

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

APPEAL #8

IN THE MATTER OF	:	Premises at:
HANES ERIE INCORPORATED	:	Lot #12, Fairview Business Park
7601 Klier Drive	:	Index No. 88-99.00-4.00
Fairview, PA 16415	:	
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	:	
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FINDINGS OF FACT

1. The applicant is Hanes Erie, Inc., current owner of Lot #12 in the Fairview Business Park – Phase 1, Erie County Index No. 88-99.00-4.00 which is currently zoned I-1 Industrial Park.
2. At the hearing, the Applicant sought the following:

Variance to Fairview Township Zoning Ordinance Section 707(E)(2) which provides that all parking spaces provided in the District shall be located on the same property with the permitted use it is intended to serve.
3. The Applicant, through its consulting engineers, Porter Consulting Engineers, P.C. (Ashley Porter) testified to the following in support of the Application for a Variance:
 - A. The parking area for Lot #12 will be located on Lot #8 based upon the approval of the Fairview Township Zoning Hearing Board of a use variance for Lot #8. It will consist of eighty six (86) spaces as shown on Variance Exhibit Number A. Fifty three (53) parking spaces will be located on Lot #13. Therefore, the Applicant will have a total of one hundred thirty nine (139) spaces and the Fairview Township Zoning Ordinance requires one hundred thirty eight (138) spaces.
 - B. The purpose of the eighty six (86) parking spaces is to provide for additional parking for the Hanes Erie, Inc. proposed building addition of thirteen thousand two hundred (13,200) square feet on Lot #12.
 - C. Lot #12 is not suitable for the additional parking spaces because of topographical issues (the parking would be fourteen (14) feet higher than the yard) and because of the location of a wooded area on that Lot. Therefore, topography prohibits the use of Lot #12 for the additional parking.

- D. Lot #9 in the Fairview Business Park, under contract to Hanes Erie, Inc. is not suitable for parking because of easements set forth on the subdivision map and the existence of a “duck pond” which is a required wetland.
 - E. The Applicant proposes a formal crosswalk to connect Lot #8 and Lot #12 across Klier Drive which would be painted and striped. There will be solar powered rapid flash beacons operated by a push button to alert traffic to the presence of pedestrians. These rapid flash beacons will be maintained by the Applicant. (Variance Exhibit B).
 - F. Bob Marz, of Roth Marz Partnership, P.C., the architects for the new Hanes Erie, Inc. addition, testified as to the proposed addition and provided the Zoning Hearing Board with Variance Exhibit C. The addition will consist of the same materials as the existing building, will match the existing building in height and color; the window patterns will match and in essence the new addition will look as if it were original to the building.
 - G. The parking spaces remaining on Lot #12 will be used for drop-offs and for handicapped parking.
- 4. Mr. Cardman testified that the proposed parking area complies with all setback requirements of the Fairview Township Zoning Ordinance. The variance is required because of Section 707(E)(2) which requires that all parking spaces provided in the District should be located on the same property with the principal use it is intended to serve.
 - 5. The Applicant through Ashley Porter testified that Hanes Erie, Inc. agreed that Lot #8 must be encumbered with a recorded Easement for the eighty six (86) parking spaces that would be a permanent easement in favor of Lot #12 (Lot #12 being the dominant tenement and Lot #8 being the servient tenement).
 - 6. No correspondence was received in favor of or in opposition to the proposed variance. No person appeared at the hearing to oppose the proposed variance.
 - 7. The owner of Hanes Erie, Inc. and the contractor also appeared to support the Application.

CONCLUSIONS OF LAW

Applicant has met the requirements for a variance under Fairview Township Zoning Ordinance Section 1103 in that:

- 1. Both the topography and wooded area on Lot #12 have created a physical condition whereby the owner cannot use Lot #12 for the required parking and the strict application of the Ordinance would result in an unnecessary hardship and practical difficulty and deprive Hanes Erie, Inc. of the reasonable use of that Lot;

2. The proposed parking area is in harmony with the general purpose and intent of the Ordinance and the Comprehensive Plan and is required in order to accommodate the proposed building addition of thirteen thousand two hundred (13,200) square feet on Lot #12 and will not be injurious to the Business Park or otherwise detrimental to the public welfare and is the minimum necessary to afford relief;

3. The hardship was not created by the Applicant;

4. The granting of the variance will not result in any unacceptable or prohibited increase in flood heights or erosion. Storm water from the proposed parking area has been adequately addressed and the variance will not result in any additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimize the public.

DECISION

AND NOW, this 6th day of September, 2016, it is ordered that the application for the variance requested for Lot #12 under Fairview Township Zoning Ordinance Section 707(E)(2) and Fairview Township Zoning Ordinance Section 1103 is APPROVED contingent upon the encumbrance of Lot #8 by Deed or by recorded Easement which will provide a permanent and perpetual parking easement for all eighty six (86) parking spaces, which Easement will run in favor of Lot #12.

Chairman McGrain and members Judy Miller, Keith Farnham, Barbara Partchey, Josh Ritchie and George Wilkosz unanimously voted “aye”.

These Findings of Fact, Conclusions of Law and Decision are signed this ____ day of September, 2016.

Brian McGrain, Chairman
Fairview Township Zoning Hearing Board