

**FALLS TOWNSHIP
ZONING HEARING BOARD
OCTOBER 11, 2016**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 8:55 p.m.

Members present: D’Orio, Henderson, Miles, Molle, Powers

Members absent: Brooks

Also present: Thomas Bennett, Zoning Officer / CCEO; Ed Neubauer, Code Enforcement Officer; Keith Bidlingmaier, Esquire, ZHB Solicitor; Karen Browndorf, Court Stenographer

Board Business

In light of the fact that next Zoning Hearing Board meeting is scheduled for Tuesday, November 8th, which is Election Day, the following motion was made:

Member Molle makes a motion to move the November Zoning Hearing Board meeting from Tuesday, November 8th to Thursday, November 10, 2016 at 7:00 p.m.

Member Powers seconds the motion.

All in favor 5-0. Motion carries. Thursday, November 10, 2016 will be the next Zoning Hearing Board session.

Petition #1: George and Margerette Rosso, 682 Trenton Road, Fairless Hills, PA 19030; TMP #13-016-283; Zoned: NCR. Requesting a dimensional variance to erect a chain link fence in the front yard. Section 209.37.C.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Margerette Rosso presents the application. The next door neighbor parks his car next to his wife’s car in the driveway. When he exits and enters his vehicle, he walks all over my property. He also put up a basketball net for his boys and the basketball hits our car.

Member D’Orio asks if you considered a wooden post fence instead of a chain link fence.

Mrs. Rosso says we did not because we currently have a chain link fence to which the new fence will be attached.

Chairman Henderson clarifies that the new fence will extend out an additional 20 feet (2 more sections of fencing) from the old fence, which still leaves another 60 feet to the street.

Member Powers asks if they will be putting plastic slats in the chain link fence.

Mrs. Rosso states they haven’t decided.

Mr. Bennett confirms that the fence is sufficient distance from the street that if they did put the slats in there, there would not be a problem.

No public comment.

Member Molle makes a motion that the application of George and Margerette Rosso for a dimensional variance from Section 209-37.C of the Falls Township Zoning Ordinances be GRANTED to erect a chain link fence in the front yard at the property located at 682 Trenton Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Powers asks to amend motion to state that the fence should be same size as existing fence (which is 5 ft.).

Member Miles seconds the motion.

All in favor 5-0. Motion carries.

Petition #2: Dzianis Makarau, 7 Vermont Lane, Levittown, PA 19054; TMP #13-019-084; Zoned: NCR. Requesting dimensional variances to allow a second driveway and to install a fence in the secondary front yard. Section 209-42.A and Section 209-37.C(3).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Victoria Makarova presents the application. We have requested a fence on the secondary front yard and a second driveway with an apron on the secondary front yard. The reason we want to build a detached garage is because the existing attached garage is currently being used as a dining room with a small space left for storage. The new garage will be a one car garage. We have three vehicles, with one parked in the current driveway and the two remaining vehicles parked in the street. We have a park across the street. The parents park on our street when they bring their children to the park which makes it very tight on the street and creates an issue when backing up.

With regard to the fence, we have a small child and we need to make it safe from him to run around. We also would like to install a backyard swing set. Our neighbors have dogs and we would like to have privacy and not see the dogs.

Member D’Orio asks how long have they been in the house.

Mrs. Makarova states they moved in August 10, 2016.

Member D’Orio asks if you knew the house didn’t have enough storage to meet your needs, why did you purchase the property.

Mrs. Makarova states that they liked the fact that it was a corner property, and that a park was across the street. We liked the house itself and would prefer to keep the dining room. Once we began to move our stuff in, we realized we would not have sufficient room.

Discussion occurs with Board members and applicant about the need for the second driveway, the relocation of the detached garage to the other side, and the possible removal of the trees on the secondary front yard.

Member Henderson asks where the cars will be parked.

Mrs. Makarova states that one car will be parked in the current driveway, the second car will be parked in the new garage, and the third car will be parked in the second driveway.

Chairman Henderson states that it doesn’t appear having the second driveway alleviates the problem when other cars are parked on the streets. You’ll have that same problem with the second driveway.

Mrs. Makarova says I cannot tell people they can't park in the street, but at least my own cars won't be in the way. She continues they liked the house and the lot size which caused them to purchase the house. We had no idea that there were these types of issues with zoning.

Mr. Bennett states that the approval from Lower Bucks County Joint Municipal Authority is for the fence – to place the fence on their easement.

No public comment.

Mr. Bennett, in response to Chairman Henderson's question, states that if you were to be granted a variance, the fence at the bottom of the new driveway has to be kept a minimum of 12 feet from the street to comply with the sight triangle.

Discussion occurs about widening the existing driveway; possibly getting approval for the fence but not the driveway; if two cars can be parked in the existing driveway; the need for the second driveway because there would be no access to the garage.

Member Powers makes a motion that the application of Dzianis Makarau for a dimensional variance from Section 209-37.C(3) of the Falls Township Zoning Ordinances be GRANTED to install a fence in the secondary front yard at the property located at 7 Vermont Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board. The fence must be 12 ft. from the street as required by the Falls Township ordinance.

Member Molle seconds the motion.

All in favor 4-1, D'Orio dissenting. Motion carries – fence approved 12' ft from the street.

Member Molle makes a motion that the application of Dzianis Makarau for a dimensional variance from Section 209-42.A of the Falls Township Zoning Ordinances be GRANTED to allow a second driveway at the property located at 7 Vermont Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Miles seconds the motion.

All in favor 3-2, Powers and D'Orio dissenting. Motion carries – second driveway approved.

Petition: #3: Forman Sign Co., 915 Lincoln Highway, Morrisville, PA 19067; TMP #13-028-022-004; Zoned: HC. Requesting a dimensional variance to place two façade signs on an office building which does not provide an entrance facing a public street. Section 209-45.I(2)(d)[d][ii][E].

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6 and Applicant Exhibit A-1 (proof of neighbor notification).

Timothy Olsen presents the application. Extra Space Storage has built a small office on the front of their lot which at the present time does not have any signage. We are proposing to place a small façade sign facing Old Lincoln Highway and on the canopy facing the north side that read "office". Both signs would be illuminated with low voltage LEDs for visibility. The large structure in the back of the lot is the actual storage facility and if the office building is not marked, you could not identify what the building is.

No Board questions.

No public comment.

Member Molle makes a motion that the application of Forman Signs for a dimensional variance from Section 209-45.I(2)(d)[d][ii][E] of the Falls Township Zoning Ordinance be GRANTED to place two façade signs on an

office building which does not provide an entrance facing a public street at the property located at 915 Lincoln Highway, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Powers seconds the motion.

All in favor 5-0. Motion carries.

Petition #4: Morrisville DG, LLC, 1279 Old Bristol Pike, Morrisville, PA 19067; TMP #13-047-042; Zoned: NC. Requesting a use variance to allow a major chain variety store to be built within the NC District (Section 209-22(J)) and requesting the following dimensional variances for construction of the building: Section 209-34(E) structures in the front yard; Section 209-42(E) maximum driveway width; Section 209-42(H)(10) reduction in required parking spaces; Section 209-42(I) offstreet loading zone.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 9 and Applicant Exhibit A-9 (proof of neighbor notification).

Kimberly Freeman, Esquire, presents the application. The relationship between the applicant Morrisville DG, LLC and the equitable owner, CGP Acquisition & Development is that they are two related entities. Morrisville DG is an entity which will be created and will take ownership of the property. As of today, the equitable owner is CGP Acquisition & Development.

By way of background, this parcel is approximately 1.7 acres and is zoned NC (Neighborhood Commercial). Currently, it is vacant land. The applicant is proposing to construct a 7,489 sq. ft. building to be used as a Dollar General store along with associated parking for its use. There are a number of items of relief.

First, there is a variance to permit a variety store in the NC district. There are some ambiguities in the zoning ordinances as to whether the store is permitted. The Township has determined that this is a major chain variety store which is listed as a prohibited use, while variety stores in general are permitted. Sec. 209-22.J(1).

Second, the applicant is seeking a variance from Sec. 209-34(E) to permit off-street parking in the front yard of the property. It has been interpreted that off-street parking is an accessory use.

Third, the applicant is seeking a variance from Sec. 209-42(E) to permit one of the proposed driveways to utilize a non-standard flare at the opening resulting in a continuous driveway opening along the street of 330 feet.

Last, the applicant is seeking a variance from Sec. 209-42(H)(10) to permit less than the required number of parking spaces – 42 parking spaces would be required and we are proposing 33 parking spaces.

The last item of relief listed in the application relates to providing an off-street loading space on the property. Currently, we are providing an off-street loading space, but to the extent that we did not receive the variance for the required number of parking spaces, we would not be able to provide the loading zone. This is an item we are requesting in the alternative should you not grant the parking relief.

Justin Ross, P.E. is sworn in and begins his testimony. He provides his qualifications and work experience (Ex. A-2) to qualify as an expert in the field of civil engineering.

In response to questions by Atty. Freeman, Mr. Ross testifies as to the current condition of the property; the proposed new structure (7,489 sq. ft. store with parking, loading area, dumpster location, on lot sewer); the informal meetings held between Township personnel and Township engineers which identified zoning variances; and discussion of those variance requests and why they are necessary.

Board Comment

Member Powers asks what times are the deliveries.

Mr. Ross states the deliveries are during business hours (9:00 a.m to 10:00 p.m.) – typically two to three employees on a shift. Three would be on at delivery times to unload the truck. If a truck would arrive after business hours, they are directed to go to a local truck stop and are not permitted to park or stay at the property.

Member Powers asks what type of lighting will be installed.

Mr. Ross states there should be LED lights around the parking and some wall packs on the building. The lights shut off one hour after employees leave.

Chairman Henderson asks if Mr. Ross considers Dollar General a major chain store.

Mr. Ross states there is no definition in the ordinance. In my opinion, it is, but what it sells is local to the community. Some of the major chain stores that are listed in the ordinance are department stores and supermarkets. You have folks traveling to those types of stores as a destination. This is more of a convenience to the neighborhood.

Chairman Henderson says that in your letter it states Dollar General has over 13,000 stores.

Atty. Freeman states that our point is that to the extent it is a major retail store based on the Township's interpretation, we are asking for a use variance. It is a mixture of the permitted uses – gifts, drug store items, grocery items, and clothing items.

Public Comment

Linda Page, owner of 1295 Bristol Pike. Currently, my building is for sale. I don't know if Dollar General is going to make my property more valuable or less valuable. If they were to purchase my property, they wouldn't need a variance. My property currently is serviced by Township of Falls Water Authority and Morrisville Sewer Authority. My business is downstairs and I have a residential tenant upstairs. There is so much traffic at that location with Wawa directly across the street and trucks coming in and out. Dollar General would certainly make it more congested. I purchased my building in 1990. Since the building burned on this lot, it has been vacant and overrun.

Chairman Henderson asks what was there before.

Ms. Page says it was just a building that Sam Brannigan had bought. When Pennwood Crossing had a fire, they used it temporarily for a while. When they moved out, the clubhouse was rebuilt.

Chairman Henderson states that you are a property owner and a business owner, correct?

Ms. Page responds yes. There is a residential tenant upstairs and my business is downstairs.

Debbie Groves, 1255 Bristol Pike, which is two doors down from the proposed property. I think it could be good for the neighborhood, but I have concerns about the traffic. I have been trying to get a traffic light at that intersection for years. I definitely think a traffic light is needed at the Wawa. Also, my house is up for sale too – they could have bought the whole lot. She asks about the trucks and the entrance for them.

Atty. Freeman responds that the relief we are requesting will make the driveway safer for truck exiting which is why we are creating a larger radii on the site.

Ms. Groves asks what about the trucks coming back out onto Bristol Pike.

Atty. Freeman states that's what it is -- it's for them turning right onto Bristol Pike so that they can make the turning maneuver.

Ms. Groves asks if they will be going out and coming in another way?

Mr. Ross states that the driveway itself will be reviewed as part of land development. We do have to do a traffic study for PennDOT through their HOP process. PennDOT ultimately will approve the safety of the location and safety of the driveway. If a signal is warranted, then we would get into those provisions at that time.

Ms. Groves asks if sidewalks will be installed.

Mr. Ross responds that they do not have any currently proposed. However, during land development is when that would be addressed.

Ms. Groves states that sidewalks might be considered a safety concern with the residents walking there.

Mr. Ross states there are no sidewalks to connect to on either side. The Wawa has sidewalks on Penn Valley Rd., but nothing on Bristol Pike. It's one of those things -- by putting in sidewalks, you are inviting people to walk, where you might not want them to be walking on a highly traveled location.

Ms. Groves asks if there will be septic on the site.

Mr. Ross states yes, that is correct. Our coordination with the municipal authority and your local officials have determined that public sewer is not provided to this location.

Atty. Freeman says if the Zoning Hearing Board grants us our variances, there will be another public process with the Township where we will discuss in more details matters like traffic, when we go through the land development process.

Public comment closes.

Member Molle makes a motion that the application of Morrisville DG, LLC requesting a use variance to allow a major chain variety store to be built within the NC District, Section 209-22(J) and requesting dimensional variances for construction of the building from Section 209-34(E) structures in the front yard (permitting parking in the front yard); Section 209-42(E) maximum driveway width; Section 209-42(H)(10) reduction in required parking spaces; and Section 209-42(I) regarding off street loading zone of the Falls Township Zoning Ordinances be GRANTED at the property located at the 1279 Old Bristol Pike, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Miles seconds the motion.

All in favor 5-0. Motion carries.

Hearing adjourned 8:55 p.m.