

**FALLS TOWNSHIP
ZONING HEARING BOARD
MAY 10, 2022**

Hearing commenced: 7:10 p.m.

Hearing adjourned: 8:50 p.m.

Members present: Alfred Brooks, William Kiernan, Aaron Mackey (alt), Dan Miles, Lolain Striluk

Members absent: Doug Molle

Also present: Matthew Takita, AIA, MCP, Township Manager/Zoning Officer; Keith Bidlingmaier, ZHB Solicitor; William Campbell, Court Stenographer

Petition #5: AB III, Inc., 340 N. Oxford Valley Road, Fairless Hills, PA 19030; TMP #13-003-028; Zoned: HC. Requesting the following dimensional variances for improvements at the Burger King: Section 209-42.H(26) – to permit 77 parking spaces on the property where the code requires 153 spaces and 87 are currently provided to allow for the construction of a dual lane drive-through; Section 209-45.F – to permit signage on 2 order points and 2 menu points as set forth on the plan where subsection 209-45.F(6)(d)[4] only permits one digital display per property and subsection 209-45.F(6)(d)[3][a] sets forth that digital displays shall not exceed more than 30% of the total sign area permitted on site; and Section 209-45.Q(10)(a)[2] – to permit two order points and two menu boards in the location, size and configuration shown where the code only permits one freestanding sign per street frontage and one additional freestanding sign for drive-through establishments for the advertising of items for sale to users of the drive-through lane only.

Chairman Miles states the Township has received correspondence from the applicant’s attorney requesting a continuance until the June 14, 2022 hearing. Atty. Bidlingmaier marks the document as Exhibit D-1 as they are bringing to the Board an extension to hear this matter under the Municipalities Planning Code.

Member Brooks makes a motion to continue.

Member Striluk seconds the motion.

All in favor 5-0. Application continued until June 14, 2022.

Petition #1: Stacy Dean, 22 Evergreen Lane, Levittown, PA 19054; TMP #13-026-494; Zoned: NCR. Requesting a dimensional variance to allow the driveway to encroach into the side yard setback. Section 209-43.1(C)(4).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6.

Stacy Dean presents the application and states they would like to extend their driveway all the way to the property line to match up with the neighbor’s driveway. The neighbor received a zoning variance last month to do the same thing. It would help with off street parking so my husband’s truck could fit into the driveway.

Member Kiernan asks if you will impact the curb or apron.

Ms. Dean says no.

No public comment

Member Brooks makes a motion the application of Stacy Dean requesting a dimensional variance from Section 209-43.1(C) of the Falls Township Zoning Ordinance be GRANTED to allow the driveway to encroach into the side yard setback at the property located at 22 Evergreen Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Striluk seconds the motion.

All in favor 5-0. Motion carries. Application approved

Petition #2: Sherry Alexander-Ford, 230 Birch Drive, Levittown, PA 19054; TMP #13-022-347; Zoned: NCR. Requesting a dimensional variance to erect a shed in the secondary front yard which does not comply with the 25 ft. setback line for a principal building. Section 209-34.E.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Sherry Alexander-Ford presents the application and states she lives on a corner property on Birch Drive and Bald Cypress. My backyard has a 10 ft. sewer easement which goes across the entire backyard. The only location for a shed is on the side yard. Where we want to place the shed does not meet the front yard requirements but does meet the 10 ft minimum distance between buildings.

Member Mackey asks the height of the shed.

Ms. Alexander-Ford states 10 ft. high.

No public comment.

Member Brooks makes a motion the application of Sherry Alexander-Ford requesting a dimensional variance from Section 209-34.E of the Falls Township Zoning Ordinance be GRANTED to erect a shed in the secondary front yard which does not comply with the 25 ft. setback line for the principal building at the property located at 230 Birch Drive, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Striluk seconds the motion.

All in favor 5-0. Motion carries. Application approved

Petition #3: Jason and Nancy Lawson, 517 S. Olds Boulevard, Fairless Hills, PA 19030; TMP #13-015-001-004; Zoned: NCR. Requesting the following variances: Section 209-20.B -- a use variance to permit two single-family dwellings where only one single-family dwelling is otherwise permitted; Section 209-20.C(1) – a dimensional variance to permit an accessory structure to be placed on the rear property line, where a minimum distance of 20 ft. from a rear property line is otherwise required; Section 209-20.F – a dimensional variance to permit a maximum impervious surface ratio of 50%, where a maximum of 40% is otherwise required; and Section 209-43.1.C(4) – a dimensional variance to permit 1.15 ft. between a driveway and the property line where a minimum of 2 ft. is otherwise required.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5.

Witnesses sworn in: Jason Lawson, Eric Clase, P.E., Robert McTague

Michael Meginniss, Esquire, presents the application and states he has two letters from neighbors at 518 S. Olds (Ex. A-1) and 519 S. Olds (Ex. A-2) stating their approval of the project, a copy of the floor plan (Ex. A-3) and an aerial depicting the subject parcel (Ex. A-4) and gives copies to the Board. The property is approximately two-thirds of an acre with a single family detached dwelling with a pool to the rear. To the right of the property is 518 S. Olds Blvd with a large residential detached structure with a chicken coop / greenhouse to the rear. To the left of the property is a commercial property with three detached dwellings. This property backs up to acres of woodlands at the Queen Anne Creek. This is important because there will be no negative impact to neighbors if this application is approved.

Additionally, the 40' x 80' structure is comprised of a residential component and a garage. The garage is intended to store a 38 ft. camper and a few other recreational vehicles. There is no commercial use intended for the garage. The residential space is 1,320 sq. ft. We would deed restrict the property to only allow blood family relatives to occupy this dwelling space. The residential space is not a rental space nor will we be subdividing the property. This structure will be used only by the Lawson family.

In the hardship letter, we referred to the need for the residential space – to house Jason's father who has Parkinson's disease. Things have changed slightly since the hardship letter was written. Mr. Lawson's son-in-law, Bob McTague and his family, sold their house and will be moving into the Lawson's residence. Also, the total structure amount is 2,800 sq. ft. not what is depicted on the plans.

Atty. Meginniss continues that this Board should not be concerned about this creating a precedent in the Township for allowing two residential dwellings in the NCR zoning district. This property is unique – it is a large parcel, it is adjacent to a commercial property which has 3 structures on it, and the adjacent residential property owner is supportive of this application. This is truly a unique situation which would not be duplicated in the Township.

Atty. Meginniss goes through the dimensional variances the applicant is requesting.

Jason Lawson, in response to questioning by Atty. Meginniss, testifies his dad has Parkinson's disease, currently lives in Florida and wants to move back home but needs a place to stay. His mother is deceased three years. We'd like to store the recreational vehicles in the garage – no commercial use. He gives a description of the new driveway. He states his son-in-law, daughter and grandson, would be living there as well to help out with his dad. The square footage of the structure has been reduced to 2,800 sq. ft. His father would live on the bottom, his daughter's family on the 2nd floor. We are willing to deed restrict the property so that it can only be used by blood relatives of my family. After my wife and I are gone, the property would go to my daughter and son-in-law. The lot will not be subdivided. No neighbors oppose this application.

Eric Clase, P.E., in response to questioning by Atty. Meginniss, testifies as to the site and the surrounding parcels' characteristics. He explains there is a 20 ft. wide sanitary sewer easement that traverses the property from west to east in the back yard. The project is to extend the existing driveway back to the proposed structure. There is a patio and pool behind the house, then the 20 ft. easement. The proposed structure is rectangular in shape and because of the easement can only fit where the plan shows – at the rear of the property. No additional stormwater runoff to adjoining property owners or for properties across the street because we would propose stormwater management devices which meet Township requirements.

Member Brooks asks questions about the commercial property next store (daycare), what type of gate to secure the pool (fence along the driveway). Some of my concerns that have already been addressed were: two thirds of an acre, not running a business out of the property, neighbors are signing off on it, going to keep the property in the family, the property will not be subdivided, not renting out the property, not fixing cars in the garage.

Member Kiernan states he believes it will set a precedent by allowing a second house in a single family zoning district, seeks clarification on who will be living there (not two separate families – Jason’s father, daughter, son-in-law and grandson), asks about subdivision (no), and flood issues which is why we denied the YMCA’s petition (there will be stormwater management devices to handle the water runoff installed per the Township requirements).

Member Mackey states concern about what happens when it does flood (we would install French drains although we are out of the flood plain and this construction is a slab on grade so no basement), during construction phase and any conservation aspects of the woodland and the creek itself (the project is on the Lawson’s property and silt socks and erosion control measures installed during construction), and believes it will set a precedent for a second residence (this property is unique in its size, no impact on the rear property, the adjoining residential neighbors support of the application, and the commercial three structure parcel next door, what happens when you sell it (no intention of selling, but the deed restriction would apply to any buyer).

Member Striluk states concern about second dwelling on the same parcel, what happens if there is a fire in the rear structure (access through the driveway expansion or they come into the neighboring property), flooding of property when you were opposed to YMCA coming in (concern was they were taking down the trees to build the structure; woods are still there so there is no stormwater runoff on my property).

Discussion continues on the issue of a second dwelling on this parcel.

Member Kiernan asks about deed restriction (comes up in a title search so any prospective buyer would have to adhere to the restriction of only family).

Public comment

Joseph Sfetcu, (Via Zoom call) no fixed address but lives in Falls Township, wants to know why we can’t have multiple housing on the property, and why we are focusing on this property owner (explained that they brought the petition before the Board). Wants community support to understand what’s going on – it’s picking and choosing.

Chairman Miles asks if you cannot speak to this petition only, then we are closing the comments from you.

Matthew Takita asks some questions regarding the floor plan (the floor plan is for interior layout only) and whether applicant would seek approval of the County for a construction and maintenance agreement during construction because the structure sits on the property line (yes, the applicant would).

Board takes an executive session.

Member Kiernan makes a motion the application of Jason and Nancy Lawson is denied.

Member Striluk seconds the motion.

All in favor – 3-2 (Brooks and Miles dissenting). Motion carries. Application denied

Petition #4: Yookel, Inc., 1001 New Ford Mill Road, Morrisville, PA 19067; TMP #13-051-001-001; Zoned: HI. Requesting a dimensional variance from the maximum impervious surface requirements to allow for a warehouse expansion. Section 209-29.G and Table 5.

Witnesses sworn in: Wayne Keifer, P.E. (Showalter) and Mr. Frey (B&J Group)

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6 and Applicant Exhibit A-2 (proof of neighbor notification)

Kimberly Freimuth, Esquire, presents the application and states there is an existing industrial building on the property consisting of approximately 178,000 sq. ft. The property is currently operated by B&J Group, an affiliated entity with Yookel, Inc. for over 10 years. It has a warehousing and distribution use; they package, ship and store materials used in the chemical industry. They store flammable and non-flammable products on site and have had no issues with the Township on their yearly inspections. B&J is also a member of the National Association of Chemical Distributors. They require a bi-annual audit to be approved as a warehouse partner in their association. This audit is completed by a third party auditing company. B&J is a member in good standing.

B&J needs some additional storage area so they are proposing three additions to the property, totally 56,480 sq. ft. We are requesting 61% impervious total coverage instead of 50% allowed. There will be stormwater management facilities. The plans show the existing features, the improvements, and an aerial overlay of the building with the additions on the sites. One of the additions is for the storage of non-flammable chemicals (36,000 sq. ft); the smaller addition is for flammable chemicals (20,800 sq. ft.) The reason for the two separate locations for the additions is because there is an existing firewall in the building to separate the flammable and non-flammable storage areas. The smaller addition will have a green roof and an added infiltration basin is proposed to help with the stormwater management.

Atty. Freimuth asks Mr. Keifer and Mr. Frey is they are in agreement with her summary of the facts. They agree.

Chairman Miles asks about the green roof and Mr. Keifer explains it.

No public comment.

Member Brooks makes a motion the application of Yookel, Inc. requesting a dimensional variance from the maximum impervious surface requirements from Section 209-29.G and Table 5 of the Falls Township Zoning Ordinances be GRANTED to allow for a warehouse expansion at the property located at 1001 New Ford Mill Road, 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 5-0. Motion carries. Application approved

Hearing adjourned 8:50 p.m.