



**APPLICATION FOR ZONING HEARING
FAIRVIEW TOWNSHIP, YORK COUNTY, PENNSYLVANIA**

APPLICANT:

Name: Michael L. Martin, Inc.
Address: 584 Grandview Avenue
Lewisberry, PA 17339
Phone: 717-938-1864

OWNER OF PROPERTY:

Name: Same
Address: _____
Phone: _____

PROPERTY LOCATION

Address: 615-619 Wyndamere Road
Lewisberry, PA
Lot Size 2.69 acres total
Date Purchased: _____
Location: Wyndamere Road

PRESENT USE OF PROPERTY

Property Use: Vacant Commercial
Existing Zone: CB, Commercial Business

PROPOSED USE: (a precise and complete statement of what the applicant is requesting to do)

The applicant wishes to subdivide the existing four tracts into two proposed lots. Proposed Lot 1 will be used for an indoor commercial recreation facility (pole vault training). Proposed Lot 2 will be used for a future commercial use.

ZONING REQUEST FOR:

- (1) VARIANCE
- (2) SPECIAL EXCEPTION
- (3) APPEALS
 - 1. Zoning Officer Decision
 - 2. Interpretation(Map)
 - 3. Other

2015-09

SECTION(S) OF ZONING ORDINANCE WHICH APPLIES TO THIS APPLICATION:

- Section 706.A – Reduce the required buffer width of 45 feet to 40 feet on each property side
- Section 803.A – Provide the required amount of parking for an indoor commercial recreation facility
- Section 809 – Provide required offstreet loading space

Comments: _____

Adjacent Property Owner Information

| Property Owner Name | Property Owner Address | Tax Map & Parcel Number |
|-----------------------------|------------------------------------|------------------------------------|
| John F. and Cynthia S. Read | 607 Wyndamere Road, Lewisberry, PA | 23 - 228 |
| Michael G. Hamilton | 621 Wyndamere Road, Lewisberry, PA | 23 - 222 |
| Patlin Properties II, LP | 597 Salem Road, Lewisberry, PA | QG - 20 |
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IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
MICHAEL L. MARTIN, INC. : **YORK COUNTY, PENNSYLVANIA**
: **DOCKET NO. 2015-09**

DECISION GRANTING VARIANCES TO THE FAIRVIEW TOWNSHIP ZONING ORDINANCE REGARDING THE BUFFER YARD, PARKING, AND LOADING REQUIREMENTS IN THE COMMERCIAL BUSINESS (CB) ZONING DISTRICT

The applicant applied for variances to Fairview Township Zoning Ordinance Sections 300-33A, 300-56 and 300-62 relating to proposed uses of the properties at 615-619 Wyndamere Road, Lewisberry, Pennsylvania 17339 in the Commercial Business (CB) Zoning District of the Township. The applicant wishes to re-subdivide four (4) existing tracts into two (2) proposed lots and requests variances from: (1) the required 45 foot buffer yard width on each property side of one new lot; (2) to reduce the required amount of parking for an indoor commercial recreation facility; and (3) to reduce the required off street loading space. The hearing on the application was held on January 21, 2016, 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 Michael L. Martin, Inc., 584 Grandview Avenue, Lewisberry, PA 17339. The property which is the subject of this application is a 2.69 acre parcel, owned by the applicant, presently subdivided into 4 tracts, identified as 615-619 Wyndamere Road, Lewisberry, PA 17339.

2. The applicant wishes to subdivide the existing four (4) tracts into two (2) proposed lots. Proposed Lot No. 1 will be used as an indoor commercial recreation facility (pole

vault training). Proposed Lot No. 2 does not have a specific proposed use at this time but is in the CB, Commercial Business Zoning District, permitted uses for which are in the Zoning Ordinance at Table 5-2.

3. The applicant is requesting several variances from the Ordinance for Lot 1: (1) to reduce the required buffer yard on the North and South sides of the lot by five (5) feet, from 45 feet to 40 feet; (2) to eliminate the required loading space under the Ordinance; and (3) to reduce the required parking spaces from 64 spaces to 30 spaces.

4. 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.

5. The three requested dimensional variances apply to proposed new Lot 1 which is to result from the re-subdivision of 4 pre-existing and majority nonconforming lots into 2 larger lots which conform in all respects to the lot size requirements of the current Zoning Ordinance. The proposed use for Lot 1 is for a pole vault training facility which is a 60 foot by 200 foot building to be located toward the rear of the lot, situated with the 200 foot length of the building being parallel to Wyndamere Road. Proposed Lot 1 is L-shaped being 113 feet wide at Wyndamere Road for a depth of 206 feet, then opening to a width of about 285 feet for a depth of 179 feet.

6. The proposed building will have more than 40 feet, but less than 45 feet, from each end to the property lines. Consequently, the variance of 5 feet from the required 45 foot buffer yard distance required by Section 300-33, Table 7-1, of the Zoning Ordinance is requested. It is notable that the 45 foot distance is required because there are existing nonconforming residential uses to the north and south of the proposed Lot. If the adjacent lots had conforming

uses, there would be no required buffer yard. It is not feasible to orient the proposed building differently on the Lot because of the topography which slopes sharply in the area between Wyndamere Road and the proposed building.

7. With respect to parking requirements, the Ordinance Section 300-56, Table 8-2 would require 64 spaces on the basis of the building square footage and the assumed number of potential employees. Testimony established that the proposed use would not require more than 30 parking spaces, given the limited spectator area in the building and the limited number of anticipated spectators and participants at any one time. Therefore, the applicant requested relief from the Ordinance requirement of 64 paved parking spaces. The subdivision plan, nevertheless, will identify area on the Lot where the additional parking spaces could be located if they would be required in the future.

8. The Fairview Township Zoning Ordinance, Section 300-62, Table 8-10, requires one (1) off-street loading space for a commercial building with 5,000 to 50,000 square feet gross floor area. Relief from this requirement is requested because there will be no need for an off-street loading space given the proposed use. The location of the building on the lot does allow ample space for an off-street loading space should one be needed for any future changed use.

9. Testimony for the applicant was presented by Chris Hoover, P.E., Hoover Engineering Services, Inc., 658 Gaumer Road, New Cumberland, PA 17070; and by Michael Martin, 11 Valley Road, Eters PA 17319, owner.

10. The applicant established that the proposed variances are *de minimus* deviations from the literal application of the requirements of the Zoning Ordinance and should be granted for the following reasons. The buffer yard variance is a minimal deviation from the zoning requirements and would not be required when the adjoining uses are conforming. The parking

and loading space variances apply only to the use of the building at this time and strict compliance with the terms of the Ordinance will be possible, and can be required, if a change of use requires more parking and/or a loading space.

CONCLUSIONS

1. The applicant for a variance has the burden of demonstrating that because of unique topographical or other features or circumstances in the case establish that literal compliance with the requirements of the Ordinance would impose an unreasonable and unnecessary hardship upon the applicant in the use of the 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 evidence presented, the Board concludes that the applicant has reasonably demonstrated that under all the circumstances, compliance with the strict and literal requirements of the Ordinance for buffer yard dimension, off-street loading space, and the number of paved parking spaces should not be required. Therefore, the Fairview Township Zoning Hearing Board should grant the requested variances from the literal requirements of Sections 300-33A, 300-56 and 300-62 of the Zoning Ordinance for this proposed use only. When and if the use of the building changes from a pole vaulting training facility to another use, the parking and loading space variances will no longer be applicable.

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 variances should be granted as follows:

(1) to reduce the buffer yard requirement under Section 300-33A of the Fairview Township Zoning Ordinance to forty (40) feet; (2) to eliminate the required off-street loading space; and (3) to reduce the required paved parking spaces to a minimum of 30 spaces. The variances for number of paved parking spaces and to eliminate the off-street loading space is conditioned upon the use of the building as a pole vaulting training facility and those variances are no longer applicable if the use of the building changes.

The Board's action as set forth above was taken upon the motion made by Mr. Guy, seconded by Mr. Maxwell, and adopted 2-0 by the Board members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: February 18, 2016

By: 

David R. Guy, Chairman

Distribution:
Applicant, and
Chris Hoover, P.E.