

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

APPEAL #7

IN THE MATTER OF	:	Premises at:
GREATER ERIE INDUSTRIAL DEVELOPMENT CORPORATION	:	Lot #8, Fairview Business Park
Joseph B. Spero, Bankruptcy Trustee	:	Index No. 88-99.10-2.00
3213 West 26 th Street	:	
Erie, PA 16506	:	

FINDINGS OF FACT

1. The applicant is Hanes Erie, Inc. buyer under Articles of Agreement with Greater Erie Industrial Development Corporation (Joseph B. Spero, Bankruptcy Trustee). Greater Erie Industrial Development Corporation is the current owner of Lot #8 in the Fairview Business Park – Phase 1, Erie County Index No. 88-99.10-2.00 which is currently zoned B-2 Highway Commercial District.

2. At the hearing, the Applicant sought the following:

Variance to Fairview Township Zoning Ordinance Section 704(B)(2) which provides that accessory uses in the B-2 Highway Commercial District shall be on the same lot with and customarily incidental to a permitted principal use.

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 Use Variance:

- A. The parking area to be located on Lot #8 will consist of eighty six (86) spaces as shown on Variance Exhibit Number A. Lot #8 has no entrance from Route 98. The only entrance is from Klier Drive.
- B. The parking area will be an accessory use to the current Hanes Erie, Inc. facility located on Lot #12 directly to the west of Lot #8.
- C. 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. The proposed building addition will both eliminate existing parking spaces and create a need for additional parking spaces.
- D. 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.

- E. Lot #9 in the Fairview Business Park, also 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.
 - F. The location of the proposed eighty six (86) parking spaces on Lot #8, by trapping the parking into the southwest corner of that Lot, will allow for future development of Lot #8 as a commercial use and no rezoning is being sought.
 - G. 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).
 - H. The storm water runoff from Lot #8 parking will not affect Lot #9. The storm water runoff will move in an eastward and northeastward direction.
- 4. Mr. Cardman testified that the proposed parking area complies with all setback requirements of the Fairview Township Zoning Ordinance. The use variance is required because of Section 704(B)(2) because the Applicant is seeking to construct an accessory use to a principal use which is not located on the same lot.
 - 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 use variance. No person appeared at the hearing to oppose the proposed variance.
 - 7. The owner of Hanes Erie, Inc., the contractor and the architect all appeared to support the Application.

CONCLUSIONS OF LAW

Applicant has met the requirements for a use 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 use 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 use variance requested for Lot #8 under Fairview Township Zoning Ordinance Section 704(B)(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