

**TOWNSHIP OF FALLS
PLANNING COMMISSION MINUTES
OCTOBER 22, 2013**

Meeting commenced: 7:00 p.m.

Meeting adjourned: 7:50 p.m.

Members present: Binney, Boraski, Dell, Goulet, Rittler

Members absent: Perry, Shero

Also present: Joseph Jones, P.E. from T & M Associates; Thomas Hecker, Esquire and Morris Steinberg, representing New Century Property Group; Tom Bennett, Chief Code Enforcement and Zoning Officer; and Diane Beri, Recording Secretary

Member Binney states that Item #2 on the agenda (Penske Truck Leasing) is being removed from the agenda for this evening.

Item #1: Fairless Hills Mall (New Century Property Group), 610 Lincoln Hwy, Fairless Hills, PA 19030; TMP #13-017-210-002; Zoned SC. Final land development – divide building into separate units

Thomas Hecker, Esquire, presents the application on behalf of the applicant with Morris Steinberg. Mr. Steinberg is a long time, local businessman in the community who has been affected by the lack of commercial activity at the Old Pathmark building. That building has been vacant for 20 years or more. I have been involved as an attorney in a few unsuccessful attempts to rehabilitate or redevelop this property. Mr. Steinberg has purchased the building with the intent to redevelop the building. It directly impacts his business operation and gives him the opportunity to expand his current operation.

Under the Falls Township Subdivision and Land Development ordinance, this application requires land development because the building space will be divided among two or more tenants. In that respect, it is a non-traditional type of land development.

This building is about 45,000 square feet. Mr. Steinberg's plan is to use approximately 24,500 square feet of the building for his business (Fairless Hills Garden Center) to store the dry goods and other items to be sold – kind of an extension of his current business.

He also has a lease with Dollar Tree for 10,000 square feet of the building. We have an agreement with the Township where the Township will process the permits to allow the fitout for the Dollar Tree. Dollar Tree would be the only tenant occupying for the foreseeable future. We will continue to pursue the land development process for the additional tenants down the road. With Mr. Steinberg's business and Dollar Tree, there is remaining approximately 10,000 square feet, which is proposed to be divided into four spaces (one unit for 3,500 square feet, one unit for 3,400 square feet and two units for approximately 1,200 square feet).

Atty. Hecker shows a drawing depicting the building elevation of the building façade .

Atty. Hecker states that it would be unfair to treat this application as a land development subject to all the rules and regulations as if we were coming in with a vacant piece of property and putting up a building. We are re-configuring handicap parking spaces, we are pulling up some sidewalk and re-installing some

sidewalk, some excavation is going to occur to put in a new electric service and a transformer. We are not building anything, just re-developing and improving. As a result, complete compliance with every provision of the subdivision and land development ordinance should not be expected.

Atty. Hecker states that he is hopeful that the Planning Commission will identify this application as appropriate for a waiver of land development, which will expedite the process.

T&M Review letter dated October 16, 2013

Atty. Hecker states that when this property was built, it was built under a zoning ordinance which may be different from the ordinances that are in place today. In this instance, we are not proposing a new building. It is my legal opinion that the non-conforming conditions be allowed to continue. In looking at T&M's zoning comments, while we may not be in a position to bring everything into conformity, there are some things that can be done to bring it closer to conformity.

Zoning Ordinance

209-42(B)(3) off-street parking must have equivalent of one parking for every 30 parking spaces with landscaping

Atty. Hecker states this is a non-conforming condition and one that should be allowed to continue to exist. It will directly impact the amount of parking that is available; the current parking is sufficient, but if we have to take parking spaces away and put in landscape islands – the applicant would lose parking. Further, that is a condition that is there now (no landscape islands) and we'd like it to remain.

Member Binney states that the Planning Commission has no authority to deal with the zoning issues.

Atty. Hecker agrees and states he will discuss with the Township solicitor.

Member Dell suggest that the proposed plantings within the existing grass areas surrounding the parking area could be counted to show compliance for this requirement.

209-42(H)(10) parking 5 ½ spaces per 1,000 sq. foot of gross floor area for retail sales

Mr. Jones suggests that a calculation for the worst case user be submitted. If you met that requirement, you would be covered for any future fitouts.

Atty. Hecker agrees and states that in looking at the numbers, we believe that there are 325 spaces presently, with the new handicap spaces, it will be down to 321 spaces, and based on the square footage calculation, it looks like we need 248 under the ordinance. There is some excess that would allow for the change in use.

Mr. Jones suggest that their engineer can put notes on the plan that shows that adequate parking is available for the use that generates the most required parking and that would cover the worst case scenario, and then you wouldn't have to worry about dealing with parking requirements for future fitouts.

Member Binney asks if all the outside storage which is currently occupying the parking spaces will be removed.

Mr. Steinberg states that yes, with the extra 25,000 square feet, that is our intention.

Member Binney asks if the trailers around the back will be removed as well.

Mr. Steinberg states that while they are remodeling the building, they will remain, until he receives approval to move into the building. Regarding the row of stones, soil & mulch currently on the parking lot, they will be removed as well once everything is complete.

Subdivision & Land Development Ordinance

- 191-37(B) Requesting a waiver.
This is an existing condition. There are two areas where this is prevalent, the Arleans side of the building, there is a sidewalk separating the building wall from the existing parking. That sidewalk is getting removed and then re-installed but the dimension will be exactly the same (6 feet), so that will require a waiver.
- 191-37(G)(1) Requesting a waiver (curbed raised planting beds at end of each parking row)
- 191-37(G)(2) Requesting a waiver (one shade tree per planting bed)
- 191-37(G)(4) Requesting a waiver (plantings per parking spaces)
- 191-39(G) Sidewalks along Arleans Avenue and Trenton Road – requesting a waiver [denied]

Member Binney states that a waiver should not be granted. The Rite Aid has a sidewalk that ends nowhere, and down at the other bottom of the property on Trenton Road, the bank has a sidewalk that ends nowhere, there is a crossing line painted at the intersection of Arleans and Trenton for pedestrians to cross to no sidewalk. I think it's appropriate to require sidewalks. In 2007, when Atty. Hecker was here with the last applicant, we required them to install the sidewalks. I do not see any reason why we should not require Mr. Steinberg to install sidewalks.

Atty. Hecker asks if Member Binney is suggesting on both Trenton Road and Arleans Avenue that the sidewalk be installed.

Member Binney states yes. He states that if we allow everybody not to install sidewalks, the area remains choppy. If we put sidewalks in as we go, it then becomes fluid.

Mr. Steinberg states that he'd like to offer a compromise. We are doing this building in two phases. We have the Dollar Tree and the Garden Center (once through land development) going in soon. If the Board agrees, we can bring the sidewalks down from the drug store through the islands now. When we lease out the other spaces, and before occupancy of those spaces, the sidewalks on the back end will be completed. The second part will be a little time consuming because it is a state road, there are woods that come right out to the edge and not sure what their right-of-way is, PECO has an easement there – there is a lot of things we have to deal with. If sidewalks are granted in stages, it won't hold up the project.

Member Binney states that if you are agreeable to install the sidewalks, you can stage it however the Board of Supervisors feels is appropriate, but I think they should be installed.

Member Rittler asks if they are still seeking a waiver for the sidewalks.

Atty. Hecker says that it doesn't sound that way. It sounds like if in fact the Township would be willing to agree to phase the installation of the sidewalks, then Mr. Steinberg would be willing to do it.

- 191-48(A) Requesting a waiver (street trees)
- 191-48(B) Requesting a waiver (street trees)
- 191-48(E) Requesting a waiver (street trees)

191-52.1(A) Natural resources

Atty. Hecker asks how much of an inventory will the Township require regarding the natural resources.

Member Binney answers that your engineer should look on the National Wetlands Inventory Map and put a note on the plans that there aren't any natural resources.

Mr. Jones states that we will work with the engineer on completing the site capacity calculations and table (191-52.1(C))

191-59 Requesting a waiver (street lights along Arleans Ave & Trenton Rd)

191-61(A) Will comply as long as sidewalks are phased-in per discussion for Sec. 191-39(G).

191-78(C)(2) Requesting a partial waiver (surrounding areas within 200 feet) (provide an aerial)

Atty. Hecker asks if this could be accomplished by an aerial, since this is an existing situation.

Mr. Jones says absolutely. In most cases we deal with this as a partial waiver and collect just that information that is required in order to effectively review the plan.

General Comments

#3 Comments from the Township Traffic Engineer – requests a waiver on the traffic impact study

Member Binney states that without going through the full expense of a study, an estimated trip count could be done. If you can provide a letter that indicates this is how many estimated trips as a supermarket and how many estimated trips for retail sales, and there's no impact, that would be helpful.

Atty. Hecker states that yes, we can. I would expect that when this operated as a viable food store, it would have generated more traffic than a normal retail use would generate.

All other items in T&M's review letter are a will comply.

Member Dell asks if they are planning on fencing in a portion along the building to store the soils, mulch and stones. These items do not necessarily need to be brought indoors.

Mr. Steinberg says that's true about those items not being stored indoors. Presently people can just drive up and we load in the bags of soil, mulch, etc.

Member Binney states that he understands that there's outdoor storage, but he wants to make it clear that the parking spaces are not going to be occupied once you get going.

Mr. Jones states that once your record plan is recorded, it's going to show that you have 325 parking spaces available, so you are going to be obligated to provide them.

Member Rittler makes a motion for approval for a waiver of land development based on T&M's review letter of October 16, 2013, with waiver requests for 191-37(B), 191-37(G)(1), 191-37(G)(2), 191-37(G)(4), 191-48(A), 191-48(B), 191-48(E), 191-59, and a partial waiver of 191-78(C)(2). Also, 191-31(H) is a will comply where needed, 191-39(G) is a will comply with phased in sidewalks, 191-61(A) is a will comply with phased in sidewalks, and 191-78(D)(e) is a will comply with documentation satisfactory to the Township engineer; and a partial waiver of Remington, Vernick's review letter dated October 11, 2013 (document the trip count between supermarket use and retail use instead of full traffic study).

Member Dell seconds.

All in favor 5-0.

APPROVED FOR WAIVER OF LAND DEVELOPMENT

Item #2: Approval of minutes

Motion to approve September minutes made Member Rittler, seconded by Member Binney.

All in favor 5-0.

Meeting adjourned 7:50 p.m.