

**FALLS TOWNSHIP
ZONING HEARING BOARD
JANUARY 9, 2018**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 8:45 p.m.

Members present: Brooks, D’Oria, Henderson, Miles, and Molle

Members absent: None

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

REORGANIZATION OF THE BOARD

Chairman:	Daniel Miles
Vice Chairman:	Colin Henderson
Secretary:	Scott D’Oria
Solicitor:	Keith J. Bidlingmaier, Esquire
Court Reporter:	Karen Browndorf
Date / Time of Meetings:	2 nd Tuesdays at 7:00 p.m.

Petition #4: Arsen Drobakha, CONT’D FROM 12/12/17 HEARING, 1497 Old Bristol Pike, Morrisville, PA 19067; TMP #13-040-056; Zoned: MHC. Requesting a use variance to permit used car sales. Section 209-18.

Chairman Miles states that the Board has received a letter from the applicant’s attorney requesting a continuance of this petition until the February 13, 2018 hearing.

Atty. Bidlingmaier states also that the time limits under the MPC to hear this matter have been waived in the letter and marks the letter as Exhibit ZHB 1 to make it part of the record.

Member Henderson makes a motion to continue the petition until the February 13, 2018 hearing.

Member Molle seconds the motion.

All in favor 5-0. Petition continued until the February 13, 2018 hearing.

Petition #1: Michael Sitko, 117 Winding Way, Morrisville, PA 19067; TMP #13-030-009; Zoned: NCR. Requesting a dimensional variance to erect an accessory structure which encroaches into the minimum distance between buildings. Section 209-20 and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Michael Sitko states he currently has a shed in there now for storage. I share a workshop with my father at his residence in Falls Township, but it is becoming too crowded for the both of us. I’d like to build a 20 ft. x 20 ft. garage on my property. I cannot move it further back in the yard to meet the 15 ft. requirement between buildings because there is a utility pole in the back.

Board questions center on what will be done in the workshop (hobby woodworking and making furniture), possibly putting garage on other side of property (not enough room), and the utility pole and overhead PECO wires (letter from PECO that they are fine with the placement of the garage).

No public comment.

Member Henderson makes a motion that the application of Michael Sitko for a dimensional variance from Section 209-20 and Table 1 of the Falls Township Zoning Ordinance be GRANTED to erect an accessory structure which encroaches into the minimum distance between buildings at the property located at 117 Winding Way, 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 4-1, D’Oria dissenting. Motion carries.

Petition #2: John Barron, 34 Vermilion Way, Levittown, PA 19054; TMP #13-019-085; Zoned: NCR. Requesting a dimensional variance to erect a fence in the secondary front yard. Section 209-37.C.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6.

John Barron states that once the 4 ft. chain link fence was taken down a few months ago from the sewer department, we decided to replace it with a 6 ft. privacy fence to keep the children out of the yard from the neighboring basketball courts.

Mr. Bennett states that it’s possible that this fence would be blocking your neighbor’s view coming out of his driveway. The Township will go out and mark where the fence should be placed to keep it out of the sight triangle.

Chairman Miles states that the Board can place a condition on any decision. Applicant has no problem with the condition.

Only Board question deals with how far off the sidewalk will the fence be placed (4 or 5 feet), and how that might impact the sight triangle.

No public comments.

Member Henderson makes a motion that the application of John Barron for a dimensional variance from Section 209-37.C of the Falls Township Zoning Ordinances be GRANTED to erect a fence in the secondary front yard at the property located at 34 Vermilion Way, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board, with the following condition: said fence must be in conformity with the measurements and setbacks to be determined by the Falls Township Zoning Officer.

Member Brooks seconds the motion.

All in favor 5-0. Motion carries.

Petition #5: KPK Development Corporation, LP, (Kelly Pipe Corporation), 95 Towpath Road, Fairless Hills, PA 19030; TMP #13-047-164; Zoned: PIP. Requesting the following variances: Fence located in the front yard Section 209-34.(E); rear yard setback Section 209-28.(F) and Table 5; outdoor storage area not adequately concealed Section 209-28.(G)(3); sight distance Section 209-37.(B); buffer at south property line Section 209-38.1(F)(1); lighting Section 209-40; and paving Section 209-42(D).

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

Francis Dillon, Esquire, presents the application. Jeremy Lowe from Kelly Pipe and Thomas Hanna from Gilmore Associates (engineers) are sworn in. This property was used by Kmart for their distribution facility for

the parking of trucks and trailers. Kelly Pipe will be using the property for indoor and outdoor pipe storage and pipe distribution involving the loading and unloading of flatbed trucks. The anticipated number of employees is 17 with the hours of operation Monday through Friday 7:00 a.m. to 5:00 p.m. Further information is contained in their letter of intent to the Township.

In response to Atty. Dillon's questions, Thomas Hanna, P.E., provides details on each of the variance requests and the reasons why each variance was requested.

Board questions center on the chain link fence (will remain a chain link fence).

No public comment.

Member Henderson makes a motion that the application of KPK Development Corp. (Kelly Pipe Corporation) be granted for the following variances Section 209-34(E), Section 209-28(F) and Table 5, Section 209-28(G)(3), Section 209-37(B), Section 209-38.1(F)(1), Section 209-40, and Section 209-42(D) of the Falls Township Zoning Ordinance be GRANTED to: 1) allow fencing located in the front yard; 2) allow the rear yard setback on the outdoor storage area not adequately concealed; 3) reduce the sight distance; 4) reduce buffer at the south property line; 5) permit a lighting plan; 6) and reduce paving at the property located at 95 Towpath Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented tonight at the Zoning Hearing Board.

Member Brooks seconds the motion.

All in favor 5-0. Motion carries.

Petition #3: William May, 41 Old Locust Street, Fallsington, PA 19054; TMP #13-032-055; Zoned: HD. Requesting a use variance to allow animal husbandry to continue at property. Section 209-19.E(1).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

William and Leslie May present the application. Handouts are distributed as well as a petition with names of people in support of their application as well as neighbor letters. (Exhibit A-1).

Mr. May states that the animal husbandry use should be continued. The use has been there since his childhood. He would like to teach his children.

Mrs. May details some of the information contained in Exhibit A-1, specifically the Certificate of Occupancy issued in August 2016 (Ex. A-2) and pictures taken in July 2016 documenting the fact that the chickens were on the property at that time prior to the issuance of the Certificate of Occupancy. She continues and shows a picture of Pennsbury Manor taken in August 2017 which shows lambs on that property.

In response to a question by Chairman Miles, Mr. Bennett states that Pennsbury Manor is zoned HD (Historical District).

Mrs. May continues giving the history of Historic Fallsington and states that Township personnel assured them that chickens were allowed at the property at the time they inherited the property. If they had been told that chickens were not allowed, they would not have made improvements to the chicken coop.

Board Questions

Member Brooks asks how many chickens do you have.

Mr. May states approximately 24 chickens. An egg laying chicken has a life span of about 2 years.

Mrs. May states they never have more than 30 chickens at one time.

Member Brooks asks how big is the property.

Mr. May states it's three quarters of an acre. The physical coop is 22 ft. off the rear property line but the run is closer. The chickens stay within the run and don't free range throughout the yard and property.

Member D'Oria asks if they have any roosters.

Mrs. May states currently no. However, there are roosters possible. With brooding chickens, you don't know that they are roosters until they are fully developed. So if we do get a rooster, and it's a noisy rooster, it's culled (killed) immediately. If it's not a noisy rooster, we keep it.

Member Henderson asks about their intentions with putting other domestic farm animals on the property (like goats, sheep, lambs).

Mr. May states that at the moment we have no intention of keeping other farm animals other than the chickens.

Member Molle asks if they anticipate allowing these chickens to be free range.

Mr. May states no, the chickens will not be leaving the pen.

In response to Member Brook's questions, Mr. May states that he has always lived at the house and that his wife moved in after they were married. At the time he took possession of the house, the original chicken coop and run was smaller.

With regard to other houses that have chickens in Fallsington, Mrs. May states there are 10 houses in the Historic District alone that are raising chickens.

In response to Member Henderson's questions, Mr. May states that they had chickens on and off, about 5 or 6 years ago -- approximately 6 months at one time without chickens.

Member Molle asks if they are seeking permission for just the chickens, rooster and maybe some ducks or do you plan on expanding on that.

Mrs. May states she would like to continue animal husbandry, possibly adding a goat or two. The purpose of the goats would be milk, cheese. Mrs. May continues with details on the noise volume of chickens and goats.

Chairman Miles asks if they have any intention of selling any of the chickens or eggs or are they for your personal consumption and use.

Mr. May states that they would be for personal use. No immediate plans for resale.

Member Molle asks if they are aware when the ordinance changed.

Mr. May states no, he was unaware that the chickens were an issue until we were notified. We assumed we predated the ordinance prohibiting animal husbandry since everyone in Fallsington traditionally had chickens.

Mrs. Mays states that there are two conflicting ordinances -- one is the zoning ordinance prohibiting animal husbandry and then you have your zoning laws for the Historic District which says that animal husbandry is okay.

Mr. Bennett clarifies that the earliest zoning book I found was 1955 which did not address any type of animals in any kind of residential district. However, animals were permitted in the farming and mining districts. Our solicitor advised since they were permitted there and they are not specifically permitted in a residential district, the interpretation is that they are not permitted in a residential district. The next book I found was 1976 which stated the same thing which says you cannot have animals in a residential district.

Mr. May says but in the Historic District it can be permitted for animal husbandry.

Mr. Bennett states that in the Historic District it says you go to NCR (Neighborhood Conservation Residential) to make determinations on what is permitted. So, under NCR it is not permitted.

Public Comments

Lisa Bellet Collins, 2 Headley Place, states her property abuts the chicken coop and she has no problems with the chickens.

Gerry Anzalone, 42 Old Locust Lane, states she lives across the street from the Mays and expresses her support for the chickens (actually takes care of them when the Mays go away).

James Denay, lives in Levittown, states he has chickens and expresses his support of the chickens.

Lisa Rogers, lives in Lower Southampton Township, between Street Road, Bustleton and the Turnpike, speaks about the noise of the animals (none) and expresses her support of the Mays' petition.

Jim Taylor is with his parents and expresses his support of the Mays having chickens.

Liza Martin, 100 Yardley Avenue, would like to get chickens herself in the spring and expresses her support of the Mays' petition.

Robert Warrinson states his support of the chickens because of the responsibility it teaches the children.

Eve Lansley, from Fallsington, states her family has been in Fallsington a long time and remembers chickens and other animals and indicates her support for the Mays' petition. She also states that the zoning for the Historic District should be changed to allow chickens.

Mary Stercula, lives in Fairless Hills, states that we had chicken farms years ago, they are good for getting rid of ticks and mosquitos and expresses her support of the Mays' petition. She states this Board should allow chickens not just in Fallsington, but throughout the Township.

Chairman Miles clarifies that the Zoning Hearing Board cannot change the zoning ordinance regarding chickens. The only board that can change a zoning ordinance is the Board of Supervisors.

James Carr states that he enjoys the ducks and chickens running around and expresses his support of the Mays' petition.

No more public comment.

Leslie May gives a closing statement, detailing the history of Fallsington, and the fact that the County has deemed the property as a homestead /farmstead for tax relief purposes.

Chairman Miles asks a few questions regarding the maintenance and quantity of chickens.

Member Henderson makes a motion that the application of William May for a use variance from Section 209-19.E(1) of the Falls Township Zoning Ordinance to only allow husbandry of chickens, not to exceed 24, to continue at the property located at 41 Old Locust Street, Fallsington, PA 19054, as depicted on the plans and in accordance with testimony presented to the Zoning Hearing Board, with the condition that any rooster be culled immediately.

Member Molle seconds the motion.

All in favor 4-1, Brooks dissenting. Motion carries.

Hearing adjourned 8:45 p.m.