

The Borough of Sewickley Heights

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BOROUGH MANAGER

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July 25, 2018

Dear Residents of Sewickley Heights Borough,

You may be aware that in October of 2017 the Borough took steps to enforce the Borough's Zoning Ordinance against Mr. and Mrs. Scott Fetterolf with respect to the use of their property on Blackburn and Scaife Roads as a commercial venue and public event space. The Borough initiated this enforcement action only after its repeated attempts to resolve the matter amicably failed. The Fetterolfs appealed the Borough's enforcement action, as is their right, and the matter is currently pending before the Sewickley Heights Zoning Hearing Board.

The purpose of this letter is to provide you with the Borough's response to the Fetterolfs' various efforts to advance their case through an escalating campaign of legal maneuvering and the public dissemination of misleading information. To date, the Borough has maintained its silence in the face of a series of public mischaracterizations in the media about this enforcement action. However, in light of a recent lawsuit filed by the Fetterolfs in Federal Court, silence is no longer an option.

The Fetterolfs live in the Borough's Historical-Rural Residential Zoning District. This is a quiet, rural residential area enjoyed by residents for its historic, agricultural and equestrian character. Residents own or have purchased homes in this area because of these characteristics, and they rely on the Borough's Zoning Ordinance to define how properties in this zoning district, as well as properties in the Borough's other zoning districts, can and cannot be used. In essence, local zoning is a balancing act; property owners can use and enjoy their properties so long as their use does not impinge on the equal rights of their neighbors.

Through several means, including the Fetterolfs' public advertising and social media posts (on Penn State's website, EventBrite, Facebook, and Instagram), their road signage and reports from neighbors and participants, the Borough confirmed that the Fetterolfs were making their property openly and regularly available for numerous events such as nonprofit and religious fundraisers, weddings and receptions, kick-starter campaigns for businesses and many other public and private gatherings. By way of example, in less than a one-month period in the early summer of 2017, more than 800 vehicles were documented as entering the property in relation to these events. The Fetterolfs use rental contracts that require the payment of fees, security deposits, certificates of insurance, indemnity agreements and compliance with rules and regulations. These contracts also reference different "packages" and a menu of services and prices, as well as lists of preferred caterers and other vendors to service the events.

Making one's property available as a venue for secular and non-secular public and private events on a regular and continuous basis, as an income-producing venture or otherwise, is not permitted in the zoning district where the Fetterrolfs' property is located. The operation of a commercial venue and event space, with the associated traffic, noise, late night music, public access, and risk of trespass onto adjacent properties, is permitted in other Borough zoning districts where it is more compatible with other permitted uses and where it is less likely to disturb a rural residential area.

Rather than acknowledging their violation of the Zoning Ordinance and agreeing to bring their impermissible uses into compliance, the Fetterrolfs are claiming that the Borough's enforcement action is violating their right to farm and conduct Bible study - in essence arguing that they have a right to continue these impermissible uses under the guise of farming and religion.

We state, in no uncertain terms, that the Borough's zoning action is not and never has been an attempt to prevent the Fetterrolfs from farming or practicing their religion. The Borough has neither the interest nor the right to regulate either beyond the limits of local zoning.

The following is a summation of the Fetterrolfs' allegations and the Borough's responses:

Allegation: The Borough is prohibiting the Fetterrolfs from engaging in Bible study on their property.

Fact: The Borough is not preventing the Fetterrolfs from engaging in Bible study on their property. Based on the Fetterrolfs' own advertising, a variety of classes, camps and workshops - both secular and religious - are offered on their property to the general public for a fee. As the Borough has repeatedly informed the Fetterrolfs, these uses (classes, camps, and workshops) are permitted in the Borough and require a one-time application for approval. The Fetterrolfs have refused to apply for this approval and mischaracterize this requirement as a ban on Bible study.

To be clear, no Borough approval is required for Bible study, which is commonly understood to be the private gathering of small groups in residents' homes for worship, discussion and fellowship in which the property owners participate and do not charge fees to other participants.

Allegation: The Borough has delayed the Zoning Hearing Board process by canceling scheduled hearings.

Fact: Two hearings had to be canceled (May and June) because the Fetterrolfs refused to attend. The Fetterrolfs asserted a Fifth Amendment right not to incriminate themselves as the reason they refused to attend the hearings. This forced the Borough to obtain a Court Order where the Judge ruled that no such right exists in the context of the zoning proceedings.

Allegation: The Borough has prevented the Fetterrolfs from using their property in a lawful manner and is curtailing their religious freedoms during the Zoning Hearing Board process.

Fact: The Borough is not preventing the Fetterrolfs from using their property in any manner consistent with the Zoning Ordinance. In fact, during the pendency of the zoning proceedings the Fetterrolfs are entitled by right to continue "business as usual" because the law prohibits the Borough from taking any enforcement action against the Fetterrolfs while the Zoning Hearing Board considers this matter.

We must further report a few additional items of concern.

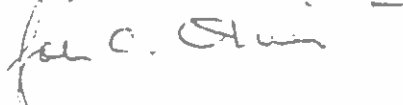
First, Mr. and Mrs. Fetterolf each testified under oath before the Zoning Hearing Board that the barn on their property (where many of their events are held) was not built to the same standards as buildings designed for human occupancy. The barn is made of wood, string lights are used throughout, and it has no sprinklers. There can be no assurance as to the structural integrity of the floors or whether they can handle the loads that come with wedding parties and other large groups. The Borough cannot ignore the safety hazards associated with the use of this barn as a commercial venue and public event space.

Second, as a result of certain mischaracterizations of this situation contained in the Fetterrolfs' recent Federal Court action, together with a press release apparently issued by the Fetterrolfs' lawyers and targeted to religious-oriented media outlets, the Borough staff is receiving telephone calls, voice mails, and e-mails from around the country, many of a threatening nature. The Police Chief has been advised and is monitoring this situation.

Finally, the Borough remains hopeful that the Fetterrolfs will voluntarily comply with the Zoning Ordinance and bring all this litigation to an end. Until this happens, the Borough will continue to incur legal fees required to protect the welfare of its residents and to respond to the Fetterrolfs' meritless allegations. These mounting legal expenses are paid for by all of the Borough's taxpayers, reducing funds available for normal Borough operations.

In closing, we ask for your continued patience and appreciate your many messages of approval and support. Please do not hesitate to communicate with Borough officials regarding this or any other matter of concern with respect to the Borough.

Sincerely,



John C. Oliver, III, Mayor, Sewickley Heights Borough



S. Phil Hundley, Council President, Sewickley Heights Borough

cc: Members of Borough Council: Craig S. Kinney, Thomas W. McCargo, John K. Means, Thomas L. Pangburn, Carey D. Sirianni, J. Brandon Snyder

