

**FALLS TOWNSHIP  
ZONING HEARING BOARD  
MARCH 14, 2023**

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

**Hearing adjourned:** 10:45 p.m.

**Members present:** Doug Molle, William Kiernan, Aaron Mackey, Robert McTague, Lolain Striluk

**Members absent:** None

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

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**Petition #1: Austin Schubert, 56 Tanglewood Lane, Levittown, PA 19054; TMP #13-022-230; Zoned: NCR. Requesting a dimensional variance to construct an addition which encroaches into the side yard setback. Section 209-20 and Table 1.**

Austin Schubert gets sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1-8.

Mr. Schubert presents the application and explains he is building a second story addition over the existing footprint and was denied because of the side yard setback.

No Board questions.

No public comment.

Member Mackey makes a motion the application of Austin Schubert requesting a dimensional variance from Section 209-20 and Table 1 of the Falls Township Zoning Ordinances be GRANTED to construct an addition which encroaches into the side yard setback located at 56 Tanglewood Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kiernan seconds the motion.

**All in favor 5-0. Motion carries.**

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**Petition #2: Christopher and Kathleen Haynes, 2 Tea Rose Lane, Levittown, PA 19054; TMP #13-023-192; Zoned: NCR. Requesting dimensional variances to construct a rear addition which encroaches into the rear yard setback and is over the allowable impervious surface coverage. Section 209-20 and Table 1.**

Christopher Haynes gets sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6.

Mr. Haynes presents the application and explains his in-laws are living with him and will continue to do so and they need the extra space to accommodate them in their later years.

No Board questions.

No public comment.

Member Mackey makes a motion the application of Christopher and Kathleen Haynes for dimensional variances from Section 209-20 and Table 1 of the Falls Township Zoning Ordinances be GRANTED to construct a rear addition which encroaches into the rear yard setback and is over the allowable impervious coverage at the property located at 2 Tea Rose Lane, Levittown, PA 19054, as depicted on the plan and in accordance with the testimony presented to the Zoning Hearing Board.

Member Striluk seconds the motion.

**All in favor 5-0. Motion carries.**

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**Petition #3: Isaac N. Mitchell, Sr., 237 North Park Drive, Levittown, PA 19054; TMP #13-027-014; Zoned: NCR. Requesting a dimensional variance to erect a shed which will exceed the allowable impervious surface coverage. Section 209-20.F and Table 1.**

Isaac Mitchell is sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Mr. Mitchell presents the application and states he has a storage unit because he doesn't have a shed. He'd like to stop paying for the storage unit and use the shed to store his household items.

Member Kiernan asks if this will impact any water issues at the property (no).

No public comment.

Member McTague makes a motion the application of Isaac N. Mitchell, Sr. requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to erect a shed which will exceed the allowable impervious surface coverage at the property located at 237 North Park Drive, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Striluk seconds the motion.

**All in favor 5-0. Motion carries.**

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**Petition #4: Gelest Realty, Inc., 11 Steel Road East, Morrisville, PA 19067; TMP #13-047-152; Zoned: HI. Requesting the following variances to construct a 16,975 sq. ft. manufacturing building and a 3,500 sq. ft. support building: Section 209-29.G (Table 5) – to permit 55% impervious coverage instead of the maximum allowed of 50%; and Sections 209-29.I and 209-42.H(22)(b) – to permit 188 total parking spaces instead of the minimum required of 215 parking spaces.**

John Alejnikov (Bohler Engineering) Ryan We (Project Manager, Gelest) get sworn in.

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

Michael Meginniss, Esquire, presents the application and states Gelest owns and operates approximately 13.20 acres. Gelest initially came before the Township in 2013, proposing a three-phase development of this property.

Phases 2 and 3 only sought preliminary approvals. Gelest received Preliminary and Final approval for Phase 1 and moved forward with the construction of Phase 1. Final approval for Phase 2 was secured in 2016. Phase 3 is the conclusion of the original phased development. However, in seeking final approval it was discovered the Township had revised some of the requirements in the HI zoning district which directly impacted final land development for Phase 3. Also because five years had lapsed between preliminary approval of Phase 3, the approval was no longer valid. This is why we are before you this evening seeking three dimensional variances so we can proceed with submission of final land development for Phase 3.

Atty. Meginniss offers a summary of Mr. We's testimony and Mr. We states on the record his agreement with the summary as presented.

Member Mackey asks about stormwater mitigation.

Mr. Alejnikov states in addition to the current systems on site, the project will add an underground stormwater management system.

#### Public Comment

*Randall Reber*, operates a trucking company just down the street from this location, and asks about the employees who smoke on the street and if Gelest can stop them from doing that (yes). His other concern is the alarm system which randomly goes off on weekends (the alarm system will be centralized; they are working on it).

Member Kiernan makes a motion the application of Gelest Realty requesting the following dimensional variances from the following sections of Falls Township Zoning Ordinances be GRANTED to construct a 16,975 sq. ft. manufacturing building and a 3,500 sq. ft. support building; 1) Section 209-29.G (Table 5) to permit 55% impervious coverage instead of the maximum allowed of 50%; and 2) Sections 209-29.I and 209-42.H(22)(b) to permit 188 total parking spaces instead of the minimum required of 215 parking spaces at the property located at 11 Steel Rd. E, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Striluk seconds the motion.

**All in favor 5-0. Motion carries.**

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**Petition #5: Metals USA Plates & Shapes, Inc., 58 E. Cabot Boulevard, Langhorne, PA 19047; TMP #13-003-008-007; Zoned: PIP. Requesting the following dimensional variances to construct an additional fabrication building and covered storage area: Section 209-28.F and Table 5: to permit building coverage not to exceed 53% instead of the maximum allowed of 40%; and Section 209-28.F and Table 5: to permit impervious surface not to exceed 70% instead of the maximum allowed of 50%.**

Eric Clase, P.E. (Gilmore & Associates), Thomas Little (LBI Construction) are sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 4 and Applicant Exhibit A-1 (proof of neighbor notification)

Michael Meginniss, Esquire, presents the application and states Metals USA owns and operates this parcel. The parcel is approximately 18.13 net acres in an industrial park in the Township. The site is currently improved by an existing 234,691 sq. ft. structure. They inventory and process a range of stainless steel, carbon steel and aluminum material products. They have outgrown the existing structure and are looking to expand. There will be a breezeway from the expansion to connect to the existing structure. The expansion will be a 70,000 sq. ft. building for fabrication and two 90' x 330' covered storage areas. The fabrication facility is necessary for the

addition and success of the location moving forward and to house more modern equipment. It is estimated the expansion will add 11 jobs to the location. We have a significant amount of excess parking. We will be creating two large basins on the property for stormwater control. This proposal is in keeping with the area and will not negatively impact the surrounding neighbors.

Atty. Meginniss offers a summary of Mr. Little's testimony and Mr. Little and states on the record his agreement with the summary presented.

Eric Clase, P.E., states the site has a large parking area with minimal stormwater management. There is an existing swale along the driveway which captures some of the stormwater which then runs uncontrolled towards Cabot Blvd and into some piping under Cabot Rd. We are proposing two large stormwater basins, probably large rain gardens. They will be sized not only for all the additional impervious we are proposing but as much of the current impervious as possible.

Member Kiernan asks for clarification on stormwater and if the flooding conditions on Cabot Blvd will be improved (yes).

No public comment.

Member Mackey makes a motion the application of Metals USA Plates & Shapes, Inc. requesting the following dimensional variances from the following sections of the Falls Township Zoning Ordinances be GRANTED to construct an additional fabrication building and covered storage area: 1) Section 209-28.F and Table 5 to permit building coverage not to exceed 53% instead of the maximum allowed of 40%; and 2) Section 209-28.F and Table 5 to permit impervious surface not to exceed 70% instead of the maximum allowed of 50% at the property located at 58 E. Cabot Blvd., Langhorne, PA 19047, as depicted on the plans and in accordance with the Zoning Hearing Board.

Member Striluk seconds the motion.

**All in favor 5-0. Motion carries.**

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**Petition #6: UGN Logistics, 745 Philadelphia Avenue, Morrisville, PA 19067; TMP #13-047-062-002, #13-047-065, #13-047-066; Zoned: HI-A. Requesting the following dimensional variances to construct a 4,800 sq. ft. building: Section 209-32.3.G and Table 5 - to permit a 25 ft. buffer instead of the required 50 ft. buffer; Section 209-32.3.G and Table 5 – to permit an impervious surface ratio of 65.66% instead of the allowable 50%; and Section 209-32.3.H(1) – to allow parking to be 10 ft from the street line instead of the required 30 ft.**

Eugene Smirnoff (Pres. of UGN Logistics) and Heath Dumack, P.E. (Dumack Engineering) are sworn in.

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

Michael Meginniss, Esquire, presents the application and states UGN Logistics purchased these three parcels last year totaling approximately 2.15 acres which are zoned HI-A. Prior to his acquisition, the property had fallen into disarray with randomly patched impervious surfaces and overgrown grass. There was a water tower which bisected two of the parcels which has since been removed. The applicant has attempted to clean up the property. The parcel has fronts on Lewis Avenue and Philadelphia Avenue. We are proposing as part of land development to consolidate the three lots. If we receive the zoning relief and in conjunction with the consolidation of the lots, the applicant will construct a 4,800 sq. ft. building with associated vehicle parking and

truck storage. The building will be comprised of a 350 sq. ft. office and 4,450 sq. ft. repair garage with three bays. The site will have five employees. These are the reasons for the variances requested.

Atty. Meginniss offers a summary of Mr. Smirnoff's testimony and Mr. Smirnoff states on the record his agreement with the summary presented.

Heath Dumack, P.E. describes the existing conditions of the site. We are proposing a parking area coming off of Philadelphia Avenue for the staff and repair center. There will be a stone/gravel parking and staging area for the trucks and tractor trailers. He describes the variance requests. If the variances are granted, the next step would be full land development.

Member Striluk asks about oil leaking into the ground when trucks are parked on the stoned lot.

Mr. Dumack says this could be handled through stormwater management by putting snouts in the system to keep the oils and contaminants from going downstream.

Atty. Meginniss, in response to questions by Member Kiernan and Chairman Molle, states stormwater management has not been designed yet as we wanted to get our zoning variances so we could submit the land development plans which will contain the stormwater management controls.

#### Public Comment

*Mike Smith*, owner of the property southwest of the property, expresses support of the application. Since the property owner has acquired the property, he has cleaned it up and there is no more dumping at the site.

*Randall Reber*, asks a question about the 10 ft. from the street (it's along the residential side).

Member McTague makes a motion the application of UGN Logistics requesting the following dimensional variances from the following sections of the Falls Township Zoning Ordinances be GRANTED to construct a 4,800 sq. ft. building: 1) Section 209-32.3.G and Table 5 to permit a 25 ft. buffer instead of the required 50 ft. buffer; 2) Section 209-32.3.G and Table 5 to permit an impervious surface ratio of 65.66% instead of the allowable 50%; and 3) Section 209-32.3.H(1) to allow parking to be 10 ft. from the street line instead of the required 30 ft. at the property located at 745 Philadelphia Avenue, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Striluk seconds the motion.

**All in favor 5-0. Motion carries.**

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**Petition #7: Oak Village at New Falls Road, LLC, (Cont'd from 2/14/23, 1/10/23) 9175 New Falls Road, Levittown, PA 19054; TMP #13-020-168; Zoned: NC. Requesting the following variances to construct a multi-family residential condominium development with parking: Section 209-22.B -- a use variance to allow a multi-family dwelling within a neighborhood commercial district; and Section 209-22.D – to permit a building and/or structure height in excess of 25 feet which is the maximum permitted in the neighborhood commercial district.**

Vincent Fioravanti, P.E. (Fioravanti, Inc.), Abshek Joshi (Pennoni) and Chanan Tzionov (owner) are sworn in.

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

Atty. Meginniss presents the application and expresses a word of appreciation to the Board and the public in working with the applicant and the many continuance requests. We originally were scheduled to appear in July 2022 but requested a continuance to hold meetings with the public as the applicant received quite a bit of interest. The continuance allowed us to meet with the public (a lot of which lived at St. Josephs' Court) and their Association to try and provide additional information regarding the development and to see if we could address any of their concerns. One of the primary concerns is related to the potential traffic impact the development would have on the area. As a result of that meeting with the neighbors, we hired a traffic engineer to conduct a study.

Atty. Meginniss states the study was conducted in the fall when school is in session as that was one of the concerns of the public. Pennoni conducted a full traffic study and issued their Traffic Impact Assessment dated October 2022. It was distributed to the public and homeowners' association as well as to the Township and the Zoning Hearing Board. The applicant has considered the seriousness of the neighbor's concerns with regard to traffic which resulted in the hiring of the traffic engineer to conduct this full study. As suspected, the applicant's intended use has a minimal traffic impact and, more importantly, considerably less of an impact than any of the permitted uses.

Atty. Meginniss states the applicant is seeking a use variance because a one-bedroom condominium development is not a permitted use within this zoning district. The other variance is for the building height because this zoning district has a 25 ft. building height restriction. This proposed use is in keeping with the neighborhood (St. Joseph's Court and Pennsbury Woods Apts. are both down on New Falls Rd).

Atty. Meginniss describes the site which is 3.09 acres. It's an odd site because it has a narrow frontage, but it is a very deep property. There are number of hardships with this property. There is a flood plain to the rear which takes up a portion of the site which we are not disturbing. It is zoned for commercial development, but the width of the site is not conducive to two reasonable points of access for ingress / egress. Therefore, this site allows for one single point of access which means circulation is poor for commercial development. There is no visibility or advertisement for commercial uses, and it is not a 3 acre rectangular lot. Typically, parking with commercial uses is normally to the front of a site like this with the building spread to the rear which is not ideal for commercial development. We believe this site is ideal for a single point of access, with the four units of condominiums you see on the site plan. We intend to keep as many trees as possible and adding trees as buffers.

Atty. Meginniss states his client owns the property; they are not seeking to lease the property from a third party. They are going to pursue some reasonable development on this site. We truly believe this is the best development for this site. We originally wanted to put apartments, but decided to switch to condominiums because it would be better for the community. Housing is a need in Falls Township. We think a one-bedroom layout will be perfect to market to young professionals, especially with all the other developments in the area (like NorthPoint).

Chanan Tzionov testifies. He purchased the property 2-1/2 years ago. The reason we want to build residentially on this property is we feel it fits more with the general ambiance of the surrounding neighborhood. Additionally, with the jobs coming into Falls Township through commercial development, there is a need for housing for professionals. A one-bedroom model is a great starting point for young professionals. There would be ownership for each one-bedroom unit with a homeowners' association involved. We don't want this to be an eyesore – we want it to be pleasing to look at. We understand, if we receive our use variance, we need to go through land development with a full examination of the traffic, stormwater mitigation, etc. We want to work with the community and the Township to develop the property.

Mr. Tzionov explains the difficulty in developing the property commercially.

Vincent Fioravanti testifies and is accepted as an expert witness by the Board. He explains the site plan with two buildings on each side of the property and one central driveway down the middle. Water and sewer are available on the road. There is a flood plain in the rear and the vegetation in the flood plain would be maintained as a buffer and also would be enhanced down towards the street to provide extra buffering. Street trees are also proposed with water features in the front. Any commercial development would have lighting, signage, a prominent appearance and would require a lot of traffic in and out during peak hours.

In response to a question by Atty. Meginniss, a single access point is necessary because of the width of the parcel. PennDOT would not approve a second access point, whether it is developed commercially or residentially.

Mr. Fioravanti describes in detail the stormwater management measures which should have no impact on the surrounding community. He states they are substantially under the total allowable impervious coverage of the site. He states with the landscaping features on both sides, visually the site will be very pleasing, it won't be brightly lit, and will also be a quiet use.

Mr. Fioravanti describes the zoning of the surrounding parcels.

Mr. Fioravanti, in response to a question by Atty. Meginniss, states he does not believe this development would have a negative impact on the Township and the surrounding community.

Abshek Joshi (Pennoni) testifies about the Trip Generation Statement as well as the Transportation Impact Statement which he generated. A Trip Generation Statement is prepared to compare the traffic estimates generated by the proposed use versus any other commercial use which could be allowed at the site. We use the national standard manual to forecast trips from the site (ITE). He describes and explains the Trip Generation Statement conducted for this site. The conclusion is the proposed use would generate less trips than any of the commercial uses permitted.

Atty. Meginniss states the Township SALDO ordinances which lists criteria of when a traffic impact assessment should be conducted states for a residential development the trigger point is 100 or more dwelling units. Mr. Joshi agrees with this statement.

Mr. Joshi, in response to questions by Atty. Meginniss, explains the difference between a trip generation statement and a transportation impact assessment. A trip generation statement lists the estimates of the traffic generated by the proposed site; the transportation impact assessment looks at the capacity of the existing roadway network and the future projections once the site is developed. He then explains in detail the results of both.

Discussion occurs on the fact that any traffic light placed at the site must receive PennDOT approval because New Falls Road is a state highway. Mr. Joshi does not believe PennDOT would approve as it would need meet their criteria.

Mr. Joshi believes this development would have less of a traffic impact than any commercial uses. It would not have a harmful effect on the Township, its residents or the community.

#### Board questions

Member Mackey asks about the building height – why can't it comply with the current zoning for the height?

Mr. Tzionov responds we tried to be within the threshold limits for height, but to do that we would have had to take up more impervious coverage. In response to more questions, he responds that there will be stairs into the first unit, and if the Township requires it, an elevator to the 2<sup>nd</sup> and 3<sup>rd</sup> floors.

Member Striluk expresses concern about the flood plain. Pennsbury Woods Apts. has historically flooded constantly. This development might add to that already flooded area. She asks if this will continue.

Mr. Fioravanti says we are aware of the flood plain in this area. He shows graphics of the flood plain areas on New Falls Rd. Gives a detailed description of what they will do to mitigate the problem.

Member Striluk asks questions about the traffic studies and discussion occurs on the details of the studies, peak hours, etc. She also questions if the house adjacent to the parcel is aware of what is happening.

Mr. Tzionov explains they have been in communication a few years ago with the residential owner when he first has purchased the property. She had mentioned to keep as much of the woods as possible.

Member Striluk expresses concern about the one means of egress – lots of speeding on New Falls Road – and thinks it might be a problem.

Discussion occurs on where a stop sign might possibly be erected and would it even be effective in relation to safely exiting the parcel.

Member Kiernan agrees with the stop sign being ineffective in exiting the parcel, believes traffic will get worse with the condominium use, the flooding will get worse at Pennsbury Woods Apts., and doesn't believe there is a hardship.

Atty. Meginniss responds the hardship is the lot configuration, there is a flood plain near the mid-section of the parcel to the rear, and the commercial zoning is not conducive to commercial development. One of the MPC requirements for hardship is the unique physical characteristics of the site which would prohibit reasonable development in accordance with the zoning ordinance. We feel this lot qualifies.

Member Mackey asks to see the zoning chart again and notes the parcel next to this lot is zoned OSP – Open Space. Why can't this be kept as open space? What authority does this Board have to change the intended use?

Atty. Meginniss states the Township or the Association would offer to purchase the parcel and preserve it as open space. It can be done by a restricted covenant. My client owns the land. He is a property owner in America, and he has rights to develop the property in accordance with the ordinance. We are here because we aren't developing it in accordance with the ordinance. My argument is there are reasons why we are not developing it in accordance with the ordinance. We think this development (residential) is better than strictly following the zoning ordinance. If the Zoning Hearing Board disagrees with that, you are entitled to deny the application. Then my client, being the owner of the property, is going to look for other ways to develop the property which are in accordance with the ordinance. If that happens, we would not be back before the Zoning Hearing Board. We believe the commercial uses are worse than the residential one.

Member Striluk asks if the owner knew the zoning was commercial when he purchased the property

Mr. Tzionov says yes. The reason is I saw that across the street and down the road, it was heavily residential. It was an opportunity to contribute to that as well. I knew going into it there was a chance this would be denied, and then I would have to go back to the drawing board to see what could be done. When we did our due diligence before purchasing the property, we figured on both scenarios and looked at cost effectiveness. It is



definitely less ideal to go the commercial route, although not impossible. We went into this with the hope it can be done in a residential manner.

Chairman Molle questions the traffic engineer's report and wonders how much of an impact your report has on PennDOT's decision to put in a stop light.

Mr. Joshi says if there is a stop light, it needs PennDOT and Board Township approval. A traffic signal warrant analysis must be submitted to PennDOT. Looking at the volume of traffic, I don't believe it would meet PennDOT's requirements for a traffic signal.

Atty. Bidlingmaier explains party status to the public. Party status gives a resident the opportunity to speak on the matter, but also gives the opportunity to present witnesses, gives the opportunity to cross-examine any of the witnesses, and preserves your right to appeal if you do not agree with the decision made tonight. Separate from party status -- everyone has the right to make public comments.

### Public Comment

*Debra Kuske*, 9159 New Falls Road, the next-door neighbor to the parcel expresses three items of concern. First, our side of New Falls Road has a lot of water problems. The Township through the years has tried to fix the problems, but over time the problem keeps getting worse. She shows photos of flooding at her property (Exhibit Kuske 1). Second, trees are being removed which will not help the flooding. Third, the height of the buildings does not fit in this neighborhood. She requested the Board approve a 2 story maximum 30 ft. height (like St. Joseph's Court).

Atty. Meginniss states we are maintaining a lot of the trees and replacing ones that are coming down. We have no problem deed restricting the rear of the property which is the flood plain as we cannot build on it.

*Mike Reynolds*, 205 Parish Road, expresses his concern with traffic on New Falls Road. He says he has observed traffic backed up from Tyburn Road to where St. Joseph's emergency entrance is. He also states just because there are 41 units does not mean only 41 people will live there – could be couples which would make the number higher. His other concern is the speed of cars going up and down New Falls Road and entering and exiting the site.

Atty. Meginniss clarifies because we are not required to take certain traffic measures does not mean we are not willing to do them. For example, if there is a deceleration, right turn only lane that PennDOT recommends adding, we'll do it. Same goes for a traffic signal.

*Vicki Burkhardt*, 51 Viburnum Lane, expresses her concern with the traffic issues brought up previously. Also, she believes the lofts will be used as a bedroom which could possibly mean children going into the schools. Another concern is the infrastructure – our sewer and water systems, can they handle additional loads? We are also adding more to the power grid.

Atty. Meginniss states if the loft is creating concerns, we can eliminate the lofts.

*Jay Gambino*, 209 Parish Rd, requests Party Status. Party Status is granted by the Board. I have no questions but want the right to appeal. His concern is traffic. He states that a commercial use might be good (drug store, brewery, restaurant) – something to walk to.

Atty. Meginniss states it is slightly contradictory – if you are in favor of a more commercial use and look at the trip generation statement – the traffic counts are even higher than residential. If you would like a commercial

use, that's understandable. But if your concern with the residential condominiums is traffic, the commercial use will have a greater traffic impact.

*James Vares*, 8 Valentine Lane, expresses his concern with safety and preservation. There is a cemetery on the corner, and he has seen several cars in the cemetery. He lists the accident fatalities on New Falls Road.

Atty. Meginniss gives his closing statement. We are not trying to negatively impact the community. Our office did the St. Joseph's Court development ironically. The site has challenges. If we do get approved, we are not going to disappear and will work with the neighbors/ residents who may have questions. We will work with the community on improving New Falls Road, aesthetic site improvements, stormwater management, trees. I truly believe a development of this nature is an improvement over many of the permitted uses. This is a project we stand behind, and we believe is a better use than anything else we can propose.

Board takes an Executive Session off the record.

Atty. Bidlingmaier states the topics discussed in the Executive Session were hardships, the law surrounding hardships, and also the application in general.

Member Mackey makes a motion the application of Oak Village of New Falls Road LLC requesting the following variances from the following sections of the Falls Township Zoning Ordinances be GRANTED to construct a multi-family residential condominium development with parking: 1) a use variance to allow a multi-family dwelling within a neighborhood commercial district pursuant to Section 209-22.B ; and 2) a dimensional variance to permit a building and/or structure height in excess of 25 feet which is the maximum permitted in the neighborhood commercial district pursuant to Section 209-22.D, at the property located at 9175 New Falls Road, 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 3-2, Kiernan and Striluk dissenting. Motion carries.**

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**10:45 p.m Hearing adjourned**