

LAMB | MCERLANE PC

ATTORNEYS AT LAW

Mark P. Thompson  
Voice 610-430-8000  
Fax 610-692-6210  
[mthompson@lambmcerlane.com](mailto:mthompson@lambmcerlane.com)

July 3, 2024

VIA EMAIL AND REGULAR MAIL

John Gary Kulp  
3072 Blackberry Lane  
Malvern, PA 19355

**RE: Application of John Gary Kulp for Conditional Use Approval  
Property at 3072 Blackberry Lane, Malvern PA 19355**

Dear Mr. Kulp,

Enclosed please find a copy of the Decision and Order regarding your filed conditional use application and plan, filed on March 25, 2024.

As of July 1, 2024, your conditional use application has been granted pursuant to Section 27-1608.2 of the Charlestown Township Zoning Ordinance. Please contact our office if you have any additional questions or concerns.

Thank you very much,

LAMB MCERLANE PC

By: 

Mark P. Thompson

cc: Charlestown Township  
Chris Heleniak, Township Manager (via email only)

CHARLESTOWN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA

**DECISION AND ORDER**

**Application of John Gary Kulp  
for Conditional Use Approval**

**July 1, 2024**

**I. INTRODUCTION**

John Gary Kulp (the “Applicant”) filed an application for conditional use approval pursuant to Section 27-1608.2 of the Charlestown Township Zoning Ordinance (“Zoning Ordinance”) in order to construct an accessory garage building to exceed fifty percent of the ground floor area of the principal dwelling on the property located 3072 Blackberry Lane, Malvern PA 19355 (the “Property”). The Property is located in the FR Farm Residential Zoning District.

The Applicant submitted a Conditional Use Application and Plan dated March 25, 2024 (the “Plan”), showing the Property improved a single family dwelling and showing the proposed accessory 30’x40’ garage building with the garage in addition to a proposed new driveway accessing the garage.

A public hearing on the Applicant’s conditional use application was commenced on June 3, 2024, pursuant to properly provided public notice. By email dated April 19, 2024, the Applicant consented in writing to the Township’s commencement of the hearing on June 3, 2024. The Applicant testified at the hearing in support of the application.

**II. RELIEF REQUESTED**

The Property that is the subject of the Application consists of 2.0-acres of land improved with a single family dwelling also identified as Tax Parcel # 35-3-92.1. The existing dwelling on the Property has access by way of a private driveway to Blackberry Lane. The Applicant proposes to construct an accessory 30’x40’ garage to the rear of the existing dwelling Property with access by way of a driveway as shown on the Plan, Exhibit A-1.

The accessory building is proposed to be 1200 square feet in size where the existing dwelling on the Property is 1599 square feet in size. The garage and retaining wall supporting the is proposed to be located 20-feet from the side lot line of the Property. Section 27-1608.1.C(1) of the Zoning Ordinance permits accessory buildings within 20-feet of a property line. The Applicant further proposes two proposed recharge bed/basins behind the proposed garage to address the additional impervious coverage associated with the proposed garage. There is no intent to remove existing trees in that location in order to minimize impact on the neighbors.

Section 27-1608.2 of the Zoning Ordinance provides that “In no event shall accessory buildings on a lot exceed 50% of the ground floor area of the permitted principal structure except

if at all upon a grant by the Board of Supervisors of a conditional use permit therefore.” The standards and criteria for conditional uses are set forth in Section 27-1809.1.A-R of the Zoning Ordinance. The Application is consistent with those standards. The garage is proposed to be oversized in order to store and number of vehicles owned by the Applicant some of which are antique, which are currently stored outside.

Regarding the specific standards for the grant of the conditional use, the Applicant’s proposed development of a garage of the size proposed by the Applicant is consistent with the FR District provisions for development of an accessory use on the Property; the propose garage is consistent with the uses on adjacent lots, which are residential, and is consistent with the character of the neighborhood; and the Plan provides safe and adequate access to Blackberry Lane and will not result in increased traffic beyond that expected from a single family residential use.

Also, as part of this Application the Applicant requests a waiver under Section 23-303.1.E of the Stormwater Management Ordinance to permit the two proposed stormwater management basins to be above ground based on the topography of the Property and so as not damage existing trees between the proposed basins and the adjacent property.

### **III. FINDINGS OF FACT**

1. The Property that is the subject of this application is owned by John Gary Kulp (the “Applicant”) and is located at 3072 Blackberry Lane, Malvern PA 19355.
2. The Property consists of 2.0-acres of land improved with a single family dwelling also identified as Tax Parcel # 35-3-92.1 and is located in the FR - Farm Residential District
3. The Applicant owns and resides on the Property in the existing single-family dwelling.
4. The Applicant’s proposal complies with the area and bulk regulations of the FR Farm Residential District (Exhibit A-1).
5. The size of the garage is proposed to be oversized in order to store and number of vehicles owned by the Applicant some of which are antique, which are currently stored outside in the location where the new garage is proposed.

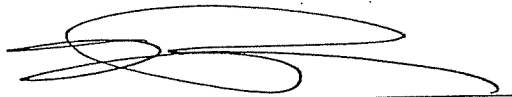
### **IV. CONCLUSIONS OF LAW**

1. The Applicant has standing.
2. The Applicant has satisfied the standards set forth in 27-1809 of the Zoning Ordinance for conditional use approval.


V. DECISION AND ORDER

AND NOW, this 1<sup>st</sup> day of July, 2024, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicant, John Gary Kulp, is granted conditional use approval pursuant to Section 27-1608.2 of the Charlestown Township Zoning Ordinance in order to construct a 30'x40' accessory garage building on the Property located at 3072 Blackberry Lane, subject to the following conditions.

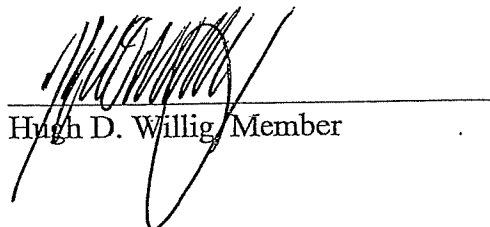
1. The proposed use is subject to compliance with all terms and provisions of the Zoning Ordinance, and all other Township Ordinances and regulations, and in addition to the regulations of all other government agencies having jurisdiction over the use.
2. The scope of this approval is limited to the requested use as shown on the Applicant's Conditional Use Plan (Exhibit A-1) and representations made by the Applicant made as part of the record at the public hearing.
3. The Applicant shall comply with all exhibits, representations, and record evidence, including the April 16<sup>th</sup> Review Letter from Comitta Associates and April 17, 2024 Review letter from Montrose Environmental, which are incorporated herein as part of this approval.
4. The Applicant is further granted a waiver under Section 23-303.1.E of the Stormwater Management Ordinance to permit the two proposed stormwater management basins to be above ground. The proposed basins shall be located and installed on the Property so as not damage existing trees between the proposed basins and the adjacent property shown on the Plan, Exhibit A-1.
5. The Applicant shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, its agreement to the above conditions or the Application is denied; the Board expressly finding and concluding that the Application in the absence of compliance with the said conditions is inconsistent with the objective criteria set forth in the applicable provisions of the Zoning Ordinance.



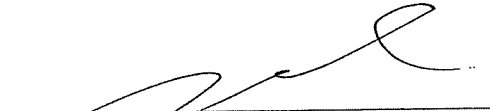
Frank A. Piliero, Chairman




Charles A. Philips, Vice-Chairman

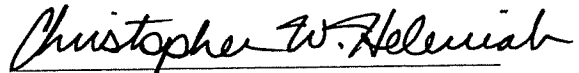


Hugh D. Willig, Member

  
\_\_\_\_\_  
Kevin R. Kuhn, Member

  
\_\_\_\_\_  
Louis P. Rubinfeld, Member

ATTEST:

  
\_\_\_\_\_  
Christopher W. Heleniak, Secretary