

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
JOE MANK : **YORK COUNTY, PENNSYLVANIA**
: **DOCKET NO. 2014-05**

**DECISION GRANTING A VARIANCE TO THE MAXIMUM IMPERVIOUS LOT
COVERAGE UNDER SECTION 503.A OF THE ZONING ORDINANCE
IN THE SINGLE FAMILY RESIDENTIAL (RS) ZONING DISTRICT**

The Applicant applied for a variance to Fairview Township Zoning Ordinance Section 503 for the purpose of constructing a swimming pool at his residence 106 Forest Drive, Camp Hill, PA 17011 in the Single Family Residential (RS) Zoning District of the Township. The hearing on the application was held on June 19, 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 Joe Mank, 106 Forest Drive, Camp Hill, PA 17011.
2. The Applicant's residence is located in the Single Family Residential (RS) Zoning District of Fairview Township. The lot is 9408.96 square feet in area, just over 0.2 acres.
3. The Fairview Township Zoning Ordinance, Table 5-3 of Section 503, establishes a limit of 40% maximum impervious lot coverage. For the applicant's lot, that is 3,764 square feet. The lot is presently nonconforming with respect to this Ordinance requirement as there is existing lot coverage of 4,010 square feet for the home and a large paved front yard driveway and parking area. The requested swimming pool will involve 485 square feet of water surface area and 400 square feet of concrete patio area surrounding the pool. Therefore, a variance to the maximum impervious lot area is needed to allow construction of the pool.
4. The Zoning Officer testified that the maximum impervious area requirements

under the Ordinance are important, particularly in the context of surface water and storm water regulation in the Township, which is subject to increasing demands from state and federal regulatory authorities regarding such runoff. The applicant in this case will be required to obtain approval of a site development or surface water management plan which addresses runoff created by the swimming pool – assuming that the variance is granted by the Zoning Hearing Board to allow the construction.

5. This application, if granted, would allow the impervious area on this lot to exceed 50%, and be more than 25% greater than the 40% Ordinance maximum. No compelling justification in terms of the uniqueness of the lot would appear to justify this extent of deviation from the Ordinance absent substantial mitigating conditions which further the objectives of the Ordinance. Therefore, the condition for granting the variance should be that the applicant provide whatever new on site facilities are necessary to retain surface water on his lot to the end result that the actual stormwater/surface water runoff from the lot is no greater than if the lot conformed fully with the 40% maximum impervious coverage.

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. On the basis of a

hearing record the Board may impose conditions upon the grant of a dimensional variance which will allow the application to conform to the intent and purposes of the Ordinance while literally varying from it.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that the requested variance should be granted subject to the condition that the applicant provide new on site facilities sufficient to retain surface water on his lot to the end result that the actual stormwater/surface water runoff from the lot is no greater than if the lot conformed fully with the 40% maximum impervious coverage.

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 subject to the condition set forth above.

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

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: July 17, 2014

By: 

David R. Guy, Chairman

Distribution:
Applicant