

**BEFORE THE  
ZONING HEARING BOARD OF  
FAIRVIEW TOWNSHIP, ERIE COUNTY, PENNSYLVANIA**

IN THE MATTER OF	:	
	:	Premises at 7682 Magnolia Bend
Property owner:	:	Fairview Township, PA
Shawn and Karen Haas	:	
7682 Magnolia Bend	:	Index No. (21) 83-23.49-23
Fairview, PA 16415	:	

**FINDINGS OF FACT**

1. The Applicants are Shawn and Karen Haas, 7682 Magnolia Bend, Fairview, Pennsylvania, (hereinafter “Applicants”).

2. Applicants are the owners of the Subject Property located at 7682 Magnolia Bend, Fairview, Pennsylvania.

3. The Subject Property is located in Fairview Township, Pennsylvania, and is identified by the Erie County Index No. (21) 83-23.49-23. The parcel is currently zoned R-1.

4. Applicants would like to construct an in-ground swimming pool on the Subject Property. A 4' fence is required around the pool. Applicants are seeking approval to erect a privacy fence around the Subject Property.

5. The proposed fence would be erected over portions of a storm sewer easement.

6. Section 815 of Fairview Township Zoning Ordinance provides:

No structure, planting or obstruction of any kind shall be placed or allowed to be placed in or on any underground public easement or access easement or interfere in any way with any public easement.

7. Applicants are seeking a variance to allow them to erect the proposed fence.

8. Applicant Shawn Haas testified that he and his wife own the Subject Property. Mr. Haas explained that he would like to construct an in-ground swimming pool and fence in his backyard. Though no permit is required for a fence, the permit for the pool was denied as there is no way to lawfully erect the proposed fence without a variance.

9. Mr. Haas explained that there is an existing fence along the west side of his property which was erected by his subdivision's Homeowners Association. His plan would be to tie into that existing fence.

10. Mr. Haas confirmed that he is aware that there are storm sewer easements along his property boundary and it is possible that portions of his fence may need to be removed for repairs/replacement.

11. Mr. Haas testified that he would be responsible for replacing the fence in the event that it had to be removed for storm sewer repairs/replacement.

12. There was no other testimony offered either in favor of or in opposition to Applicants' request.

### **CONCLUSION OF LAW**

Applicants have met their burden to entitle them to the requested variance.

### **DECISION**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2017, the Fairview Township Zoning Hearing Board hereby grants Applicants' request for a variance to allow a fence to be erected on the Subject Property as proposed is granted. The approval of the variance does not lessen or interfere with the existing storm sewer easements on the Subject Property. In the event that any portion of the fence needs to be removed for storm sewer repairs or replacement, Applicants shall bear the full responsibility to replace the fence should they desire to do so.

These Findings of Fact, Conclusions of Law, and Decision are signed this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Brian McGrain, Chairperson

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George Wilkosz

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Judy Miller