

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

**Hearing commenced:** 7:00 p.m.

**Hearing adjourned:** 8:00 p.m.

**Members present:** Henderson, Lawson, Miles, Molle, Powers

**Members absent:** Brooks

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

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**REORGANIZATION OF THE BOARD**

Chairman:	Colin Henderson
Vice Chairman:	Douglas Molle
Secretary:	Daniel Miles
Solicitor:	Cliff Bidlingmaier, Esquire
Court Reporter:	Karen Browndorf
Date/ Time of Meetings:	2 <sup>nd</sup> Tuesdays at 7:00 p.m.

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**Petition #3: U.S. Venture, Inc., 355 Newbold Road, Fairless Hills, PA 19030; TMP #13-028-061 and #13-028-060-001 for variances from the following sections of the Falls Township Zoning Ordinance: Parcel 13-028-060-001 (FM District) Section 209-26(B) to allow a CNG fueling station as a permitted use; Section 209-26 Table 5 to permit the fueling canopy to be located within 20.1 feet from the front yard and 46 feet from the east side yard; Section 209-26 Table 5 to allow greater than 80% maximum impervious surface (83% proposed); Section 209-34(C) to allow for an accessory structure to be placed in a front yard; Section 209-42(D) to eliminate curbs along the driveways; Section 209-42(B)(1) to allow existing vegetation to satisfy the requirements from this section which require dense plant material between off-street parking areas and property lines and street lines; Section 209-42(D) to remove the requirement that curbing be placed in parking and loading areas; Section 209-42(H)(15) to eliminate the requirement of providing employee parking for the fueling station; Section 209-42(I) to eliminate the need for off-street loading for the proposed fueling station. Parcel No. 13-028-061 (PIP District) Section 209-28(B) to allow a CNG fueling station as a permitted use; Section 209-28(F) Table 5 to allow greater than 70% impervious surface (93% is proposed); Section 209-28(G)(2) to allow pavement to be within the first 30 feet against a street line and within 10 feet of a lot line; Section 209-42(D) to eliminate curbs along the driveways; Section 209-41(D) to waive the requirement for parking and loading areas be paved and allow the existing gravel lots to remain; Section 209-42(E) to allow a driveway width of 34 feet for the existing driveway but which is not part of this development proposal; Section 209-42(B)(1) to allow existing vegetation to satisfy the requirements from this Section which require dense plant material between off-street parking areas and property lines and street lines; Section 209-42(H)(15) to eliminate the requirement of providing employee parking for the fueling station; Section 209-28(H)(20)(a) to waive the requirement for parking and loading areas be paved and curbed; and Section 209-42(I) to eliminate the need for off-street loading for the proposed fueling station.**

Stephen Harris, Esquire, presents the affidavit of service for the quarter mile neighbor notification (Exhibit A-4). He also requests that the Board incorporate by reference the testimony at the December hearing and approve the variances conditioned upon (1) the requirement that U.S. Venture records the cross-easement agreement, which is marked as Exhibit A-3, and given to the Township for approval and (2) it obtain land development approval for the public compressed natural gas (CNG) facility.

Member Miles makes a motion to accept into the record the testimony from December's hearing and to accept the proof of neighbor notification presented at this hearing.

Member Molle seconds the motion.

**All in favor 5-0. Previous December testimony is accepted into the record.**

No public comment.

Member Powers makes a motion that the application of U.S. Venture, Inc. for variances from the following sections of the Falls Township Zoning Ordinance be GRANTED in order to allow the applicant to operate a public compressed natural gas (CNG) fueling facility at 355 Newbold Road, Fairless Hills, PA 19030 in the Planned Industrial Park (PIP) district and the Farming and Mining (FM) district, incorporating all the variances requested in the public notice, subject to the following conditions: (1) that the cross-easement agreement be recorded; and (2) that land development of the facility be approved.

Member Molle seconds the motion.

**All in favor 5-0. All variances granted per the public notice.**

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**Petition #1: Joseph Evans, 155 Pinewood Drive, Levittown, PA 19054; TMP #13-025-201; Zoned NCR. Requesting a dimensional variance to erect a shed which exceeds the maximum allowable impervious surface. Section 209-20 and Table 1.**

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Joseph Evans presents the application. In December, I was sent a letter by the Lower Bucks County Joint Municipal Authority (LBCJMA) to remove a shed that was on a concrete pad on their sewer easement in the back of my property. The shed and concrete pad has been there since before I purchased the house. I removed the shed and the slab. When I came to get a permit to replace the shed in my yard, I was denied because the existing concrete that was left from when I purchased the house put me over the allowable impervious surface. I would place the shed on the grass surface in the back yard.

Member Lawson says that your letter states that you removed the pool and concrete.

Mr. Evans states that yes, the entire yard is now grass. All the concrete and pool were removed.

Member Powers asks if he's ever had any water problems with all the impervious coverage or have the neighbors had any problems.

Mr. Evans states no, and when the concrete was removed, the contractor graded the yard.

Member Miles makes a motion that the application of Joseph Evans for a variance from the following sections of the Falls Township Zoning Ordinance be GRANTED to allow the erection of a 160 sq. ft. garage and a 120 sq. ft. shed at 155 Pinewood Drive, Levittown, PA 19054, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board..

**All in favor 5-0.**

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**Petition #2: Dennis Askey, 109 Village Lane, Levittown, PA 19054; TMP #13-019-122; Zoned: NCR. Requesting a dimensional variance to allow driveway to encroach into 2 ft. side yard setback. Section 209-43.1(4).**

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Dennis Askey presents the application. I am requesting permission to allow my driveway to go close to the property line. My house sits on the outside of the curve on Village Lane and because of that it limits the parking on both sides of the street. I have three vehicles and parked my truck in the grass on the side before I had the driveway which caused mud to spill out onto the sidewalk and street. I was unaware I needed a variance to go up to the property line for my driveway. The driveway is 10 inches off the side property line. My neighbor on that side has no problem with the driveway.

Member Molle asks if he already installed the driveway.

Mr. Askey states yes. I filed the permit back in 2013 and I didn't have the money to do it then. I was informed that the permit was good until July 2016 when it would expire and I would have to pull another permit. So I poured the driveway 10 inches off the property line. The inspector failed the final inspection and told me I needed to get a variance.

Jason Quinn (107 Village Lane) gets sworn in. Mr. Quinn states that he is Mr. Askey's neighbor. He states that Mr. Askey came to him before he poured the driveway and asked if it would be okay to go close to the property line, and I had no problem with that.

No public comment.

Member Molle makes a motion that the application of Dennis Askey for a variance from Section 209-43.1(4) of Falls Township Ordinance be GRANTED to allow the placement of a driveway 14 inches into the 24 inch of required setback on the property at 109 Village Lane, Levittown, PA 19054, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Lawson seconds the motion.

**All in favor 5-0.**

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**Petition #4: Falls Industrial Park, LC, 221-B Lower Morrisville Road, Fallsington, PA 19054; TMP #13-032-084; Zoned PIP. Requesting a use variance to allow the parking of armored vehicles within a building in the PIP District. Section 209-28.**

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6 and A-1.

Thomas Hecker, Esquire, presents the application. The application also requests to seek an interpretation as to the parking of armored vehicles within a building in the PIP District. We ask for a variance if the use is not permitted in the PIP, but that the use is appropriate for a property subject to the application. So this is actually a dual application.

You will hear testimony tonight by the proposed user as to the intended use – basically it is the ability to park armored vans in a building overnight, receive a delivery of cash, and then distribute and restock ATM machines and then return back. Everything that happens occurs within the building. In a statement in support of the application, I found that the PIP District incorporates as permitted uses, the uses that are in the LI District. In looking at the LI District, I found a contractor's facility as a permitted use. Now most of us when thinking of contractor have a different concept – perhaps you're a fencing store, or decking store. The term contractor is not defined under the Zoning Ordinance. Therefore, you need to go to the common sense interpretation of what is a contractor. The dictionary states that a contractor is one who enters into a contract for the purpose of providing materials, service or labor. That is exactly what this company does – they enter into a contract, they supply material and labor in order to fill that contract. I believe that under the terms of the agreement and the definition of contractor, this Board could find this company does fit the definition of contractor as defined in the dictionary.

Peter McGrath gets sworn in. In response to Atty. Hecker's questions he gives the following testimony:

Mr. McGrath is a project manager for Shields Business Solutions. I handle all their construction services for that company. We have entered into a lease with Mr. Worthington who is the principal of Falls Industrial Park. We want to open up a depot that has an offsite facility from our main headquarters that would alleviate some of our traffic issues and routes. Our headquarters are located in Moorestown, New Jersey. We service customers in the Bucks County area.

We will be storing four to six light armored vehicles. We do ATM replenishments, so this is money sealed in cassette units that go inside the ATM machines. The intention is to have a shuttle arrive early in the morning, pull into the facility, we shut the facility, lock it, take the contents of that truck, disperse it among the remaining vehicles and once the vehicles are secured and closed, open the garage and the trucks leave and go on their routes.

We will have anywhere from 10 to 13 employees working out of this building, including the drivers of the shuttle.

Regarding security concerns, Mr. McGrath states that we have top notch video and alarm systems. We are also cloud-based with those systems so they cannot be tampered with. All recordings will be 24/7, 365 days a year. We intend to build a "truck track" so that when the first door goes up, it will allow the shuttle to pull in -- that vehicle will be in an enclosed area that is ballistic-proof. There will be an interior door inside the building. The exterior door goes down; the interior door comes up and allows the truck to enter into the building. You cannot see into the building and you cannot "bumrush" into the building as a result of this truck track.

Once the vehicles leave, they are gone the entire day. The trucks generally leave around 7:00 a.m. and return approximately 6:00 p.m. We should have that facility closed down by 7:00 p.m. every day.

The vehicles that are stored there overnight are the four to six light armored vehicles. They are empty, there is no residual cash kept on site. We operate Monday through Friday, with possible runs on Saturday. We do not operate on Sundays.

Our contracts are signed with local businesses that have an ATM machine. They sign a multi-year contract with Shields Business Solutions and are charged a fee for the service. You supply to your customers a service which includes a vehicle that delivers the cassette and the employees who work at the facility.

There are two employees assigned to each vehicle, one a driver and the other a guard.

Member Lawson states that you want us to make a determination on definitions -- my question is can currency be considered material. Can a federal note be considered material?

Atty. Hecker states that common definition of contractor is to supply material or labor. You can interpret that Shields supplies the people that carry the cassettes that deliver to the customers. Ordinances are not always written anticipating things we are going to encounter in the future. Sometimes we encounter uses that aren't specifically addressed. I've laid it out with an alternative to give you that option.

Member Molle asks with regard to the security guard on the trucks, what type of weapons are they carrying.

Mr. McGrath states they are not allowed to carry anything above a .45; they are completely licensed, they go to a 40 hour training class, they all are Act 235 certified and carry a Pennsylvania license to carry.

Member Molle asks how often they need to re-qualify.

Mr. McGrath states they have to renew their Act 235 certification every three years, and the Pennsylvania license to carry is good for five years.

Member Molle asks if at any of your other locations there have been highjackings, etc.

Mr. McGrath states that he has worked with the company for 35 years. We've been in the armored business almost 30 years, and we've never had any problems like that at our facilities.

Member Molle asks if this is similar to what you want to do here.

Mr. McGrath states yes.

Member Miles states that we have a light residential section directly across from this park – do you have many instances where you have a lot of these facilities in similar areas?

Mr. McGrath states that he just recently closed one in Linton, New Jersey. We were in an LI area with residences directly across the street.

Member Powers asks what time the facility will be open.

Mr. McGrath states 7:00 a.m. Our regular hours of operation will be 7:00 a.m. to 7:00 p.m.

Member Powers asks how close the first residence is to the site.

Mr. McGrath states he would guess around 300-400 yards.

No public comment.

Member Powers makes a motion that the application of the Falls Industrial Park for a variance from Section 209-28 of the Falls Township Zoning Ordinance be GRANTED to allow the property located at 221-B Lower Morrisville Road, Fallsington, PA 19054, to be utilized as an armored car transfer station as depicted on the plan and in accordance with the testimony presented to the Zoning Hearing Board and in accordance with the terms outlined in the correspondence dated September 11, 2015 from Pete McGrath to Peter Gray, which will be become conditions of this approval.

No second to the motion.

**Motion fails – application is deemed denied.**

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**Petition #5: TruckSmart, Inc., 905 Lincoln Highway, Morrisville, PA 19067; TMP #13-028-022-001, #13-028-022-002; #13-028-022-003; Zoned: HC. Requesting a dimensional variance to allow the installation of a 6 ft. high fence in the front yard. Sections 209-37(C) and 209-37(C)(3).**

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6 and A-1 (proof of neighbor notification); Ex. A-2 (police rept.)

Thomas Hecker, Esquire presents the application. Rick McLaughlin gets sworn in and in response to Mr. Hecker's questions he gives the following testimony:

Truck Smart currently has a business at 127 Lincoln Highway. We have acquired a property at 905 Lincoln Highway in Morrisville, which was an Acme supermarket about 20 years ago. We wanted to relocate our existing facility at 127 Lincoln to 905 Lincoln. We are going to sell and service commercial trucks and sell parts. We plan on developing the entire corner. We have made extensive renovations to the building, basically gutting it. Between the renovations and the purchase of the property, we have spent approximately \$3 million.

In our current location at 127 Lincoln Highway, in the past three years we have had 19 catalytic converters stolen, a generator and two trucks for approximately \$130,000 in losses. Regarding our new location at 905

Lincoln Highway, we would like to put a 6' black cyclone fence in the front yard to secure the property, the trucks and the truck parts.

Member Powers asks if they are gating off the entrance.

Mr. McLaughlin states yes, we are going to have three access points, including a new entrance on Lincoln Highway where we are putting in 30 ft. gates. We are going to have a site entrance gate and then one more access point to get over to our service department with another 30 ft. gate. Gates will be locked at night and we are going to put in a security system as well.

Member Henderson asks if the gates will be open all day.

Mr. McLaughlin states yes, during business hours 7:00 a.m to 6:00 p.m.

No public comment.

Member Miles makes a motion that the application of Truck Smart, Inc. for a variance under Section 209-37(C) and 209-37(C)(3) of the Falls Township Zoning Ordinance be GRANTED to allow the erection of a 6 ft. high fence in the front yard and corner lot on the property at 905 Lincoln Highway, Fairless Hills, PA 19030 at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Lawson seconds the motion.

**All in favor 5-0.**

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**Meeting adjourned 8:00 p.m.**