

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF: : **ZONING HEARING BOARD**
TIMOTHY and LEANN LANGLETZ : **YORK COUNTY, PENNSYLVANIA**

: **DOCKET NO. 2020-05**

**DECISION GRANTING A VARIANCE TO §300-21.B OF THE ZONING ORDINANCE
IN THE RESIDENTIAL MIXED-USE ZONING DISTRICT**

The Applicants applied for a variance to the Fairview Township Zoning Ordinance, under Section 300-21.B, for the purpose of constructing an addition to the existing accessory building located at 920 Limekiln Road, New Cumberland, Pennsylvania 17070, in the Residential Mixed Use Zoning District of the Township. The hearing on the application was held on August 20, 2020, 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 Timothy and Leann Langletzt, with a business address of 920 Limekiln Road, New Cumberland, Pennsylvania, 17070. The present use of the premises at 920 Limekiln Road, which is the subject of the application, is a landscape and hardscape contracting business.
2. The Applicants' property is located in the Residential Mixed-Use (RMU) Zoning District of Fairview Township. The current RMU zoning has been applicable since 2013. Prior to that time the parcel was in the Rural Living (RL) district. The lot is 4.73 acres in area and is improved with an existing accessory building which is 10,840 square feet in area. The lot is used exclusively for the Applicants' landscape and hardscape contracting business.

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 Applicants were represented by James A. Diamond, Esquire, *Eckert Seamans*, 213 Market Street, 8th Floor, Harrisburg, PA 17101. Testifying for the Applicants was Timothy E. Langletz, one of the Applicants, and Chris Hoover, P.E., *Hoover Engineering Services, Inc.*, 658 Gaumer Road, New Cumberland, PA 17070.

5. The Applicants wish to construct an 1,800 square foot addition to the existing 2,400 square foot accessory building located on the premises. The building will continue to be utilized for the storage of vehicles and personal belongings of the Applicants and not for use with the commercial business on site. The total building square footage on site is presently 10,840 which includes the area of the principal structure used in the landscaping business and the 2,400 square foot accessory structure.

6. The Applicants' landscaping business, which is now a non-conforming use in this Residential Mixed-Use District, was authorized pursuant to the Decision of the Zoning Hearing Board dated January 3, 2006 at Docket No. 643. At that time, the Board found that the lot was not useable for single family detached residential use because of unique dimensional characteristics and the high-tension electric power line with accompanying right-of-way 100 feet in width which traverses the length of the lot.

7. In November 2013, a request for a dimensional variance to allow the existing accessory building was granted by the Zoning Hearing Board. That decision allowed a deviation from Fairview Township Zoning Ordinance Section 503.B¹ which provides for a maximum

¹ Now Chapter 300, §300-21.B of the Fairview Township Codified Ordinances.

commercial principal building footprint of 4,000 square feet in the Residential Mixed-Use District.

8. This request is similar to the 2013 request in that the Applicants now wish to construct an 1,800 square feet (40' x 45') addition to the building approved in that hearing and to continue to use that accessory building for personal storage.

9. This property is unique in several respects. It is bordered, north and south by highway rights-of-way and traversed by a high-tension electric power line as previously noted. There is also a small tributary stream on site which limits the location of improvements and access roads on the site. In spite of those characteristics, the RMU zoning was made applicable in 2013, apparently to conform with contiguous tracts and avoid spot-zoning of the parcel. The Fairview Township Zoning Officer testified that if the pre-2013 zoning were in effect, no variance would be needed for the construction requested in the application before the Board.

CONCLUSIONS

1. The Applicants have the burden of demonstrating that because of unique topographical or other features of the lot, strict and literal compliance with the requirements of the Ordinance would impose an unreasonable and unnecessary hardship upon them in the use of their property. A variance may also be substantiated where it represents a *de minimus* deviation from the requirements of the Ordinance.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that the Applicants established that because of the unique characteristics of this parcel, previously established in the Decision docketed to No. 643, and Decision 2013-05, it would cause an unreasonable and unnecessary hardship in the use of this property by imposing the

requirements of the Ordinance which establish a maximum building square footage and limit the commercial footprint to 4,000 square feet on a 200,000 square foot lot. Therefore, the Fairview Township Zoning Hearing Board should grant the requested variance from the literal requirements of Section 300-21.B of the Zoning Ordinance and allow the erection of a 1,800 square foot addition to the existing 10,840 square footage of accessory structures.

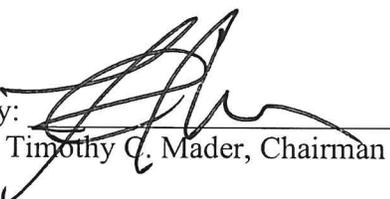
DECISION

On the basis of the foregoing findings and conclusions, and on the basis of all testimony and evidence presented at the hearing, the Board hereby concludes that the request for a variance under Section 300-21.B should be granted to allow the construction of a 1,800 square foot addition to the existing accessory building.

The application was approved upon motion made by Mr. Perry, seconded by Mr. McElhenie, and adopted 3-0 by the Board members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: September 17, 2020

By: 

Timothy C. Mader, Chairman

Distribution: James A. Diamond, Esquire, *for Applicants*



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

NOTICE

The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday **August 20, 2020** at 6:30 P.M. in the Municipal Building 599 Lewisberry Road, New Cumberland, PA 17070, to discuss the following:

Case No. 2020-05: Timothy and Leann Langletz, 920 Limekiln Road, New Cumberland, PA 17070. The Applicants are requesting a variance to the Fairview Township Zoning Ordinance, Section 300-21.B, Maximum Commercial Building Footprint - 4,000 square feet. There is an existing 8,440 square foot building and an existing 2,400 square foot building on the lot. The Applicants propose to construct an 1,800 square foot addition to the existing 2,400 square foot building. The total square footage of the combined buildings would then be 12,640 square feet. The property is owned by the Applicants and is located in the Residential Mixed Use Zoning District.



ZONING HEARING BOARD APPLICATION

YORK COUNTY, PENNSYLVANIA

JUL 21 2020
JUL 16 2020

❖ Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: Timothy and Leann Langletz
Address: 920 Limekiln Road
New Cumberland, PA 17070
Phone: 717-554-3048

EXISTING OWNER OF PROPERTY:

Name: Same as Applicant
Address: _____

PROPERTY LOCATION:

Address: 920 Limekiln Road

PRESENT USE OF PROPERTY:

Landscape and Hardscape Contractor

Lot Size: 4.73 Acres

Date Purchased: February 12, 1977

Location: 920 Limekiln Road

EXISTING ZONE: RMU - Residential Mixed Use

❖ 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):

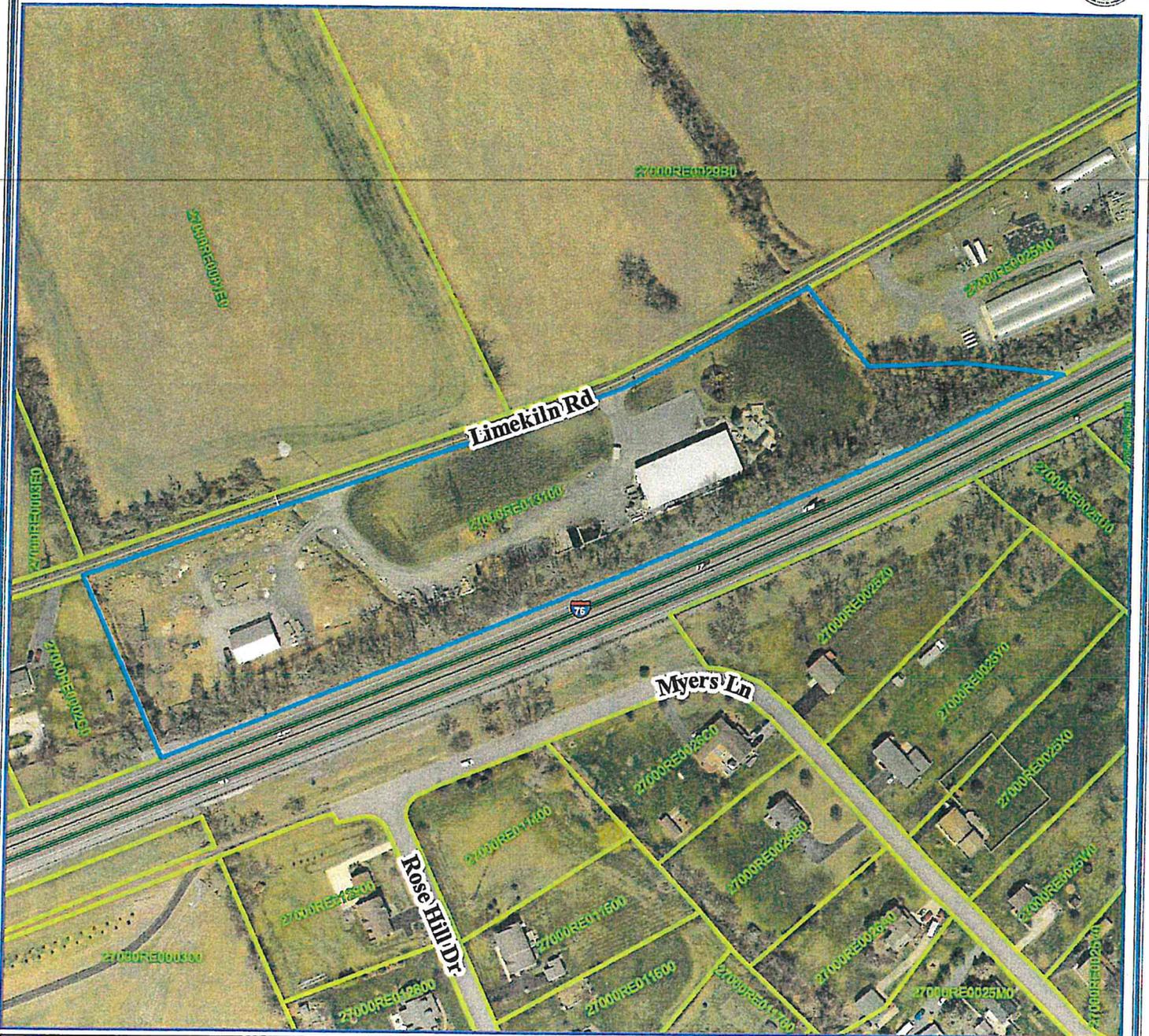
300-21.B - Maximum Footprint of 4,000 square feet for Commercial Buildings

❖ Part 3:

DESCRIPTION OF REQUEST:

The applicant wishes to construct an addition to teh accessory building currently located on the property. The existing building has a footprint of 2,400 square feet, and the proposed addition will be 1,800 square feet (40' x 45'). The existing building will be used for the storage of personal vehicles and belongings of the owner, and will not be used for the commercial operation on the site. The current total amount of building square footage is 10,840, and the total proposed amount will be 12,640 square feet

Parcel - 27000RE01310000000



Owner - LANGLETZ TIMOTHY E & LEANN M
Address - 920 LIMEKILN RD
Tax Municipality - Fairview Twp
School District - West Shore School District
Class - Commercial
Land Use - C - Nurseries & Greenhouses
Acres - 4.73
Assessed Land Value - 58310
Assessed Building Value - 277550
Assessed Total Value - 335860
Sale Date -
Sale Price - 0
Deed Book -
Deed Page -

Legend

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

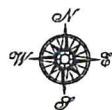
Mapping Provided by



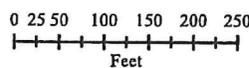
Last Updated: 2/7/2020

Layers should not be used at scales larger than 1:2400
 (Note: Pixilation will occur at scales 1" = below 200 Ft.)
 Aerial Photography - 2018

Disclaimer:
 The York County Planning Commission provides this Geographic Information System map and/or data (collectively the "Data") as a public information service. The Data is not a legally recorded plan, survey, official tax map, or engineering schematic and should be used for only general information. No reasonable effort has been made to ensure that the Data is correct, however the Commission does not guarantee its accuracy, completeness, or timeliness. The Commission shall not be liable for any damages that may arise from the use of the Data.



1 inch=203 feet



IN THE MATTER OF : BEFORE THE FAIRVIEW TOWNSHIP

THE APPLICATION OF: : ZONING HEARING BOARD

TIMOTHY AND LEANN LANGLETZ : YORK COUNTY, PENNSYLVANIA

: DOCKET NO. 2013-05

**DECISION GRANTING A VARIANCE TO §503.B OF THE ZONING ORDINANCE
IN THE RESIDENTIAL MIXED USE ZONING DISTRICT**

The Applicants applied for a variance to Fairview Township Zoning Ordinance Section 503.B for the purpose of constructing a 2,400 square foot accessory building at 920 Limekiln Road, New Cumberland, Pennsylvania 17070, in the Residential Mixed Use Zoning District of the Township. The hearing on the application was held on October 17, 2013, 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 Timothy and Leann Langletz, with a business address of 920 Limekiln Road, New Cumberland, Pennsylvania, 17070. The present use of the premises at 920 Limekiln Road, which is the subject of the application, is a landscape and hardscape contracting business.
2. The Applicants' property is located in the Residential Mixed Use Zoning District of Fairview Township. The lot is 4.73 acres in area; is improved with an existing building which is 8,440 square feet in area. The lot is used exclusively for the landscape and hardscape contracting business.
3. Testifying for the Applicants was Chris Hoover, P.E., Hoover Engineering Services, Inc., 658 Gaumer Road, new Cumberland, PA 17070.
4. The Applicants wish to construct a 2,400 square foot accessory building on the 920

Limekiln Road premises to be utilized for the storage of personal property and not for use with the commercial business on site.

5. The Applicants' landscaping business, which is now a non-conforming use in this residential mixed-use district, is authorized pursuant to the decision of the Zoning Hearing Board, docket no. 643, dated January 3, 2006, which found that the lot is "not useable for single family detached residential use" because of unique circumstances including the overhead high-tension power line which traverses the length of the lot.

6. This application is in substance the request for a dimensional variance to allow a deviation from Fairview Township Zoning Ordinance Section 503.B which provides for a maximum commercial principal building footprint of 4,000 square feet in this residential mixed-use zone.

7. Using a building for personal storage in a commercial use area does not require any special zoning permission. Therefore, with the entire lot occupied by the non-conforming use, a dimensional variance relating to the size of allowable structures is all that is required.

8. 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.

CONCLUSIONS

1. The applicant for a variance has the burden of demonstrating that because of unique topographical or other features of the lot, literal compliance with the requirements of the Ordinance would impose an unreasonable and unnecessary hardship upon the applicant in the use of his property. A variance may also be substantiated where it represents a *de minimus* deviation from the requirements of the Ordinance.

2. On the basis of the testimony and documentary evidence presented, the Board

concludes that the applicant established that because of the unique characteristics of this parcel, previously established in the Decision at Docket No. 643, it would cause an unreasonable and unnecessary hardship in the use of this property if the literal requirements of the Ordinance establishing a maximum building square footage were imposed. Therefore, the Fairview Township Zoning Hearing Board should grant the requested variance from the literal requirements of Section 503.B of the Zoning Ordinance to allow the erection of a 2,400 square foot accessory structure.

DECISION

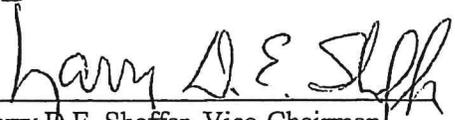
On the basis of the foregoing findings and conclusions, and on the basis of all testimony and evidence presented at the hearing, the application for a variance should be granted to allow the construction of a 2,400 square foot accessory building.

The application was approved upon the motion made by Mr. Maxwell, seconded by Mr. Shaffer and adopted 2-0 by the Board members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: November 21, 2013

By:


Larry D.E. Shaffer, Vice-Chairman

Distribution:
Applicants