

**TOWNSHIP OF FALLS
PLANNING COMMISSION MEETINGS
DECEMBER 18, 2014**

Meeting commenced: 7:30 p.m.

Meeting adjourned: 8:30 p.m.

Members present: Binney, Goulet, Perry, Rittler

Members absent: Shero, Miles, Vergantino

Also present: Thomas Profy, Jr., Esquire and Vincent Fiorvanti, P.E. (Fiorvanti, Inc.), representing Fairless Credit Union; Thomas Hecker, Esquire, Andy Birtok, P.E., (Tri-State Engineering), and Todd Phillippi (Architect) representing W.G. Lincoln Properties, L.P.

For the Township: Joseph Jones, P.E. (T&M Associates); Tom Bennett, CCEO & Zoning Officer; Diane Beri, Recording Secretary

Item #1: Fairless Credit Union, 8525 New Falls Road, Levittown, PA 19054; TMP #13-018-001; Zoned NC. Owner: United Christian Church; Preliminary Land Development Construction of a two story building, less than 5,600 square feet, with two drive-thru lanes

Thomas Profy, Jr., Esquire, introduce Vince Fiorvanti, who presents the application.

Mr. Fiorvanti states that this plan is very similar to the re-zoning plan that this Board recommended for approval. This is a .75 acre lot, 3400 sq. ft. footprint in the center, with two driveways, and buffering along the rear. The trash dumpster has been relocated to the left away from the houses as was suggested earlier by the Board. The layout is essentially the same; the utilities come from the left behind the church, off of the cul-de-sac. The stormwater system has been enlarged in front. Now there is second stormwater system that will operate in parallel to the left on the west side. It still ties into the PennDOT storm sewer on Newport-Fallsington Road and the utilities are still served from the same location.

T&M Review Letter dated December 12, 2014

All items are a will comply with the exception of the following:

Subdivision and Land Development Ordinance

- 191-36(D) Requesting a waiver – minimum curb radii at the driveway
- 191-37(B) Requesting a waiver – 15 ft of open space between parking and building
- 191-37(C) Requesting a waiver – parking spaces (9' x 18') – Mr. Jones has no objection
- 191-37(E) Requesting a waiver – curb radius
- 191-37(G)(4) Requesting a waiver – landscaped islands – landscaping will be along the perimeter and buffer area as opposed to putting it inside the parking islands
- 191-45(A) Requesting a waiver – utility easement width of 20 ft. Discussion occurs about the need for this waiver request, the existing non-conformity of the lot, and how repairs/maintenance would be performed on the sewer/water line since the space is too small for a backhoe (lines are only 3 feet deep).
- 191-45(C) Requesting a waiver – sanitary sewer easement located in parking area
- 191-78(C)(2) Requesting a partial waiver subject to adequate information for Twp. Engineer's review.

Member Binney states the property lines as shown on this plan are drawn significantly different than the original plans submitted.

Mr. Fiorvanti states that they were surprised to see that as well. He went back 40-50 years looking at the history. The original plan was a consolidation plan for the church and a piece that was transferred from the Danheerst Corporation. There was a description all the way around and that's what we started with. As we went forward and started to continue to survey the subdivision behind this parcel, we started to find other property corners that didn't match up. When my surveyors came in and told me something didn't look right, I'd send them back out to re-survey. We went back and found the errors. When this parcel was conveyed by the Danheerst Corporation, a new plan was drawn up and there was an error in that plan. You can only find it by surveying the other couple of subdivisions. What we have here corrects those mistakes and puts everything back where it belongs.

You'll notice that the property line comes much closer to the pharmacy. We can trace the error back to the original conveyance. There was a time where parcels were being switched between owners. As you read through all the deeds, you can look at 40 years and you can see all the pieces being transferred and sections of the subdivision that were forgotten. For example, on Warwick Circle, an 8 foot piece was forgotten when they combined those two lots. No one ever built here so no one picked it up.

Mr. Jones states that he would like to see notes on the Record Plan making reference to the errors that you found and how you resolved them.

Atty. Profy makes a request for the Board to recommend Preliminary and Final Land Development based upon the amount of work Mr. Fiorvanti has done.

Member Rittler makes a motion to APPROVE preliminary and final land development plans for Fairless Credit Union, TMP #13-018-001 and 002, based on T&M's review letter dated December 12, 2014, with waivers for Sections 191-36(D), 191-37(B), 191-37(C), 191-37(E), 191-37(G)(4), 191-45(A) and 191-45(C), with a partial waiver for 191-78(C)(2) subject to adequate information for Twp. Engineer's review. We also recommend that notes be inserted on the Record Plan explaining the errors found regarding the property lines.

Member Perry seconds the motion.

All in favor 4-0. APPROVED FOR PRELIMINARY AND FINAL LAND DEVELOPMENT

Item #2: W.G. Lincoln Properties, L.P., 640 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-017-196; Zoned: NCR. Owner: W.G. Lincoln Properties Preliminary / Final Land Development to demolish existing building; construct new two-story building with parking lots, gravel outdoor storage area and two underground stormwater management facilities

Thomas Hecker, Esquire, presents the application. This project involves the razing of an existing structure of approximately 3,000 sq. ft. and constructing a new, mixed-use building, with a combination of commercial and residential uses. The residential use will be on the second floor consisting of apartments. This application began in 2013 before the Zoning Hearing Board for some variance relief that involved permission to use a building here for mixed use of commercial and residential. That application was granted subject to certain conditions.

This plan before the Board is a different plan. Andy Birtok will present the plan primarily with reference to what was previously approved by the ZHB and what is different about tonight's plan.

Mr. Birtok presents the application. A use variance was obtained in September 2013. This plan is somewhat different. The parking lot in the front is configured different from the plans submitted in 2013. There are more parking spaces in the rear of the site. The building is smaller than what was originally approved by the ZHB and the outdoor gravel storage area is substantially smaller (5,900 sq. ft originally, now it is 3,000). As far as the rest of the proposed improvements, the building now is going to be 4,374 sq. ft. commercial uses on the first floor,

principally the applicant's roofing and siding business and three apartments on the second story. The front parking lot now will have a total of 18 spaces versus 8 spaces previously submitted. The parking lot off of Oak Lane will be exclusively for the use of the apartments and will consist of 6 spaces (2 spaces per apartment). The outdoor storage is substantially reduced, and behind that is roughly a 400 sq. ft. landscape buffer to separate this property from the adjacent residential use.

Generally, we are conforming with the bulk requirements for width, depth area, yards. The major exception is the allowable impervious area – 40% coverage is allowed and our plan shows 83% coverage. There are a number of design waivers and variances which I'll get into later.

As to stormwater management, we had originally submitted plans in August of 2014, and we had two underground stormwater facilities, one beneath the gravel parking area and one in the front yard. The Township engineer had concerns about the possible infiltration in the rear facility impacting the basement and/or the swimming pool of the residents. We've eliminated the underground system in the gravel parking area and we have a much larger facility beneath the front parking lot. We have also show a bio-retention facility in the lawn area between the two parking lots.

Member Binney clarifies for the Board that the applicant went before the Zoning Hearing Board, and received permission to operate a commercial business on the first floor for the applicant and approval for two apartments on the second floor. Now you are coming back here and asking us to change the conditions.

Atty. Hecker says that we are not asking the Planning Commission to change the conditions. We have to go to the Zoning Hearing Board to do that, but we have submitted the plans as part of the land development process. We will go to the Zoning Hearing Board, hopefully in January. We have scaled down the size of the outdoor area, and there's been a change in the configuration of the building.

T&M's Review Letter dated December 12, 2014

Zoning Ordinance

Atty. Hecker states that the applicant will apply to the ZHB for these variances.

Subdivision and Land Development Ordinance

All are will comply items with the exception of the following:

- 193-36(D) Requesting a waiver – curb radius (15' instead of 25')
- 191-37(B) Requesting a waiver – parking setback from building and property line – also this waiver request must appear on the Record Plan
- 191-37(C) Requesting a waiver – parking spaces (9' x 18) and driveway width (24')

Member Rittler has concerns about the amount of impervious coverage and asks Mr. Jones for his opinion.

Mr. Jones states that it is a lot of coverage, but it is more of a commercial site than a residential site. The stormwater management works. They have a good infiltration rate, and they have worked with us to modify it to keep it away from the residential side as well as provide overflow out through the existing pipe system. We are comfortable with the percentage.

Member Rittler asks if there is anything the ZHB could decide that would change T&M's letter.

Mr. Jones states yes.

Member Rittler asks if it makes sense to recommend approval if they there is a chance the ZHB denies the new

application?

Mr. Jones responds that he would leave that to Brian and the attorney to discuss. There could be issues that come up under zoning that could change the site plan.

Member Rittler says that some of the things in T&M's letter could render them as being moot if we approve it.

Mr. Jones states that is correct.

Atty. Hecker states that if approved tonight, it wouldn't affect the zoning issues. Please note that this has only be filed as a preliminary plan; we anticipate coming back for final approval.

Member Binney states one concern is we don't really know what tenants will be in the two new lease spaces. If one tenant will be a general office, it changes the parking calculations. I have some concerns as to what's going to happen in there and the size of this.

Todd Phillippi (the architect) responds that when we first went before the ZHB, it was prior to the purchase of the property which was contingent on being able to get the mixed use. It was known at that time that there would possibly be up to two other commercial tenants. The Zoning Hearing Board specifically stated that they would approve the tenants on an individual basis, so whoever is proposed to lease those spaces, we have to go back to the ZHB to get their approval so they would be satisfied that there was adequate parking for those tenants.

Member Binney states that he thinks it was more harsher than that – they limited the number of people that could be in that building as two.

Mr. Phillippi states that number referred to the amount of people in Mr. Wiczerak's siding and roofing office – he testified that it would be himself and another person. The other space is what we have to go back to the ZHB to get approval for individual tenants.

Member Binney asks for clarification of square footage breakdown.

Mr. Phillippi states that the roofing and siding business on the ground floor would have 440 sq. ft for their office, and 1,128 sq. ft. for their material storage. The available commercial lease space on the first floor would be a total of 2,180 sq. ft, beyond the roofing and siding business.

Member Binney states that he notes in the parking calculation you are taking credit for the storage area not providing any parking – is that correct?

Mr. Phillippi states that is correct.

Member Binney states that in the event that this property ever ceases to be a roofing and siding company, it could occupy a lot more people.

Mr. Phillippi states only after approval by the ZHB, because that is a stipulation of the use of the property as a mixed use.

Member Binney states that he is not opposed to the mixed use, but I just think it's too big. I think it's too much impervious surface, it's too big of a building for that lot, and that there are too many things going on with that lot. If it was just for Mr. Wiczerzak's business and apartments, I wouldn't see any problem with it. I do have an issue with these other lease spaces, because we don't know what they are going to be, and we have situations currently in the Township where there is not enough parking --- Rita's Water Ice on New Falls Road is a prime example.

Mr. Phillippi states there are 16 spaces available presumably for W.G. Roofing & Siding. If there are two people

there and they have one or two customers, there are still 12 spaces that are available for the 2,180 sq. ft.

Member Binney asks if they lease out these stores, does that trigger a land development for allocation of space.

Mr. Bennett states not if it is approved for multiple tenants. If it is approved for one use, and they want to allocate space for two or more, that triggers land development.

Member Binney states that he didn't see anything in the zoning decision that required them to come back before the ZHB.

Mr. Jones states couldn't you suggest they seek approval for the one tenant and the residential, and so note on the Record Plan and then agree that if there is an allocation of space for additional tenants, it would trigger land development.

Member Binney states if we do it that way, what recourse do we have – the parking spaces are built. The only recourse would be to deny the tenant. It doesn't resolve any of the issues that I still have regarding parking. If a real estate office or insurance office were to go in, there are typically 6-8 people in such an office and they are all driving by themselves.

Mr. Jones states that in the past we've placed requirements that they make a note on the Record Plan that only users that comply with the parking available would be allowed to go in.

Atty. Hecker states that it has been his experience in this Township that any use coming in must file a letter of intent with Mr. Bennett and he responds accordingly. If a Rita's Water Ice decides they want to apply, Mr. Bennett will look at it and probably deny it. While the land development may approve the allocation for two lease spaces, the occupant of those lease spaces would have to demonstrate for those uses coming in by submitting a letter of intent.

Member Rittler says that perhaps it might make more sense to go to the ZHB and get the required variances and then come back before this Board for preliminary and final land development.

Member Binney states that he is hesitant to give any kind of approval here because personally I'm not in favor of it. I don't want to give approval that you can take back before the ZHB and use against us.

Atty. Hecker states that he understands and will submit the ZHB application for the January 13, 2015 ZHB.

Mr. Phillippi says that also the applicant should request clarification from the ZHB about the requirement for the applicant to come back before the ZHB for approval for the specific tenants. It was not clearly spelled out in their 2013 ZHB decision.

Mr. Jones states that the Bucks County Planning Commission brought up a point. The Township engineer typically does not address signs in our reviews; we leave it to the Zoning Officer. In this case, the BCPC cited that a conditional use approval is required since the parcel is zoned NCR. I just wanted to alert you to that fact.

Atty. Hecker states that he will look at that.

Member Rittler makes a motion to TABLE the application.

Member Goulet seconds the motion.

All in favor 4-0. APPLICATION IS TABLED.

Item #3: Approval of minutes

Motion to approve November 25, 2014 minutes

All in favor 4-0

Other Business – Flood Plan Ordinance

Mr. Bennett talks about the flood plain ordinance. The Planning Commissioners are to be kept informed. We have been in touch with FEMA and we have to update our flood plain ordinance to address some minor things that were missing from our current ordinance. Our current flood plain ordinance for the most part is more restrictive than the minimal requirements. Joe Jones and I have been working on the revisions. It will come to the Planning Commission per the MPC.

Mr. Jones states that we've received authorization to advertise at the Board of Supervisor's meeting on December 16, 2014. We will finish up the draft and get you a copy of it quickly.

Member Binney asks if it creates the appeals board.

Mr. Bennett states he is not sure – they will question that on their meeting with FEMA on Monday (Dec. 22nd) on whether the appeals board has to be the Zoning Hearing Board or can it be a separate board. From what we are reading, it seems like it has to be the Zoning Hearing Board.

Member Binney states that if it's a zoning ordinance, then it would be the Zoning Hearing Board.

Mr. Jones states that the desired goal is to have a separate appeals board.

Member Goulet asks for clarification on the appeals board.

Mr. Jones states that if someone comes in with a permit and wants to put a structure in a flood plain, there are certain ways you can do it in the ordinance. If there is a decision made by the flood plain manager which is Tom Bennett, that they are not comfortable with, they can appeal the decision and that appeals board would review it. It rises to a higher level than just a typical dimensional zoning variance. It would be better to have those types of appeals heard by folks who know what they are granting variances for, more so than just a typical zoning issue.

Mr. Bennett states that every other year, FEMA requires a report detailing anything built in the flood zone and any variances that were granted. It could affect our valuation which gives people in the flood zone some discounted rates. It could affect our whole standing with FEMA. FEMA is really tightening all this up.

Meeting adjourned 8:30 p.m.