

**FALLS TOWNSHIP
ZONING HEARING BOARD
AUGUST 12, 2014**

Meeting commenced: 7:00 p.m.

Meeting adjourned: 8:10 p.m.

Members present: Brooks, Henderson, Miles, Molle and Powers

Members absent: None

Also present: Tom Bennett, CCEO & Zoning Officer, Ed Neubauer, Code Enforcement Officer, Dave Sander, ZHB Solicitor; Karen Browndorf, Court Stenographer

Petition #1: Fairless Properties, LLC, (Popeye's), 332 W. Trenton Avenue, Morrisville, PA 19067; TMP 13-035-033; Zoned NC. Variances to allow a drive-thru window and to allow for fewer parking spaces than required. Sections 209-22.B and 209-22.G.

Atty. Sanders marks ZHB Exhibits 1 – 7. Also marked A-1.

Julianne Peck, Esquire, of McNelly & Goldstein, presents the application to the Board. This is an existing property in an existing shopping center. We are not seeking a variance for parking as noticed as the final plans reflect adequate parking. We are only seeking a variance for Sec. 209-22.B.

Three witnesses appeared on behalf of the applicant.

The Board has no questions.

There is no public comment.

Atty. Sander frames a motion to GRANT the application of Fairless Properties, LLC for a variance to allow a fast food restaurant with a drive-thru window at 332 W. Trenton Avenue, Morrisville, PA, in accordance with the plans submitted with the application and the testimony presented to the Zoning Hearing Board.

Member Miles makes the motion to APPROVE.

Member Molle seconds the motion.

All in favor 5-0.

Petition #2: Joseph and Carol Pinto, 710 Warwick Road, Fairless Hills, PA 19030; TMP #13-018-105; Zoned: NCR. Dimensional variance to erect a 6' vinyl fence in secondary front yard. Section 209-37.C(3).

Atty. Sanders marks ZHB Exhibits 1 – 4.

Member Powers questions Ed Neubauer regarding the sight triangle. After discussion, it was suggested that the fence be erected 4' off the sidewalk.

Member Powers makes a motion to APPROVE the application for a variance to erect a 6' vinyl fence in the secondary front yard, with the condition that the fence is installed 4' in from the near edge of the sidewalk and at least 12' in from the street.

Member Brooks seconds the motion.

All in favor 5-0.

Petition #3: Jennifer Campione, 2 Vermillion Drive, Levittown, PA 19054; TMP #13-019-528; Zoned NCR. Dimensional variance to allow sunroom to be erected which does not meet the required distance between buildings. Section 209-20 and Table 1.

Atty. Sanders marks ZHB Exhibits 1 – 4.

No public comment.

Member Miles makes a motion to APPROVE the application for a variance to erect a 20' x 11' enclosed sunroom that is located not less than 14'6" from an existing shed rather than the required 15' distance between buildings on the same lot, as depicted on the plans submitted with the application and in accordance with the testimony offered before the Zoning Hearing Board.

Member Powers seconds the motion.

All in favor 5-0.

Petition #4: 198 Lincoln, Inc., 198 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-005-237; Zoned HC. Variances to erect a patio to allow outdoor food and beverage service as well as placement of an outdoor refrigerated box in the side yard. Section 209-23.H(3), 209-23.G and 209-23.H(4).

Atty. Sanders marks Exhibits ZHB 1 – 6.

No public comment.

Jim Prokopiak, Esquire, presents the application, with Bill Golden and Charles Garbarino as representatives of the applicant, 198 Lincoln, Inc.

Atty. Prokopiak states that the applicant proposes to place an outdoor beverage cooling unit and patio on the side yard. This property is what was formerly known as the Kris Kroix restaurant. In that shopping center is a beer distributor, dry cleaner, a tattoo parlor and a nail and hair salon. The adjacent property is an auto body and salvage yard facility. The applicant is seeking a variance to place the outdoor beverage cooling unit on the side yard because there is no area inside the facility to place this unit. They cannot expand on the other side because there are tenants on the other side. The rear yard setback and front yard setback do not apply here. We are proposing a five foot buffer along the side which leaves three feet between the cooling unit and the existing building. The proposed patio is a deck made with Trex and is 15' by 40'.

Atty. Prokopiak questions whether this is considered a building per the code.

Mr. Bennett replies no, it is considered mechanical equipment. He also states that decks are no longer considered when calculating impervious.

Atty. Sanders gets clarification from the applicant on the variances he is seeking. They are seeking two variances -- one from Sec. 209-23.H(3) for an outdoor display and Sec. 209-23.G Table 4 for a side yard setback which requires 20' but they are proposing a 5' side yard setback.

Mr. Bennett states that with regard to Sec. 209-23.H(4) regarding landscaping, it is an existing non-conformity and, therefore, a variance is not necessary.

Board Questions

Member Brooks questions whether the proposed deck will take away parking spots.

Atty. Prokopiak states that there is no parking spaces on the side where the deck will be erected. The patio/deck won't extend passed the building.

Member Brooks asks if the applicant will put bollards there to stop a car from going into the patio.

Atty. Prokopiak indicates that yes, bollards will be erected.

Mr. Golden continues and states that with regard to fencing, he wants to erect a solid vinyl fence in the back to the building with an open picket fence in the front.

Member Powers asks if there is going to be sufficient amount of parking for this type of restaurant since one would expect the occupancy load to increase with the outdoor seating.

Atty. Prokopiak states that the existing use is a restaurant. The parking doesn't change at all.

Member Powers asks what do you look at for parking.

Mr. Bennett states that you go by use and the square footage of the existing restaurant.

Atty. Sanders asks if the existing parking that served the restaurant without the patio is sufficient to serve the existing restaurant with the patio.

Atty. Prokopiak says that he believes so. He asks Mr. Garabrino if the existing seating is being removed so the seating inside would actually decrease. In effect, the seats outside are going to be replacing the internal seats.

Mr. Garabrino states that is correct.

Atty. Sander states that the applicant has not requested relief from parking. If it is discovered in the future that there are more seats than there are the required number of parking spaces, they would have to come back before the Zoning Hearing Board.

Atty. Sander frames a motion to APPROVE the application of 198 Lincoln, Inc. for a variance from Section 209-23.H(3) to allow an outdoor display in conformity with the testimony presented to the Zoning Hearing Board and to APPROVE a variance from Section 209-23.G to allow a no less than five foot side yard where a 20-foot side yard is necessary conditioned on the applicant installing bollards in conjunction with the approval of the Township to protect vehicles from impacting on the proposed deck and to allow both a deck made of Trex material and an outdoor cooling unit to be installed pursuant to the plans submitted to the Zoning Hearing Board.

Member Powers makes the motion to APPROVE.

Member Molle seconds the motion.

All in favor 5-0.

Hearing adjourned 8:10 p.m.