

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

IN THE MATTER OF

	:	
	:	Premises at 7689 Birch Drive
	:	Fairview Township, PA
	:	
	:	Index No. (21) 83-23-44.26
	:	
	:	- AND -
	:	
	:	Premises at 7697 Redbud Trail
	:	Fairview Township, PA
	:	
Property owner:	:	
Maleno Development	:	
2340 West Grandview Blvd.	:	Index No. (21) 83-23-44.27
Erie, PA 16506	:	

**FINDINGS OF FACT**

1. The Applicant is Maleno Development, 2340 West Grandview Blvd., Erie, Pennsylvania, (hereinafter "Applicant").
2. Applicant is the owner of the Subject Properties located at 7689 Birch Drive and 7697 Redbud Trail in Fairview, Pennsylvania.
3. The Subject Properties are 7689 Birch Drive located in Fairview Township, Pennsylvania, identified by the Erie County Index No. (21) 83-23-44.26, and 7697 Redbud Trail located in Fairview Township, Pennsylvania, identified by the Erie County Index No. (21) 83-23-44.27. Both parcels are currently zoned R-1.
4. Applicant intends to use each of the Subject Properties for construction of a single family residence.
5. Applicant desires to erect a fence along the rear property line of each parcel. While Fairview Township Zoning Ordinance does not require a permit in order to erect the proposed fencing, Applicant needs a variance as the proposed fence would be erected over a public storm sewer easement.
6. Dominic Maleno appeared and testified on behalf of Applicant. Mr. Maleno testified that both residential lots are faced with the problem that the house to the rear is visible

and unattractive. The proposed 6' vinyl white fence would make the Subject Properties more private and attractive for potential buyers.

7. Mr. Maleno testified that the Applicant was willing to remove and/or replace the fence in the event that the Township needed access to the storm sewer pipe. He further noted that the easement is 20' which is very wide. He proposed to locate the fence within 6" of the rear property line, leaving over 19' for access to the storm sewer access pipe. He promised to include all of the easement documents in the homeowner's book that Applicant provides to buyers.

8. 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.

9. Justin Trulise testified that he looked at the house but did not buy it because of the unsightly view from the back yard.

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

### **CONCLUSION OF LAW**

Applicant has 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 Applicant's request for a variance to allow a fence to be erected on the rear property line of each the Subject Property as proposed is granted. The fence shall be entirely located within 18" of the rear property line so that a minimum of 18'6" of the easement area is open and completely accessible for storm water repair maintenance and replacement. The approval of the variance does not lessen or interfere with the existing storm sewer easements on the Subject Properties. In the event that any portion of the fence needs to be removed for storm sewer repairs or replacement, Applicant 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.

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Brian McGrain, Chairperson

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George Wilkosz

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Judy Miller

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Keith Farnham

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Barb Parchey