

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

IN THE MATTER OF	:	
	:	Premises at 6020 Swanville Road
Property owner:	:	Fairview, PA 16415
Swan Properties, LLC	:	
5739 West Ridge Road	:	Index No. (21) 58-82-10
Erie, PA 16506	:	

FINDINGS OF FACT

1. The Applicant is Swan Properties, LLC, 5739 West Ridge Road, Erie, Pennsylvania (hereinafter “Applicant”).
2. Applicant is the owner of the Subject Property located at 6020 Swanville Road, Fairview, Pennsylvania.
3. The Subject Property is located in Fairview Township, Pennsylvania, and is identified by the Erie County Index No. (21) 58-82-10. The parcel is currently zoned R-3.
4. Applicant would like to construct an eight (8) unit apartment building on the Subject Property.
5. The Subject Property is located on the north side of West Ridge Road and has apartment buildings located on the adjacent parcels to both the east and west.
6. Fairview Township Zoning Ordinance Section 801 provides:

Building Setbacks

Where one or more preexisting buildings are located on both lots adjacent to the lot upon which a proposed building is to be constructed and within one hundred fifty (150) feet of the common property boundary with the lot upon which the proposed building is to be constructed, the setback of the proposed building shall conform with the average setbacks of the preexisting principal structures.
7. Applicants want to build their apartment building approximately 104 feet from West Ridge Road. This is a significantly larger front yard setback than the neighboring properties.
8. Mike Sanford of Sanford Surveying and Engineering appeared and testified on behalf of Applicants. Mr. Sanford explained that the property was decreased in size in 2004 when 94' of the rear portion of the property was subdivided and sold. The rear 60 feet of the property must be utilized for storm water retention as required by Fairview Township's Ordinances. Mr. Sanford explained that the property is better suited to having the parking lot in front of the building. This would allow additional green space and would safely address the

slope of the property which drops 11 feet from the front to the rear of the property. Mr. Sanford noted that while the front yard setbacks of the neighboring properties were much less than 104 feet, both of the adjacent properties had multiple buildings, some of which were set back as far as the proposed building.

9. There was no other testimony offered either in favor of or in opposition to Applicant's request.

CONCLUSION OF LAW

Applicants have failed to meet their burden to entitle them to a variance from Fairview Township Zoning Ordinance Section 801 regarding front yard setbacks. While Applicants have offered several reasons why it would prefer to locate its building farther back from the road than allowed by Ordinance, Applicants are unable to identify any condition or hardship which prevents them from complying with the mandated front yard setbacks. Mere preference is not sufficient to entitle Applicants to the Variance requested.

DECISION

AND NOW, this _____ day of _____, 2017, the Fairview Township Zoning Hearing Board hereby denies Applicant's request for a front yard variance.

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

Brian McGrain, Chairperson

George Wilkosz

Barb Parchey

Dissenting from the Decision of the Board

Judy Miller

Keith Farnham