



ZONING HEARING BOARD APPLICATION
YORK COUNTY, PENNSYLVANIA

DEC 26 PM 4:13

Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: Fairview Township
Address: 599 Lewisberry Road
New Cumberland, Pa 17070
Phone: 717-901-5200

EXISTING OWNER OF PROPERTY:

Name: Fairview Township
Address: 599 Lewisberry Road
New Cumberland, Pa 17070

PROPERTY LOCATION:

Address: 850 Lewisberry Road
Lewisberry Pa, 17339
Lot Size: 11.282 acres
Date Purchased: December 18, 2015
Location: 850 Lewisberry Road,
Lewisberry, PA 17339

PRESENT USE OF PROPERTY:

Vacant Elementary School

EXISTING ZONE: RL Rural Living

Part 2:

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

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

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, Table 4-3 Non Residential Uses - Maximum Impervious Cover

Part 3:

DESCRIPTION OF REQUEST:

See Attached Letter

❖ *Part 4*

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

NAME	ADDRESS	USE TYPE
Barry D. and Sandra Cain	836 Lewisberry Road, Lewisberry, Pa 17039	Residential
Joshua C. & Rachael C. Kessler	Lewisberry Road, Lewisberry, Pa 17039	Vacant Agricultural
Jason & Angela Troutman	870 Lewisberry Road, Lewisberry, Pa 17339	Residential
Mt. Zion Lutheran Church	863 Lewisberry Road, Lewisberry, Pa 17339	Church
Charles E. Shade	851 Lewisberry Road, Lewisberry, Pa 17039	Residential
Elizabeth & Nathan Radabaugh	847 Lewisberry Road, Lewisberry, Pa 17039	Residential
Donald M. & Donna J. Feliksik	835 Lewisberry Road, Lewisberry, Pa 17339	Residential
Ronald A. Romberger	831 Lewisberry Road, Lewisberry, Pa 17339	Residential
Anthony & Amy Harkins	827 Lewisberry Road, Lewisberry, Pa 17339	Residential
Rodney J. Anastasi	834 Lewisberry Road, Lewisberry, Pa 17339	Residential
Larry & Heather Collins	828 Lewisberry Road, Lewisberry, PA 17339	Residential
Mt. Zion Evangelical Lutheran Church	868 Old Stage Road, Lewisberry, Pa 17339	Residential

**IN THE MATTER OF** : **BEFORE THE FAIRVIEW TOWNSHIP**  
**THE APPLICATION OF** : **ZONING HEARING BOARD**  
**FAIRVIEW TOWNSHIP** : **YORK COUNTY, PENNSYLVANIA**  
: **DOCKET NO. 2016-11**

**DECISION GRANTING A VARIANCE TO THE MAXIMUM IMPERVIOUS LOT  
COVERAGE UNDER SECTION 300-16 OF THE ZONING ORDINANCE  
IN THE RURAL LIVING (RL) ZONING DISTRICT**

The Applicant applied for a variance to Fairview Township Zoning Ordinance, Section 300-16, to increase the maximum amount of permitted impervious lot coverage from 15% to 30% to accommodate a proposed relocation of the Township's Yard Waste and Electronics Recycling Center to 850 Lewisberry Road, New Cumberland, PA, located in the Rural Living (RL) Zoning District of the Township. Hearings on the application were held on January 19, 2017, and February 16, 2017, 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 Fairview Township, 599 Lewisberry Road, New Cumberland, PA 17070.
2. The Applicant is the owner of the property located at 850 Lewisberry Road, Lewisberry, PA (hereinafter, the "Lot"), which is in the Rural Living (RL) Zoning District of Fairview Township. The gross area of the Lot is 11.282 acres or 491,443.92 square feet. Exhibit A-2.
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.<sup>1</sup>

4. The Lot contains a former elementary school, which is vacant. N.T.<sup>2</sup> at 9. The Township, desires to use the site for a yard waste compost facility and an electronic recycling drop-off facility.

5. The proposed use is a permitted municipal use in a rural living district (RL) under the Fairview Township Zoning Ordinance. *Zoning Ordinance*, Table 4-2.

6. The Ordinance, however, limits the amount of impervious coverage to 15% of the lot surface for municipal uses in an RL district. Ordinance, Table 4-3. It allows up to 30% impervious cover for residential uses in an RL district. *Id.*

7. The Township seeks a dimensional variance from the impervious coverage requirement of the Fairview Township Zoning Ordinance. The Township's request is to increase the impervious area up to 30% to accommodate the yard waste composting use.

8. The Lot presently has 1.582 acres of impervious cover, Exhibit A-2, which is 16.3% of the Lot's net surface area. N.T. at 73, 99-100.

9. Fairview Township currently operates a recycling facility at a rented location and the lease expires at the end of 2018. N.T. at 8, 16.

10. The Township presented three witnesses in support of the variance request: Donald Martin, Manager of Fairview Township; Keith Reynolds, Highway Foreman for Fairview

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<sup>1</sup> The hearing was not properly advertised for January 19, 2017. Therefore, upon the objection of counsel for Joshua Kessler, an adjoining landowner, and with the agreement of counsel for the applicant, after very limited testimony, the hearing was adjourned and was fully re-noticed for the February 16 date. No testimony or evidence of any nature from the January date was considered by the Zoning Hearing Board to be part of this hearing record.

<sup>2</sup> N.T. stands for Notes of Transcript and refers to the Transcript of the hearing before the Fairview Township Zoning Hearing Board on February 16, 2017.

Township; and Cathy D. Lee, P.E., of Rettew Associates, engineers for Fairview Township. The Township was represented at the hearing by Steven M. Hovis, Esquire, Stock and Leader, 221 West Philadelphia Street, York, PA, Solicitors for Fairview Township.

11. Keith Reynolds' duties for the Township include overseeing all aspects of the recycling center. N.T. at 26-27. He testified that the Township currently conducts a Township-wide leaf collection in the fall of each year and provides a residential drop-off of yard waste, limited to sticks, brush, and woody material. N.T. at 27. He also testified that the Township provides for electronics recycling at the same facility where they handle the leaf collection and yard waste drop-off. N.T. at 27.

12. It is the Township's intent to transfer the leafy waste, yard waste, and electronics recycling to the Lot without expanding the Township's recycling project. N.T. at 27.

13. The Pennsylvania Department of Environmental Protection (hereinafter, "DEP") issues permits to allow recycling and specifically limits the activities and size of property for the recycling center. N.T. at 27-29, 33. The Township has a "permit-by-use" permit for up to a five (5) acre facility from DEP. *Id.* DEP has inspected the property subject to this application and the current permit applies to what has been preliminarily designed for the Lot. *Id.*

14. An employee of Fairview Township will be on site at all times when the facility is open to the public to regulate the manner in which recyclables are dropped off. N.T. at 37-38. Residents will be allowed to drop-off electronics and yard waste during the hours of operation, which will be 8:00 a.m. to 4:30 p.m., Monday through Friday from April through October; and 9:00 a.m. to 12:00 p.m., Monday through Friday and the first and third Saturdays from November through March. *Id.* at 37.

15. The yard waste will be ground on site and residents will be encouraged to return to the facility to pick up compost. Fairview Township will continue to rent a commercial wood grinder for two two-week periods a year to mulch the “woody” yard waste. N.T. at 34-35. Dust will be eliminated, or minimized by adding water to the machine, the same process used at the current location. *Id.* at 35.

16. The leaf compost will also be piled on site and turned once a month for four hours to facilitate decomposition. N.T. at 40. The equipment used to turn the leaf compost is smaller than an 18-wheeler trailer and only about half as high. A 500 hp diesel engine runs the equipment and the noise produced is comparable to that of a large lawn mower. *Id.* at 39-40.

17. There will be no processing of electronic waste on-site. The electronics dropped off at this location will be stacked and then hauled away for disposal. N.T. at 30. These electronics will be dry; therefore, there will be no contact with liquids, chemicals, or fumes at the site.

18. Cathy D. Lee, P.E., of Rettew Associates, 5031 Richard Lane, Suite 111, Mechanicsburg, PA, testified as the project manager and township engineer for the project. Ms. Lee testified that the newly purchased property, the subject of this application, is a current nonconforming lot with 16.3% impervious cover. N.T. at 73. Ms. Lee further testified that under the proposed plan, the majority of the new impervious surface would be where the rows of compost material would be placed. *Id.* at 74. The proposed plan also includes a stormwater management facility and minor curbing to direct rain water into the storm water management facility. *Id.*

19. The storm water management facility will put stormwater back into the ground before it leaves the property resulting in less stormwater leaving the property than is currently the case. *Id.*

20. Fencing will be placed around the perimeter and will comply with DEP and Township ordinance requirements. N.T. at 38, 76. DEP generally requires a buffer of 300 feet between the facility and nearby residences. N.T. at 76-81. If there is less than 300 feet, the Township may comply by either obtaining a written approval from the adjoining neighbor, or placing buffers 5' to 6' tall along the edge of the property so the residents won't see the facility. *Id.* at 77. The proposed project complies with the buffer fencing and buffer requirements. *Id.* at 76-81.

21. The Township proposes to use the existing entrance to the Lot. N.T. at 82-83. Rettew Associates conducted a sight-distance study for that entrance and found that the Lot meets the 40 mph distance requirement with respect to traffic and the distances necessary to make a safe turn into the facility. PennDOT must address any other traffic issues. *Id.*

22. Testifying in opposition to the request was Josh Kessler, an adjacent property owner, 892 Lewisberry Road, Lewisberry, PA. Mr. Kessler was represented by Glenn Parno, Esquire, Capozzi & Adler, 1200 Camp Hill Bypass, Suite 205, Camp Hill, PA. Mr. Kessler owns four lots comprising approximately 74 acres. N.T. at 102, 107. Two of the lots adjoin the Lot. Mr. Kessler's house is on the back side of the Lot, with limited visibility of the proposed facility due to topography and foliage.

23. Mr. Kessler testified that his concerns revolve around the proposed recycling facility not being cost-effective, being close to residences, including his own, being noisy,

