

**FALLS TOWNSHIP
ZONING HEARING BOARD
NOVEMBER 19, 2024**

Hearing commenced: 7:04 p.m.

Hearing adjourned: 8:10 p.m.

Members present: Aaron Mackey, Nastasha Raisley, Lainey Striluk, William Kiernan, Chris Kilmer (ALT)

Members absent: Robert McTague

Also present: Keith Bidlingmaier, ZHB Solicitor; Matt Takita, Zoning Officer; Ed Neubauer, Code Enforcement; Katie Doyle, Court Reporter

Petition #1: Sean Little and Danielle Presner, 3 Pensive Lane, Levittown, PA 19054; TMP #13-025-213; Zoned: NCR. Requesting a dimensional variance for a 6 ft. solid fence in the secondary front yard. Section 209-45.C(2).

Danielle Presner gets sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Ms. Presner states they want to put a fence in the side yard for safety reasons because they have children. The side yard is on the drive, which is a busy street.

Member Mackey seeks clarification on the height of the fence (6 ft. wooden fence with an 8 ft. gate).

Mr. Neubauer confirms there are no sight triangle issues with the fence.

No public comment.

Member Mackey makes a motion the application of Sean Little and Danielle Presner requesting a dimensional variance from Section 209-45.C(2) of the Falls Township Zoning Ordinances be GRANTED to allow a 6 ft. solid fence in the secondary front yard at the property located at 3 Pensive Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kilmer seconds the motion.

All in favor 5-0. Motion carries.

Petition #2: NP Falls Township Industrial, LLC, 600 Ben Fairless Drive, Fairless Hills, PA 19030; TMP #13-051-001-034; Zoned: MPM. Requesting dimensional variances for the continued construction of a 1,035,703 sq. ft/ industrial building; Section 209-30.D – to allow an accessory structure within the 100 ft. front yard setback; and Section 209-42.E – to permit a wider than thirty foot driveway width from street line to permit a wider driveway entrance into the site for maneuverability.

Jeremy Michael (NorthPoint) (on Zoom) and Timothy Casey, P.E. (Gilmore) get sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Applicant Exhibit A-1 (proof of neighbor notification)

Michael Meginniss, Esquire, presents the application and states the application relates to Building 6 within the Keystone Trade Center. This particular parcel went through the development process and secured preliminary and final land development approval from the Township. It is now under construction. The structure is approximately 1,035,000 sq. ft. This application is necessary because of the change in the end user on the site. While it was originally slated for a warehouse / distribution use, the tenant will be a data center. Last month, a zoning variance was granted with regard to the decibel level regarding data centers. There were some interior construction changes necessary for this use for which permits have been submitted. The modifications for the tenant resulted in the two variances we are seeking tonight – driveway width and an accessory structure within the front yard setback.

Jeremy Michael states when they develop, the buildings are speculative in nature. We completed construction the end of 2023. We have now secured a tenant for the whole building. We are now trying to request two variances to accommodate their space plans.

Atty. Meginniss states the accessory structure is a guard shack located approximately 93 ft. from the front yard and the water tanks which are a bit inside of the setback.

Mr. Michael confirms this and states there is one tank that partially straddles the setback.

Atty. Meginniss states the driveway width is for truck maneuverability and safety.

Mr. Michaels confirms.

Member Mackey asks if the water tanks are considered an accessory structure.

Mr. Takita states the Township considers the water tanks as a piece of equipment, not as an accessory structure.

No public comment.

Member Mackey makes a motion the application of NP Falls Township Industrial LLC requesting dimensional variances from the following sections of the Falls Township Zoning Ordinances be GRANTED to continue constructing a 1,035,703 sq. ft. industrial building: 1) Section 209-30.D to allow an accessory structure within the 100 ft. front yard setback; and 2) Section 209-42.E to permit a wider than 30 ft. driveway width from the street line at the property located at 600 Ben Fairless Drive, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Raisley seconds the motion.

All in favor 5-0. Motion carries.

Petition #3: Lower Bucks Homebuilders, LLC, Fallsington-Tullytown Road, Levittown, PA 19054; TMP #13-042-342 through #13-042-359; Zoned: NC. Requesting the following variances for the construction of six contractor garages ranging from 4,725 sq. ft. to 5,625 sq. ft. in conjunction with the consolidation of the numerous lots: Section 209-22.B – to allow contractor garage as a principal use;

James McCafferty (applicant) was sworn in. Timothy Casey, P.E. was already sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Applicant Exhibit A-1 (proof of neighbor notification).

Michael Meginniss, Esquire, presents the application and states the applicant was before this Board in April 2024 to discuss the development of 10 small parcels located on Fallsington-Tullytown Road. Those parcels totaled just over an acre. Most of the lots were 50' x 100'. It was discussed at that hearing some of the difficulties experienced trying to make reasonable use of the parcels because of the shallow nature of the lots and the existing right of way. The Zoning Hearing Board in April approved variances for three contractor garages. Mr. McCafferty testified these garages would not have any large trucks accessing the site; these were for small businesses like contractors, plumbers, electricians. The remaining 8 parcels are now under agreement (they were owned by a separate entity) and that is the reason for the expanded plan.

Presently, there are a total of 18 undeveloped parcels. Ten of those were controlled by one owner and for which we received approval at the April zoning hearing board. Now Mr. McCafferty has secured the other 8 parcels which are contiguous. There are no additional parcels in this area. We are seeking variances for the same use as previously granted, with the same design with the one-way routing off of Fallsington-Tullytown Road. The garages are almost identical to what was previously granted. This will allow the applicant to move forward in unison to have a cohesive development. Because there are now 8 additional lots, the project will require an NPDES permit because we are disturbing in excess of one acre. The list of variances are identical to what was previously granted by this Board. The project will now have six contractor garages instead of three. There will be no exterior storage of materials and no overnight truck parking.

James McCafferty testifies he is the owner of Lower Bucks Homebuilders, explains the need for six contractor garages, and explains the benefits of the garages. These garages will assist small businesses growing out of their home garage/shed. They generally hold inventory like tiles, water heaters, lumber; it depends on the type of contractor. Individuals would not be working out of the garages – just coming and going to pick up their product. There would be no large trucks – just box

trucks and pickup trucks. There would be no exterior storage of material or overnight truck parking. He believes this will be a good use for the site with little to no adverse effect on the neighborhood.

Member Kilmer asks if the buildings will be divided between tenants.

Mr. McCafferty state it will likely be split in half, roughly. I envision two tenants in each garage. Where the dividing wall will be placed would depend on how much square footage each contractor might need.

Member Kilmer asks if there will be one overhead door and one man door for each tenant?

Mr. McCafferty responds there will be 16 ft. high ceilings with a 14 ft. garage so their box truck could drive in and out. I expect two tenants in each structure. There will be two garage doors for each garage.

Member Kiernan asks if the PennDOT setbacks are met on Rte. 13 side.

Atty. Meginniss says the applicant would comply with whatever the PennDOT setbacks are.

Further discussion occurs regarding the setbacks to Rte. 13.

Member Kiernan asks if we approve the setbacks, does that override PennDOT's right of way requirements?

Atty. Meginniss says no. We will accept a condition that any approval is contingent upon PennDOT's approval.

Member Kiernan asks about the stormwater management controls.

Atty. Meginniss states it will be handled through the land development process. The Township engineer must review the plans, an NPDES permit needs to be applied for with the Pa. DEP because it is over an acre of disturbance, and the Bucks County Conservation District will also have a review of the controls.

Member Kiernan asks if hazardous materials will be stored.

Atty. Meginniss says no. We will agree to a condition to that effect.

Member Mackey asks if there is asphalt surrounding all the garages or is there some grass.

Timothy Casey, P.E. responds there will be an asphalt aisle in front of the garages. The 25 ft. between each building and behind each building will be grass and trees.

Member Mackey questions the need for another storage facility (different than a storage facility – geared toward small business) signage (minimal), changing the character of the street (steel buildings that are aesthetically pleasing).

Chairman Striluk expresses her concern with safety, the number of tenants going into each building and if the tenants would sublet to other tenants, and traffic concerns.

Atty. Meginniss states that historically any storage facility has the least impact on traffic than other uses that could be put into this area. In terms of the leasing to different tenants – there will be no office space.

Mr. McCafferty says there would be no subleasing permitted. He would also be monitoring his property to make sure the tenants are complying to the terms of their lease. There is going to be one way aisle in front of the garages which prevent tenants from not complying with the terms of their lease (like no overnight parking).

Chairman Striluk asks if other use types were explored.

Mr. McCafferty stated the previous owner of the 10 lots he originally purchased had a conversation with the Township Engineer's office to develop the lots into twin homes. He did not believe homes would work there and believes the storage unit is a better use for this particular strip of land because of the roads on either side. There would be more trips and more driveways if homes were built.

Discussion occurs about the permitted uses in the NC zoning district, the depth of lots and the other reasons we've mentioned as to why the contractor garages are the best fit for these parcels.

Member Kiernan states while he has no problem with the business, his main concern is the flooding, and he doesn't see the hardship.

No further Board comments.

Public Comment

Gregory Gillespie, 104 Moon Drive, states he owns the parcel on the other side of J.C. Heating on Fallsington-Tullytown Road, and is interested in developing his lot. There is no designated parking for Continental Baseball fields at the site where the garages are going, there are some water issues, and states the use is good for the neighborhood.

Member Raisley makes a motion that the application of Lower Bucks Homebuilders LLC requesting the following variances from the following sections of the Falls Township Zoning Ordinances be GRANTED for the construction of six contractor garages ranging from 4,725 sq. ft. to 5,625 sq. ft. in conjunction with the consolidation of the numerous lots: 1) Section 209-22.B to allow contractor garages as a principal use; 2) Section 209-22.E to allow minimum front yards of 20 ft. along Fallsington-Tullytown Road and 11 ft. from Bristol Pike; 3) Section 209-22.E to allow a maximum building coverage of 41.2%; 4) Section 209-22.F(2) to allow drive aisles within 20 ft. adjacent to street lines and without curbing; 5) Section 209-38.1(E)(2) to remove requirement for 25 ft. buffer yards along Fallsington-Tullytown Road and Bristol Pike; and 6) Section 209-42.B(1) to remove the requirement for a 10 ft. wide landscaping strip between off-street parking areas and a lot line or street line, curbing and a designated space / area for loading and unloading at the property located at Fallsington-Tullytown Road, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board, with the following conditions: there is no overnight parking, no hazardous materials, no outside storage.

Member Mackey seconds the motion.

Mr. Takita asks if there is a condition of two tenants in each garage – it makes a difference when the Township issues the Certificate of Occupancy for the tenants.

Member Mackey says he does not see the need for the condition of tenants to be added to the motion.

Chairman Striluk says she would like to see it added to the motion.

Discussion occurs about number of people versus number of tenants.

The motion is voted on (without addressing the number of tenants).

All in favor 3-2, Kiernan and Striluk dissenting. Motion carries.

8:10 Hearing adjourned