

**HANOVER TOWNSHIP ZONING HEARING BOARD**  
**OF NORTHAMPTON COUNTY, PENNSYLVANIA**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Application of:           :       Thomas & Teresa Stuter  
Application dated       :       June 27, 2019  
Property                 :       1225 Alyssa Place

The Hanover Township Zoning Hearing Board after conducting a hearing on Thursday, July 18, 2019, and rendering its oral decision granting variances as hereinafter set forth, hereby makes the following Findings of Fact and Conclusions of Law in support thereof:

1. The subject property is located at 1225 Alyssa Place in an R1-S – Single Family Residential Suburban District.

2. The petition was brought by Thomas Stuter and Teresa Stuter, the owners of the premises.

3. The Stuters were not present at the hearing but were represented by Attorney Zachary J. Cohen of the Law Firm of Lesavoy Butz & Seitz, LLC, to appear on their behalf. They also authorized the architectural firm, of Artefact, Inc. to give testimony on their behalf at the hearing.

4. Attorney Cohen offered the following exhibits at the hearing:

**Exhibit 1** – Site plan of the existing lot with the proposed construction of the single-family dwelling superimposed thereon.

**Exhibit 2** - Site plan of the proposed lot with the trees removed and other trees substituted therefor.

**Exhibit 4** – The first page of the preliminary/final subdivision plan of Dewire Estates, having a date of June 10, 2002

**Exhibit 5** – Google Aerial of the general neighborhood of 1225 Alyssa Place with a date of July 17, 2019.

**Exhibit 6** – Copy of Declaration of Protective Covenants and Restrictions as recorded in Recorder of Deeds Book 2007-1, page 79758.

**Exhibit 7** – Authorizations by Thomas and Teresa Stuter referred to above.

5. Testifying from the architectural firm of Artefact, Inc. was Christine Ussler, Principal-President. She indicated that she has been in the business for approximately 33 years and gave a list of her general qualifications. She was accepted by the Board as an expert in her field.

6. The applicants are requesting variances from the woodland provision of the Hanover Township Zoning Ordinance and a modification or clarification of the prior decision of the Board in the Dewire matter.

7. Based on the woodland provisions, the normal impervious surface requirements of the ordinance would be reduced to only 22%. The applicant indicates that it cannot comply with that but instead requires a variance to enable it to have an impervious surface of 25.7%.

8. According to the applicants' architect, approximately 14 trees will have to be removed and it is the owners' intent to replace them all. The architect indicated that she believes that upon replacement of all the trees after construction, the lot could have 60% coverage. In that regard, it is important to note that the Board indicated in its decision in the Dewire matter that it would be the requirement for the average woodland coverage in this subdivision to be 35%.

9. The Board is aware that in some of the prior applications for relief, the lots were significantly less than 35%, which would therefore require that the remaining lots all be more than 35% to maintain the 35% average set forth in the Dewire decision. The Board believes that in the present situation, if the applicant was not able to achieve its estimate of 60% but a minimum of 50%, that would be satisfactory to grant the relief as requested.

10. The Board notes as per Exhibit 6 that the deed restrictions require that a one-story house be a minimum of 2,800 feet plus a three-car attached garage making it much more difficult to comply with the impervious coverage provisions of the ordinance.

11. The Board believes that in the present case, the applicants have demonstrated a regard for the woodland provisions and the impervious coverage provisions consistent with the spirit and intent of these provisions of the ordinance.

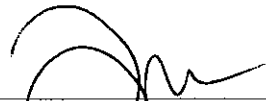
12. The Board believes that the applicant shall be required however, to demonstrate to the Zoning Officer that at least 50% coverage has been obtained.

13. It is also noted that as to the remaining lots, the Board will have to deal with each of them on a case-by-case basis considering such factors as whether the spirit and intent of the woodland provision of the ordinance is being kept and the extent to which woodlands are being removed without new trees replacing them.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby adopts the above Findings of Fact and Conclusions of Law and grants the variance from the restrictions with respect to the preservation of woodland as might be determined from the Dewire decision previously issued by the Board and further grants a variance that allows the impervious coverage of the lot to be 25.7% rather than 22%, subject to the condition that the applicant replace the trees with other suitable trees providing at least 50% coverage.

HANOVER TOWNSHIP  
ZONING HEARING BOARD

By: \_\_\_\_\_



Barbara L. Baldo, Esquire,  
Chairperson

Dated: August 13, 2019