

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
GARY R. BERNARDI : **YORK COUNTY, PENNSYLVANIA**
: **DOCKET NO. 2014-02**

**DECISION GRANTING A VARIANCE TO § 703.C.1.b OF THE ZONING ORDINANCE
IN THE SINGLE FAMILY RESIDENTIAL (RS) ZONING DISTRICT**

The Applicant applied for a special exception, or variance, to Fairview Township Zoning Ordinance Section 703 for the purpose of constructing an extension to an existing 4000 square foot accessory building at 669 Fishing Creek Road, New Cumberland, Pennsylvania 17070, in the Single Family Residential (RS) Zoning District of the Township. The hearing on the application was held on April 17, 2014, at 7:00 p.m. at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

FINDINGS OF FACT

1. The Applicant is Gary R. Bernardi, 669 Fishing Creek Road, New Cumberland, Pennsylvania, 17070.
2. The Applicant's property is located in the Single Family Residential (RS) Zoning District of Fairview Township. The lot is 1.5 acres in area is improved with the residence, which is 2400 square feet in area and the existing accessory building which is 4000 square feet in area. The applicant wishes to build out a car port on one end of the accessory building where a foundation for the proposed car port extension is already in place. The car port will be open in the front and will match the existing roof line of the accessory building.
3. Approval of the Zoning Hearing Board for the applicant's car port extension is required because the accessory building, being greater in area than the residence, is a nonconforming structure under the current Ordinance which requires that the total footprint of

accessory buildings “not exceed the building footprint of the principal building on the same lot.”
Fairview Township Zoning Ordinance, Section 703.C.1.b.

4. By virtue of the provisions of 703.C.1.b, this application is a request for a dimensional variance to allow extension of this nonconforming structure in a manner which further deviates from the existing Ordinance.

5. When this accessory building was constructed the Ordinance did not have the footprint limitation which is in the current Ordinance, adopted February 25, 2013, and the foundation for this requested expansion was put in place. The application simply requests the ability to now put the walls and roof over the previously constructed foundation to complete the car port.

6. Notice of the hearing was properly advertised; the property was properly posted; and all neighboring property owners required to be notified of the hearing were notified in accordance with the Township Ordinance and the Pennsylvania Municipalities Planning Code.

CONCLUSIONS

1. The applicant for a variance has the burden of demonstrating that because of unique topographical or other features or circumstances in his case, literal compliance with the requirements of the Ordinance would impose an unreasonable and unnecessary hardship upon the applicant in the use of his property. A dimensional variance may also be substantiated where it represents a *de minimus* deviation from the requirements of the Ordinance.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that it would cause an unreasonable and unnecessary hardship in the use of this property, in particular of the already existing foundation upon which the requested construction will be built, if the literal requirements of the Ordinance establishing a maximum accessory

building square footage were imposed. Therefore, the Fairview Township Zoning Hearing Board should grant the requested variance from the literal requirements of Section 703.C.1.b of the Zoning Ordinance to allow the erection of the car port addition to the existing accessory structure upon the foundation which already exists.

DECISION

On the basis of the foregoing findings and conclusions, and on the basis of all testimony and evidence presented at the hearing, the application for a variance should be granted to allow the construction of the car port addition to the existing accessory building upon the existing foundation.

The application was approved upon the motion made by Mr. Shaffer, seconded by Mr. Guy and adopted 3-0 by the Board members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING BOARD

Dated: May 15, 2014

By: Larry D. E. Shaffer
Larry D.E. Shaffer, Vice-Chairman

Distribution:
Applicant