

original

ERECTED INTO A TOWNSHIP IN 1733  
**TOWNSHIP OF WORCESTER**  
AT THE CENTER POINT OF MONTGOMERY COUNTY  
PENNSYLVANIA

1721 Valley Forge Road  
P.O. Box 767  
Worcester, PA 19490

Phone (610) 584-1410  
Fax (610) 584-8901

**THIS SECTION COMPLETED ONLY BY TOWNSHIP:**

APPEAL NO.: 17-04      DATE FILED: 3/21 , 20 17

APPLICATION:       BOARD OF SUPERVISORS  
                          ZONING HEARING BOARD

1.      Date of Application: 3/20/2017

2.      Classification of Appeal (Check one or more, if applicable):
- a.      Appeal from the Zoning Officer's Determination
  - b.      Request for Variance
  - c.      Request for Special Exception
  - d.      Challenges to the Validity of Zoning Ordinance or Map
  - e.      Request for Conditional Use Hearing
  - f.      Request for Amendment to Zoning Map
  - g.      Request for Zoning Ordinance Amendment
  - h.      Request for a Curative Amendment
  - i.      Request for other relief within the Jurisdiction of the Zoning Hearing Board as established in Section 909.1(a) of the Pennsylvania Municipalities Code

3.      Applicant:

- a.      Name: Figen Yildiz & Robert Fink
- b.      Mailing address: 1875 Staiger Rd  
Lansdale, PA 19446
- c.      Telephone number: 215-840-0504
- d.      State whether owner of legal title, owner of equitable title, or tenant with the permission of owner legal title: \_\_\_\_\_ **(REQUIRED)**

**Please attach Deed to prove ownership, an Agreement of Sale to prove equitable ownership, or an Affidavit allowing Tenant to apply for necessary relief.**

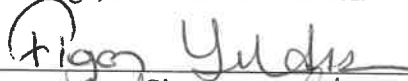
4.      Applicant's attorney, if any:

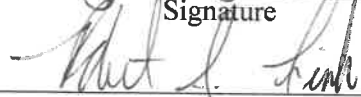
- a.      Name: \_\_\_\_\_
- b.      Address: \_\_\_\_\_
- c.      Telephone number: \_\_\_\_\_

5. Property Details:
- a. Present Zoning Classification: Agricultural
  - b. Present Land Use: Residential
  - c. Location (Street Address):  
1875 Steiger Road Lansdale PA 19446
  - d. Parcel #: 67-00-02648-07-02
  - e. Lot Dimensions:
    - (1) Area: 21,936 sf
    - (2) Frontage: 111 feet
    - (3) Depth: Right: 145 feet, Left: 172 feet
  - f. Circle all that apply in regards to the above specified property:
    - Public Water
    - Public Sewer
    - Private Well
    - Private Septic
  - g. Size, construction, and use of existing improvements; use of land, if unimproved: **(Please submit as an attachment)**
6. Proposed Use(s):
- a. Proposed use(s) and construction: Please provide size, construction and proposed use(s). **(Please submit as an attachment)**
7. Legal grounds for appeal (Cite specific sections of Pennsylvania Municipalities Planning Code, Zoning Ordinance, Subdivision Regulations, and/ or other Acts or Ordinances). All sections that apply must be listed in which relief is required and an explanation provided. **(Please submit as an attachment)**
8. Has any previous appeal been filed concerning the subject matter of this appeal?  
 Yes  No  
 If yes: specify: **(Please submit as an attachment)**
9. Challenges please list requested issues of fact or interpretation:  
**(Please submit as an attachment)**
10. Worcester Township to provide the list of names and addresses of all property within 500 feet of the perimeter of the subject property. **(REQUIRED: SECTION 150-224)**

**CERTIFICATION**

I (We) hereby certify that the above information is true and correct to the best of my (our) knowledge, information or belief.

  
 Signature

  
 Signature

Figen Yildiz  
 Printed Name

Robert A. Fink  
 Printed Name

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF MONTGOMERY : SS

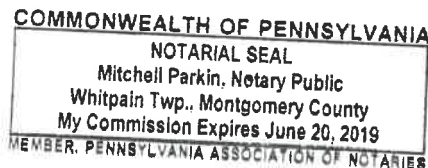
The undersigned, being duly sworn according to law, deposes and says the he/she is the above names applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and foregoing facts are true and correct.

*Riga Uuden*  
Applicant

*Robert A. Fik*  
Applicant

Sworn to and subscribed before me this 20 day of MARCH, 2017

*[Signature]*  
Notary Public



Date Received: 3/24/17

*[Signature]*  
Zoning Officer

**BEFORE THE ZONING HEARING BOARD**  
**OF**  
**THE TOWNSHIP OF WORCESTER**  
**MONTGOMERY COUNTY, PENNSYLVANIA**

IN RE: Figen Yildiz and Robert A. Fink  
1875 Steiger Rd

April 18, 2017

	<b>Zoning Hearing Board Application</b>
<b>Exhibit A</b>	<b>Deed</b>
<b>Exhibit B</b>	<b>Plot Plan of Property</b>
<b>Exhibit C</b>	<b>Proposed Deck and Cover Design Plan</b>
<b>Exhibit D</b>	<b>Tax Map</b>

**OUTLINE FOR HEARING BEFORE THE  
WORCESTER TOWNSHIP ZONING HEARING BOARD**

**I. INTRODUCTION.**

**A. Applicant:** Robert Fink and Figen Yildiz

**B. Property:**

- Tax Parcel No. 67-00-02648-07-2
- 1875 Steiger Road
- 21,936 sf
- AGR Agricultural zoning district
- Present use is a single family detached dwelling

**C. Proposal:** Construct a 995 square foot deck on the rear of the property, a 240 square foot portion of which will be covered with a roof.

**D. Relief Requested:** A variance from Section 150-181 of the Zoning Ordinance to allow the covered portion of the deck to encroach 3.2 feet into the required 40-foot rear yard setback.

**E. Exhibits:**

- A. Deed
- B. Plot Plan of Property.
- C. Proposed Deck Floor Plan.
- D. Tax Map

**II. DIRECT EXAMINATION OF WITNESSES.**

**A. Robert Fink**

1. **Background / Relief Requested.**

(a) You and your wife are the owners of the subject property, correct?

- Yes.

(b) Please describe the current condition of the subject property.

- New home constructed in 2016.
- Contains a multi-generation suite for my in-laws.
- Home not constructed with any outdoor space such as a patio or deck.

- (c) I am showing you a Plot Plan of your property, which identifies the location of the existing dwelling on the property and the location of the required setbacks. This plan has been pre-marked as **Exhibit B**. Are you familiar with this plan?
- Yes.
- (d) This plan also identifies the location of the new proposed deck on the rear of the property, correct?
- Yes.
- (e) The plan shows a deck of approximately 995 square feet, correct?
- Yes.
- (f) And an approximately 240 square foot portion of this deck is proposed to be covered with a roof, correct?
- Yes.
- (g) And what are the dimensions of this portion of the deck?
- About 13.3 ft. by 16.6 ft.
- (h) Explain to the Board why it is you are proposing to cover this portion of the deck.
- Shaded area needed for practical use by family.
  - One of the owners of the property has hypertension that is controlled with blood pressure medication. Exposure to sunlight with his blood pressure medication is not recommended and has been advised by doctors to always be in shaded area. In addition, his son suffers from a skin condition that his doctor recommends a shaded area.
- (i) And the portion of the deck that is proposed to be covered is less than 25% of the entire deck area, correct?
- Yes.
- (j) In looking at the plot plan, there is a 40-foot required setback in the rear yard, is that correct?
- Yes.

- (k) Is it your understanding that the Zoning Ordinance permits the non-roofed deck area to encroach into the required setback, but not the roofed portion of the deck?
- Yes.
- (l) And so you are asking for a variance to allow the roofed portion of the deck to encroach into the setback 3.2 feet, is that correct?
- Yes.
- (m) And that 3.2 feet was calculated by the fact that the distance shown from the roofed section of the deck to the rear property line is 36.8 square feet, correct?
- Yes.
- (n) Is it your understanding that another property in your neighborhood obtained this same relief from the Zoning Hearing Board in the last year?
- Yes.
  - The owners of Lot 30 and Lot 39 in this same subdivision obtained this relief. Our lot is lot 8.

2. **Variance Requirements.**

- (a) Are you familiar with the requirements to obtain a variance as set forth in Section 150-219 of the Zoning Ordinance?
- Yes.
- (b) In your opinion, are there unique circumstances or conditions peculiar to your property that necessitate the requested variance?
- Yes. The lot when constructed did not leave much area within the rear portion of the building envelope for exterior covered outdoor space.
  - We believe the size of the covered outdoor space is reasonable given that it is less than 25% of the entire outdoor deck area.
  - Also, the encroachment of only 3.2 feet is very small.
- (c) In your opinion, will the grant of this variance enable the reasonable use of the property?
- Yes.

- (d) In your opinion, have you created this hardship?
- No.
- (e) In your opinion, would the grant of the variance alter the character of the neighborhood permanently impair the appropriate use of development of adjacent property?
- No. The outdoor space is in keeping with the character of the neighborhood. There is open space to the rear of where this outdoor space is to be located and so it will not have an adverse impact on any neighbors either.

### SUMMARY

- Only a 3.2 foot encroachment into the 40-foot required setback. Submit that this is a de minus encroachment.
- The 240 square foot covered portion is less than 25% of the entire outdoor deck area proposed to be constructed.
- The amount of outdoor space proposed is not unreasonable for this property and, given the size of the lot and the home constructed by the builder on the property, there is only so much space remaining for the outdoor space.
- No neighbors will be impacted if the relief is granted as this portion of the property backs up to open space.



Exhibit A

COPY

Prepared by:  
Westminster Abstract Company  
250 Gibraltar Road, 1 West  
Horsham, Pennsylvania 19044  
800-265-0425

Return to:  
Commonwealth Agency Inc.  
25W. Skippack Pike  
Ambler, Pennsylvania 19002  
215-643-7744

Parcel ID No.: 67-00-02648-07-2

## DEED

THIS INDENTURE MADE THE 30<sup>th</sup> day of March in the year two thousand and sixteen (2016)

### BETWEEN

Toll PA, L.P.

(hereinafter called the Grantor), of the one part, and

Robert A. Fink and Figen Yildiz, married to one another

(hereinafter called the Grantees), of the other part,

**Witnesseth**, that the said Grantor

For and in consideration of the sum of Eight Hundred Sixty One Thousand Nine Hundred Three Dollars 00/100 (\$861,903.00)

Lawful money of the United States of America, unto it well and truly paid by the said Grantees, at or before the sealing and delivery, hereof, the receipt whereof is hereby acknowledged, has granted, bargained and sold, aliened, enfeoffed, released and confirmed, and by these presents does grant, bargain and sell, alien, enfeoff, release and confirm unto the said Grantees, their heirs and assigns, as tenants by the entirety.

**SEE ATTACHED LEGAL**

Exhibit A

DESCRIPTION OF PROPERTY  
LOT 8  
PRESERVE AT WORCESTER

All that certain lot or parcel of land situated in the Township of Worcester, County of Montgomery, and Commonwealth of Pennsylvania, being known as Lot 8 as shown on a plan entitled, "The Preserve at Worcester, Final Cluster Land", dated April 01, 2006, last revised January 17, 2014, sheets 1 through 48 of 48, prepared by Woodrow & Associates, Inc., Lower Gwynedd, Pa, 19002, recorded in the Montgomery County Recorder of Deeds Office on May 2, 2014, Plan Book 40, Page 335, Instrument No. 2014026469, more particularly described as follows;

Beginning at a common corner of Lot 8 and Lot 9, on the northerly side of Steiger Road (40' R.O.W.) and running;

1. Along said northerly side, the following two (2) courses and distances, North 53 degrees 04 minutes 09 seconds West, a distance of 73.62 feet to a point of curve; thence
2. Passing along an arc of a circle curving to the left, having a radius of 80.00 feet, an arc distance of 37.34 feet to a corner of Lot 7; thence
3. Along Lot 7, North 10 degrees 11 minutes 17 seconds East, a distance of 171.95 feet to a point on line of Open Space 'B'; thence
4. Along Open Space 'B', South 53 degrees 08 minutes 09 seconds East, a distance of 187.00 feet to a corner of Lot 9; thence
5. Along Lot 9, South 36 degrees 55 minutes 51 seconds West, a distance of 145.00 feet to the first mentioned point and place of beginning.

Containing 21,936.32 square feet of land.

Subject to restrictions and easements of record, if any.

Parcel Number: 67-00-02648-07-2.

Address: 1875 Steiger Road.

**BEING PART OF THE SAME PREMISES** which Keystone Lands, Inc., a Pennsylvania Corporation by deed dated May 1, 2014 and recorded in the Office of the Recorder of Deeds in and for the County of Montgomery on May 2, 2014, Document #2014026472, in Book 591, Page 02448/ to 02453, granted and conveyed unto Toll PA L.P., in fee.

**BEING PART OF THE SAME PREMISES** which The Maple Glen Group, a Pennsylvania General Partnership, by deed dated April 28, 2011, recorded in the Office of the Recorder of Deeds in the County of Montgomery on May 2, 20104, Document #2014026473, in Book 5911, Page 02454 to 02459, granted and conveyed unto Toll PA, L.P., in fee.

**SUBJECT TO** Covenants, Conditions and Restrictions contained in "Declaration of The Preserve at Worcester, A Planned Community", dated April 6, 2015 and recorded in the Office of the Recorder of Deeds in the County of Montgomery on April 9, 2015, in Book 5949, Page 1460 and any future amendments thereto.

**Together** with all and singular the buildings improvements, ways, streets, alleys, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of the said Grantor In law as in equity, or otherwise howsoever, of, in, and to the same and every part thereof.

**To have and to hold** the said lot or piece of ground with the buildings and improvements thereon erected with the hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances unto the said Grantees, their heirs and Assigns, to and for the only proper use and behoof of the said Grantees, their heirs and assigns, forever, as tenants by the entirety.

**UNDER AND SUBJECT,** to all easements, restrictions and matters of record.

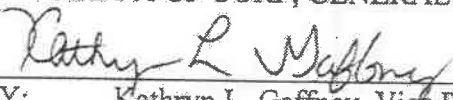
**And** the said Grantor for itself, its successors and assigns does by these presents, covenant, grant and agree, to and with the said Grantees, their heirs and assigns, that it the said Grantor, all and singular the Hereditaments and Premises herein above described and granted, or mentioned and intended so to be, with the Appurtenances, unto the said Grantees, their heirs and Assigns, against it the said Grantor and against all and every Persons or Persons whomsoever lawfully claiming or to claim the same or any part thereof, by, from or under it, them or any of them, shall and will WARRANT and forever DEFEND.

In Witness Whereof the said Grantor has caused these presents to be duly executed the day and year first herein above written.

**Sealed and Delivered  
IN THE PRESENCE OF US:**

Toll PA, L.P.

BY TOLL PA GP CORP, GENERAL PARTNER

  
BY: Kathryn L. Gaffney, Vice President

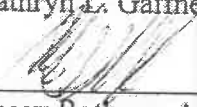
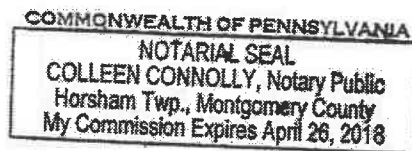
  
ATTEST: Stacey Rothaus, Assistant Secretary

Exhibit A

Commonwealth of Pennsylvania  
County of Montgomery

On this, the 30<sup>th</sup> day of March, 2016, before me Colleen Connolly  
the undersigned officer,  
personally appeared Kathryn L. Gaffney who acknowledged himself (herself)  
to be the Vice President of Toll PA GP Corp., General Partner of Toll PA, L.P.  
a corporation, and that he (she) as such Officer, being authorized to do so, executed  
the foregoing instrument for the purposes therein contained by the signing the name of the corporation by himself  
(herself) as Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



## DEED.

Parcel ID No. 67-00-02648-07-2

Toll PA, L.P.  
250 Gibraltar Road, Horsham, Pennsylvania 19044

To

Robert A. Fink and Figen Yildiz, Married to one another

Premises:

Homesite # 8,-Preserve at Worcester  
Worcester Township  
Montgomery County, Pennsylvania

The address of the above-named Grantees is

1875 Steiger Road  
Lansdale, Pennsylvania 19446

On behalf of the Grantees