

**FALLS TOWNSHIP  
ZONING HEARING BOARD  
MAY 8, 2018**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 8:00 p.m.

Members present: Al Brooks, Scott D’Oria, Dan Miles, and Doug Molle

Members absent: Colin Henderson

Also present: Ed Neubauer, Code Enforcement Officer; Keith Bidlingmaier, ZHB Solicitor; Karen Browndorf, Court Stenographer; Noah Marlier, Esquire (Township Solicitor)

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**Petition #4: Mealey’s Furniture, 1001 New Ford Mill Road, Morrisville, PA 19067; TMP #13-051-001-001; Zoned: HI. Use variance to open an outlet store for 40 hours a week for eight to ten weeks. Section 209-29.**

Chairman Miles states that this applicant has requested a withdrawal of this petition by letter dated May 3, 2018.

Member Molle makes a motion to withdraw the petition

Member Brooks seconds the motion.

**All in favor 4-0. Motion carries. Application is withdrawn.**

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**Petition #5: AAA Club Alliance (AAA Mid-Atlantic): Oxford Valley Plaza, 500-516 Oxford Valley Road, Langhorne, PA 19047. TMP 13-003-035-001 and 22-057-011-001. Seeking a variance to remove eleven (11) parking spaces, or in the alternative an Appeal of the Zoning officers’ determination that such relief is required pursuant to Section 209-23(I)(1) of the Falls Township Zoning Ordinance.**

Chairman Miles states the applicant is requesting a continuance of this petition until the June 12, 2018 hearing.

Member Molle makes a motion to continue this petition until the June 12, 2018 hearing.

Member D’Oria seconds the motion.

**All in favor 4-0. Motion carries. Application continued until the June 12, 2018 hearing.**

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**Petition #3: Arsen Drobakha, 1497 Old Bristol Pike, Morrisville, PA 19067 (CONT’D FROM 3/13/18, 2/13/18, 1/9/18 and 12/12/17 HEARINGS); TMP #13-040-056; Zoned: MHC. Use variance to allow the expansion of the pre-existing non-conforming use to permit the storage of up to five automobiles in an area not to exceed 1,500 square feet. Section 209-18.**

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

David Shafkowitz, Esquire presents the application. The property is currently non-conforming because the property is being used as a truck storage facility with storage of some other vehicles – boats, automobiles, etc. We are asking for an expansion of that non-conforming use to permit the storage of automobiles. We are willing to limit that storage to an existing structure on the property so that the vehicles will be stored inside limiting that to no more than five vehicles or 1,500 sq. ft. The building will also contain a desk and a filing cabinet. Mr. Drobakha is in the business of exporting electric vehicles to the Ukraine. The only way he can

obtain a license so he can buy the cars directly at auction to ship is to show the State of Pennsylvania that he has ground available for a used car lot. We have no interest in a used car lot; we have an interest in a place to store vehicles. The State statute requires a place where you can store vehicles, have a sign, and have a desk and a filing cabinet. With the license, Mr. Drobakha can purchase cars directly through auction and have them shipped. There are no sales open to the general public nor will there be office hours.

Atty. Shafkowitz continues that he has two witnesses, Mr. Drobakha the applicant, and Steve Ware, the planner. We have had continuing conversations with the Township about the expansion of the non-conforming use and how it might work and some conditions that the Township would like to see imposed. We are not sure we are going to get those done for tonight's hearing. Ultimately, when we are done presenting the testimony, the Township would like to reserve time to potentially cross-examine the witnesses in the event we cannot work out these conditions before the Board's next hearing. We would hope to present just a letter to the Board for their June meeting stating here are the conditions that everyone has agreed to, close the hearing and have the Board render a decision.

Noah Marlier, Esquire, states that is accurate. The applicant has been working with the Township to try and figure out a few things that the Township might want to see done with this property as conditions, if the Board were to grant the zoning relief. As of now, the Township is taking no position for this particular hearing tonight. He agrees that testimony should be taken now and reserves the right to cross-examine the witnesses at the June hearing.

*Arsen Drobakha* is sworn in and provides testimony that his father and brother-in-law own the property. The business buys salvage cars from auction, usually in California, gets them shipped to New Jersey to put on a container ship to the Ukraine, whether it's through Germany or directly to the Ukraine. They are all electric vehicles (Teslas, Chevys, Nissans). The cars are never at the property. He reiterates the license requirements of Pennsylvania and states that if necessary any cars would be stored in the garage in the back which would meet the State requirements. There will be no hours of operation – it would be by appointment only. The nature of the business is not a used car lot but rather an export business. He also gives the history of the property and the fact that his father bought the lot as a truck lot. The name of his business is SEM United States which is what the sign would indicate. He is willing to accept the limit of five storage vehicles and limit the area to no more than 1,500 sq. ft. inside the existing building.

### **Board Questions**

Member Molle asks if any repairs would be done.

Mr. Drobakha states no.

Member D'Oria asks what the Township is looking for with this property.

Atty. Marlier states that we have not explicitly stated what the conditions would be but the idea is having some more paved area, less dust coming up, some fencing and a limit on the inoperable vehicles. We should have that for you by next month.

Member Brooks asks who is leasing the trucks out that are currently on site and how many vehicles are stored there now.

Mr. Drobakha states his dad's partnership is leasing the trucks; there are approximately 15-20 vehicles there now.

Member Brooks asks how many vehicles are inoperable.

Mr. Drobakha states 5-10.

No further Board questions for Arsen Drobakha.

*Stephen Ware*, a licensed planner, gets sworn in and is recognized as an expert in planning. In response to questions by Atty. Shafkowitz, he shows a site plan of the existing conditions of the property, states that the dispatching/ truck storage is a pre-existing, non-conforming use, agrees that the garage would be sufficient to store five vehicles with additional room plus room for his desk and filing cabinet, expansion of use does not alter the property, and the expansion is less than 50% as dictated by the zoning ordinances.

No Board questions for Mr. Ware.

No public comment.

Atty. Shafkowitz states that the applicant is waiving any time requirements as set forth in the Municipalities Planning Code for either holding the hearing or rendering a decision.

Member Molle makes a motion that this application is continued until the June 12, 2018 hearing.

Member Brooks seconds the motion.

**All in favor 4-0. Application is continued until the June 12, 2018 hearing.**

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**Petition #1: Harry T. Lyons, Jr., 45 Kennedy Drive, Fairless Hills, PA 19030; TMP #13-007-007; Zoned: MHC. Requesting a dimensional variance to erect a covered porch which encroaches into the front yard setback. Section 209-18 and Table 3.**

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Harry Lyons presents the application. He moved from Bradford County to Bucks County because of our health issues (heart attacks, Alzheimer's). The hospital is right down the street; our children wanted us close for doctors' visits, etc. My life savings went into the purchase of the house and the construction of the awning.

Discussion occurs about the parking, the turning distance for vehicles, and where the road actually begins.

Mr. Bennett clarifies that the applicant is seeking a variance because the covered porch is 8 feet from the road instead of 10 feet.

No public comments.

Member Molle makes a motion that the application of Harry T. Lyons, Jr. for a dimensional variance from Sections 209-18 and Table 3 of Falls Township Zoning Ordinance be GRANTED to erect a covered porch which encroaches into the front yard setback on the premises of 45 Kennedy Drive, Fairless Hills, PA 19030 as depicted on the plans and in accordance with the testimony to the Zoning Hearing Board.

Member Brooks seconds the motion.

**All in favor 4-0. Motion carries.**

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**Petition #2: Edward and Silda Gardner, 531 Austin Drive, Fairless Hills, PA 19030; TMP #13-007-017; Zoned: NCR. Requesting a dimensional variance to construct a front and a rear addition which encroaches into the side yard setback. Section 209-20 and Table 1.**

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6.

Edward Gardner presents the application and states that the front addition would be for his mom, the back addition would be for his son who suffers from epilepsy. The front addition doesn't pose any kind of issue with the sight triangle and our neighbors have no objection to either addition.

No Board questions.

No public comment.

Member Brooks makes a motion that the application of Edward and Silda Gardner for a dimensional variance from Section 209-20 and Table 1 of the Falls Township Zoning Ordinance be GRANTED to construct a front and rear addition which encroaches into the side yard setback on the premises at 531 Austin Drive, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Molle seconds the motion.

**All in favor 4-0. Motion carries.**

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**Petition #6: PharmaCann, LLC, 150 Roebing Road a/k/a/ 150 Solar Drive, Morrisville, PA 19067; TMP #13-051-001-024. Requesting a Special Exception to allow the above property to be used as a medical marijuana grower / processor, or in the alternative, seeking an extension of the Special Exception approval previously granted. Section 209-30.I.**

Atty. Bidlingmaier states that the original application listed Section 209-30.J. This matter was advertised in the Bucks County Courier Times as an appeal to Section 209-30.I. However, both sections are incorrect; the appropriate notice should have listed Section 209-30.L(1). Based upon this information, PharmaCann will be seeking a continuance.

Carrie Nase-Poust, Esquire, representing PharmaCann, states that they are asking for a continuance until next month so that the petition can be properly advertised.

Member D'Oria makes a motion that the PharmaCann application is continued until the June 12, 2018 hearing.

Member Molle seconds the motion.

**All in favor 4-0. Motion carries. PharmaCann application is continued until the June 12, 2018 hearing.**

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