

**FALLS TOWNSHIP
ZONING HEARING BOARD
APRIL 12, 2016**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 9:05 p.m.

Members present: Brooks, Henderson, Miles, Powers

Members absent: Molle

Also present: Thomas Bennett, Zoning Officer/ CCEO; Ed Neubauer, Code Enforcement Officer; Keith Bidlingmaier, Esquire, ZHB Solicitor; Noah Marlier, Esquire, Township Solicitor's office; Karen Browndorf, Court Stenographer

Petition #1: Pets Plus Natural, 151 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-004-739; Zoned: HC. Dimensional variance for façade sign which is over the allowable coverage. Section 209-45.I.(2)(d)[2][d][ii][A].

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Applicant Exhibits A-1 – A-3 (proof of neighbor notification)

Mark Arabia presents the application. We had applied for a sign permit to replace the letters that were in disrepair. The permit was approved in 2014 with a fish logo on the sign. We subsequently went to a rescue center and as a result, the Humane Society asked if we would change our fish logo to a paw print logo. With the addition of the paw print, the layout of the sign stretches 3 ft. longer than what was approved originally. All the letters were identical in size to what was originally there.

No Board questions.

No public comment.

Member Brooks makes a motion that the application of Pets Plus Natural for a variance from Section 45.I.(2)(d)[2][d][ii][A] of the Falls Township Zoning Ordinance be GRANTED for the installation of the façade sign which is over the allowable coverage at the property located at 151 Lincoln Highway, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Miles seconds the motion.

All in favor 4-0. Motion carries.

Petition #2: Larken Associates, Fairless Hills Shopping Center, 401-495 South Oxford Valley Road, Fairless Hills, PA 19030; TMP #13-014-004; Zoned: SC. Dimensional variance to authorize the installation of a second free-standing advertising sign along South Oxford Valley Road and a special exception to allow the sign copy area to be increased to 150 sq. ft. Section 209-45.I.(2)(d)[2][d][i][A].

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Applicant Exhibits A-1 (proof of neighbor notification) and A-2.

Edward Murphy, Esquire presents the application. This application involves the ongoing redevelopment of the Fairless Hills Shopping Center. Larken Associates purchased the property approximately 11 months ago. This application asks to erect a second multi-tenant pylon sign along the principal road which provides ingress and

egress to the shopping center. The site is approximately 34 acres, 23 acres of which are located in Falls Township and the balance is located in Bristol Township.

Steven Tomassetti is sworn in and in response to Atty. Murphy's questions, states the following:

He is the project architect for this owner and the previous owner of the shopping center and is very familiar with the shopping center. The shopping center has three street frontages. The principal access is on Oxford Valley Road. Going along Oxford Valley Road there is approximately 1365 linear feet of frontage, of which 1225 ft. are within Falls Township. The entire Hood Boulevard frontage is within Falls Township and there is a small portion along S. Olds Blvd. which is in Falls Township. There currently are two signs located within Falls Township for this shopping center (the current pylon sign and the Pizza Hut sign).

The application is to request a second pylon sign (similar dimensions to the existing pylon sign) to be erected at the other entrance along Oxford Valley Road to provide better visibility for the current and future tenants in the center. The tenants are located a significant distance off the road. Having a multi-tenant pylon sign along the frontage is essential to the success of the shopping center. All the signs within the shopping center are being re-developed to bring a consistent look to all the signs.

Atty. Murphy states that our ordinance allows for up to 100 sq. ft. of signage for each street frontage. Anything over 100 sq. ft. would have to seek a special exception. Our application includes a special exception to include the sign that we propose go up to 150 sq. ft.

Mr. Tomassetti states that the entire center is getting a facelift – less of an industrial look, more of a town center concept. There are also renovations of interior spaces for new tenants. With the makeover of the façade and the addition of the new sign, it will increase the owner's ability to attract new tenants.

Board Questions

Member Brooks questions what the new sign will look like.

Mr. Tomassetti states that the new sign and the old sign will be identical. All the signs on the property will be identical.

Member Powers asks if the same businesses will be advertised on each sign; how far apart are the two pylon signs

Mr. Tomassetti states that it depends on the leases for each tenant. The pylon signs are 225 ft. apart.

Member Powers asks about the redevelopment at the shopping center.

Mr. Tomassetti states that some current tenants are moving to smaller spaces and/or larger spaces and that the old Walmart (which is in Bristol Township) could be subdivided into five tenant spaces.

Member Powers asks if the new pylon sign would include any of the Bristol Township businesses that are located within this shopping center.

Mr. Tomassetti states that yes, it would.

Public Comment

No public comment.

Member Powers makes a motion that the application for Larken Associates for a variance from Section 209-45.I.(2)(d)[2][d][i][A] of the Falls Township Zoning Ordinance be GRANTED for the installation of a second

free-standing advertising sign along South Oxford Valley Road and a special exception to allow the sign copy area to be increased by 150 sq. ft. at the property located at 401-495 S. Oxford Valley Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board, on the condition that both the existing sign and the new sign be identical.

Member Miles seconds the motion.

All in favor 4-0. Motion carries.

Petition #3: New Falls Road, LLC, 9172 and 9188 New Falls Road, Levittown, PA 19054; TMP #13-024-001 and #13-020-306; Zoned: IN. Requesting dimensional variances in order to construct a 55 and older residential community. Section 209-20.1.E and Table 4 (to permit the minimum front yard to be 10 ft. instead of the required 100 ft. and to permit the required 25 foot side and rear buffers to be measured along with the side and rear yards instead of in addition to them and to permit the side yard buffer to be 20 ft. instead of the required 25 ft.); Section 209-22.F.2 (to permit parking to be closer than 20 ft. to a street line); Section 209-34.E (to permit parking areas within the front yard); Section 209-38.1 (to permit buffer yards to be measured along with the required yards instead of in addition to them); Section 209-38.1.F.3 (to permit the buffer yard along New Falls Road to be reduced to 10 ft. instead of the required 20 ft.); Section 209-42.E (to permit three access points to the site instead of the permitted two access points); Section 209-42.F.(1)(b) (to permit parking within buffer areas); and Section 209-42.H.2 (to permit parking within 25 ft. of the Right-of-Way and within 20 ft. of buildings).

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

Noah Marlier, Esquire, on behalf of the Townships, asks for clarification of the site plan that is marked as ZHB Exhibit 5 – Is the site plan dated March 17, 2016 and stamped March 18, 2016 by the Township?

Atty. Bidlingmaier states that is correct.

Atty. Marlier also states that the Township will be monitoring and taking no position tonight on the application. We have been in touch with Mr. Hecker. It is our understanding any approval will be conditioned on the setbacks from New Falls Road to be 38 feet rather than 10 feet initially proposed. Also, any approval will be conditioned on 76 units or less.

Thomas Hecker, Esquire, presents the application. We have been working on this project for approximately 2-1/2 years. It began with the announcement that St. Joseph the Worker school was being closed and the parish was being consolidated with St. Francis Cabrini. The property was placed under agreement with the Archdiocese of Philadelphia for the purpose of developing the property as a 55 and older age-restricted community.

In our first presentation with the Planning Commission and Board of Supervisors, the property surrounding the church was not included. We heard a lot of concerns expressed by the Township, particularly the Planning Commission, with regard to what will happen with the church. We had a commitment with the Archdiocese that if the church were to close, that property would also be made available. The church closed in June 2015.

Exhibit A-2 is marked as the Agreement of Sale with the Archdiocese of Philadelphia for the entire property which encompassed the school and the church. Exhibit A-3 is marked as the Agreement of Sale with Frank and Maureen Walsh – the adjacent one acre parcel to the left of the church property. Because that property was zoned residential, we made an application to re-zone the Walsh's property to institutional so that the entire site would be consistent. The Board of Supervisors granted the request to rezone.

Atty. Hecker states the plan that was submitted with the application shows that the front yard setback is 10 feet from the right of way. In discussions with the Township and their opposition to this, we have prepared a new plan which I will present to the Board tonight. This new plan replaces the one submitted with the application.

As a result of eliminating the 10 ft. setback, we were able to reconfigure the layout and slide buildings back and eliminate a few end units so that we picked up the width of the end units and are now showing 38 ft. from the setback. In making this adjustment, we have been able to eliminate four variance requests and modify two other variance requests. The new plan is marked as Exhibit A-4.

Atty. Bidlingmaier explains party status which means that you can call witnesses, you can cross-examine or pose questions to witnesses, and you have the right to appeal this matter. If you do not become a party to this matter, you can still speak on the application.

Party Status

Allen Wilson, 58 Moon Drive, Fallsington, PA 19067 (within ¼ mile of property)

Robert Hedden, 318 Thornridge Drive, Levittown, PA 19054 (within ¼ mile of property)

Mark Havers, P.E., is an engineer who does site development work for Pickering, Corts & Summerson. In response to Atty. Hecker's questions, he testifies to the following:

He discusses the existing conditions of the property (Exhibit A-5) – 49,000 sq. ft. of buildings and the entire site has an impervious surface ratio of slightly over 30 percent. There are currently five access points to the proposed combined properties. The current property does not contain any stormwater management controls.

A comparison is done between the old plans which were submitted with the application (ZHB Ex. 5 and Ex. A-6) and the plan that is currently being shown to the Board (Ex. A-5). The major change between plans was pulling most of the units farther away from the right of way line on New Falls Road, tightening some of the gaps between the buildings, two of the townhome units were removed and placed into the condo building. The unit count did not change, but the mix changed – two less townhouses and two additional flats in the back. There will be 62 townhomes, and two buildings of condos / flats 6 and 8 units each, as well as the two apartment buildings.

Regarding access points – the new plan has three access points. The center access point would be a full motion, in and out entrance. The far left access point is an out only and the far right is an emergency access only (which would be gated or blocked).

Regarding stormwater management – there will be two large stormwater management areas, one to the rear and one farther up on the site. It is anticipated that both will be wet ponds with fountains, but will be large enough to control the stormwater runoff from the site.

In addition to the townhomes, condos / flats, and apartment buildings, there will be 3,000 sq. ft. clubhouse located near the apartment buildings and condos / flats. There would be a homeowners' association established to operate and manage the areas outside of the buildings and also own and maintain the roadways and open space areas.

Atty. Hecker goes through the variance requests and withdraws some. The following are the variance requests the applicant is seeking:

Section 209-20.1.E – the minimum front yard setback variance request remains; however, it is amended to request 38 ft. for a front yard setback. The remaining requests under this variance remain the same.

Section 209-38.1 – buffer yards to be measured along the required yards instead of in addition to them.

Section 209-42.E – three access points instead of two (third access point being emergency only use)

Section 209-42.H.2 – amended to only include the parking within 20 feet of building.

Mr. Havers finishes his testimony.

Party Status Questions

Mr. Wilson questions the amount of apartment units and whether they are age restricted, discusses traffic issues at Fallsington-Tullytown Rd./ New Falls Rd.

Mr. Wilson questions whether all units have to be age restricted or is there some kind of percentage.

Atty. Hecker states that under the Federal Fair Housing Act, in order to be an age restricted community, eighty percent has to be restricted to the age group. Twenty percent could then be available to market. What our experience has been is that you normally don't have families with children moving into a community like this.

In response to Mr. Wilson's question about the 20 percent being based on occupancy, Atty. Hecker states that it is based on the unit count, not occupancy. We have to prepare a declaration that is recorded against the property which states that it is in conformity with the Federal Fair Housing Act as well as the Pa. State Human Relations regulation.

Mr. Hedden asks about the bridge in the back going into Thornridge section (it is being removed), landscaping and flood plain line, and traffic issues and why there are no traffic studies at this time.

Mr. Havers states that with regard to parking, there are 98 spaces for the apartments, 28 spaces for the condos / flats, 14 driveway spaces scattered throughout the community, each townhouse has a garage plus a 2 car driveway, for a total 260 parking spots.

Mr. Hedden asks how this Board can make a decision when there are no traffic studies which are a main issue with this development.

Atty. Hecker explains that traffic studies will be done through the land development process. This application deals only with the variances requested.

Board Questions

Member Brooks asks the reason for changing the zoning to Institutional instead of Age Qualified.

Atty. Hecker states that after meetings with Township officials, they were directed to seek rezoning for the Walsh property to Institutional.

Member Brooks questions why apartments are included.

Atty. Hecker states that it is in response to the market – some people might want to rent, not own.

Member Brooks states what would happen if the side yard setback along Fallsington-Tullytown Rd. variance request was denied to conform to the current zoning requirements.

Atty. Hecker states that they would lose a row of houses which would effectively kill the project.

Member Miles asks about the one way out access point by the apartments. Is there some type of control there?

Mr. Havers states that it would be signed and partially striped out, but it will be open so that if necessary, emergency vehicles can get through.

Public Comment

Brian Binney, 30 Blue Spruce Lane, states his opposition to the development because he believes (1) the applicant has not met the legal reasons the Board can grant variance requests; (2) these properties should be rezoned Age Qualified instead of Institutional because AQ is more in keeping with residential use; and (3) Institutional zoning use does not allow single family dwellings, which is the definition of a townhouse under the zoning ordinances.

Atty. Hecker responds to Mr. Binney by stating that the applicant would have gone in whatever direction the Township wanted. We went to the Township to get the interpretation for zoning, and we were directed that we could proceed under this basis.

Marybeth Haberstick, 218 Thornridge Drive, lives directly behind the property and states her support for the development.

Peter Matiko, 9 Thornridge Way, asks if the bridge will be removed at the back of the property [it will], and expresses his support for the development of the site.

John McGrath, the builder for the project, states that we take care of all the streets (trash, snowplowing). We are going to build this project with brick piers and a fence along the entire roadway and put irrigation along there. We want this development to look private and safe for the people living there. The apartments and the condos/ flats are all going to have a two-story look like the townhouses so the look will be the same. We project the average age of a buyer will be 62, the apartments are more like 72 to 75.

Closing statements made by Atty. Hecker (for the project) and Mr. Hedden (asking to table the decision until the traffic study is completed).

Member Miles makes a motion that the application of New Falls Road, LLC , 9172 and 9188 New Falls Road, for a variance from the Falls Township Zoning Ordinances be GRANTED as follows:

Section 209-20.1.E and Table 4 to permit a minimum front yard to be 38 ft. instead of the required 100 ft. and to permit the required 25 ft. side yard and rear yard buffers to be measured along with the side and rear yards instead of in addition to them and to permit the side yard buffer to be 20 ft. instead of the required 25' along Fallsington-Tullytown Road;

Section 209-38.1 to permit buffer yards to be measured along with the required yards instead of in addition to them;

Section 209-42.E to permit three access points instead of the permitted two access points, with the third access point being restricted to emergency vehicles only;

Section 209-42.H.2 to permit parking within 20 ft. of buildings.

This approval is granted subject to the following conditions, to which the applicant agrees: The bridge to the rear of the property will be removed as testified to by the applicant.

Member Powers seconds the motion.

All in favor 3-1, Henderson dissenting. Motion carries.

9:05 Hearing adjourned.