

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

Hearing commenced: 7:10 p.m.

Hearing adjourned: 9:10 p.m.

Members present: Aaron Mackey, Robert McTague, Nastasha Raisley, Lolain Striluk, William Kiernan
Chris Kilmer (Alt)

Members absent: None

Also present: Keith Bidlingmaier, ZHB Solicitor; Matthew Takita, Zoning Officer; Harrison Fonteix, Esquire
(Rudolph Clarke) Twp. attorney; Ed Neubauer, Code Enforcement; Karen Browndorf, Court Reporter

Atty. Bidlingmaier states the Board took an Executive Session tonight before the meeting. In the Executive Session, the Board discussed a continuance request which will, in fact, be withdrawn.

**Petition #1: Mark and Kelly DeBolt, 1 North Turn Lane, Levittown, PA 19054; TMP #13-042-220;
Zoned: NCR. Requesting a dimensional variance to allow a stone driveway. Section 209-43.1.**

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Kelly DeBolt gets sworn in and testifies Lower Bucks County Joint Municipal Authority issued a violation for the driveway because it was sitting on their easement. The driveway has been in place since 1997 when we purchased the property. In 2018 LBCJMA made us remove all the trees in the backyard but never said anything about the driveway. When we went to sell the house, it triggered LBCJMA to do a visit and issued a violation for the driveway. The new owners want to keep the driveway. After some research, I determined LBCJMA will allow gravel in their easement because gravel is not considered a permanent structure. Therefore, we are asking for permission to allow for a gravel driveway instead of asphalt so that area can still be used as the driveway.

Member Mackey asks for clarification from Matthew Takita on dimensional variance.

No further Board questions.

No public comment.

Member Mackey makes a motion the application of Mark and Kelly DeBolt requesting a variance from Section 209-43.1 of the Falls Township Zoning Ordinances be GRANTED to allow a stone driveway at the property located at 1 N. Turn Lane, Levittown, PA 19054, 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: Danja LLC, 110 Central Avenue, Fairless Hills, PA 19030; TMP #13-005-[022; 022-001; 022-002]; 13-005-[112; 116; 138; 141; 142; 143; 144; 145; 147; 174; 175; 176]; 13-005-[202; 207; 208]; 13-005-140; 13-005-177; Zoned: HC. Requesting a use variance which shall permit truck and trailer parking as a principal use. Section 209-23.B.

Tony Disandro and Eric Clase get sworn in.

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

Byrce McGuigan, Esquire, (Begley, Carlin & Mandio) presents the application and states Danja owns 15 parcels situated between the north side of Business Rte. 1 and the rear of Jefferson Hospital. Those parcels are along two separate paper streets (Rome St. and Central Ave.) and together with the parcels is approximately 8-10 acres of property. The owner of the property has a business called CVA on these parcels, which is a local general site contractor which has been in existence in Falls Township since 1970. Mr. Disandro purchased the property about 10 years ago, but CVA has been there much longer than that. We are here today because CVA is leasing a portion of the property to Danja for truck and trailer parking since 2021. Mr. Disandro cleaned up the area for Danja and the trucking business has been there since that time. Technically, the two uses are an allocation of space which is a form of land development. Mr. Disandro hired our firm and Gilmore and Associates to produce the plan. In that evaluation, it was determined technically speaking, truck parking is not an explicitly permitted use in the HC district. We are here to request this use variance.

Tony Disandro, in response to questions by Atty. McGuigan, agrees with the statements as presented by McGuigan. He also confirms the use variance is for parking of trucks only – no maintenance or truck repairs.

Member McTague asks Mr. Takita if there are any open violations for the junk vehicles on the property.

Mr. Takita says no violations.

Member McTague asks about the junk vehicles in the rear of the property; there are vehicles which appear to be smashed up with tarps on them.

Discussion occurs around the pictures taken by Code Enforcement when posting the property. Mr. Disandro says sometimes the truckers park their vehicles at the site when they are on the road.

Member McTague asks if the Board grants approval, would the applicant be willing to accept a condition that no junk vehicles are allowed on the property.

Atty. McQuigan and Mr. Disandro agrees.

Member Kiernan asks if any of the trucks hold any medical or hazardous waste which would be stored at the site overnight.

Mr. Disandro says no.

No public comment.

Member McTague makes a motion the application of Danja LLC requesting a use variance from Section 209-23.B of the Falls Township Zoning Ordinances be GRANTED to allow a truck and trailer parking as a principal use at the property located at 110 Central Avenue, Fairless Hills, PA 19030, as depicted on the plans and in accordance with testimony presented to the Zoning Hearing Board, conditioned there will be no storage of disabled or inoperable vehicles on the property.

Member Mackey seconds the motion.

All in favor 5-0. Motion carries.

Petition #3: (CONT'D FROM 11/14/23, 10/10/23, 9/12/23) 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.

Eric Clase, from Gilmore and Associates, representing All State Auto Sales LLC, states this matter has been continued three previous times and in lieu of asking for another continuance, we respectfully ask to withdraw the application. We have recently been approached by the owner for professional services. We are not up to speed on the issues, so we need to prepare a plan and become educated on the relief that is required. If we need to make an application to the Zoning Hearing Board, we will in the future.

Application is withdrawn.

Petition #4: (CONT'D FROM 11/14/23, 10/10/23, 9/12/23) 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. Requesting the following dimensional variances for the construction of a 23-unit townhome community: Section 209-16(F) and Table 1A, Minimum Lot Requirements for HR District, relating to the minimum lot requirements for Townhouse and Other Single-Family Attached Dwelling as follows: (a) To permit a minimum lot area of 1,494 square feet whereas 1,800 square feet is otherwise required; (b) To permit a minimum lot depth of 83 feet, whereas 90 feet is otherwise required; (c) To permit a side yard setback of 10 feet whereas a minimum side yard setback of 20 feet is otherwise required for townhouses end units; (d) To permit a rear yard setback of 15 feet whereas a minimum rear yard of 30 feet is otherwise required; (e) To permit a maximum building coverage of 48.2% whereas a maximum building coverage of 30% is otherwise permitted; and (f) To permit maximum impervious surface ratio of 81.4% whereas maximum impervious surface of 60% is otherwise permitted allowed.

Section 209-16(F) and Table 2, Lot Requirements for HR and AQ Districts for the overall Subject Property as follows: (a) To permit a minimum tract area of 2.18 acres whereas 6 acres is otherwise required; (b) To permit a minimum lot depth of approximately 285 feet whereas 600 feet is otherwise required; (c) To permit a perimeter yard of 15 feet whereas 35 feet is otherwise required; (d) To permit a minimum distance between buildings of 20 feet whereas a minimum of 50 feet between buildings is otherwise required; (e) To not provide outdoor recreation area whereas 250 square feet of outdoor recreation area per dwelling unit is otherwise required; and (f) To not provide indoor recreation area whereas 10 square feet of indoor recreation area per dwelling unit is otherwise required.

Section 209-16.1(E)(1)(b) and 209-38.1.E(3) to provide less than the required 50 foot buffer yard for the overall tract.

Section 209-42.B(1) to not provide the required planting strip whereas a clustered planting of dense plant material not less than 4 ft. in height and 10 ft. in width is otherwise required to be between off-street parking areas and any lot lines.

Matthew McHugh, Esquire, represents the applicant and hands out a revised plan. He states the relief still remains the same.

Atty. Bidlingmaier marks ZHB Exhibit 1 – 8 and Applicant Exhibit A-1 (proof of neighbor notification), A2&3.

Atty. McHugh continues and states this is an application for a 20-unit townhome community on 99 Bristol Oxford Valley Road and a portion of 119 Trenton Road. This application was originally submitted in April and has been continued. When it was originally submitted, we proposed 34 townhomes as part of this project. Over the course of the last eight months, we have been working with the Township and the adjacent property owners (who are the owners of Marie's Cozy Corner) to revise the plans to address their concerns. We are now down to Exhibit A-2 – the revised plan – labeled Sketch Plan 9. Some of the concerns were density (we started at 34 and are now down to 20 units); buffering (we have added a 6 ft privacy fence, a berm and landscape buffer that has been added along the shared property with Marie's Cozy Corner); the townhome units (shifted further north up Bristol Oxford Valley Road and they are now 110 to 130 feet from that property line); stormwater management (we've worked with both the Township Engineer and with the adjacent property owners – we are showing a 7,000 sq. ft. stormwater management basin above ground that is located to address concerns about runoff on the adjoining properties but to also serve as an additional buffer of space between that shared property and the closest townhome units); parking (widened the unit driveways so each townhome unit provides for a two car driveway plus we have complied with the off street parking requirements so that no parking variances are required); circulation and access (the layout was completely reworked and we worked with the Fire Marshal to make sure there was a secondary emergency access off Bristol Oxford Valley Road). There's been a lot of work in developing a plan over the past 8 months, and we are finally in a position to present this plan to you.

Atty. McHugh says the Table 1A variances are related to the individual townhome units. Not every lot needs every variance and not every variance is of the greatest nature for every individual lot. The relief requested is the most significant relief for each individual category, but it may not be all 20 units needed, and it may not be to the same level for each unit that you see listed in the application.

Atty. McHugh says the Table 2 variances – we are not sure they apply to a townhome project in the HR district – they relate to the overall tract. They were provided in a review letter comment, so we added them in an abundance of caution. Most of them are existing non-conformities that cannot be changed relating to the property.

Atty. McHugh says the last two variances relate to buffer yards and the screening from the parking lot. We are providing some buffers and some screening but not to the full extent of the zoning ordinances.

Thomas Panzer, Esquire, representing Nancy Lawson, 111 Trenton Road, Fairless Hills, which is the adjacent property owner which supports a 43 year old business known as Marie's Cozy Corner. We have been in discussion with the applicant and appreciate their willingness to adjust plans consistent with Marie's Cozy Corner's requests. We are requesting Party Status. We do not intend to actively participate, but rather monitor and perhaps request conditions at the conclusion of the hearing.

Atty. McHugh states the applicant has no objection to their request for Party Status.

The Board decided to grant Party Status for Marie's Cozy Corner.

Atty. Bidlingmaier states that Board member, Robert McTague, is recusing himself from voting on this petition and Alternate Board Member Chris Kilmer will be the voting member of the Board for this petition.

Harrison Fonteix, Esquire, requests Party Status on behalf of the Township.

Atty. McHugh has no objection.

Eric Clase, P.E. continues and explains the newest plan. There will be 20 townhomes, there will be overflow parking close to the entrance on Bristol Oxford Valley Road, we've run truck turning vehicles through the site (emergency vehicles, 18 wheelers), they all can go through the site with no problem. The Township Engineer did not want our stormwater management to be underground so there is a large detention basin proposed. Also along the property line with Marie's Cozy Corner, you will see a basin, a berm and a lot of landscaping and trees. We will be proposing a fence as well. We are also providing sidewalks through the entire development along the homes. There is a separate emergency entrance going out onto Bristol Oxford Valley Rd.

Discussion occurs between Mr. Clase and Atty. McHugh regarding the fence as a visual screen, the general distance from the townhomes to the shared property, stormwater management, and the need to go through land development where these things will be discussed.

Atty. McHugh hands out Exhibit A-4 which is a chart of each lot and the variances requested for each lot. Discussion occurs around this Exhibit.

Member Kiernan asks what the hardship is, asks about the total impervious coverage, is it age restricted (no), any outdoor or indoor recreation (not a specified recreation area, but room to put something in). Member Kiernan says he still does not see the hardship; it appears you are trying to jam in 20 townhomes.

Atty. McHugh says we can fit more on the lot, but we've been working with the Township and the adjacent property owners to reduce the scope of the development. Townhomes are a permitted use here. All of the requirements in Table 2 take into effect a larger 6 acre lot. Our hardship is we have a 2.1 acre lot that we cannot make bigger and we have a permitted use. As a result, we need dimensional variances to reach the scope of the development which is allowed under the ordinance which is twice the size of this. We've reduced it as much as we can to fit the appropriate number of units on a permitted use on this lot and these are the dimensional variances that come from it.

Member Kiernan asks if this lot can only have townhomes on it.

Atty. McHugh says that it is not what I'm saying. We are not asking for a use variance. This use is a permitted use here.

Member Mackey asks why is 20 the appropriate number of townhomes.

Atty. McHugh says if you look at the zoning ordinance, and you look at the HR district, the permitted density is 20 dwelling units per acre. According to Table 2, you should have 6 acres. With a 2-acre site, you can put in 40 units – that is where our initial concept came from. Now we have other competing interests here. Obviously, the developer has to make a certain number of units, there is site work, there is economic reality. Then we have Township concerns, adjoining property neighbor concerns.

Member Mackey says he appreciates the effort to reduce the density, but he still feels it is overly dense.

Atty. McHugh explains we tried to consider everyone's concerns with development so that is why some variances are being requested (like lot size so we could put in the stormwater basin) and still make it viable for the property to be developed.

Chairman Striluk says she believes the hardship was created by the developer in buying the lots that were undersized.

Atty. McHugh says again, that would be a relevant argument if we were here for a use variance, but we are not. The use is permitted with certain dimensional requirements that have to be met and the hardship that is associated with land is that all of those requirements are based on a 6 acre lot. They are intended for larger lots. We are restrained dimensionally by the size of the lot – that is the hardship.

Chairman Striluk asks how many bedrooms.

Atty. McHugh says three – that’s what the ordinance calls for.

Chairman Striluk says there is one way in and one out.

Atty. McHugh says correct, one main entrance, but we do have an emergency vehicle entrance.

Chairman Striluk asks if there was a traffic study.

Atty. McHugh replies not yet, that is part of land development.

Chairman Striluk says you are asking for a lot of variances.

Atty. McHugh states there is another townhome community in Falls with similar variances which was granted. That was the starting point for this particular project and then with input from the Township and the neighbors we developed this Sketch Plan 9.

Discussion occurs on the individual lot sizes, the reasoning behind asking for Table 2 variances which do not seem to apply to townhome communities (not something they necessarily agree with but the professionals thought it should be included) and questions from Member Raisley and Member Mackey about the density per the ordinance.

Member Kiernan asks if you reduce the number of townhomes would you still need variances.

Mr. Clase says yes. The way the ordinance is written on townhomes you cannot construct a townhome community without dimensional variances. It sounds like you want less townhomes, but at some point, you need development to economically feasible. I think that point is with the plan we have now at 20 townhome units.

Member Kiernan says he does not like there is no recreation spot for the children.

Member Raisley asks about the sidewalks. (They are interconnected within the development and goes all along Bristol Oxford Valley Road.)

Atty. Panzer says he has no questions for the witnesses based on the testimony they offered. But a representative who is with me has some comments.

Jason Lawson gets sworn in and states he is speaking on behalf of his mother-in-law who owns Marie’s Cozy Corner. The developer has worked to address a lot of our concerns. Our concern still is the noise. We have been there 40 plus years, we have fundraisers, we have horseshoes three nights a week in the summer. We want the people who are moving there to know there is going to be noise. They did move it back from 15 ft. to 100 plus ft. We are hoping the buffers and fence will keep the noise down. Our other concern is with impervious surface and flooding of our property because we are at the bottom of the hill.

Atty/ Fonteix states the Township does not disagree with any representations that Mr. McHugh has made. We are not here to oppose or support the application. Should the Board grant approval, there is some question about the ultimate location of the lot line on this property, which should be hammered out in land development. Any approval related to the setbacks should be contingent upon finalizing the lot line location.

Atty. McHugh states he agrees.

Public Comment

Toni Battiste, 218 Gloucester Road, expresses concern about traffic coming off Route 1, a lot of variances requested, and future variances from the potential homeowners, not enough parking, and water restrictions from the Township.

Atty. McHugh responds with a closing statement.

The Board takes an Executive Session.

Atty. Bidlingmaier states the Board took an Executive Session to discuss the application and might have more questions. Also, only the five voting members participated in the Executive Session (McTague did not participate).

Member Mackey asks a few clarifying questions.

No further Board comment.

No further public comment.

Member Kiernan makes a motion the application of Night and Day Properties LLC be denied.

Chairperson Kiernan seconds the motion.

All in favor 2 – 3 (McTague abstaining; Kilmer voting). Motion to deny fails to pass.

Member Mackey makes a motion the application of Night and Day Properties, LLC requesting the following dimensional variances from the following sections of the Falls Township Zoning Ordinances be GRANTED to construct a 20-unit townhome community: Section 209-16(F) and Table 1A, Minimum Lot Requirements for HR District, relating to the minimum lot requirements for Townhouse and Other Single-Family Attached Dwelling as follows: (a) To permit a minimum lot area of 1,494 square feet whereas 1,800 square feet is otherwise required; (b) To permit a minimum lot depth of 83 feet, whereas 90 feet is otherwise required; (c) To permit a side yard setback of 10 feet whereas a minimum side yard setback of 20 feet is otherwise required for townhouses end units; (d) To permit a rear yard setback of 15 feet whereas a minimum rear yard of 30 feet is otherwise required; (e) To permit a maximum building coverage of 48.2% whereas a maximum building coverage of 30% is otherwise permitted; and (f) To permit maximum impervious surface ratio of 84.5% whereas maximum impervious surface of 60% is otherwise permitted allowed. Section 209-16(F) and Table 2, Lot Requirements for HR and AQ Districts for the overall Subject Property as follows: (a) To permit a minimum tract area of 2.18 acres whereas 6 acres is otherwise required; (b) To permit a minimum lot depth of approximately 285 feet whereas 600 feet is otherwise required; (c) To permit a perimeter yard of 15 feet whereas 35 feet is otherwise required; (d) To permit a minimum distance between buildings of 20 feet whereas a minimum of 50 feet between buildings is otherwise required; (e) To not provide outdoor recreation area whereas 250 square feet of outdoor recreation area per dwelling unit is otherwise required; and (f) To not provide indoor recreation area whereas 10 square feet of indoor recreation area per dwelling unit is otherwise required. Section 209-16.1(E)(1)(b) and 209-38.1.E(3) to provide less than the required 50 foot buffer yard for the overall tract. Section 209-42.B(1) to not provide the required planting strip whereas a clustered planting of dense plant material not less than 4 ft. in height and 10 ft. in width is otherwise required to be between off-street parking areas and any lot lines -- with the stipulation that the lot lines be finalized.

Member Raisley seconds the motion.

**All in favor 3- 2 (Kiernan and Striluk dissenting); McTague abstaining; Chris Kilmer voting in favor.
Motion carries – application approved.**

Hearing adjourned 9:10 p.m.