

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
JAMES and JOANNE DRAKE : **YORK COUNTY, PENNSYLVANIA**
: **DOCKET NO. 2021-10**

DECISION GRANTING A VARIANCE TO SECTION 300-50.B
OF THE ZONING ORDINANCE

The Applicants applied for a variance to Section 300-50.B of the Fairview Township Zoning Ordinance for the installation of an in-ground swimming pool in the front yard of the residence located at 111 Iron Furnace Court, Lewisberry, PA 17339, located in the Rural Living Zoning District of the Township. The hearing on the application was held September 16, 2021, at 6:30 p.m., at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

FINDINGS OF FACT

1. The Applicants are James and Joanne Drake, 111 Iron Furnace Court, Lewisberry, PA 17339. The premises, which is the subject of the application, is the Applicants' residence.
2. The Applicants' residence is in the Rural Living Zoning District of Fairview Township.
3. Testifying in support of the application was Applicant, James Drake.
4. 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.
5. The requested variance is for the purpose of installing an in-ground swimming pool, in an area of the lot defined as a "front yard" of this property.
6. This 2.4824-acre lot has a predominately triangular shape, although its metes and

bounds are in six (6) courses.¹ The front of the lot at the point of the triangle has frontage of just eighty (80) feet on the curve of the Iron Furnace Court cul-de-sac. At the rear of the lot, the lot lines most distant from the front on Iron Furnace Court are two courses which mark the intersection of Old Forge Road and Turtle Hollow Drive. With these multiple road frontages, under the Ordinance, this lot has two (2) front yards.² Consequently, by virtue of its pie-shape, essentially the entirety of the lot which is not taken up by the residence is a “front” yard and subject to the front yard setback distances, structure limitations, and other requirements of the Zoning Ordinance.

7. There are eight (8) requirements which pertain to private household swimming pools. This application requires a variance from one (1) of those requirements, specifically, Section 300-50.B which provides:

“No swimming pool shall be permitted to be located in the front yard between the principal building and the public street (excluding alleys) or within any required front setback.”

8. The proposed location of the pool will comply with the applicable setback requirements under the Ordinance; but requires a variance because of its location in a front yard.

9. The Applicants demonstrated, and the Fairview Township Zoning Officer concurred, that the proposed in-ground swimming pool will meet all the other requirements of Section 300-50 and the general requirements for variances enumerated in Fairview Township Zoning Ordinance Section 300-99.E(4). The Zoning Officer further testified that the

1. Exhibit “A” to this decision is a single page exhibit which was submitted as part of the application for this hearing. It is a drawing of the lot showing its shape and the planned location of the swimming pool.

2. Fairview Township Zoning Ordinance § 300-11 Definitions provides: “Yard, Front. The yard area extending across the full width of the lot and contained between the building line of the principal structure and the front lot line or street line (excluding alleys), measured perpendicular to the building line of said structure at the closest point to the front lot line. Corner lots shall have two front yards. . . .”

circumstances of this lot are such that without relief from the Zoning Hearing Board in this decision, the Applicants will be required to get a separate variance for each and every additional accessory structure which they may wish to have in the large yard behind their residence.

Therefore, he requested that the Zoning Hearing Board consider allowing for such possible future accessory structures in this Decision. The Zoning Officer further recommended that it would be appropriate to establish the already existing "landscape easement" line, which is recorded as part of the subdivision plan, as the setback line along Old Forge Road and Turtle Hollow Drive for any future accessory structures.

DISCUSSION

This application presents the recurring need for a dimensional variance or variances where a lot has multiple front yards. This particular case involves the most extreme of those circumstances because the residence is at the narrowest point of a pie-shaped 2.8-acre parcel. The functional rear yard of this parcel, which is at least 2 acres in area, is a "front yard" under the Ordinance which allows placement of very few accessory structures, if any, without a variance or variances from the Zoning Hearing Board. It is clear under these circumstances that any practical use of the largest part of the lot is highly restricted, if not prohibited, by the strict application of the Ordinance. Therefore, relief is justified not only for the in-ground swimming pool requested in this application, but also the reasonable relief suggested by the Zoning Officer which will accommodate the property owner by obviating the need for future location variances where all other terms of the Ordinance are met for an accessory structure or use.

CONCLUSIONS

1. Private Household Swimming Pools are permitted in the Rural Living Zoning District, subject to compliance with the criteria of Sections 300-50 of the Zoning Ordinance. In this matter, the Applicants demonstrated that their proposed in-ground pool will meet all the requirements of Section 300-50 of the Ordinance excepting the “front yard” prohibition in 300-50.B. The Applicants further demonstrated that because of the configuration of their lot with the home at the narrowest part of the triangular, pie-shaped lot, they are entitled to a dimensional variance for the pool to be located to the rear of the home in the front yard which adjoins both Old Forge Road and Turtle Hollow Drive. The location of the pool shall be no closer to Old Forge Road and Turtle Hollow Drive than the landscape easement identified by metes and bounds on the recorded subdivision plan for the Lot, which is Exhibit “B” attached to this Decision.

2. The application meets all of the remaining standards established under Section 300-50 of the Zoning Ordinance, and further meets all of the general criteria for a variance set forth in Section 300-99.E(4) of the Zoning Ordinance. The variance for the installation of an in-ground swimming pool in the front yard of the property at 111 Iron Furnace Court should, therefore, be granted.

3. The application also establishes that the Zoning Hearing Board should determine in this decision that any future accessory structures or proposed uses which meet all other ordinance requirements may be located in the yard adjoining Old Forge Road and Turtle Hollow Drive no closer to those roads than the landscape easement line.

DECISION

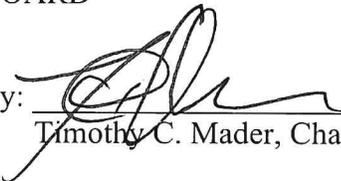
On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented at the Hearing, the Zoning Hearing Board hereby grants the application for a variance authorizing the installation of an in-ground swimming pool in the front yard of Applicants' residence at 111 Iron Furnace Court, Lewisberry, PA 17339 subject to the following condition: the location of the pool shall be no closer to Old Forge Road and Turtle Hollow Drive than the landscape easement identified by metes and bounds on the recorded subdivision plan for the Lot, which is Exhibit "B" attached to this Decision.

On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented at the Hearing, the Zoning Hearing Board also determines that any future accessory structures or proposed uses which meet all other ordinance requirements may be located in the yard adjoining Old Forge Road and Turtle Hollow Drive no closer to those roads than the landscape easement line.

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

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: October 21, 2021

By: 

Timothy C. Mader, Chairman

Distribution:
Applicant



ZONING HEARING BOARD APPLICATION
YORK COUNTY, PENNSYLVANIA

❖ Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: James & Joanne Drake
Address: 111 Iron Furnace Ct
Lewisberry PA 17339
Phone: 215 527 7081

EXISTING OWNER OF PROPERTY:

Name: James & Joanne Drake
Address: 111 Iron Furnace Ct
Lewisberry PA 17339

PROPERTY LOCATION:

Address: 111 Iron Furnace Ct
Lewisberry PA 17339
Lot Size: 2.4824
Date Purchased: June or July 2018
Location: Old Forge Crossing

PRESENT USE OF PROPERTY:

Residential

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:

300.50 B

❖ Part 3:

DESCRIPTION OF REQUEST:

See attached
Looking for zoning relief of 300.50 B
to have a pool put in. We would like a building
envelope.

❖ Part 4

LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 200 FEET OF THE PERIMETER OF THE ENTIRE PROPERTY.

NAME	ADDRESS	USE TYPE
Wilson	113 Iron Furnace CT	Residential
Gross	107 Iron Furnace CT	Residential
Polito	102 Bellows Ct	Resid
Bougher	104 Bellows Ct	Resid
Henson	3 Parthermore Cir	Resid
" " "	" " " Ct	
Conforti	105 Bellows Ct	Resid

Parcel - 270003900470000000



Owner - DRAKE JAMES W & JOANNE

Address - 111 IRON FURNACE CT

Tax Municipality - Fairview Twp

School District - West Shore School District

Class - Residential

Land Use - R - Two Story House

Acres - 2.41

Assessed Land Value - 99980

Assessed Building Value - 479560

Assessed Total Value - 579540

Sale Date - 14-JUN-2018

Sale Price - 115000

Deed Book - 2474

Deed Page - 4188

Legend

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

Mapping Provided by

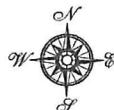


Last Updated 11/18/2020

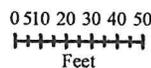
Layers should not be used at scales larger than 1:2400
(Note: Pixilation will occur at scales 1" = below 200 Ft.)
Aerial Photography - 2018

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. 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=75 feet



❖ *Part 5 For office use only:*

ZONING HEARING BOARD CHECKLIST

Application Received: _____

Property Zoned: _____

Asking for Special Exception, Variance or Appeal: _____

Case No.: _____

Fees Paid: _____

Hearing Date: _____

Draft Public Notice sent to Attorney for review: _____

Notice sent to Newspaper: _____

Notice Published in Newspaper: _____

Notice Mailed to Property Owners in 225ft. Buffer: _____

Public Notice Posted on Property: _____

ZHB Packets Mailed and Emailed: _____

Postponed e.g. pool would be located in a front yard (3 front yards - Iron Furnace, Old Forge & Turtle Hollow) which is prohibited by zoning ordinance (300.50.B). Permit cannot be issued without zoning relief.

Request

Jim & Joanne Drake, owners of 111 Iron Furnace Ct are seeking a zoning variance related to ordinance 300-50.B; No swimming pool shall be permitted to be located in the front yard between the principal building and the public street (excluding alleys) or within any required front setback.

The basis of our request is that:

- a) The spirit or intent of 300-50.B seems to be that Fairview township does not want homeowners building a swimming pool in their front yard, which we wholeheartedly agree with.
- b) According for Webster's dictionary, a front yard is the area in front of a house. We are not seeking relief to build our pool in our front yard I.e. between our house and Iron Furnace Ct.
 - i) We would also like to note that we would deem this request to be unnecessary if Fairview Township could/would use the common definition (Merriam Webster dictionary) of "front yard" in the ordinance as this is the most reasonable and commonly accepted definition given the spirit of the ordinance,
 - ii) Note, it is not clear within the ordinance that the definition of "Front Yard" could mean anything other than the obvious. Especially since Section 300-10 refers to use of language and the application of standard Webster dictionary definitions.
- c) We would like to build our pool and other structures e.g. pool house
 - i) No closer to our east property line (adjacent to 113 Iron Furnace Ct) than the east end of our house, approximately 50 feet from the property line.
 - ii) No closer than 75 feet from Turtle Hollow Dr. Measured using the closest point of the house to Turtle Hollow Dr.
 - iii) No closer than 75 feet from Old Forge Rd. Measured using the closest point of the house to Old Forge Rd.
 - iv) No permanent structure will be built on or within 10 feet of any existing easements.

