

**FALLS TOWNSHIP
ZONING HEARING BOARD
AUGUST 11, 2020**

Hearing commenced: 7:05 p.m.

Hearing adjourned: 9:20 p.m.

Members present: Scott D’Oria, William Kiernan, Daniel Miles, Douglas Molle

Members absent: Alfred Brooks

Also present: Matthew Takita, AIA, MCP, Township Manager/Zoning Officer; Ed Neubauer, Code Enforcement Officer; Keith Bidlingmaier, ZHB Solicitor; Karen Browndorf, Court Stenographer

The hearing was conducted remotely through Zoom.

Chairman Miles opens the hearing and makes an announcement to the applicants there is a four-member Board. Should there be a tie vote on any application, the decision would be deemed denied. All applicants have the right to postpone their appearance until the next hearing with a full Board.

Petition #1: Wayne McOwen, 172 N. Turn Lane, Levittown, PA 19054; TMP #13-026-581; Zoned: NCR. Requesting a dimensional variance to erect a pool which encroaches into the minimum distance between buildings. Section 209-46.E.

Atty. Bidlingmaier marks Exhibit 1 – 8.

Katie McOwen states that there is not enough room in their backyard to place the pool 10 feet away from the house because of the electrical lines and where they are located on their property.

No Board questions.

No public comment.

Member D’Oria makes a motion that the application of Wayne McOwen requesting a dimensional variance from Section 209-46.E of the Falls Township Zoning Ordinance be GRANTED to erect a pool which encroaches into the minimum distance between buildings at the property located at 172 N. Turn Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries.

Petition #2: Nishitkumar Patel, 12 Ellerdale Road, Fallsington, PA 19054; TMP #13-036-234; Zoned: MHR. Requesting a dimensional variance to erect a fence in the secondary front yard. Section 209-37.C(2).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8. He then asks Mr. Neubauer or Mr. Takita if there is a picture of the posting of the property to verify that the property was posted.

Mr. Neubauer states that he did post the property. I tried to put it in the window, not sure if the woman understood me. I waited 10 minutes but she never put it in the window.

Atty. Bidlingmaier, after discussion with Mr. Patel, states that the property has to be posted with the blue placard showing in order for service to be complete. Without that being done, your application cannot go forward tonight. Therefore, your petition is being continued until September 8, 2020.

Member Molle makes a motion that the application of Nishitkumar Patel be continued until September 8, 2020.

Member D’Oria seconds the motion.

All in favor 4-0. Motion carries. Petition is continued until September 8, 2020.

Petition #3: Carl Colucci, 19 Thornyapple Lane, Levittown, PA 19054; TMP #13-023-304; Zoned: NCR. Requesting a dimensional variance to construct an addition which encroaches into the side yard setback. Section 209-20.F and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 9.

Carl Colucci states that they like to stay in Falls Township and need to expand. They do not want to go up and want to keep a single level house. My mom will eventually be moving in with us and possibly an additional child. My neighbor who would most be affected has no problem with the addition as stated in his letter.

Member D’Oria ask if they could change the addition to another spot (not feasible) and expresses concern about water runoff (downspouts would be redirected accordingly).

No further Board comment.

No public comment.

Member D’Oria makes a motion that the application of Carl Colucci requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to construct an addition which encroaches into the side yard setback at the property located at 19 Thornyapple Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony before the Zoning Hearing Board.

Member Molle seconds the motion.

All in favor 4-0. Motion carries.

Petition #4: Michelle Bockin, 606 Chatham Road, Fairless Hills, PA 19030; TMP #13-015-151; Zoned: NCR. Requesting dimensional variances to erect a deck which encroaches into the side yard setback and to erect a shed which encroaches into the separation distance from the main house. Section 209-20.F and Table 1.

Atty. Bidlingmaier states that he knows Ms. Bockin personally and are neighbors. I wanted to state on the record that I know both her and her husband personally, but I don’t believe it causes any conflict here. You can request another solicitor if necessary.

Michelle Bockin states that it will not be necessary to get another solicitor.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 9.

Ms. Bockin states the deck and the shed are already erected. My parents lived in the home for 41 years and both have died. I am the executrix and am in the process of selling their home. When the house was inspected for the resale, the deck and shed came up as violations because they didn’t have permits. The deck has a zero side yard setback. There is a 16 ft. setback from the rear property line and it is required to be 20 ft. The shed is 7 ft. from the house and it is supposed to be a 10 ft. distance. When the permits were submitted, they were denied

accordingly. In order to sell the home, I would have to demolish both the deck and the shed which funds I do not have. They have passed safety inspections for the proposed buyer. They are structurally sound and do not encumber the neighboring properties.

Member D’Oria questions how long they have been at the property, any problems with the neighbors, and if they pass current inspections with the Township.

Ms. Bockin states that the U&O was not allowed to go through without the permits. So the safety inspection was the private inspector of the buyer. The structures have been there for 20 years. The shed was originally built over 20 years ago and then rebuilt again on the same pad. The deck was built and rebuilt but the size remains the same from the late 1990s.

Member Kiernan expresses concern over how emergency personnel would access the rear of the property.

Ms. Bockin states that there has been Verizon and PECO trucks back there working, but not sure about emergency vehicles.

Member Molle asks if there is a way to move the shed back 3 or 4 feet.

Ms. Bockin says no because the property slopes and the shed is on stilts.

No public comment.

Member D’Oria makes a motion that the application of Michelle Bockin requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED for a deck to remain which encroaches into the side yard setback and for a shed to remain which encroaches into the separation distance from the main house at the property located at 606 Chatham Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Molle seconds the motion.

All in favor 3-1, Kiernan dissenting. Motion carries.

Petition #5: Jeff LaCarrubba, 338 Berkshire Road, Fairless Hills, PA 19030; TMP #13-007-188; Zoned: NCR. Requesting a dimensional variance to install a patio which is over the maximum allowable impervious coverage. Section 209-20.F and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 11.

Jeff LaCarrubba states that we submitted a permit for an inground pool with the patio. We have some patio there and pavers there now, but they both are in disrepair. We’re looking to pour one continuous concrete patio to make it look nice with the pool and to give us better access from the house to the pool.

Member D’Oria asks about water runoff.

Mr. LaCarrubba states that they are considering a dry well. The Township Engineer is also reviewing the plans so we would go along with whatever recommendations he has as well.

No public comment.

Member D’Oria makes a motion that the application of Jeff LaCarrubba requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to install a patio which is over the allowable impervious coverage at the property 338 Berkshire Road, Fairless Hills, PA 19030, as

depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board, provided that there is stormwater mitigation acceptable to the Township.

Member Molle seconds the motion.

All in favor 4-0. Motion carries.

Petition #6: William Sweeney and Devon Stobbe, 129 Winfield Court, Fairless Hills, PA 19030; TMP#13-014-023; Zoned: HR. Requesting dimensional variances to erect a shed which encroaches into the rear yard setback and into the minimum distance between buildings. Section 209-16.F and Table 1A.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 9.

Devon Stobbe states we purchased this house in June 2020 but the Township was not conducting any inspections. When they did their inspections, the shed did not have a permit. The shed has been there for several years and placed there by the previous owners. The shed hasn't posed any safety hazards and the neighbors do not have a problem with it. It is well maintained, structurally sound and intact. The initial measures that were provided in the permit by the seller's agent are incorrect. Although we are too close to the rear property line, the distance between our property and the shed is actually 21 ft. and 3 in.

No Board comment.

Public Comment

Rosemary Secoda, 127 Winfield Court, expresses her support for the application and has no objection to the placement of the existing shed.

Sam Hedrick, 131 Winfield Court, expresses his support for the application and has no objection to the placement of the existing shed.

Member D'Oria makes a motion that the application of William Sweeney and Devon Stobbe requesting dimensional variances from Section 209-15.F and Table 1A of the Falls Township Zoning Ordinances be GRANTED for the shed to remain which encroaches into the rear yard setback and into the minimum distance between buildings at the property located at 129 Winfield Court, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Molle seconds the motion.

All in favor 4-0. Motion carries.

Petition #7: Joe O'Donnell, (CONT'D FROM 7-14-20 HEARING) Old Route 13, Morrisville, PA 19067; TMP #13-040-045; Zoned: LI. Requesting the following dimensional variances to allow a stone parking and loading yard: Section 209-27.H for Off Street parking; Section 209-40 for lighting requirements; Section 209-42.D for curbing; and Section 209-42.H(22)(a) to allow a stoned parking area and yard.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 10 and Applicant A-1 (proof of neighbor notification).

Brian Binney (Anderson Engineering) presents the application and states Joe O'Donnell is President of Kalimar Properties, the owner of the property. He is also the President of Premium Lift which occupies the property immediately to the left.

Joe O'Donnell continues and states we are an equipment repair company and repair heavy equipment. We use the yard to load and unload heavy machines. The yard at the moment is paved and the equipment tears up the black asphalt and sinks in the asphalt.

Mr. Binney continues with description and location of property, that there will be significant stormwater management and mentions the neighbor's stone yards. Premium Lift has the appropriate employee and truck parking at their adjacent lot; this would be an accessory use to the existing Premium Lift operation next door.

No Board questions.

No public comment.

Member D'Oria makes a motion that the application of Joe O'Donnell requesting dimensional variances from the Falls Township Zoning Ordinances be GRANTED specifically 1) Section 209-27.H to permit off street parking; 2) Section 209-40 for lighting requirements; 3) Section 209-42.D for curbing; and 4) Section 209-42.H(22)(a) to allow a stoned parking area and yard at the property located at Old Route 13, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Molle seconds the motion.

All in favor 4-0. Motion carries.

Petition #8: Britton Industries, M-Y Lane, Morrisville, PA 19067; TMP #13-028-075-001; Zoned: LI. Use variance for manufacturing and storage of mulch or compost (Section 209-27.D(1)(i) and dimensional variance for impervious surface ratio of 100% (Section 209-27.F and Table 5).

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

Michael Meginnis, Esquire, presents the application and gives property information (both current and historical). Britton is presently leasing the property. Britton's intention for this property (former junkyard) is to make it similar to their business across the street. There was an environmental study done and their recommendation was to cap the entire site instead of remediating the soil. The soil contamination was not created by Britton.

Dan Carr testifies as to his position (V.P and General Manager of Britton), what Britton Industries does, the fact they lease the property, their intended use, how they have improved the property, environmental issues with the report recommending that the entire site be capped, and other surrounding businesses.

Heath Dumack testifies as to his credentials (engineer at Dumack Engineering), the need for the variances requested, the environmental issue with the need to cap the entire site, and the fact the use would be in keeping with the surrounding community.

Anthony Belfield testifies as to his position (Exec. V.P. of Resource Control Consulting), what RCC does, and summarizes his environmental report.

Member D'Oria expresses his concern with capping the site (perhaps soil could be removed), and future testing of the site to prevent leaching into the environment.

Mr. Belfield responds to his concerns by stating the cap effectively prevents rainwater from touching the contaminated soil to make it leach out and provides other information on why a cap is the most effective way of containment.

Member Kiernan asks how far out to the road is the cap going to go and how close will the mulch be to Rte. 1. Also, what kind of fire prevention?

Mr. Dumack responds that the cap would go right up to the ultimate right of way line for both M-Y Lane and Lincoln Highway. The mulch would be offset 100 ft. back. There is a buffer of stormwater management controls between US 1 and whatever will ultimately be done on the site.

Mr. Carr addresses the fire prevention question.

No public comment.

Atty. Meginnis makes a brief closing statement.

Member D’Oria makes a motion that the application of Britton Industries requesting a use variance from Section 209-27.D(1)(i) and a dimensional variance from Section 209-27.F and Table 5 of the Falls Township Zoning Ordinances be GRANTED to allow for manufacturing and storage of mulch or compost and for impervious surface ratio of 100% at the property located at M-Y Lane, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries.

Petition #9: Beverly A. Mikuriya, 24 Fallsington-Tullytown Road, Levittown, PA 19054; TMP #13-024-002; Zoned: NCR. Appeal of the Zoning Officer’s determination denying issuance of a zoning permit. Sections 209-55, 209-41, 209-2, 209-5 (non-conforming use) and 209-75.

Atty. Bidlingmaier states that he has received an email from the applicant’s attorney, Todd Saverese, requesting a continuance of this matter on the record so they can continue to talk to the Township about certain matters.

Member Kiernan makes a motion to continue this petition until the September 8, 2020 hearing.

Member Molle seconds the motion.

All in favor 4-0. Motion carries. Petition is continued until September 8, 2020.

Petition #10: Tavo Properties, LP., 2 Towpath Road (a/k/a 2 Canal Road), Fairless Hills, PA 19030; TMP #13-047-126-001; Zoned: PIP. Requesting the following dimensional variances to construct two additions to the existing warehouse: Section 209-28.F – to permit a building coverage ratio of 54.30% where 40% is permitted; Section 209-28.F – to permit the proposed warehouse building addition to be located within the required 50 ft. buffer area and the 20 ft. rear yard; and Section 209-41 – to permit expansion of an existing non-conforming condition with the development of additional stormwater management facilities, improvements and a reconfigured parking area within the front yard buffer and the front yard parking setback for the frontages on Newbold Road and Towpath Road.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7 and Applicant A-1 and A-2 (proof of neighbor notification).

Kellie McGowan, Esquire, presents the application and states the this is a two phase expansion of the current existing facility and goes through the variance requests.

Dave Taylor gets sworn in and testifies as to his position with Tavo (owner), the nature of their business, the need for the expansion, what they will use the expansion for, the expansion is of the same nature as the neighbors, the necessity for the parking expansion, and the increase in employees.

Daniel Humes (VanCleeef Engineering) gets sworn in and testifies as to his credentials, gets accepted as an expert witness, talks about the existing features, explains the improvements to the site, both Phase 1 and Phase 2, and goes through the variance requests.

No Board questions.

No public comment.

Atty. McGowan makes brief closing statement.

Member D'Oria makes a motion that the application of Tavo Properties LP requesting dimensional variances from Falls Township Zoning Ordinance be GRANTED to construct two additions to the existing warehouse facility, specifically from 1) Section 209-28.F to permit a building coverage ratio of 54.3% where 40% is permitted; and 2) Section 209-28.F to permit the proposed warehouse building addition to be located within the 20 ft. rear yard; and 3) Section 209-41 to permit expansion facilities improvements and reconfigured parking area within the front yard buffer and the rear yard parking setback for the frontages on Newbold Road and Towpath Road at the property located at 2 Towpath Road, a/k/a 2 Canal Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries.

Hearing adjourned 9:15 p.m.