

IN THE MATTER OF : BEFORE THE FAIRVIEW TOWNSHIP
THE APPLICATION OF : ZONING HEARING BOARD
ROGLIANO-LUPINETTI : YORK COUNTY, PENNSYLVANIA
INVESTMENT GROUP, LLC : DOCKET NO. 2018-01

**DECISION GRANTING VARIANCES TO SECTION 300-16.A
OF THE FAIRVIEW TOWNSHIP ZONING ORDINANCE FOR MINIMUM LOT
WIDTH IN THE RURAL LIVING ZONING DISTRICT**

The Applicant applied for lot width variances to Section 300-16.A, Area and Design Requirements, of the Fairview Township Zoning Ordinance for two lots in the Rural Living Zoning District at 630 Old Quaker Road, Lewisberry, PA 17339. A hearing on the application was held on April 19, 2018, at 7:00 p.m. at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

FINDINGS OF FACT

1. The named Applicant for this hearing was Dr. Vincent Rogliano, 501 Pawnee Road, Mechanicsburg, PA, 17050. However, the record owner of the property which is the subject of the hearing is Rogliano-Lupinetti Investment Group, LLC.¹ Dr. Rogliano's representative at the hearing testified that he is the sole member of the Rogliano-Lupinetti Investment Group, LLC, and he agreed to amend the application to be in the name of the record owner of the property. Therefore, this decision is made in the name of the record owner which holds the legal entitlement to the requested variance.

¹ Deed dated December 28, 2004, from Gerald F. Kendall and Patricia M. Kendall, his wife, to Rogliano-Lupinetti Investment Group, LLC, Record Book 1699, Page 4949, Instrument Number - 2005089750, Office of the Recorder of Deeds, York County.

2. The subject property is a 53.6 acre tract of land, currently subdivided into fifteen (15) undeveloped parcels, access to which would be provided by a road from Old Quaker into the interior of the property.² The Applicant now wishes to re-subdivide the property into three (3) large lots, of 5.00 acres, 6.14 acres, and 41.37 acres with each lot fronting onto Old Quaker Road.

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. David Weihbrecht of Advantage Engineering Services, LLC, 700 Ayers Avenue, Lemoyne, PA 17043, appeared and testified on behalf of the Applicant.

5. The Applicant is requesting dimensional, lot width variances to Section 300-16.A of the Zoning Ordinance which establishes the lot area and design requirements in the Rural Living Zoning District. The variances for proposed Lots 1 and 2 are required in order to create driveway access for each lot to Old Quaker Road.

6. Old Quaker Road is designated a “collector” road under the current Fairview Township Zoning Ordinance. The required lot width for collector roads is 300 feet in the Rural-Living Zoning District. While the total lot has more than 1,100 feet of frontage on Old Quaker Road, there is significant wetlands area on the parcel which narrows significantly the usable frontage and necessitates the requested variances. Without invading the wetlands area – an environmentally impermissible intrusion – it is not possible to have 3 separate 300 foot lot frontages on Old Quaker Road.

² The subdivision plan was approved in 2008, but no development of the property has occurred and it remains owned in full by the Applicant.

7. The Applicant proposes that Lot 1 will have 142.73 feet of road frontage while Lot 2 will have 150.01 feet of road frontage, with the remainder of the frontage being a part of Lot 3.

8. Under the circumstances of this application, the two lot width variances should be approved. The circumstances of the location of the wetlands on the property make it a unique circumstance justifying the variances. The Applicant has not created the hardship; but has demonstrated that the reduced frontages are necessary to allow for the rather limited subdivision of the 53.6 acre parcel into 3 lots.

CONCLUSIONS

1. The Applicant has the burden of establishing entitlement to the requested dimensional variances.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that under the circumstances, the Applicant has established his entitlement to the lot width dimensional variances as requested.

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 dimensional lot width variances should be granted.

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

FAIRVIEW TOWNSHIP ZONING HEARING BOARD

Dated: May 23, 2018

By: 

Timothy C. Mader, Chairman

Distribution: Applicant



BOARD of SUPERVISORS
Dr. Larry Cox, *Chairman*
Mario D. Pirritano, *Vice-Chairman*
Korey Leslie, *Supervisor*
Christopher L. Allen, *Supervisor*
John W. Jones, *Supervisor*

MANAGER
Donald F. Martin, III

FILE COPY

The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday, **April 19, 2018**, at 7:00 p.m., at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070, to discuss the following:

Docket No. 2018-01: Vincent Rogliano, 501 Pawnee Drive, Mechanicsburg, PA 17050. The Applicant is requesting a variance to the Fairview Township Zoning Ordinance, § 306-16.A, "Minimum Lot Width along a Collector Road". The Applicant is proposing a subdivision which will contain two lots of width less than the 300 foot requirement for minimum lot width at lot frontage on Old Quaker, a collector street. The property is located at or around 630 Old Quaker Road, Lewisberry, PA 17339, and is in the Rural Living Zoning District.



ZONING HEARING BOARD APPLICATION
YORK, PENNSYLVANIA

❖ Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: _____

Address: _____

Phone: _____

PROPERTY LOCATION:

Address: 630 Old Quaker Road

Lewisberry, PA 17339

Lot Size: 52.51 acres

Date Purchased: 12/28/2004

Location: _____

EXISTING OWNER OF PROPERTY:

Name: Vince Rogliano

Address: 501 Pawnee Drive

Mechanicsburg, PA 17050

Phone: (717) 319-8059

PRESENT USE OF PROPERTY:

Vacant 15 lots - Undeveloped

Existing Zone: 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)

§306-16.A – Minimum Lot Width along a Collector Road

❖ Part 3:

DESCRIPTION OF REQUEST:

Allow for one lot to have a frontage width of 142.73 feet and also a lot frontage to be 150.01 feet

Variance Request
Dr. Vincent Rogliano, DMD
Previously 630 Old Quaker Road
Fairview Township

Zoning: Rural Living (RL)

Relief Requested: §306-16.A. – Minimum Lot Width along a Collector Road

Dr. Rogliano is the owner of a 53.6 acre tract of land located on the north side of Old Quaker Road in Fairview Township. The tract is located approximately 2,080 feet east of Route 382. The property is currently undeveloped. The ground has 1,175 feet of frontage along Old Quaker Road, however, approximately one-half of this frontage is within a wetland area. He purchased the property in 2004 and employed Hoover Engineering Services, Inc. to subdivide the property. In 2008 a Final Subdivision Plan known as Oakmont was approved by Fairview Township. The plan included 15 fee-simple lots for single-family dwellings that would access of a new public street measuring 1,150 feet in length. All of the lots would utilize private on-lot sewage disposal systems and individual wells. The subdivision plan was recorded but no improvements have been installed.

Dr. Rogliano's does not desire to develop the property as a 15-lot subdivision anymore. He wishes to simply divide the property into three (3) large estate lots as follows:

Lot 1 – 5.00 acres; Lot 2 – 6.14 acres; Lot 3 – 41.37 acres

Lot 3 will contain most of the wetland areas on the property. Each of the three (3) future dwellings will have driveways that access Old Quaker Road.

In 2004 when the property was purchased and in 2008 when the subdivision plan was prepared the property was in the Residential Rural (RR) Zone. That zone is now Rural Living (RL). The zoning criteria in place when the subdivision plan was completed allowed for minimum 100 foot wide lots with a minimum area of 1 acre. In 2013 the township modified the zoning criteria to require a minimum lot width of 300 feet for properties with no public water or sewer that front a collector street and a minimum area of 80,000 square feet. According to the Fairview Township Comprehensive plan Old Quaker Road is considered a Rural Collector street. While the property has adequate frontage on Old Quaker Road, approximately one-half of this frontage is within wetland areas. If 300 feet of frontage were provided to each lot, access to 2 of the lots would require driveways through existing wetland areas. Wetlands are important sensitive areas which should be protected. The previous recorded plan established these area as a Conservation Easement. Note #5 on the recorded plan states:

There are various areas of wetlands located on lot 1 per a field investigation performed by Earth Information Services, Inc. In July, 2005. These areas shall be preserved and protected to the greatest extent possible. A conservation easement shall be associated with the wetland areas to provide additional protection. These easements shall be incorporated into the deeds of the effected lots and shall run as a protective covenant with the lot.

Lot 1 is the original property prior to subdividing. An alternative might be to require a joint use driveway for the three lots but these tend to lead to arguments regarding costs and maintenance. A better resolution is to require each lot owner responsible for their own access.

In meeting the criteria for issuance of a variance we offer the following:

§300-99.E(4)(a)

1. *That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or zone in which the property is located.*

The unique physical circumstances are the presence of the wetlands. While the property has 1,175.62 feet of frontage approximately 780 feet of that frontage is along wetland areas.

§300-99.E(4)(b)

2. *That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property.*

There is physically insufficient “wetland-free” frontage along Old Quaker Road to allow for three lots, each having 300 feet frontage.

Reasonable use is a subjective term. This proposal is to allow three lots instead of 15. The proposed minimum width of 142.73 (Lot 1) is longer than the majority of the lots on the recorded plan.

§300-99.E(4)(c)

3. *That such unnecessary hardship has not been created by the appellant.*

The applicant did not create the hardship. The hardship occurred in 2013 when the township modified the zoning ordinance.

§300-99.E(4)(d)

4. *That the variance, if authorized, will not alter the essential character of the zone or neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.*

The proposed 3-lot subdivision follows the rural of the existing surrounding area which is a rural nature. The Fairview Township Zoning Ordinance states:

The Rural Area Zoning Districts are intended to be developed with a limited range of land uses, including agricultural resource lands, natural resource lands, and residential (at densities generally less or equal to one unit per two acres). The majority of this area is currently not served nor is planned to be served with public water supply and public sanitary sewage disposal.

Three lots instead of 15 is considerably more of a rural nature. A three lot subdivision will generate considerably less traffic than a fifteen lot subdivision.

§300-99.E(4)(e)

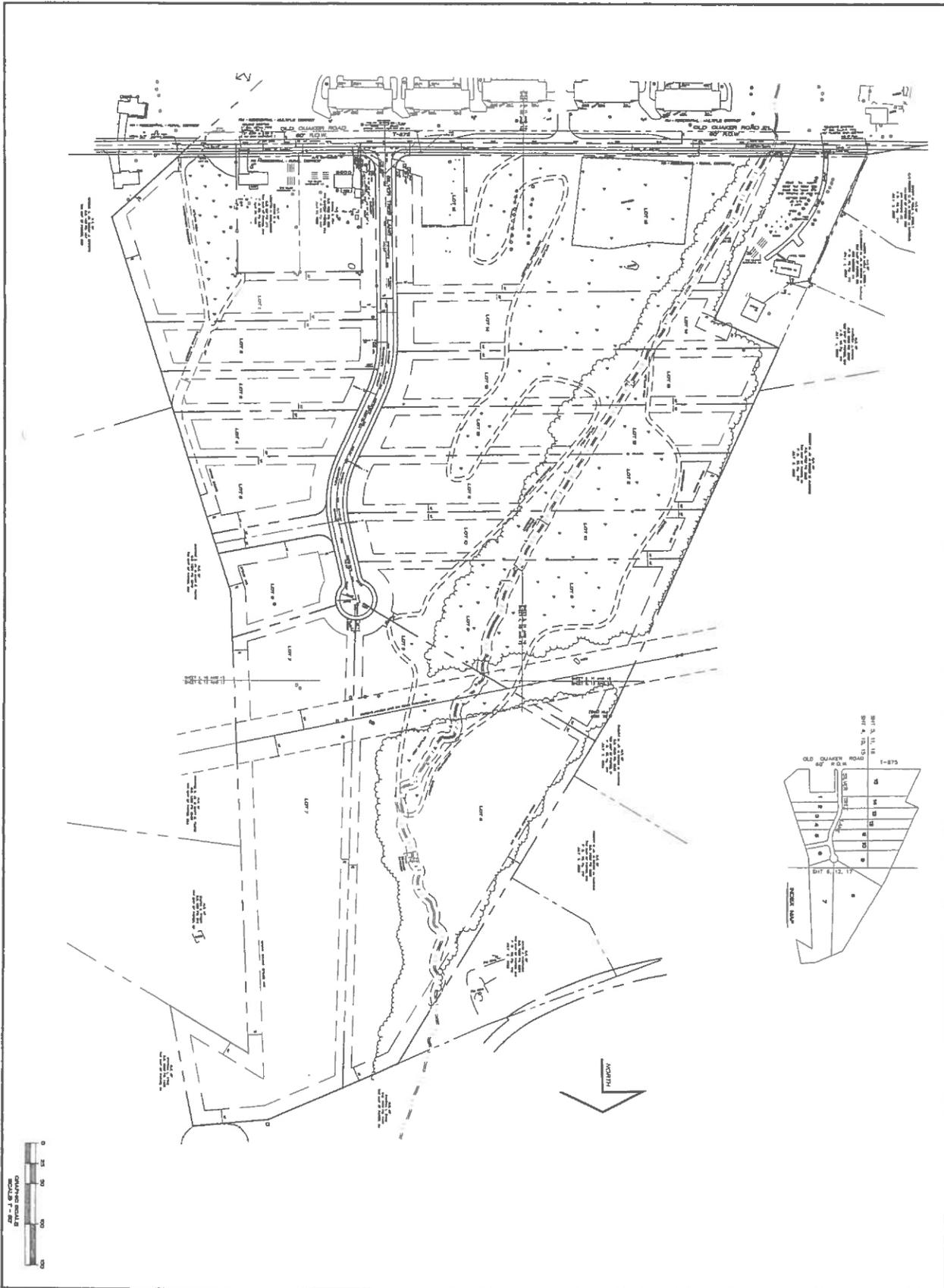
5. *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue.*

The proposed width of each lot is the widest as possible in order to be able to construct 3 separate driveways and avoid encroachments into the wetland area.

§300-99.E(4)(f)

6. *The proposed use complies with Article VI of this chapter relating to Floodplain Overlay Zoning District (FPO) and Chapter 151 relating to floodplains.*

N/A, there are no floodplains on the property.



HOOVER
ENGINEERING SERVICES, INC.
ENGINEERS • PLANNERS • SURVEYORS
508 GALLNER ROAD SUITE 100
NEW CARBONDALE, PA. 17750-2863
TELEPHONE (717) 770-0100 FAX (717) 770-1037

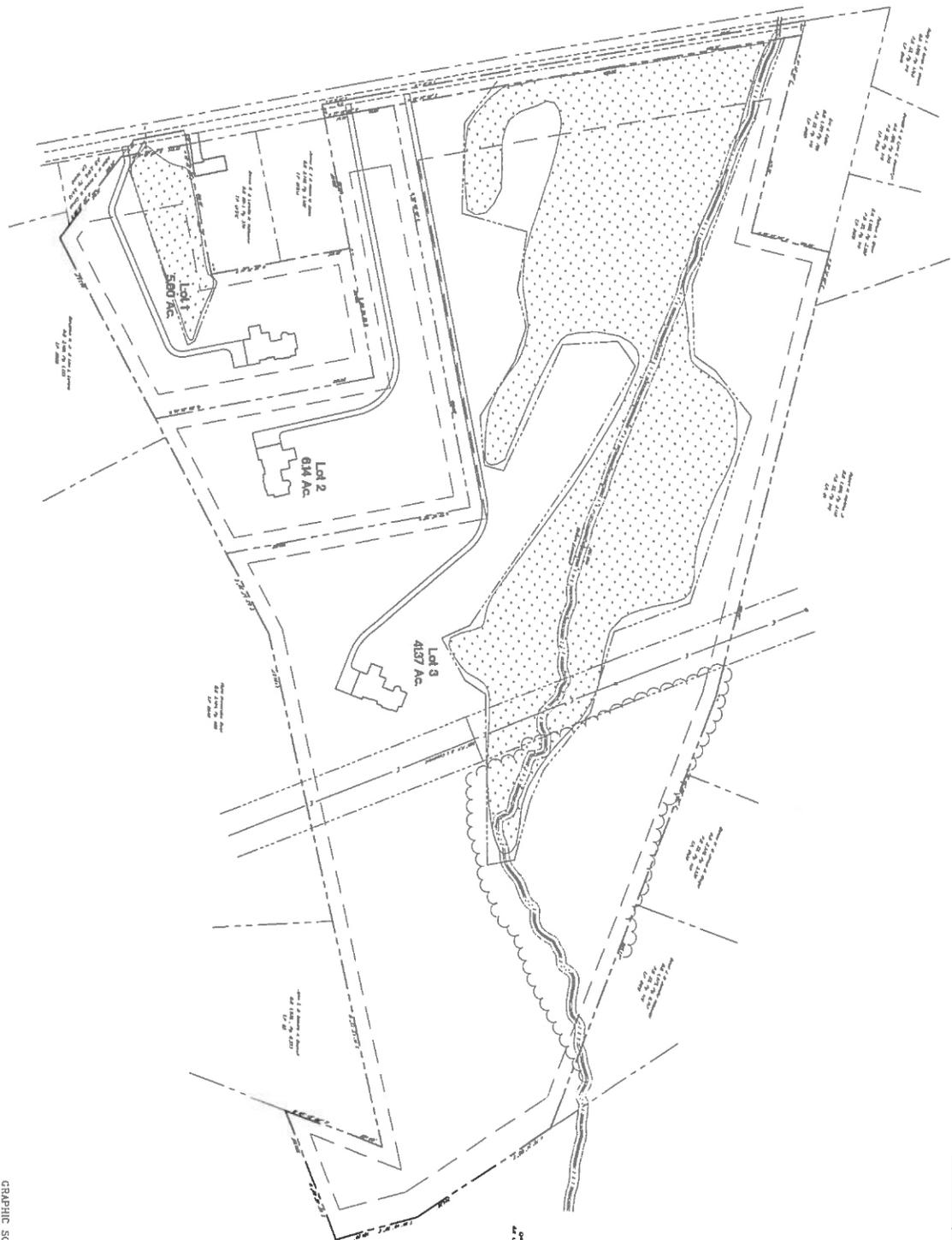


REVISIONS			
NO.	DATE	DESCRIPTION	BY
0	07/12/07	PER COMMENTS - 02/04/2007	JPH
2	02/12/07	PER COMMENTS - 02/06/2007	JPH
1	09/25/07	PER COMMENTS - 01/25/2007	JPH

100 SCALE OVERALL PLAN
FOR
OAKMONT
FAIRVIEW TOWNSHIP, YORK CO., PA.

DESIGN: CAJ
DRAWN: JLB
DATE: 12/28/2006
SCALE: P = 80'
PLN: 20828P01
DWG: 20828P01

3/20



REV.	DATE	DESCRIPTION
1	02-01-2019	DISCUSSION

3 of 3 SHEET	<i>Oakmont</i> Re-Subdivision Plan	ADVANTAGE ENGINEERING SERVICES, LLC CIVIL ENGINEERING LAND SURVEYING 700 Ayers Avenue Lemoyne, PA 17043 Phone: (717) 761 - 3226 Fax: (717) 737 - 4823	DESIGN: DJM DRAWN: DJM DATE: 02-01-2019
	PROJECT NO. SURVEY BOOK SCALE: 1" = 40' DATE: 02-01-2019	Fairview Township York County, PA	ADVANTAGE ENGINEERING SERVICES, LLC CIVIL ENGINEERING LAND SURVEYING 700 Ayers Avenue Lemoyne, PA 17043 Phone: (717) 761 - 3226 Fax: (717) 737 - 4823