

**FALLS TOWNSHIP
ZONING HEARING BOARD
SEPTEMBER 12, 2023**

Hearing commenced: 7:10 p.m.

Hearing adjourned: 7:32 p.m.

Members present: William Kiernan, Aaron Mackey, Robert McTague, Nastasha Raisley, Lolain Striluk

Members absent: None

Also present: Keith Bidlingmaier, ZHB Solicitor; Matthew Takita, Zoning Officer; Ed Neubauer, Code Enforcement; Karen Browndorf, Court Reporter

Lolain Striluk is the Temporary Chairperson for tonight's hearing.

Atty. Bidlingmaier states there is a matter which was denied by this Board last year. The matter was appealed by the applicant. The Township and the applicant came to an agreement with regard to the appeal. At this time, I am looking for approval authorization from the Board for me to sign the Settlement Agreement for the Zoning Hearing Board appeal regarding NSE Pennsylvania LLC for the property located at 203 Lincoln Highway, Fairless Hills, PA 19030, TMP #13-003-018 for a medical marijuana dispensary.

Member McTague makes a motion to approve authorization of the ZHB solicitor to sign the Settlement Agreement.

Member Raisley seconds the motion.

All in favor 5-0. Motion carries.

Petition #4: Night and Day Properties, LLC, 99 Bristol Oxford Valley Road, Langhorne, PA 19047 and 119 Trenton Road, Fairless Hills, PA 19030; TMP #13-001-002 and #13-001-008; Zoned: HR.

Atty. Bidlingmaier states we have received a letter from Matthew McHugh, who represents the applicant, requesting a continuance until the October 10, 2023 Zoning Hearing Board meeting. They will be submitting new plans. The letter dated September 12, 2023 is a Board exhibit.

Member Kiernan makes a motion to approve the continuance request until October 10, 2023.

Member Raisley seconds the motion.

All in favor 5-0. Motion carries.

Petition #1: Falls Township Senior Center, 282 Trenton Road, Fairless Hills, PA 19030; TMP #13-006-258; Zoned: IN. Requesting a use variance to allow a non-static electronic message board. Section 209-45.O.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6.

Andrea McGillicuddy gets sworn in.

Ms. McGillicuddy states she is the Assistant Manager for the Falls Township Senior Center and is requesting a use variance for an existing sign to be non-static. The current sign is able to scroll through multiple messages per day. This will allow us to make available information about the multitude of services, activities, and classes we have to offer (exercise class, bingo, an upcoming trip, etc). It will also allow us to advertise our current programming and fundraising efforts which will help us tremendously since we are a 501-C(3) non-profit organization. We thank you for all the support the Township has given our center.

No Board comments.

No public comments.

Member Kiernan makes a motion the application of the Falls Township Senior Center requesting a use variance from Section 209-45.O of the Falls Township Zoning Ordinances be GRANTED to allow a non-static electronic message board at the property located at 282 Trenton Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member McTague seconds the motion.

All in favor 5-0. Motion carries.

Petition #2: Brian Brzezinski, 654 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-017-231; Zoned: HC. Requesting the following variances: Section 209-23.B – a use variance to allow an apartment use; Section 209, Table 4 -- to permit a front yard setback along Highland Avenue of 53.15 feet; a front yard setback of 53.70 feet along Trenton Avenue; a front yard setback of 50 feet along Lincoln Highway instead of the required 100 feet, and to not require a 25 foot buffer along a residential district; Section 209-38.1.E(2) – to not require a buffer yard along an NCR district; Section 209-42.B(1) – to not require the clustered planting of dense plant material not less than 4 feet in height and 10 feet in width between the off-street parking areas and any lot line; and Section 209-42.H.(2)(a)[1] and [2] – to permit 147 parking spaces instead of the required 264 spaces.

Atty. Bidlingmaier makes the Board aware of a potential conflict of interest in the fact that his law firm represents Mr. Brzezinski's son in a personal injury matter unrelated to this petition. The Board is willing to waive any potential conflict due to the fact the matters are not related.

Barbara Kirk, Esquire, represents the applicant and states she spoke with Mr. Bidlingmaier earlier about the potential conflict and have advised my client, Brian Brzezinski, who is here to put on the record he is also waiving any potential conflict of interest. His son is not a minor child, so the applicant does not have any direct financial or other interest in the matter being handled by the solicitor's law firm.

Mr. Brzezinski is sworn in and states he waives any conflict of interest.

Atty. Kirk states the applicant is requesting a continuance of this matter until the October 10, 2023 meeting. The basis for the request is that in my review of the application, it came to my attention there was one code section that was omitted (dealt with parking setbacks). We will file an amended application.

Member McTague makes a motion to continue this application until the October 10, 2023 meeting.

Member Kiernan seconds the motion.

All in favor 5-0. Motion carries.

Petition #3: All State Auto Sales, LLC, 981 Lincoln Highway, Morrisville, PA 19067; TMP #13-028-034; Zoned: HC. Requesting a use variance to allow using back of the property to extend parking in addition to the currently existing used car dealership inventory of 90 vehicles. Sections 209-23.B and 209-23.E.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and clarifies and approves the neighbor notification provided by the applicant.

Natalia Bandarenka gets sworn in. I represent the company All State Auto Sales, a used car dealership. We are applying for an extended parking lot. Our company is on the back side of property with 90 vehicle. The more cars we have, the more successful our business will be. We offer affordable vehicles. We have been in this location 18 years.

Member McTague asks Matt Takita (zoning officer) if there are any open code enforcement matters.

Mr. Takita says yes, the property has been subject to previous and current enforcement action for zoning violations. The concern the Township has is the use of the property is not just auto sales, but also a salvage business. On various occasions we have observed and photographed vehicles being taken apart or which are in various stages of disrepair. As far as the appeal for the extension of the parking, there was an agreement with the property owner to allow for an auto sales business only, limit the number of vehicles in the rear of the property and maintenance of the property. There is no zoning provision, and we are not aware of what the actual permitted parking might be. I'm not too certain what variance would be necessary for this Board to grant because there's been no determination on the amount of parking that is required.

Member McTague asks the applicant if she is working on vehicles at the property.

Ms. Bandarenka states small repairs. When the new owner took over 6 years ago, he applied for only 55 vehicles. Two years ago, we tried and applied for salvage vehicles, but the Township would not grant approval, so we withdrew the application. Now we just want to use the lot in the back because we have more vehicles.

Member McTague so there's no garage at the property?

Ms. Bandarenka says no, there was before, but it was demolished.

Member McTague asks if all work is being done outside.

Mr. Takita says the work we've observed has been done outside. We have requested they put the vehicles inside the garage bay to do work. In one of the photographs, you'll see a forklift which has been used to lift the cars off the ground and people have been observed working underneath the vehicles. We are concerned about safety.

Member Mackey asks about the rear – is it wooded area. In your plan you said there would be 90 parking spaces in that area – are you already using the space?

Ms. Bandarenka says we are currently using the space.

Ed Neubauer says her letter of intent is just for selling used cars – not working on cars, putting cars on lifts, pulling motors out, etc. She is only supposed to have 52 cars there. She has more than 52 cars there.

Mr. Takita says for further clarification, Mr. Neubauer is the code enforcement inspector who has been actively enforcing against this property as well as the Fire Marshal's office. The use of the property is what concerns the Township. The request is for a dimensional variance; we have not received an application specifically for parking, and we have not had an opportunity to review whether or not there is adequate parking. I'm not sure if the actual 90 spaces even requires a variance. There may be other issues with parking on unpaved surfaces. Again, we have not done a review and there may be other issues before we consider granting this variance.

Temporary Chairperson Striluk asks Mr. Takita if it would be wise to ask for a continuance of this matter so it can be further investigated.

Mr. Takita states on behalf of the Township, I request the Board grant a continuance so we can look into this. In fairness to the applicant, I think that would be the wisest course of action.

Atty. Bidlingmaier asks if the applicant, based on what Mr. Takita just said, would be willing to continue this matter until October 10, 2023.

Ms. Bandarenka says yes, but she does not understand what else she needs to provide.

Mr. Takita says he will have his secretary set up a meeting with you and our Township Engineer and will go over what you need to submit to the Township.

Ms. Bandarenka agrees to rescheduling and meeting with the Township.

No public comments.

Member Mackey makes a motion the application is continued until October 10, 2023.

Member Raisley seconds the motion.

All in favor 5-0. Motion carries.

7:32 p.m. Hearing adjourned