

**FALLS TOWNSHIP
ZONING HEARING BOARD
JUNE 12, 2018**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 8:15 p.m.

Members present: Scott D’Oria, Colin Henderson, Dan Miles, and Doug Molle

Members absent: Al Brooks

Also present: Thomas Bennett, CCEO and Zoning Officer; Ed Neubauer, Code Enforcement Officer; Keith Bidlingmaier, ZHB Solicitor; Karen Browndorf, Court Stenographer

Petition #2: Rock Springs Apartments, 937 W. Trenton Avenue, Morrisville, PA 19067; TMP #13-028-025; Zoned: HR. Requesting a dimensional variance to erect a fence in the front yard. Section 209-37.

Chairman Miles indicates that the applicant has withdrawn their application in a letter dated June 5, 2018.

Member Molle makes a motion to withdraw the application.

Member Henderson seconds the motion.

All in favor 4-0. Application is withdrawn.

Petition #4: Arsen Drobakha, CONT’D FROM 5/8/18 -- 1497 Old Bristol Pike, Morrisville, PA 19067; 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.

Chairman Miles states that the Board has been contacted by Mr. Drobakha’s attorney requesting a continuance of the application until the July 10, 2018 meeting. The applicant also waived the time frames within which to hold the hearings under the Municipalities Planning Code.

Member Molle makes a motion that the application be continued until July 10, 2018.

Member D’Oria seconds the motion.

All in favor 4-0. Application continued until July 10, 2018.

Petition #7: AAA Club Alliance (AAA Mid-Atlantic): CONT’D FROM 5/8/18 --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Chairman Miles states that the applicant has given the Board a letter asking for this application to be withdrawn.

Member Molle makes a motion that the application be withdrawn.

Member D’Oria seconds the motion.

All in favor 4-0. Application is withdrawn.

Petition #1: Nazim Yilmaz, 2 Walnut Lane, Levittown, PA 19054; TMP #13-025-068; Zoned: NCR. Requesting a dimensional variance to erect a fence in the secondary front yard. Section 209-37.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Tunahan Yilmaz (son) presents the application and states that they want to put a fence around their property for the safety of the children. We are just replacing the fence that is currently there.

Board asks if fence is in the site triangle (no) and the manhole will have a gate (if LBCJMA says so).

Public Comment

Kathy Simkanich, 197 Willow Drive, states her side property is their back property. Her concern is that the original fence was 4 ft. high – with a 6 ft. high fence, her property will be in between two 6 ft. high fences.

Member Henderson makes a motion that the application of Nazim Yilmaz for a dimensional variance from Section 209-37 of Falls Township Zoning Ordinances be GRANTED to erect a 6 ft. fence in the secondary front yard at the property located at 2 Walnut Lane, Levittown, PA 19054, 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.

Petition #3: Pennwood Crossing, 5315 Glenloch Drive, Morrisville, PA 19067; TMP #13-047-030-4833; Zoned: MHC. Requesting a dimensional variance to install a manufactured home on lot which encroaches into the minimum distance of 25 ft. between manufactured homes. Section 209-18 and Table 3.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Arthur Tharpe presents the application and states that they are requesting a variance for the spacing on the mobile home. The zoning requirement in MHC was changed a few years back from 15 ft. between manufactured home to 25 ft. between manufactured homes. This is a smaller lot size than some. The adjoining mobile home owners have no objection.

Board asks if this is the normal size for a mobile (no, most are double wides) and how many lots would require a variance (unknown).

No public comments.

Member Henderson makes a motion that the application of Arthur Tharpe (Pennwood Crossing) for a dimensional variance from Section 209-18 and Table 3 of the Falls Township Zoning Ordinance be GRANTED to install a manufactured home on a lot which encroaches into the minimum distance of 25 ft. between manufactured homes at the property located at 5315 Glenloch Drive, Morrisville, PA 19067, 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.

Petition #6: MLH 150 Roebling, LLC, 150 Roebling Road a/k/a/ 150 Solar Drive, Fairless Hills, PA 19030; TMP #13-051-001-024; Zoned: MPM. Requesting a Special Exception to allow the 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.L(1).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Exhibit A-1 (proof of neighbor notification) and A-2 (email from Celalp Supply containing their position on this application).

Carrie Nase, Esquire, presents the application. The applicant was before this Board last year proposing to use the property as a medical marijuana grower / processor facility and received a Special Exception for that use at that time. Since that time the applicant has been working with the Township in getting the land development approvals for the proposed facility. The applicant is proposing to submit an application to the State to receive a license as a clinical research facility. The State, however, has not opened up the process for that particular type of license. Under your zoning ordinances, it requires that a building permit must be obtained within one year; otherwise the Special Exception becomes null and void.

We have received final land development approval from the Board of Supervisors. Due to some ongoing litigation regarding the clinical research license, the applicant has submitted an application for a grower / processor facility with the State last month for this particular property.

We are requesting renewal of the Special Exception previously approved.

Packets are handed to the Board members (including waste disposal and security plans).

Robert Showalter, P.E. (engineer on the project) and James Connolly (representative of the applicant) get sworn in.

In response to questioning by Atty. Nase, Robert Showalter testifies as to the improvements to the property (take the three existing buildings and connect them) and that the facility is in compliance with zoning ordinances of Falls Township with regard to medical marijuana grower / processor.

In response to questioning by Atty. Nase, James Connelly testifies as to the business of MLH (obtaining licenses, constructing a medical marijuana grower / processor facility, and obtaining dispensaries throughout the State). They intend to purchase the property, and obtain all State required approvals. All operations will be performed within the confines of the building. They will not have outside improvements and no advertising on the radio. No employees under the age of 18. Details of how they will handle waste and byproduct and various security measures were also discussed.

No Board questions.

No public comment.

Member Henderson makes a motion that the application of MLH 150 Roebling LLC requesting a Special Exception from Section 209-30.L(1) of the Falls Township Zoning Ordinances be GRANTED to allow property to be used as a medical marijuana grower / processor at the property located at 150 Roebling Road a/k/a 150 Solar 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.

Petition #5: PharmaCann, LLC, CONT'D FROM 5/8/18 -- 150 Roebbling Road a/k/a/ 150 Solar Drive, Fairless Hills, PA 19030; TMP #13-051-001-024; Zoned: MPM. Requesting a Special Exception to allow the 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.L(1).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Exhibit A-9 (proof of neighbor notification).

Carrie Nase, Esquire presents the application. The applicant was before this Board last year proposing to construct a new facility to be used as a medical marijuana grower / processor facility. They received approval for a Special Exception. Unfortunately, they were not awarded a license for this property during the first round. As a result they did not proceed with the project at that time and therefore, the Special Exception granted in April 2017 has expired. The applicant has re-applied to the State for a license for this property during the second round last month. They have submitted a final plan to the Township and did receive conditional final land development approval from the Township last month. They are here tonight looking to renew the previously granted Special Exception.

Packets are handed to the Board members (including waste disposal and security plans).

Robert Showalter, P.E. (engineer on the project) and Joshua Horn (partner of Atty. Nase who is very familiar with PharmaCann's operation) present testimony.

In response to questioning by Atty. Nase, Robert Showalter testifies as to the improvements to the property (construct a new building) and that the facility is in compliance with zoning ordinances of Falls Township with regard to medical marijuana grower / processor.

In response to questioning by Atty. Nase, Joshua Horn, Esquire (partner at Fox Rothschild in Philadelphia) testifies that he serves as the outside general counsel of PharmaCann and is familiar with their operation. He testifies as to PharmaCann's operation in other states. All operations will be performed within the confines of the building. They will not have outside improvements and no advertising on the radio. No employees under the age of 18. Details of how they will handle waste and byproduct and various security measures were also discussed.

No Board questions.

No public comment.

Member Henderson makes a motion that the application of PharmaCann, LLC requesting a Special Exception from Section 209-30.L(1) of Falls Township Zoning Ordinance be GRANTED to allow the property to be used as a medical marijuana grower / processor at the property located at 150 Roebbling Rd. a/k/a 150 Solar 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.

Petition #8: Oak Restaurants, LP, 500 Commerce Boulevard, Fairless Hills, PA 19030; TMP #13-003-034; Zoned: SC. Requesting a dimensional variance to accommodate improvements to existing business consisting of installing a walk-in freezer, 300 sq. ft. addition and covering patio for outdoor seating dealing with minimum side yard and outdoor seating. Sections 209-24, Table 4 and Section 209-23(H)(3)(a).

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

Thomas Hecker, Esquire presents the application. This application involves some improvements to the existing Taco Bell on Commerce Blvd. There is a need for additional freezer space. There is no space inside the building so we are proposing an outdoor freezer box. There is existing outdoor seating with umbrellas; we are proposing to cover a patio which does not meet the setbacks.

John Petit is sworn in.

Mr. Petit testifies and explains the improvements and the need for a variance relief.

Board asks if the freezer is a standard size freezer (yes).

No public comment.

Member Henderson makes a motion that the application of Oak Restaurants for a dimensional variance from Section 209-24, Table 4 and Section 209-23.H(3)(a) dealing with minimum side yard and outdoor seating of the Falls Township Zoning Ordinance be GRANTED to accommodate the improvements to the existing building consisting of installing a walk-in freezer, 300 sq. ft. addition and covering the patio for outdoor seating at the property located at 500 Commerce Blvd., 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.

Petition #9: Mealey's Furniture, 130 Enterprise Avenue, Morrisville, PA 19067; TMP #13-047-166-008; Zoned: HI. Requesting a use variance to allow retail sales to be conducted at this location for approximately 40 hours per week. Section 209-29.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6 and Exhibit A-3 (proof of neighbor notification).

Nicole Dunn presents the application. We want to open 40 hours a week for part of the building for retail and the rest of the building for storage.

Board questions center on hours of operation and days of the week (Wed through Sun, 9 hours a day), how long of a period (permanent, not 8-12 weeks as stated in letter), type of merchandise (“despised” merchandise not good enough for their showroom but sellable at low cost), and safety of the building (inspections will be conducted).

No public comment.

Member Henderson makes a motion that the application of Mealey's Furniture for a use variance from Section 209-29 of the Falls Township Zoning Ordinances be GRANTED to allow retail sales to be conducted at the property located at 130 Enterprise Avenue, Morrisville, PA 19067, 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.

Hearing adjourned 8:15 p.m.