

**BEFORE THE FAIRVIEW TOWNSHIP
ZONING HEARING BOARD**

DECISION

**IN RE: APPLICATION OF ERIC AND SUE UNGER
APPLICATION NO. 2025-05**

APPLICANT(S): Eric and Sue Unger, husband and wife
HEARING DATE: September 18, 2025
DECISION DATE: September 18, 2025
APPEARANCES: Scott Akens, Engineer (Akens Engineering Associates, Inc.)
 Marc Brandt (neighbor)
 Stephen Waller, Township Zoning Officer
EXHIBITS: Exhibit 1 – Application (including all submittals)
LETTER SUBMISSIONS: N/A
SUBJECT PROPERTY: 886 Moores Mountain Road, Lewisberry, PA 17339

BACKGROUND

This decision of the Fairview Township Zoning Hearing Board (the “**Board**”) is from an application filed with Fairview Township (the “**Township**”) on August 22, 2025 (the “**Application**”), seeking zoning relief under the Township’s Zoning Ordinance (the “**Ordinance**”), being a variance from the Ordinance under §300.16, Table 4-2: Area and Design Requirements, to permit a decrease in the required lot frontage of a single-family detached dwelling on a collector street in the RL Zone from 300 feet to 58.22 feet. The subject property is located at 886 Moores Mountain Road, Lewisberry, Pennsylvania, 17339, located in the Township’s Rural Living (RL) Zoning District.

A hearing was held on the Application on Thursday, September 18, 2025, with the meeting starting at 6:00 p.m. The Zoning Hearing Board was represented by Timothy Mader (Chairman), Mark Perry (Vice Chairman), and Keith Bashore. All published and posted notices were duly given. No testimony in opposition to the Application was offered or taken. After hearing the testimony and viewing the evidence in this matter, the Board makes the following determinations:

FINDINGS OF FACT

1. Eric and Sue Unger, husband and wife (“**Applicant**”), are the current owners of property located at 886 Moores Mountain Road, Lewisberry, Pennsylvania, 17339 (the “**Property**”), which is used as their primary residential dwelling.
2. The Property is located in the Township’s Rural Living (RL) Zoning District (the “**RL Zone**”).
3. The Property is adjoined to the neighboring property located at 884 Moores Mountain Road, Lewisberry, Pennsylvania, 17339 (the “**Brandt Property**”) and owned by Marc Brandt (“**Brandt**”).

4. Applicant seeks a minor subdivision in order to swap 0.129 acre with the Brandt Property in order to correct some boundary line issues as described further below, with the result of such swap being that neither parcel shall gain or lose any area.

5. The Applicant and Brandt purchased their respective parcels from Harry Fox in 1992, within a few months of one-another, and have been close neighbors ever since.

6. Harry Fox created the lots in late 1970/early 1980.

7. Both parcels were created prior to the enactment of any road frontage requirement, which is currently 300 feet of road frontage for parcels located on Township collector streets in the RL Zone.

8. Both parcels are non-conforming regarding the road frontage requirement, as the Property currently has 127.66 feet of road frontage and the Brandt Property currently has 187.61 feet of road frontage.

9. The structure located on the Brandt Property house is an old one-room school house originally built in the 1850's and renovated and remodeled over the years.

10. The house on the Brandt Property is served by a driveway created at or around the same time the one-room school house was constructed.

11. The driveway currently encroaches on and over the Property, a fact that was recently discovered when a survey was obtained for the Brandt Property.

12. Mr. Harry Fox explained to the Applicant and Brandt where he thought the boundaries to both the Property and Brandt Property were located, but upon obtaining the survey the parties discovered Mr. Harry Fox was incorrect.

13. Applicant and Brandt seek to correct these issues with the minor subdivision plan, for which a variance is needed from the Ordinance under §300.16, Table 4-2: Area and Design Requirements, to permit a decrease in the required lot frontage of the Property, as an existing non-conformity, from 300 feet to 58.22 feet.

14. Stephen Waller, as the Township Zoning Officer, testified that all public notice of the application and hearing were legally conducted and performed, with the hearing being advertised in the newspaper on September 4th and 11th, the Property being posted on September 10th, and the adjoining property owners having letters mailed to them on August 28th.

CONCLUSIONS OF LAW

1. The Applicant has established the elements required by Section 300-99(E)(4) of the Ordinance regarding the general criteria for a variance in order to grant a variance from the Ordinance under §300.16, Table 4-2: Area and Design Requirements, to permit a decrease in the

required lot frontage of a single-family detached dwelling on a collector street in the RL Zone (being the Property) from 300 feet to 58.22 feet.

DECISION

Mr. Perry moved to grant the zoning relief requested by the Applicant in the Application, being a variance from the Ordinance under §300.16, Table 4-2: Area and Design Requirements, to permit a decrease in the required lot frontage of a single-family detached dwelling on a collector street in the RL Zone (being the Property) from 300 feet to 58.22 feet.

Mr. Bashore seconded the motion. Upon a vote, the Fairview Township Zoning Hearing Board unanimously approved the motion.

APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.

APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.



Timothy Mader, Chairmen

Date: September 24, 2025

ANY PERSON AGGRIEVED BY THIS DECISION OF THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA. THE APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS FROM THE MAILING OF THESE FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE ABOVE DECISION.

MAIL DATE: September 24, 2025

PUBLIC NOTICE

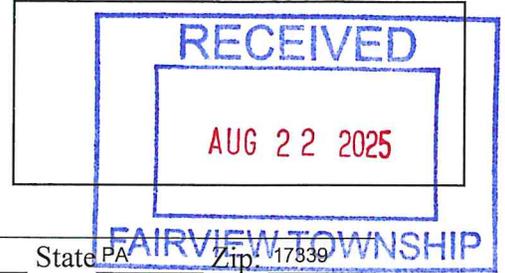
The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday, **September 18, 2025**, at 6:00pm, at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070, to discuss the following:

Docket No. 2025-05: The applicants, Eric and Sue Unger, are requesting a Variance from Section §300.16 – Area and Design Requirements from the required lot width of 300’ for a single-family dwelling on a collector street in order to remove a neighbor’s driveway encroachment on their property. The subject property is located at 886 Moores Mountain Road, Lewisberry, Pa 17339, having a UPI No. 27-000-OE-0053.Q0-00000, which is located within the (RL) Rural Living Zoning District.



ZONING HEARING BOARD
APPLICATION
YORK COUNTY, PENNSYLVANIA

Please see instructions for further information on completing the application.



PART 1 - APPLICANT/OWNER AND PROPERTY INFORMATION

APPLICANT(S):

Name: Eric G. and Sue Z. Unger
Address: 886 Moores Mountain Road City Lewisberry State PA Zip 17839
Email: ericungerdds@gmail.com Phone: 717-648-9995

PROPERTY OWNER(S) (if other than applicant):

Name: same as applicant
Address: City State Zip
Email: Phone:

PROPERTY INFORMATION:

Address: 886 Moores Mountain Road City Lewisberry State PA Zip: 17839
Lot Size: 4.99 Date Purchased: 02/09/2022 Tax Parcel ID: 27-000-OE-0053.Q0
Current Use of Property: Residential Zoning Map District Designation: RL - Rural Living

PART 2 - ZONING REQUEST TYPE:

Please identify one or more of the following applicable type(s) of relief being requested.

[] SPECIAL EXCEPTION As required in Section(s) of the Zoning Ordinance.
The proposed use for the location is claimed by the applicant:

- a. To be considered with such other standards as required by the Zoning Ordinance in Section(s):
b. Will not detract from the use and enjoyment of adjacent or nearby properties for the following reasons:
c. Will not substantially change the character of the neighborhood for the following reasons:
d. To comply with various elements and objectives of the Comprehensive Plan, and/or any other applicable plans adopted by the Township of Fairview:

[x] VARIANCE of Section: 300.16 Subsection: Lot Width of 300'
Section: Subsection:
Section: Subsection:
Section: Subsection:

of the Fairview Township Zoning Ordinance.

Nature of Variance(s) requested: Reduction of the already non-conforming lot width of the Unger property to allow the driveway to the Brandt property to be located entirely on the Brandt property.

The applicant believes the Variance should be granted due to:

- Applicant is unable to make reasonable use of his property for the following reasons:
Both the Brandt and Unger properties are currently non-conforming with regard to lot width. Both lots combined only have 315.27 feet of width and the requirement is 300' per lot.
- The unnecessary hardship on this property is:
 - The result of the application of the Zoning Ordinance;
 - Due to unique physical circumstances of the property in question not shared by other properties in the vicinity;
 - Not financial in nature;
 - Not self-created;
- The proposed Variance will not alter the essential character of the neighborhood nor impair the use of the adjacent property for the following reasons: overall use and ownership of the 2 affected lots will remain the same
- The Variance requested represents the minimum that will afford relief for the following reasons:
This is the minimum amount or relief required to allow the driveway for the Brandt property to be entirely on the Brandt property.

APPEAL OF THE ZONING OFFICERS DECISION

The decision of the Zoning Officer dated: _____, 20 _____ based upon an interpretation of Section(s) _____ of the Zoning Ordinance. The nature of the appeal by applicant is as follows: _____

PART 3 – PREVIOUS ZONING HEARING BOARD ACTIONS

To the best of your knowledge, has there been any previous Zoning Appeals, Variances or Special Exceptions associated with this property? YES NO .
If yes, please provide dates or Case #'s _____

PART 5 – APPLICANT/OWNER AUTHORIZATION AND AFFIDAVIT

Commonwealth of Pennsylvania :

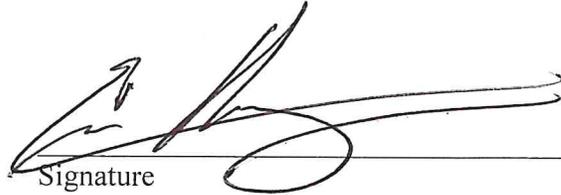
County of _____ :

The undersigned, being duly sworn according to law, deposes and says that he/she is the above-mentioned applicant/owner/representative, that they are the owner OR authorized to take this Affidavit on behalf of the owner and that the forgoing information and facts contained in the application are true and correct to the best of their knowledge.

Applicant/Owner/Representative

Eric G. Unger / Owner

Name/Title

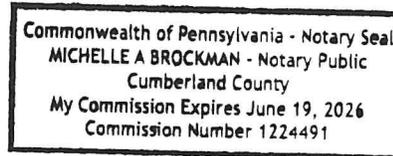


Signature

Sworn to and subscribed before me
this 21st day of August, 2025.



Notary Public



For office use only:
ZONING HEARING BOARD CHECKLIST

Application received: _____

Property Zoning District: _____

Request Type: Special Exception, Variance or Appeal: _____

Case No.: _____ Fee paid: \$ _____ Payment type: _____

Hearing date: _____

Draft Public Notice sent to Attorney for review: _____

Notice sent to newspaper: _____

Notice published in newspaper: _____

Notice mailed to property owners (225 ft. buffer): _____

Public Notice posted on property: _____

ZHB packets mailed and emailed: _____

Action taken: _____

GENERAL NOTES:

1. THE INTENT OF THIS PLAN IS TO SUBDIVIDE PROPOSED LOT #1A FROM EXISTING LOT #1 AND PROPOSED LOT #2A FROM EXISTING LOT #2. PROPOSED LOT #1A WILL BE ADDED TO EXISTING LOT #2 AND PROPOSED LOT #2A WILL BE ADDED TO EXISTING LOT #1.
2. TO THE BEST OF MY PROFESSIONAL KNOWLEDGE THERE IS NO ENVIRONMENTALLY SENSITIVE AREAS PRESENT.
3. THERE IS NO 100 YEAR FLOOD PLAIN LOCATED WITHIN THE PROPERTY BOUNDARY OF THE PROJECT. THIS INFORMATION IS BASED UPON A REVIEW OF THE FLOOD BOUNDARY AND FLOODWAY MAP FOR THE TOWNSHIP OF FAIRVIEW, YORK COUNTY, PA. FEMA FLOOD INSURANCE RATE MAP PANEL 42133C0160F - COMMUNITY NUMBER 420923.
4. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE PACKET.
5. NO KNOWN COVENANTS (OTHER THAN THESE SHOWN) EXIST NOR ARE PROPOSED BY THIS PLAN.
6. THE FOLLOWING DATUMS ARE USED IN THE CREATION OF THIS PLAN, HORIZONTAL DATUM, NAD-83, VERTICAL DATUM, NAVD-88.
7. MONUMENTS SHALL BE OF CONCRETE OR STONE AT LEAST 6 INCHES BY 6 INCHES BY 30 INCHES AND MARKED ON TOP WITH A COPPER OR BRASS DOWEL. THEY SHALL BE SET ON THE CORNERS OF THE PROPOSED PROPERTY LINE. MARKERS SHALL BE IRON PIPES OR BRASS DOWEL 30 INCHES BY 3/4 INCHES DIAMETER AND SET AT ALL CORNERS WHERE BOUNDARY LINES OR LINES CHANGE DIRECTION FOR EACH TRACT OR LOT.
8. THIS PLAN PROPOSES NO EARTH MOVING ACTIVITIES. ANY EARTH MOVING ACTIVITIES MAY REQUIRE THE SUBMITTAL AND APPROVAL BY THE YORK COUNTY CONSERVATION DISTRICT PRIOR TO ANY EARTH MOVING ACTIVITIES OCCURRING.
9. THIS PLAN DOES NOT OFFER ANY LANDS FOR DEDICATION TO PUBLIC USE.
10. THERE ARE NO WETLANDS PRESENT ON THE SUBJECT PROPERTY.

ZONING INFORMATION:

ZONING DISTRICT:
(RL) - RURAL LIVING
EXISTING USE (LOT #1, #2): SINGLE-FAMILY DWELLING
PROPOSED USE (LOT #1, #2): SINGLE-FAMILY DWELLING

LOT AREA PER UNIT (MINIMUM):

REQUIRED: 80,000 sq.ft.
EXISTING LOT #1: 67,520.10 sq.ft.
EXISTING LOT #2: 218,111.62 sq.ft.
PROPOSED LOT #1: 67,514.63 sq.ft.
PROPOSED LOT #2: 218,117.09 sq.ft.

MINIMUM LOT WIDTH:

REQUIRED: 300 ft. (Along Collector Street).
EXISTING LOT #1: 187.61 ft. (Ex. Non-Conformity)
EXISTING LOT #2: 127.66 ft. (Ex. Non-Conformity)
PROPOSED LOT #1: 257.05 ft. VARIANCE REQUESTED
PROPOSED LOT #2: 58.22 ft. VARIANCE REQUESTED

BUILDING SETBACK REQUIREMENTS:

Front Yard (min.) - 125 ft. (Along Collector Street).
EXISTING / PROPOSED LOT #1: 125 ft.
EXISTING / PROPOSED LOT #2: 125 ft.
Side Yard (min. each side) - 30 ft.
EXISTING / PROPOSED LOT #1: 30 ft.
EXISTING / PROPOSED LOT #2: 30 ft.
Rear Yard (min.) - 50 ft.
EXISTING / PROPOSED LOT #1: 50 ft.
EXISTING / PROPOSED LOT #2: 50 ft.

ACCESSORY USE SETBACK REQUIREMENTS:

Front Yard (min.) - Not Allowed in Front Setback or Front Yard if Principal Building is Less Than 150' From the Street Right of Way.
Side Yard (min. each side) - 20 ft. - If Accessory to a Single Family Dwelling, 50 ft. for all other nonresidential and nonagriculture uses.
Rear Yard (min.) - 20 ft. - If Accessory to a Single Family Dwelling, 50 ft. for all other nonresidential and nonagriculture uses.

IMPERVIOUS LOT COVERAGE (MAXIMUM):

ALLOWABLE: 20%
EXISTING LOT #1: 10.20%
EXISTING LOT #2: 6.68%
PROPOSED LOT #1: 10.20%
PROPOSED LOT #2: 6.68%

VEGETATIVE COVERAGE (MINIMUM):

ALLOWABLE: 60%
EXISTING LOT #1: 89.80%
EXISTING LOT #2: 93.32%
PROPOSED LOT #1: 89.80%
PROPOSED LOT #2: 93.32%

MAXIMUM BUILDING HEIGHT (MAXIMUM):

ALLOWABLE: 35 ft.
EXISTING / PROPOSED LOT #1: < 35'
EXISTING / PROPOSED LOT #2: < 35'

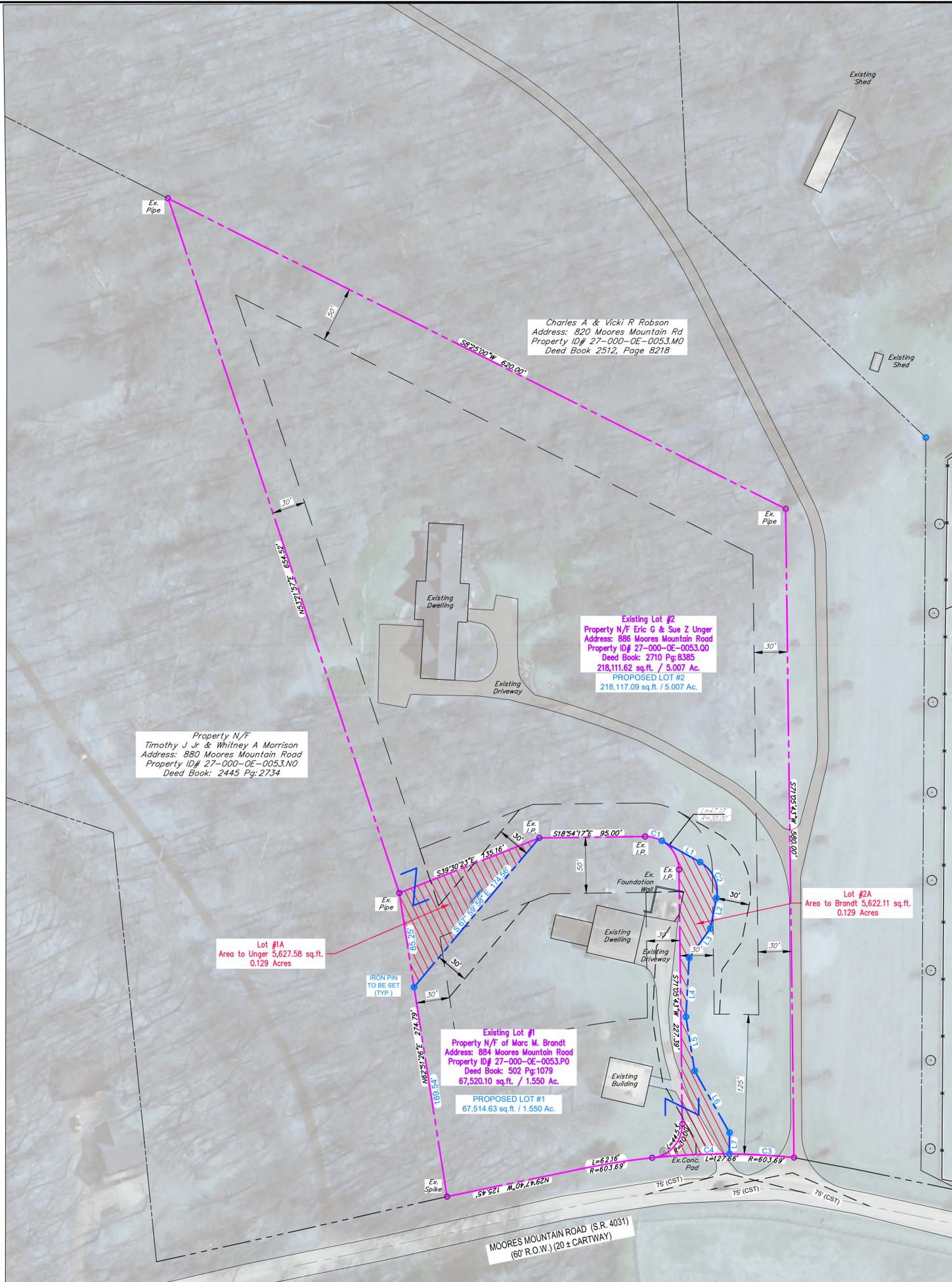
UTILITIES:

WATER SUPPLY: PRIVATE
SANITARY SEWER: PRIVATE



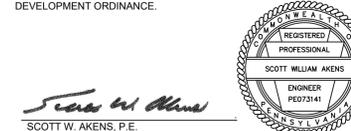
LOCATION OF EXISTING UNDERGROUND UTILITIES ARE BASED UPON SURFACE EVIDENCE AND EXISTING DRAWINGS AND ARE NOT GUARANTEED TO BE COMPLETE OR ACCURATE BY AKENS ENGINEERING ASSOCIATES, INC.
CONTRACTOR SHOULD CONTACT THE PA. ONE CALL SYSTEM (1-800-421-7776) PRIOR TO ANY EXCAVATION AS REQUIRED BY PA. ACT 199 (2004).

PENNSYLVANIA LAW REQUIRES 3 WORKING DAYS NOTICE FOR CONSTRUCTION PHASE AND 10 WORKING DAYS NOTICE IN DESIGN STAGE - STOP CALL PENNSYLVANIA ONE CALL SYSTEMS, INC. PHONE: 1-800-242-1776, SERIAL NUMBER: 20252162743



ENGINEER CERTIFICATION

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE, THE PLAN SHOWN AND DESCRIBED HEREON IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY THE FAIRVIEW TOWNSHIP AND LAND DEVELOPMENT ORDINANCE.



SURVEYOR CERTIFICATION

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE, THE SURVEY SHOWN AND DESCRIBED HEREON IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY THE FAIRVIEW TOWNSHIP AND LAND DEVELOPMENT ORDINANCE.



APPLICANT DATA:
MARC M. BRANDT
884 MOORES MOUNTAIN ROAD
LEWISBERRY, PA 17339-9773
EMAIL: marc@mr-b-entertainment.com
PHONE: 717-623-7777

PARCEL INFORMATION:
LOT #1: MARC M. BRANDT
PARCEL ID: 27-000-OE-0053.P0
SITE ADDRESS: 884 MOORES MOUNTAIN ROAD
DEED BOOK 502, PAGE 1079
LOT #2: ERIC G. & SUE Z. UNGER
PARCEL ID: 27-000-OE-0053.Q0
SITE ADDRESS: 886 MOORES MOUNTAIN ROAD
DEED BOOK: 2710, PAGE 8385

Parcel Line Table

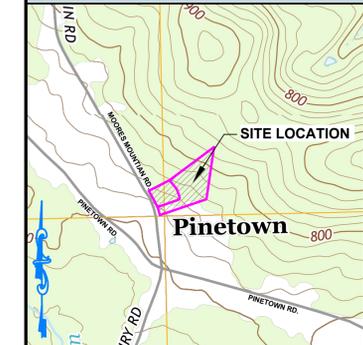
Line #	Length	Direction
L1	39.27	N10° 58' 58"E
L2	27.70	N83° 17' 21"E
L3	32.51	S72° 19' 58"E
L4	52.71	N75° 03' 49"E
L5	48.88	N62° 35' 42"E
L6	63.52	N42° 17' 45"E
L7	19.03	N72° 15' 55"E

Curve Table

Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	15.65	30.00	29.89	N3° 57' 39"W	15.47
C2	37.86	30.00	72.31	N47° 08' 09"E	35.40
C3	58.22	603.69	5.53	N14° 58' 19"W	58.20
C4	69.44	603.69	6.59	N21° 01' 48"W	69.40

Akens Engineering Associates, Inc.
219 E. Main St. Shiremanstown, Pa. 17011
(P) 717-975-9933 (F) 717-975-5507
www.akensengineering.com
"Providing Quality Engineering & Surveying Services since 1983."

LOCATION MAP



SCALE: 1" = 1000'

LEGEND

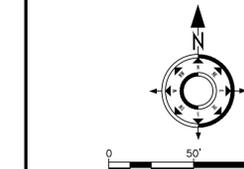
- Existing Centerline
- Existing Right-of-Way
- Existing Boundary Line
- Existing Adjoiner Boundary Line
- Existing Boundary Marker
- Existing Building Setback Line
- Existing Edge of Pavement
- Existing Fence

PROPOSED LEGEND

- Proposed Property Line
- Proposed Property Setback
- Proposed Property Marker

PROJECT ENGINEER/SURVEYOR

Akens Engineering Associates, Inc.
SCOTT W. AKENS, P.E., P.L.S.
219 E. Main St. Shiremanstown, Pa. 17011
(P) 717-975-9933 (F) 717-975-5507
www.akensengineering.com
scott@akensengineering.com



REVISIONS:

ZONING VARIANCE EXHIBIT FOR MARC M. BRANDT

AND
ERIC G. & SUE Z. UNGER

FAIRVIEW TWP, YORK CO, PA

EXISTING/PROPOSED CONDITIONS

SCALE: 1" = 50'

PLAN DATE: AUGUST 4, 2025

FILE NAME: X:\1083-1-s Brandt\Brandt Base.dwg

SHEET NUMBER: 1 of 1