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APPLICATION FOR ZONING HEARING  
FAIRVIEW TOWNSHIP, YORK COUNTY, PENNSYLVANIA

APPLICANT:

Name: Reedlee Leasing Inc.  
Address: 674 Gaumer Road  
New Cumberland, PA 17070  
Phone: 717-319-7062

OWNER OF PROPERTY:

Name: Same as Applicant  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

PROPERTY LOCATION

Address: 674 Gaumer Road  
Tax Map RF, Parcel 66  
Lot Size 2.95  
Date Purchased: 2012  
Location: Gaumer Road across from the  
Fairview Fire House

PRESENT USE OF PROPERTY

Property Use: Commercial Contractor's Shop  
Exist. Zone: CB, Commercial Business

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

The applicant wishes to construct a second building on the property which will be used for commercial use. The applicant is requesting the submitted relief due to the location of water, sewer and storm sewer Easements which cross the property, and the unique physical shape of the lot.

ZONING REQUEST FOR:

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

2016-03

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

Section 300-33.A – buffering requirements along the adjacent residentially used property;  
300-37 – location of a proposed retaining wall within an existing drainage easement  
300-57.B(7)(5) – Internal landscape islands are supposed to have 1 shade tree per 5 parking spaces

Comments: \_\_\_\_\_

IN THE MATTER OF : BEFORE THE FAIRVIEW TOWNSHIP  
THE APPLICATION OF : ZONING HEARING BOARD  
REEDLEE LEASING, INC. : YORK COUNTY, PENNSYLVANIA  
: DOCKET NO. 2016-03

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**DECISION GRANTING VARIANCES TO THE FAIRVIEW TOWNSHIP ZONING ORDINANCE REGARDING BUFFERING, RETAINING WALLS AND INTERNAL LANDSCAPED ISLANDS IN THE COMMERCIAL BUSINESS ZONING DISTRICT**

The Applicant applied for variances to Fairview Township Zoning Ordinance Sections 300-33.A, 300-37 and 300-57.B.7.b in connection with proposed construction at its property at 674 Gaumer Road, New Cumberland, Pennsylvania 17070 in the Commercial Business (CB) Zoning District of the Township. The Applicant wishes to construct a second building on the property to be used for commercial purposes and requests dimensional variances from: (1) the buffering requirements along the adjacent residentially used property; (2) the location of a proposed retaining wall within an existing drainage easement; and (3) the internal island landscape requirements. The hearing on the application was held on October 20, 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 Reedlee Leasing, Inc., which owns the property which is the subject of this application, located at 674 Gaumer Road, New Cumberland, PA 17070. The property is a 2.95 acre parcel located in the Commercial Business District.
2. The Applicant wishes to construct a second building on the property to be used for commercial purposes in its "Drain Doctor" business. Testimony for the Applicant was presented

by Chris Hoover, P.E., Hoover Engineering Services, Inc., 658 Gaumer Road, New Cumberland, PA 17070. Richard V. Brubaker, 669 Gaumer Road, New Cumberland, PA 17070, an adjacent property owner also testified in support of the application.

3. The Applicant is requesting several variances from the Ordinance requirements due to the location of water, sewer and storm sewer easements which cross the property and the unique physical shape of the lot.

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 2.95 acre parcel, located at the intersection of Gaumer Road, on its east, and Lewisberry Road, to the north, has an irregular shape, wide to the south and narrowed to the north end. It is also bounded on the west by the northbound on/off ramp of I-83. It is improved with a single existing block building, 2,060 square feet in area. It has wetland conservation easement area in its southwestern quadrant; is crossed by a stream from west to east at the southern end; is traversed by a 40 foot water main right-of-way which runs north to south along Gaumer Road and then east to west across the length of the parcel. There are also sanitary sewer and drainage easements along the Lewisberry Road northern end of the property. Taken together, the various easements and rights-of-way provide substantial constraints to development on the property in strict conformity with all Ordinance requirements.

6. The proposed new building, to be 4,800 square feet in area and located north of the existing building, is intended for use in the commercial business of the Applicant and is an allowable use of the property. However, at the location proposed, there are three (3) aspects of

the Ordinance from which the applicant requests variances. These three (3) variances will be addressed in turn.

7. First, because the property is adjoined by a residential use along its southwestern border, the Ordinance requires screening and buffering “to extend the entire length of the lot line abutting” the residential use. Fairview Township Zoning Ordinance Section 300-33.A. Location of screening and buffering as specified by the Ordinance at that location is not possible, however, because of the wetland conservation easement area at that location. Therefore, the application requests permission to provide the buffer yard and screening required to the interior of the lot, east of the wetland easement area.

8. Secondly, construction of the proposed building will involve the erection of a retaining wall due to the topography to the north of the proposed building and south of the Lewisberry Road right-of-way. The retaining wall location, however, may intrude into an existing drainage easement area established in relation to the I-83 ramp and Lewisberry Road. The Applicant’s engineer testified that the retaining wall, as proposed, will not interfere in any way with the function of the drainage area and may not actually intrude into the area itself. Therefore, a variance from this requirement of Section 300-37 of the Ordinance is requested.

9. Third, the proposed development will comply with the parking space requirements of the Ordinance. However, the constraints of the sanitary sewer and drainage easements, and the road rights-of-way in the area of the proposed building make it infeasible to comply with the landscaped island with shade tree requirement of Section 300-57.B.7.b of the Ordinance. Both the Applicant’s engineer and the Fairview Township Zoning Officer testified that there is no feasible location on the parcel, given its various constraints, for an alternate location of the shade tree requirement. Therefore, a variance is requested for relief from that requirement.

## CONCLUSIONS

1. Any applicant for variances from the Zoning Ordinance has the burden of demonstrating that because of unique shape, topography, or other features and physical circumstances affecting the property that literal compliance with the requirements of the Ordinance would impose an unreasonable and unnecessary hardship in the proposed use of the property.

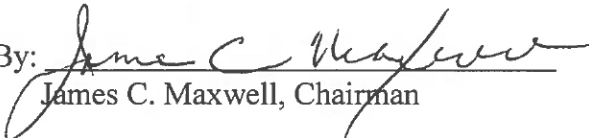
2. On the basis of the testimony and evidence presented, the Board concludes that the Applicant has demonstrated that under all the circumstances, compliance with the strict and literal requirements of the Ordinance for buffer yard dimension, location of a proposed retaining wall and internal landscaped island should not be required. Therefore, the Fairview Township Zoning Hearing Board will grant the requested variances from the literal requirements of Sections 300-33A, 300-37 and 300-57.B.7.b of the Zoning Ordinance, conditioned upon the location of the screening and buffering and of the retaining wall as depicted on Exhibit "A", attached hereto.

## 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 from the requirements of Sections 300-33A, 300-37 and 300-57.B.7.b of the Zoning Ordinance should be granted, conditioned upon the location of the screening and buffering and of the retaining wall as depicted on Exhibit "A", attached hereto.

The Board's action as set forth above was taken upon the motion made by Mr. Maxwell, seconded by Mr. Bashore, and approved 3-0 by the Board members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING  
BOARD

By:   
James C. Maxwell, Chairman

Dated: November 17, 2016

Distribution:

Applicant  
Chris Hoover, P.E., Hoover Engineering, Inc.

