

**FALLS TOWNSHIP
ZONING HEARING BOARD
JANUARY 13, 2015**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 9:10 p.m.

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

Members absent: Henderson

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

REORGANIZATION OF THE BOARD

Chairman:	Daniel Miles
Vice Chairman:	Albert Brooks
Secretary:	Douglas Molle
Solicitor:	David Sander, Esquire (Friedman Schuman)
Court Reporter:	Karen Browndorf
Date and Time of Meetings:	2 nd Tuesdays at 7:00 p.m.

Petition #3: Thomas Hudson (Good Stuff Thrift), 543 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-013-018; Zoned HC. Requesting dimensional variance to install two storage containers in the back of the building. Section 209-25 and Table 4.

Atty. Sander marks Exhibit ZHB 1 (email from applicant requesting a continuance until February due to inadequate neighbor notification).

Member Powers makes motion to continue application until February 10, 2015.

Member Molle seconds the motion.

All in favor 5-0. APPLICATION CONTINUED UNTIL FEBRUARY 10, 2015.

Petition #1: Charles Rizzuto, 124 Lesha Drive, Morrisville, PA 19067; TMP #13-029-175; Zoned MR. Requesting dimensional variance to install driveway on side of property. Section 209-42.A and 209-42.D.

Atty. Sander marks Exhibits ZHB 1 – 4.

Mr. Rizzuto presents the application. He is seeking approval to construct a TUFFTRACK driveway that leads to a three-quarter clean stone pad on the side of his property for parking a motor home instead of parking the motor home on the street.

Member Brooks questions where he has been storing the motor home.

Mr. Rizzuto states that he stores it at Strick Trailer, 225 Lincoln Highway, but when he needs the motor home, he parks it for a few days on the street to get it ready and a few days after the trip to close it up. Sometimes if he goes away on back to back weekends, he parks the motor home in the street all week. If he gets approved for the driveway, he will park his motor home in the driveway and not on the street.

Member Brooks asks the size of the motor home.

Mr. Rizzuto states it's a Winnebago Journey, 39' long. It's a motor home, you drive it.

Member Powers asks if any other vehicles will be parked in the driveway.

Mr. Rizzuto states no, it will just be the motor home.

Member Powers asks if anyone will be using the motor home to live there.

Mr. Rizzuto states no.

Member Molle asks if Mr. Rizzuto has a trailer that the Winnebago will pull behind it.

Mr. Rizzuto states that he will tow his Jeep, but the Jeep is parked in the current driveway.

Public Comment

Mary Helen Walker and George Walker, 5 Angela Avenue, are sworn in.

Atty. Sander marks Exhibit W-1 (photo taken from Walkers' backyard with Winnebago in view).

Mr. Walker states that he's concerned about his pool. The impervious space that will be used could result in any snow or rain going into his yard because his lawn sits lower and water runoff could damage the concrete around his pool. No matter what it is made of, it's a driveway. He is driving it over the curb, over his lawn and into his side yard which is his backyard.

Member Brooks asks Mr. Bennett what the ordinance is for parking a motor home in the street for a long period of time.

Mr. Bennett states that as long as it's not over 14,000 pounds of gross vehicle weight, he can park it anywhere he wants on a public street. Mr. Bennett states that you are also allowed to park it in a yard. The reason he is before the Board is for a driveway.

Member Miles reads into the record "Section 209-42(A) – Driveways" –one driveway per single family residence.

Mr. Walker reads into the record "Section 209-42(D) – surfacing and curbing".

Member Miles explains that what Mr. Rizzuto is parking there is not in question with the Board. He is before this Board because he wants to install a second driveway and that driveway is not going to conform to the definition of driveway in the Falls Township Subdivision and Land Development Ordinance.

Mr. Walker questions the letter wherein it states "Falls Township code indicates use of automobile parking spaces for travel trailers and campers on this site are prohibited."

Mr. Bennett states that is for multi-family dwellings, not single family dwellings.

Atty. Sander explains that Mr. Bennett advised him that he mistakenly included that wording in his initial denial letter. When looking at it later, he realized it dealt with multi-family dwellings and not single-family detached dwellings.

Member Miles reiterates to Mr. and Mrs. Walker that Mr. Rizzuto could park his motor home in his side yard without installing a driveway.

Discussion occurs on widening the current driveway, putting the driveway on the other side, putting in more trees, and previous discussion with the Walkers about his plan.

Mr. Bennett states that any commercial vehicle over 14,000 lbs. gross vehicle weight cannot be parked in a residential zone, whether on the driveway, yard or in the street.

Atty. Sander asks for the gross vehicle weight of the motor home.

Mr. Rizzuto states it's a 2004 WKP 39K Winnebago, but he doesn't know the gross vehicle weight.

Atty. Sander frames a motion to GRANT the application of Charles Rizzuto for variances for Sections 209-42.A and 209-42.D of the Falls Township Zoning Ordinance to allow a second access driveway to be constructed at 124 Lesha Drive, Morrisville, PA 19067, to serve a single-family detached dwelling for parking of the applicant's motor home and to allow it to be designed with TUFFTRACK material rather than being paved as required by the Falls Township Subdivision and Land Development ordinance, all as depicted on the plan submitted with the application and the applicant's testimony before the Zoning Hearing Board. The approval is granted subject to the following conditions: (1) when the motor home is parked, it may not be used nor hooked up to the principal dwelling unit for sewer service; (2) the applicant obtain all required permits for a curb cut and apron and install the curb cut and apron; and (3) prior to the issuance of a permit for the driveway, the applicant shall submit proof acceptable to the Township engineer that the vehicle to be driven over and/or parked on the driveway is less than 14,000 lbs. gross vehicle weight. If any vehicle proposed to be driven over and/or parked on the driveway is equal to or greater than 14,000 lbs. gross vehicle weight, this relief shall fail.

Member Powers makes the motion to approve.

Member Molle seconds the motion.

All in favor 3-2, Brooks and Lawson dissenting.

Petition #2: Commonwealth Rubber Supply Incorporated, 1711 S. Pennsylvania Avenue, Morrisville, PA 19067; TMP 13-047-080-005; Zoned: RD-1, seeks (1) a use variance from Sec. 209-32.4(c)(1) to permit the use of assembly of rubber hose products in the RD-1 District; (2) a determination under Sec. 209-41 that a nonconforming manufacturing/assembly use may continue on the property; (3) an appeal from the determination of the zoning officer under Sec. 209-75 that the use is not permitted in the RD-1 District; and, (4) in the alternative, that the use is permitted as a variance by estoppel.

Atty. Sander re-introduces ZHB Exhibit 1 (letter from last month asking for a continuance) and marks ZHB Exhibits 2 – 5 and Exhibit A-1 (proof of neighbor notification)

Nathan Fox, Esquire, presents the application. Atty. Fox introduces Exhibit A-2, which is a series of documents relative to the case. Mr. Kasper is the owner of Commonwealth Rubber Supply and has been in the business of providing rubber hoses with fittings for many years. The building he acquired in 2009 is his largest business asset; he has made no structural changes to the exterior of the building since his acquisition. The interior of the building is divided equally between office space and warehouse space. The prior use of the building was Small Bones manufacturing which made bone implants for the smaller bones in the body. They had dozens of employees on shift work with numerous shipments coming in and out.

Prior to his acquisition of the building, Mr. Kasper, through his attorney at the time, submitted a letter of intent to be reviewed by the Township (Ex. 2-A), dated Nov. 16, 2009, which was approved by the Township. In March 2010, he passed the required inspections and believed he had received his required certificate of occupancy for his business. On September 30, 2014, the first contact from the Township since 2010, he received a letter from the Township indicating he was operating without the required certificate of occupancy. He re-submitted another letter of intent, which was ultimately denied.

We are asking for the use variance as required by the Township. We are also asking for a determination that this is an existing, non-conforming use. We do not dispute the issue that the RD-1 district does not allow the use of rubber hose assembly. However, similar assembly and manufacturing use has been occurring at that property going back many years to a much lesser degree than what was there previously. Also, we are making a legal argument that the applicant is entitled to a variance by estoppel because under law the applicant has innocently used the property since its acquisition in a manner inconsistent with the zoning ordinance. He has exercised good faith throughout this time frame. The applicant innocently relied up the use and would incur significant financial expense if he were to cease operations.

No Board questions.

No public comment.

Member Powers makes a motion that the application of Commonwealth Rubber Supply for the use variance from Sec. 209-32.4(c)(1) be GRANTED to allow for the assembly, storage and shipping of rubber hose products on the property in accordance with the testimony, plans and materials submitted to the Zoning Hearing Board. All other relief requested is DENIED.

Member Molle seconds the motion.

All in favor 5-0.

Petition #4: W.G. Lincoln Properties, L.P., 640 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-017-196; Zoned NCR. Requesting dimensional variances for (a) buffer requirements; (b) driveway width; (c) guest parking; (d) loading area; (e) signage; and (f) from bulk regulations (impervious cover), along with modification of a prior decision. Sec. 209-38.1.F.(2); Sec. 209-42.G; Sec. 209-42.H.(2)(e); Sec. 209-42.I; Sec. 209-45.I.(B); Sec. 209-20.(E).

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

Thomas Hecker, Esquire, presents the application. In September of 2013, Greg Wiczerzak submitted an application to the Zoning Hearing Board for the mixed use variance for this property. This Board granted the use variance and imposed certain conditions – basically, limitations to square footages for certain uses. Last year, land development plans were prepared and submitted to the Township, resulting in various review letters. Review comments were received by the Township professionals. The Planning Commission expressed concern about the leased retail space within this building. The reason for the concern was parking not so much for the current retail use proposed, but for any future retail use. Based on the Planning Commission’s concerns, we took another look and revised the plans to eliminate that concern. The plan before you this evening is that revised plan.

We are eliminating all retail space from the original plan, except for the space that was earmarked for the roofing and siding business. In its place, we are adding additional apartments. Because of this change, relief that we are seeking has been changed. We are still requesting relief for the buffer requirements under Sec. 209-38.1.F(2) and also the impervious surface coverage Sec. 209-20.E. We have been able to reduce the impervious coverage from 83.3% to 75.5%, which is consistent with the commercial district requirements. We still need relief because this property is not zoned commercially, it is zoned NCR.

We also are requesting the need for signs. The NCR district allows certain signs to be permitted by conditional use. With this plan we are also asking permission for two wall signs, one that advertises Greg’s business and the second sign is the address of the property in large letters across the front of the building.

We are also requesting a modification of your prior decision which had five conditions, two of which would need to be modified in order for this plan to be able to proceed.

Atty. Sander questions if they are asking for relief for the two signs shown on the plans.

Atty. Hecker states yes, we have provided dimensions. Atty. Hecker presents drawings of old plans and new plans showing the parking layout (Ex. A-2).

In the new plans, the first floor contains 446 sq. ft. of office space, two 1-bedroom apartments, a 2-bedroom apartment and 1,047 sq. ft for the siding and roofing storage. This will be owner-occupied with regard to the office and the storage area. The second floor would become 4 additional apartments – two 2-bedroom apartments, and two 1-bedroom apartments. There is a total of 7 apartments.

Parking shown is 18 parking spaces, which is more than enough for this mixed use. The first plan showed 24 parking spaces, primarily because of the commercial lease space.

Regarding the signs – the sign for W.G. Roofing is 30 sq. ft. and the address sign is 20 sq. ft. We are asking for a variance from these two wall signs. There is no freestanding sign (which was shown on the original plan).

In the prior ZHB decision from 2013, two conditions need to be modified. Condition #1 stated not more than 1,350 sq. ft. of first floor was to be used for a showroom area – we have apartments there now instead of retail. The other requirement dealt with 2,400 sq. ft. of residential area on the second floor. It is now 3,800 sq. ft because of the apartments. We are able to accommodate that by pitching the roof instead of the originally proposed flat roof.

We are asking for approval of the remaining variances as well as the modification of those two prior conditions that would allow the mixed use building as depicted on the revised plans (Ex. A-4).

No Board questions.

No public comment.

Atty. Sander frames a motion to APPROVE the application of W.G. Lincoln Properties, L.P. for variances from the following sections of the Falls Township Zoning Ordinance to allow the construction of a new 4,374 sq. ft. footprint of the building with parking lots and a gravel outdoor storage area and underground stormwater management facilities at 640 Lincoln Highway, Fairless Hills, PA. Variances are as follows: (1) variance from Sec. 209-20.E and Table 1 to allow impervious surface ratio of 75.5% where a maximum impervious surface ratio of 40% is permitted; (2) variance from Sec. 209-38.1.F(2) to allow a 3.1 ft. parking buffer for the westerly end of the Lincoln Highway parking lot and to allow a dumpster to be located just under 8 ft. from the side property line where a 20' setback is required; (3) a variance to allow a 30 sq. ft building sign and 20 sq. ft address building sign as depicted on Ex. A.

This motion also includes modifying condition #1 of the Zoning Hearing Board's Sept. 10, 2013 decision to allow no more than three apartment units on the first floor of the building as depicted on Ex. A-3; and Condition #2 of that same decision to allow no more than four apartments on the second floor, and no other use on the second floor, all as depicted on Ex. A-3.

Member Powers makes the motion.

Member Molle seconds the motion.

All in favor 5-0.

Hearing adjourned 9:10 p.m.