



FAIRFIELD TOWNSHIP BOARD OF ZONING APPEALS

STAFF REPORT

CASE: FTZA16-8V

APPLICANT: Mario Angulo

OWNER: Armando Martinez

LOCATION: 6513 Liberty Fairfield Road, Lot #329/330
A0300-018-000-012

CURRENTLY ZONED: A-1/R-1

USE: Creation of three new building lots for parcels
without the required road frontage.

DATE: January 23, 2017

SITUATION OF PROPERTY

The subject property is currently zoned A-1 Agricultural District and is on the west side of Liberty Fairfield Road near the intersection of Princeton and Liberty Fairfield Roads. There are two parcels owned by Mr. Martinez. One parcel fronts on Liberty Fairfield Road. There is an existing house and the parcel is 1.0560 acres in size. The second parcel is located behind the house to the west and is 5.0710 acres in size. The larger parcel is bounded by a subdivision to the north and larger parcels to the south. There is one access point on Liberty Fairfield Road for the existing house (Lot#330). The existing house is 1,092 square feet in size and was built in 1964. There is no sewer for either of these parcels.

DESCRIPTION OF REQUEST

The Applicant seeks to create three new building lots for a parcel without the required road frontage. The applicant is requesting the following variance:

- 1. Section 8.6.2 Area, Frontage and Yard Requirements – Single family dwelling lots must *have no less than 200 ft. of road frontage, 40 ft. front, 25 ft. side and a rear yard setback of 50 ft. with no more than 25% lot coverage. There is no minimum square footage requirement.***

FINDINGS OF FACT

- 1) The property currently has 200 feet of road frontage along Liberty Fairfield Road which is the minimum. Frontage lots along major roadways were the most popular way to

develop land at that time because the developer did not have to spent money up front on roadways and other infrastructure.

- 2) The owner does own the parcel directly to the east of the subject property. This property, if split will be retained by the applicant and he plans to build 3 new houses for his family members. There is an existing barn on Lot# 329.
- 3) There is no sewer available for the front parcel, but could potentially be available for the rear parcel through the subdivision to the north. The owner would have to get an easement to run it back to the three houses if the soil does not perk and it's not feasible to install three new septic systems.
- 4) The lots and parcels surrounding the property in question run in various sizes from 5 acres (mainly to the south) to .5 acres (to the north).
- 5) The owner plans to construct 3 new homes that will be approximately 2,700 square feet in size. They are 4 bedroom homes which will dictate a certain size for a septic field (based on the number of people living in the home). The owner will have to demonstrate and get approval for 3 separate septic fields (and backup fields) on this parcel through the health department. If approval cannot be given for septic, then the owner will have to pay to bring sewer to those new lots.
- 6) There is a pond at the rear of the property. All of the water to the rear of the property drains to the southwest and everything to the front drains towards Liberty Fairfield Road. The owner will need to demonstrate that they are taking care of the water runoff from the new impervious surfaces that will be created by building three new homes with driveways, sidewalks, patios, etc.
- 7) An access easement with maintenance will need to be established for all of the new lots and the existing home located at 6513 Liberty Fairfield. All new lots would need to enter/exit through the existing driveway.
- 8) Water is available along Liberty Fairfield Road. The developer would need to extend the water to those new properties.
- 9) If the lot is split into 3 somewhat equal pieces, that leaves each piece at approximately 1.6 acres in size. The zoning resolution states that there is a cap at 25% coverage for each parcel which would equate to .4166 acres or 18,150 sf. which is plenty of room for each house and possible accessory structures/buildings.
- 10) 25.8.2 VARIANCES. The Board shall have the power to authorize upon appeal in specific cases, filed as herein before provided, such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest. Where the applicant seeks a use variance, said applicant shall be required to establish to the Board, proof by a preponderance of the evidence that unnecessary hardship will prevail unless the variance is granted. ***Where the applicant seeks an area variance, it shall be***

sufficient that said applicant establish to the Board, proof by a preponderance of the evidence that he has or will encounter practical difficulties in the use of his property. The Board shall consider the following factors and other factors that may be applicable in the judgment of the Board in determining a variance.

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance: ***The property cannot be used for anything but agricultural uses.***
- b. Whether the variance is substantial: ***It could be substantial given the fact that the applicant is asking to split the existing 5-acre tract into three pieces. However, the pieces would be 1.6 acres in size which is larger than the lots to the north, but smaller than the parcels to the south.***
- c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance: ***I do not believe the essential character of the neighborhood would be substantially altered by allowing additional houses or lots to be created in this area.***
- d. Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, and garbage): ***I do not believe the variance would adversely affect the delivery of government services.***
- e. Whether the property owner purchased the property with knowledge of the zoning restriction: ***Most property owners do not know to look at what a property is zoned let alone what that district allows or the frontage or area requirements for a lot.***
- f. Whether the property owner's predicament can feasibly be obviated through some method other than a variance: ***There is no other way to allow the creation of this lot other than asking for a variance. There would be no other way to get a subdivision street into this area.***
- g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. ***The spirit and intent behind the zoning requirement will still be observed whether or not the lot is created. The property is large enough in size and will still be used in the same manner as before.***

STAFF RECOMMENDATIONS

The property will continue to be used for residential and will be larger in size than all the lots to the north but smaller than the parcels to the south. There is no sewer available in this area and the applicant will be required to get health department approval prior to receiving lot split approval by Butler County to install an on-site waste removal system (septic/mound/aerobic system). The property in front is zoned R-1 and subject property is zoned A-1. There is no minimum size lot in the A-1 district.

Staff recommends approval of the lot split without the required road frontage along Liberty Fairfield Road as required in the A-1 district subject to the following conditions:

- 1) The applicant will be required to receive health department approval from the Butler County Health Department prior to lot split approval. The approval will dictate the sizes

of the lots and their locations. Approval may or may not be for 3 lots and could potentially be reduced in number which would increase the size of the lot per the health department.

- 2) Access for the property shall be limited to the existing driveway on Liberty Fairfield Road that currently services the front property. Any new driveway permits shall be approved by the Butler County Engineer's Office.
- 3) There shall be a recorded shared access and maintenance agreement between the owner of the existing property and any new residents or family which determines the maintenance of the easement area shared by all parties.
- 4) The applicant will be required to route all drainage for the properties to the pond area to the southwest corner of the existing property or to Liberty Fairfield Road. All water run-off shall be handled on site if possible.
- 5) The applicant will be required to run water to all new properties/houses for the development.
- 6) The existing barn will have to be located on/split with one of the new parcels created.
- 7) All existing accessory structures will have to be removed or moved to exist with new parcels.

Kimberly A Lapensee
Zoning Administrator, Fairfield Township





