

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
KENNETH and SUSAN PULLER : **YORK COUNTY, PENNSYLVANIA**
: **DOCKET NO. 2017-03**

**DECISION GRANTING VARIANCE TO SECTION 300-21 OF THE
FAIRVIEW TOWNSHIP ZONING ORDINANCE**

The Applicants applied for a variance to Section 300-21 of the Fairview Township Zoning Ordinance (the “Zoning Ordinance”) for the property located in the Single Family Residential (RS) Zoning District at 307 Woodbridge Drive, Etters, PA 17319. A hearing on the application was held on June 15, 2017, 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 Kenneth and Susan Puller, 307 Woodbridge Drive, Etters, PA. They are owners of the property which is the subject of the application and is their residence.
2. 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.
3. The Applicants request a variance to Section 300-21.A of the Zoning Ordinance which establishes setback distances in the Single Family Residential (RS) Zoning District. The Applicants wish to construct an 18’ x 24’ wooden deck with railing over the existing concrete patio. While the setback distances under the Zoning Ordinance are not applicable to ground

surface improvements, such as paved patio areas, a raised deck with railing is considered an “accessory structure” to which the setback distances do apply.

4. The Applicants’ residence was constructed with the rear wall on, or within one foot of, the rear yard setback line, which is thirty-five (35’) feet from the adjoining property line in this RS Zoning District. The proposed structure will encroach, therefore, at least seventeen (17’) feet and up to eighteen (18’) feet into the thirty-five (35’) feet rear setback area. However, under Section 300-53.A(2) of the Zoning Ordinance, “... decks, and other similar uncovered (at any point) structures, provided the structure elevation shall not be more than three feet above the yard grade, may extend or project into any required side yard and rear yard and/or side setback and rear setback not more than five feet, as long as there is a minimum of five feet remaining between the structure and the lot line.” Therefore, since the proposed deck will be less than three feet above the yard grade and will be more than five feet from the rear yard line, the variance required is no greater than thirteen (13’) feet.

5. The basis for the variance request is to enhance the use of the patio area which is immediately outside the door which exits the home to the rear yard. The proposed deck will not be enclosed or under roof; it will solely consist of a wooden or wood-like covering of the concrete with railing surrounding the current 18’ x 24’ patio area perimeter.

CONCLUSION

Because this variance request solely involves the limited – unenclosed and uncovered – improvement of an existing permitted concrete patio area with wood covering and railing, the Board finds that the variance of up to thirteen (13’) feet from the rear yard setback requirements

applicable under Section 300-21.A, as modified by Section 300-A(2), of the Zoning Ordinance should be granted.

DECISION

On the basis of the foregoing findings and conclusion and on the basis of all the testimony and evidence presented to the Board at the hearing, the request for the variance to construct the deck and railing over the existing 18' x 24' patio area should be granted.

The Application was approved as stated upon the motion of Mr. Maxwell, seconded by Mr. Perry and adopted 3-0 by the Board Members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: July 17, 2017

By: Keith C. Bashore
Keith C. Bashore, Vice-Chairman

Distribution: Applicants