

Dover Township  
Zoning Hearing Board  
July 18, 2018

Chairman Jane Ginter called the meeting to order at 7 p.m. Members present: Jeffrey Edmonds, Phillip Brown, Steve Barkdoll, Robert Wright, and alternate Richard Pope. Also present: Zoning Officer Georgia Sprenkel, Solicitor Mike Craley, Stenographer Tammy Rinehart, Recording Secretary, and 11 citizens.

**I. Minutes**

**Motion** by Edmonds, second by Brown, to approve the minutes of the meeting of May 16, 2018. All members voted aye; motion carried.

**II. Zoning Case**

- A. ZHB 18-3, Faire Wynd Development LLC; requests for dimensional variances for setbacks

Four members of the audience were sworn in. Doug Parkins, E. G. Stoltzfus Homes, was present on this request for dimensional variances for the rear setbacks on Lots 34 and 35.

Mr. Parkins is an employee of E. G. Stoltzfus Homes; he represents the homebuilder of the project, and yes, he is permitted to give testimony in this matter.

The applicants wants a rear-yard setback Variance for the two lots on Hilton Avenue. Seven lots in this development are not yet built on, including these two in Phase 3 of this development. The Variance request would permit the builder to build the same type of buildings as are in the rest of the development. These lots are sized differently and won't accept the footprint of the usual building. This is not a use Variance request but a request for a dimensional Variance. Exhibit 2 accurately shows the building envelope. Mr. Parkins distributed new packets of information and referred to Exhibit 9A, showing all the corner lots in the development. Corner lots have two front yards and a 10' rear setback. Originally, Lot 35 was proposed to be a corner lot, fronting onto a future street, but it comes with a 30' setback instead of the normal 10' rear setback. Mr. Parkins feels that if the setback on Lot 35 had been correct in the first place, with the street pending, this request for Variance would not be necessary. If their request for Variance were granted, it would permit them to put the house on the lot and be within about a 15' setback.

Applicant's Exhibit 2 is a drawing of a proposed building envelope. On questioning by Attorney Craley, Mr. Parkins confirmed that they could indeed place a 35 x 40 dwelling on this lot with no variance required. It's just not the building they would like to place to be consistent with the rest of the neighborhood. Mr. Parkins also showed how the ideal building would indeed fit into the setbacks if the rear setback were 10', which he feels it should be.

Exhibit 3 is a drawing of the way the lots in question fit into the development, and how it fits into the surrounding area, showing the closest other residential use, across the stream and green space area.

Mr. Parkins also explained that the steepness of the lot prevents the placement of the usual dwelling as desired. The topography of the lots necessitates a walk-out basement, which includes a staircase inside the house. He mentioned that behind the lots is an empty area, with no other houses.

Is it possible to redesign the plan and eliminate the basement? It wouldn't look the same as the rest of the dwellings. Not the best option. Can they combine the lots and build one unit? The market isn't good for single-family homes; the duplexes sell better here. He feels that a new plan isn't a good risk.

How about any negative impact? If the lots were configured better, a Variance wouldn't be needed. The developer designed this configuration, perhaps not looking far enough ahead. The Planning Commission recommended using the land behind the two lots to extend the parcels to permit the builder to build what he wants. The land behind is owned by the Homeowner's Association, Mr. Parkins said.

Mrs. Ginter feels that the applicant can build a smaller unit that would sell, being more attractive because it includes a basement, which could be finished to increase the livable area. Mr. Parkins isn't so sure that it would sell at 1304 square feet, not including the basement. Street utilities would need to be relocated to accommodate the different footprint. Was the cul-de-sac always a part of this plan, even with the future ROW of the street? Apparently. It was noted that Bupp-McNaughton owns the area where the future street is shown.

Mr. Parkins can't see any negative impact to the granting of this Variance request.

From the audience, Mark Messinger, 3201 Fair Wynd Place, president of the HOA Board, asked who changed the flood plain line? Mr. Parkins noted that FEMA changed the line/map, and the property was surveyed to reflect that change. Also, Mr. Messinger is concerned about the steepness of the banks – the HOA is responsible to mow these areas, and he noted that on Faire Wynd Place, there are properties with steep banks that are not mowable. He doesn't want the same thing to occur. Mr. Parkins agreed with him that steep banks are not mowable, indeed, and that will not happen on these lots.

Cindy Schroeder, 3139 Faire Wynd Place, also on the HOA Board, asked for clarification on Mr. Parkins' comments that Lot 35 is a corner lot. He provided his thought process. Also, Mrs. Schroeder clarified that the HOA doesn't own the land behind the units, the developer (Bupp-McNaughton) owns it. This is interesting information. Third, these lot sizes were on the plan since 2005, so why did it take this long to figure out that they're too small for this desired house? Why buy them if they weren't buildable? Mr. Parkins isn't sure, as he wasn't involved with this project at that time. If they were to build a smaller unit, the houses would look rather similar from the street, although the garages would be right out in front with the large doors prominently displayed, which Mr. Parkins feels would be unattractive.

Mike Mummert, 3246 North Wynd Avenue, a neighbor to these lots, is concerned that the homes will not sell because of the topography.

Jan Douglas, 3250 North Wynd Avenue, across the street from these lots, asked what distance the applicant is requesting to encroach. The required setback is 30'; they are asking to have 15'6" on Lot 35; 16'6" on Lot 34.

Mr. Brown noted that since the developer owns the lot behind the lots in question, why not move the lot lines to extend the lots to be in compliance? Sure, but it would require a subdivision to change the lot lines. The applicant would rather not do that.

Cindy Schroeder noted that within this development, there is only one other lot with one tree partially on it, which the HOA will need to deal with if there's a problem with the tree in the future. With all the trees on the lots involved, there's more of a liability possibility.

The Planning Commission unanimously recommended *denial* of this request for Variances for setbacks as requested, further recommending that the applicant seek a different resolution to this situation. Hearing closed.

**Ruling:**

**Motion** by Barkdoll, second by Wright, to *deny* the request by Faire Wynd, LLC, for a Variance for rear setback, based on lack of unnecessary hardship. All members voted aye; motion carried.

**III. Other Business**

Nothing at this time.

**Motion** by Brown, second by Wright, to adjourn. All members voted aye; motion carried. The meeting adjourned at 8:06 p.m.

Respectfully submitted,

Julie B. Maher,  
Recording Secretary