

# FAIRVIEW TOWNSHIP

## ZONING HEARING BOARD APPLICATION

YORK COUNTY, PENNSYLVANIA



### ❖ Part 1:

#### APPLICANT(S)/EQUITABLE OWNER

Name: WEIGLE DAVID M & ELIZABETH F  
Address: & MARK R.  
120 EAST LAUREL LAUE, CAMP HILL, PA 17011  
Phone: 610-291-1553

#### EXISTING OWNER OF PROPERTY:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

#### PROPERTY LOCATION:

Address: PARCEL No. Z7000 QR 0105R 060000  
RIDGE ROAD  
Lot Size: 4.5 AC.  
Date Purchased: APRIL 3, 2001  
Location: SOUTH SIDE OF RIDGE ROAD  
WEST of 775 RIDGE ROAD.

#### PRESENT USE OF PROPERTY:

EXISTING ZONE: RL - RURAL Living.

### ❖ Part 2:

#### ZONING REQUEST (Identification of the applicable request(s)):

- SUBSTANTIVE CHALLENGE
- SPECIAL EXCEPTION
- VARIANCE
- APPEAL OF THE ZONING OFFICERS DECISION

2016-01

#### SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request):

SECTION 300-16 AREA & DESIGN REQUIREMENTS.  
MIN. SETBACK FRONT 100' ALONG AN EXISTING LOCAL STREET  
MIN. AREA REQUIREMENTS.

### ❖ Part 3:

#### DESCRIPTION OF REQUEST:

THE 100' FRONT SETBACK WOULD MOVE THE HOME CONSTRUCTION INTO  
THE STEEP SLOPE AREAS OF THE LOT. REQUEST IS FOR A 40' MIN.  
SETBACK TO MOVE THE HOME LOCATION OUT OF THE STEEP SLOPE AREA  
THE EXIST TRACT IS 4.5 AC. AND A TWO LOT SUBDIVISION IS PROPOSED  
WITH EACH BEING APPROXIMATELY 2.25 AC. THE NEIGHBORING  
HOME TO THE EAST IS SETBACK APPROXIMATELY 30' FROM THE  
STREET RIGHT-OF-WAY.

❖ Part 4

LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 300 FEET OF THE PERIMETER OF THE ENTIRE PROPERTY.

NAME	ADDRESS	USE TYPE
SMITH QUEENTIN M & LAURAH	775 RIDGE ROAD	SINGLE FAMILY DETACH
SHETTEL JOSHUA S	RIDGE ROAD	VACANT LAND
BEATTY EVERSOU L. & NANCY M	785 RIDGE ROAD	SINGLE FAMILY DETACHED
QUINN DOUGLAS D	791 RIDGE ROAD	" "
HOLZER PAUL JR. & SHELLHAMER MATTHEW W.	247 RIDGE RD.	VACANT LAND
SHULTZ ANDREW J. & DEBORAH L.	745 RIDGE ROAD	SINGLE FAMILY DETACHED
SHULTZ ROBERT A JR. & FLO M	741 RIDGE ROAD	" "
GARBER KEVIN M & DEMERY L.	RIDGE ROAD	VACANT LAND
DARE VICTORIA J. MICHAEL DARE	760 RIDGE ROAD	SINGLE FAMILY DETACHED
SPEESE DAVID L. & VICKI L.	766 RIDGE ROAD.	" "
KEISTER NANCY J.	719 PLEASANT VIEW RD.	VACANT LAND
KERT MARY E	RIDGE ROAD	" "
APPLICANT		

**IN THE MATTER OF** : **BEFORE THE FAIRVIEW TOWNSHIP**  
**THE APPLICATION OF** : **ZONING HEARING BOARD**  
**DAVID M. & ELIZABETH F. &** : **YORK COUNTY, PENNSYLVANIA**  
**MARK R. WEIGLE** : **DOCKET NO. 2016-01**

**DECISION DENYING FRONT YARD SETBACK VARIANCE FOR PROPOSED LOT NO. 1 AND GRANTING FRONT YARD SETBACK VARIANCE FOR PROPOSED LOT NO. 2 UNDER SECTION 300-16 OF THE FAIRVIEW TOWNSHIP ZONING ORDINANCE**

The Applicants applied for variances to Section 300-16, Area and Design Requirements, of the Fairview Township Zoning Ordinance for their property in the Rural Living Zoning District on Ridge Road, New Cumberland, Fairview Township, PA 17070. A hearing on the application was held on June 9, 2016, at 7:00 p.m. at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

**FINDINGS OF FACT**

1. The Applicants are David M. Weigle, Elizabeth F. Weigle, and Mark R. Weigle with an address of 120 East Lauer Lane, Camp Hill, PA 17011. The Applicants are the owners of a 4.64 acre, undeveloped lot on Ridge Road which is further identified as UPI No. 27000QF0105E0000000. The subject property was acquired through inheritance by the current owners in November 1996.

2. The Applicants are requesting front yard setback variances to Section 300-16 of the Zoning Ordinance which establishes the lot area and design requirements in the Rural Living Zoning District. The Applicants wish to subdivide the existing 4.64 acre tract into two (2) single family residential lots. They are requesting zoning relief from the required front yard setback of 100 feet on the grounds of the topography of the property.

3. 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.

4. R. J. Fisher, PLS, PE, of R. J. Fisher & Associates, Inc., 1546 Bridge Street, New Cumberland, PA 17070 and David Weigle, owner, appeared as witnesses for the Applicants. David Speese, a neighboring resident and property owner at 766 Ridge Road, New Cumberland, PA 17070, was in attendance and testified in opposition to the variance request.

5. Mr. Fisher testified that the existing homes to the east and west of the subject property are located with a front yard setback of 40 feet from the road right-of-way and, therefore, the requested 40 foot setback would not be out of conformity with the neighborhood.<sup>1</sup> Mr. Fisher also provided proposed subdivision plans (marked as Applicants' Exh. 1) which show the topography of the property, the primary basis for the requested variance. The need for reasonably level area for the on-site septic systems was also noted.

6. Mr. Speese, property owner and resident across Ridge Road, questioned any deviation from the front yard setback requirement. He testified that when his home was built in 1979, he was required to comply with the front yard setback requirement under the Ordinance, although construction closer to the road right-of-way would have been more convenient. Mr. Fisher noted that the topography of the Speese property differs from that of the subject parcel.

7. Applicants' Exhibit 1 shows the division of the property for the two proposed lots, post-subdivision. The lot identified as Proposed Lot No. 1 is west of Proposed Lot

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<sup>1</sup> These pre-existing adjoining residences are not within the distances necessary to invoke the application of Zoning Ordinance Section 300.53.B.1 which, in defined circumstances, allows new homes to conform to the setback location of existing homes.

No. 2 which is on the side of the parcel toward Wyndamere Road. The exhibit demonstrates that a home constructed on Proposed Lot No. 1, could be built on a level, or nearly level, area in compliance with the 100 foot setback requirement of the Ordinance. Therefore, there is no hardship in compliance with the Ordinance, and no basis for the variance for Proposed Lot No. 1 was established.

8. Exhibit 1 shows that for Proposed Lot No. 2, on the other hand, it would not be possible to construct a home at the 100 foot setback line without being in a steeply sloped area of the lot. This reflects an unnecessary hardship caused by the Zoning Ordinance and establishes that a variance to the setback requirement of the Ordinance should be allowed for that lot.

### CONCLUSIONS

1. The Applicants have the burden of establishing their entitlement to the requested dimensional variances in accordance with Fairview Township Zoning Ordinance Section 300-99.E (4).

2. On the basis of the testimony and documentary evidence presented, the Board concludes that the Applicants have not established an unreasonable and unnecessary hardship in the use of this property with respect to Proposed Lot No. 1. On this proposed lot, a home could be built on a level, or nearly level, area in compliance with the Ordinance. Therefore, the requested variance for Proposed Lot No. 1 should be denied.

3. On the basis of the testimony and documentary evidence presented, the Board concludes that the Applicants have established on the basis of the topography of Proposed Lot 2 entitlement to a dimensional variance related to the front yard setback requirement. On this proposed lot, a home would be required to be constructed in the steep sloped area creating an

unnecessary hardship with respect to Proposed Lot No. 2. The variance as requested to allow a 40 foot setback on this Lot should be granted.

**DECISION**

On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented to the Board at the hearing, the request for front yard setback variances should be: (1) denied for Proposed Lot No. 1; and (2) granted for Proposed Lot No. 2 to allow a structure to be no closer than 40 feet from the front yard property line.

The Application was denied in part and granted in part as stated upon the motion of Mr. Guy, seconded by Mr. Maxwell and adopted 3-0 by the Board Members present and voting.

Dated: July 21, 2016

By:   
David Guy, Chairman

Distribution: R. J. Fisher & Associates, Inc.  
Applicant