein.

1. A variance from Ordinance 27-305.1.G(2) to sell products not produced on site is GRANTED, subject to conditions.
2. A variance from Ordinance 27-305.1.G to present live entertainment is GRANTED, subject to conditions.
3. A variance from Ordinance 27-305.1.G(3) to expand the retail sales floor area is GRANTED, subject to conditions.
4. Conditions of approval are as follows:
  - a. No relief granted herein may be undertaken within the conservation easement without the express written consent of the Township, either through a modification of the easement or some other document agreeable to the Township.

- b. Tents not exceeding 2,400 square feet in the aggregate may be erected from May 1 through October 31 each year; tents not exceeding 1,200 square feet in the aggregate may be erected the remainder of the year.
- c. Entertainment in the form of musicians may perform on one weekend per calendar month. Music shall not be amplified except that acoustic guitars (two maximum) may be amplified.
- d. Entertainment other than music may be undertaken on one weekend per calendar month, provided that it is not on the same weekend that musicians are performing. Allowed non-musical entertainment includes comics, trivia, bingo, and similar organized events. Features that are an inherent part of the farm, such corn mazes, hayrides, and animal interaction, are not subject to the time limits herein.
- e. Weekend entertainment for purposes of this order means Friday and Saturday. Sunday entertainment is permitted when the following Monday is a legally recognized holiday.
- f. Unless presented from the retail sales area as discussed elsewhere herein, entertainment shall be presented from the northwest corner of the portion of the property that is on the east side of Leidy Road. Entertainers shall face towards the area that does not include residences.


- g. Events allowed by this order are not intended by the Board to require a special event permit. Applicant shall not use the special event permit process to provide entertainment that supplements or is in addition to the relief granted herein.
- h. All musical and non-musical entertainment must cease at 8:30 p.m., or when the business closes for the day, whichever first occurs.
- i. In the event that Applicant does not obtain authorization from the Township to undertake the activities discussed herein within the conservation easement, the entertainment may be presented from within the retail sales area. If authorization is obtained from the Township to make use of the conservation easement area, regardless of the extent of such authorization and regardless whether it is of a lesser frequency, duration, or volume than is set forth here, then the entertainment shall be presented only from within the easement area and not from the retail sales area.
- j. 6 foot plantings from the Township's list of approved plantings as set forth in the Subdivision and Land Development ordinance shall be planted at any common boundary with a residential parcel that is not already vegetated, including in particular between Applicant's parcel and the residential driveway closest to Applicant's business entrance.

- k. Food trucks may operate on site on Friday, Saturday and Sunday until 5 p.m.
- l. Any trails on site shall not be lit and shall not be used after dark.

m. Public restrooms must be installed at least forty feet from all property boundaries.


**NEW HANOVER TOWNSHIP  
ZONING HEARING BOARD**

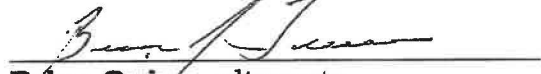
**BY:**

  
\_\_\_\_\_  
**Gregory Maskrey, Chairman**

  
\_\_\_\_\_  
**James Butler (ALTERNATE)**

  
\_\_\_\_\_  
**Anastasia Meder**

  
\_\_\_\_\_  
**Lorene Little**

  
\_\_\_\_\_  
**Brian Quinn, alternate**

**SITE INVESTIGATION PHOTOGRAPHIC REPORT**

**APRIL 22, 2025**



FIGURE NO. 1



FIGURE NO. 2



FIGURE NO. 3



FIGURE NO. 4



FIGURE NO. 5



FIGURE NO. 6



FIGURE NO. 7



Mobile Food Truck within Easement Area.



Partially restored unauthorized parking area in Easement Area.









Location of former pumpkin patch.





















Additional view of Mobile Food Truck and incomplete restoration of unauthorized parking area within the Easement Area.











Hop lines.







Incomplete unauthorized parking area restoration in foreground, retail area in the background.



Retail Area.



Retail Area.



Retail Area.



Hop lines.



Mobile Chicken Coop.



Hop lines.









Restored stream crossing, removal of building debris and stabilization of erosion.























Hop lines.











Streambank Erosion

















Majority of fields were not being actively farmed.





















FIGURE NO. 75





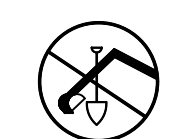
FIGURE NO. 77



NOTE: ALL BOUNDARIES ARE BASED ON DEED DESCRIPTIONS AND NOT AN ACTUAL SURVEY. IT IS THE INTENT OF THIS PLAN TO DELINEATE THE CONSERVATION EASEMENT INCLUDING THE PARCELS REFERENCED HEREIN. ACTUAL SURVEY DATA SHALL TAKE PRECEDENT.

ALL PLANS AND THE INFORMATION DEPICTED THEREON AS PREPARED BY KNIGHT ENGINEERING, INC. ARE THE RESULT OF A PROFESSIONAL SERVICE INTENDED SOLELY FOR THE SPECIFICALLY NAMED PROJECT AND CLIENT. ANY REPRODUCTION OF INFORMATION, REVISION OR REUSE OF THESE PLANS WITHOUT THE PRIOR WRITTEN APPROVAL OF KNIGHT ENGINEERING, INC. SHALL BE CONSIDERED A VIOLATION OF THE CODE OF ETHICS, AS WELL AS A THEFT OF CORPORATE ASSETS. VIOLATORS WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW. ONLY THOSE PLANS INCORPORATING THE RAISED SEAL OF A REGISTERED PROFESSIONAL ENGINEER OR PROFESSIONAL LAND SURVEYOR UNDER THE EMPLOY AND/OR CONTRACT OF KNIGHT ENGINEERING, INC. SHALL BE CONSIDERED COMPLETE AND OFFICIAL.

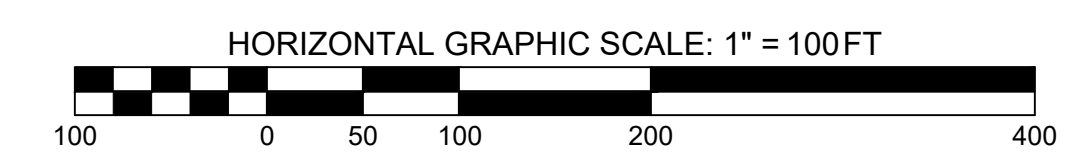
**CALL BEFORE YOU DIG !**  
 PENNSYLVANIA LAW REQUIRES  
 3 WORKING DAYS NOTICE FOR  
 CONSTRUCTION PHASE AND 5 WORKING  
 DAYS IN DESIGN STAGE - STOP CALL  
 Pennsylvania One Call System, Inc.



1-800-242-1776

**NOTE:**  
 ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THIS PLAN HAVE BEEN DEVELOPED FROM EXISTING UTILITY RECORDS, FIELD MARKOUTS BY UTILITY OWNERS, AND/OR ABOVE GROUND EXAMINATION OF THE SITE. COMPLETENESS OR ACCURACY OF LOCATION AND DEPTH OF UNDERGROUND UTILITIES OR STRUCTURES CANNOT BE GUARANTEED. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UNDERGROUND UTILITIES AND FACILITIES PRIOR TO THE START OF WORK AND SHALL COMPLY WITH THE REQUIREMENTS OF P.L. 852, NO. 287 DECEMBER 10, 1974 AS LAST AMENDED ON NOVEMBER 30, 2004, PA ACT 199.

18 SITE PHOTOGRAPH



FIRELY ENTERPRISES, LLC CONSERVATION EASEMENT - PHOTOGRAPH MAP 2782 LEIDY ROAD GILBERTSVILLE, PA 19525			
NEW HANOVER TOWNSHIP		MONTGOMERY COUNTY, PA	
 <b>KNIGHT ENGINEERING INC.</b> 4998 MECHANICSVILLE ROAD, P.O. BOX 247 MECHANICSVILLE, PENNSYLVANIA 18934 (215) 794-5958			
SCALE 1" = 50'	DATE 06/26/2025	DRAWN BY DEG	PLAN NO. 6051 DWG. NO. 1 OF 1