

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
MICHAEL BOWEN : **YORK COUNTY, PENNSYLVANIA**
: **DOCKET NO. 2018-03**

DECISION GRANTING A VARIANCE TO SECTION 300-16
OF THE FAIRVIEW TOWNSHIP ZONING ORDINANCE
IN THE RURAL LIVING ZONING DISTRICT

The Applicant applied for a variance to Section 300-16, Area and Design Requirements, of the Fairview Township Zoning Ordinance in the Rural Living Zoning District at 352 Thorley Road, New Cumberland, PA 17070. A hearing on the application was held on July 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 Applicant is Michael Bowen, 352 Thorley Road, New Cumberland, PA 17070. The premises, which is the subject of the application, is owned by the Applicant and is his residence.
2. The subject property is 5.1 acres in area located in the Rural Living Zoning District of Fairview Township. The northern side of the lot has 678.96 feet of frontage on Thorley Road and a depth which varies from 205.77 feet on the eastern side to 522.65 feet on the western side.¹ The lot is improved with a single family residence, set back at least 200 feet from the right-of-way for Thorley Road. There is also a separate garage or shed building

¹ The lot dimensions were obtained from the Applicant's deed which is recorded in the Office of the Recorder of Deeds of York County at Instrument No. 2013030348. The other dimensions in the decision are estimates based on the Applicant's testimony or other estimated information available to the Board.

approximately 20' x 30' in size, located between the residence and Thorley Road. This building is a pre-existing non-conforming building, about 96 feet from the Thorley Road right-of-way, a location which is less than 150 feet, the current requirement under the Zoning Ordinance Section 300-16.A (Table 4-3 Area and Design Requirements in the Rural Living Zoning District) .

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. The Applicant is requesting permission to construct a 40' x 64' addition to the existing accessory building. The proposed location (construction for which has been started without required Township permits) extends to within 8 to 16 feet of the right-of-way line.

5. The Applicant contends the proposed location for the accessory structure should be allowed because of multiple constraints on his lot including, in particular, that it is traversed, end to end, by up to five (5) underground gas pipelines, the rights-of-way for which prohibit construction on the surface within the more than 50 foot wide right-of-way area. The pipelines are between the existing shed building and the residence, thereby limiting somewhat the extent to which the existing building could be extended to its rear. The Applicant testified that there is 45 feet from the rear of the existing building to the pipeline right-of-way. He also said that the building is 39 feet from the adjoining property line to the west.

6. In addition to the pipelines, the Applicant cited concerns with existing stormwater drain fields to the east of the existing shed. He also noted that locating an accessory building to the rear of the existing residence, a location permitted by the Ordinance without any variance, was not feasible because of the slope of the lot at that location.

7. The Applicant established that because of the multiple conditions of the lot, the pipeline rights-of-way in particular, and in view of the existing non-conforming building, a dimensional variance for expansion of the existing building was justified.

CONCLUSIONS

1. The Applicant has the burden of establishing entitlement to any dimensional variances from the requirements of the Zoning Ordinance.

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 dimensional variances from the strict requirements of the Zoning Ordinance, subject to the following conditions:

(1) the new construction shall be no closer to the right-of-way for Thorley Road than the existing non-conforming structure;

(2) the new construction shall extend no closer than 20 feet to the adjoining property line to the west; and

(3) the new structure may be constructed, in part, in the footprint of the existing building, which may be razed without loss of non-conforming location rights.

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 requested dimensional variances should be granted provided that: (1) the new construction shall be no closer to the right-of-way for Thorley Road than the existing non-conforming structure; (2) the new construction shall extend no closer than 20 feet to the adjoining property line to the west; and (3) the new structure may be constructed, in part, in the footprint of the existing building, which may be razed without loss of non-conforming location rights.

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

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: August 16, 2018

By: 
Keith Bashore, Vice-Chairman

Distribution:
Applicant



BOARD of SUPERVISORS

Dr. Larry Cox, *Chairman*

Korey Leslie, *Vice-Chairman*

Christopher L. Allen, *Supervisor*

John W. Jones, *Supervisor*

Mario D. Pirritano, *Supervisor*

MANAGER

Donald F. Martin, III

The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday, **July 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. 2018-03: Michael Bowen, 352 Thorley Rd., New Cumberland, PA 17070. The Applicant is requesting a Variance to the Fairview Township Zoning Ordinance, §300-16 Table 4-3, "Area and Design Requirements RL Rural Living Zoning District". The Applicant is proposing to build an addition to an existing structure within the 150 foot front yard setback area. The property is located at 352 Thorley Road, New Cumberland, PA 17070, and is in the Rural Living Zoning District.



ZONING HEARING BOARD APPLICATION
YORK COUNTY, PENNSYLVANIA

Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: MICHAEL BOWEN

Address: 352 THORLEY RD

New Cumballa PA 17070

Phone: (717) 495-8983

PROPERTY LOCATION:

Address: SAME

Lot Size: 5.1 ACRES / 226,345.1 SqFT

Date Purchased: 11/1/2012

Location: N/A

EXISTING OWNER OF PROPERTY:

Name: SAME

Address:

PRESENT USE OF PROPERTY:

PERSONAL

EXISTING ZONE: RL

Part 2:

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

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

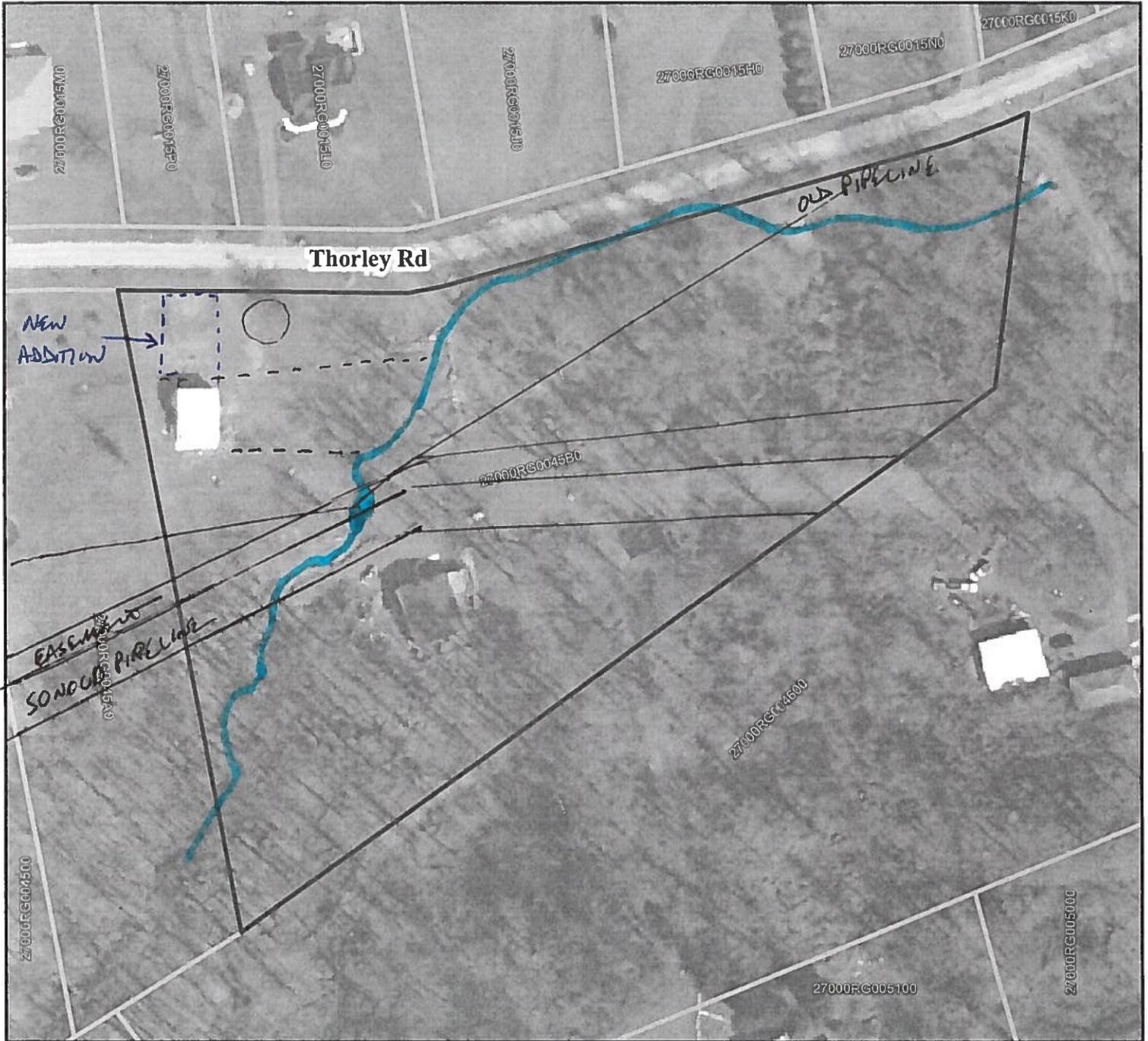
SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request:

§ 300-16 AREA AND DESIGN REQUIREMENTS, TABLE 4-3 150' SET BACK,

Part 3:

DESCRIPTION OF REQUEST:

FROM THE DESIGN OF MY PROPERTY THERE ISN'T ROOM BEHIND THE FACE OF MY HOUSE AND THE SLOPE OF THE LAND TO BUILD. THERE IS A RUN OFF DITCH RUNNING THROUGH MY PROPERTY. THERE ARE 5 PIPE LINES RUNNING UNDER GROUND. SO OLD PIPELINE IS CONCENTRATED ON THE PROPERTY SHOWING THE LIMITED BUILDING SPACE AVAILABLE. THERE ARE TWO YARD RAIN WATER DRAIN PIPES IN THE GROUND AND A LARGE TREE IN THE FRONT YARD. ALL THESE FACTORS PUSH THE IDEAL BUILDING AREA TO CLOSER THAN 150' FROM THE ROAD. I AM REQUESTING A VARIANCE TO BUILD CLOSER TO THE ROADWAY.



Property Owner - BOWEN MICHAEL W
 Property Address - 352 THORLEY RD
 Tax Municipality - Fairview Twp
 School District - West Shore School District
 Class - Residential
 Land Use - R - One Story House
 Taxable Acres - 5.1
 Assessed Land Value - 63450
 Assessed Building Value - 109880
 Assessed Total Value - 173330
 Sale Date - 29-MAY-2013
 Sale Price - 300000
 Deed Book - 2233
 Deed Page - 5871

--- RAIN WATER DRAIN PIPES
 RUN OFF DITCH
 --- NEW ADDITION

Legend

- Selected Parcel
- Parcels
- US Route
- Interstate
- PA Turnpike
- State Road

Mapping Provided by



Last Updated 4/26/2018

Layers should not be used at scales larger than 1 2400
 (Note: Pixilation will occur at scales 1" = below 200 Ft.)
 Aerial Photography - 2015

Disclaimer
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