

**FALLS TOWNSHIP  
ZONING HEARING BOARD  
SEPTEMBER 9, 2014**

Meeting commenced: 7:00 p.m.

Meeting adjourned: 11:00 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

---

**Petition #1: Gabriel Tobar, 11 Bypass Lane, Levittown, PA 19054; TMP #13-027-016; Zoned NCR. Use variance to permit small landscaping business and to park trucks and equipment. Section 209-5.**

Atty. Sander marks ZHB Exhibits 1 – 6.

Gabriel Tobar presents the application. He has been there for 12 years and has no complaints with his neighbors. He used to work for a large landscaper and about a year and half ago began his own landscaping business. When he received the notice that he needed a variance to operate at his address, he started looking for another location. He hopes to gain permission to operate at this location. He shows pictures to the ZHB.

Atty. Sander marks Exhibit A-1.

Member Brooks asks how many lawns are under contract at the moment.

Mr. Tobar states that they have 75 customers.

Member Powers asks if Mr. Tobar would consider storing his trucks elsewhere and perhaps building a garage to store his supplies to make it less of an impact in a residential neighborhood.

Mr. Tobar states he can try, but that the other contractors in his neighborhood who park their trucks should also be made to comply.

Member Lawson asks if any of the trucks he uses are for personal use – like the F350 truck?

Mr. Tobar states that both trucks he uses for the business.

Member Molle asks what are the hours of operation – when do you start, when do you end, are you working weekends as well?

Mr. Tobar states that at the beginning of the season they work every day. In the summer they slow down to just weekdays. The work trucks are new; his Toyota Corolla makes more noise. During the week, we start when the sun comes up, on weekends usually 8:00 or 8:30 a.m.

**Public Comment**

David Foster and Julianne Williamson, 235 North Park Drive, Levittown, PA (an abutting property owner)

Mr. Foster states that their big issue deals with the noise as well as property values as well as chemicals and storage of pesticides and fertilizers. They try hard to be quiet in the morning, but when you have to fire up lawn tractors to load them up on the trailers to take them out at 6:00 a.m, it tends to upset people who are

sleeping, the dogs, etc. Maintenance on equipment (sharpening blades, using air guns, etc.) is also performed in a shed that is adjacent to our property, approximately 2 feet from our property and it's noisy.

They are great neighbors, and we wish them the best, but it doesn't seem appropriate to have a business of this type in the area.

Our main concerns are the noise, the storage of materials -- we are not sure what is there.

Ms. Williamson states that regarding their trucks and trailers -- they are in Birch Valley and we are in North Park, so the parking of the trucks is not an issue. For us, it's the noise -- the lawn tractors, the maintenance of equipment, etc.

Member Molle asks if there is any kind of buffer between Mr. Tobar's shed and the Foster property.

Mr. Foster states that there are trees and there's a 6' privacy fence, but it doesn't help with the noise.

No additional public comment.

Mr. Tobar responds that he has a mowing trailer set up which is connected to the truck where he can just start the truck and go. He doesn't load the mowers in the morning because he didn't want to make problems. The maintenance -- he can do that on the side. We can do full maintenance from the truck. We can fix the issue of the noise.

Atty. Sander clarifies that Mr. Tobar does not start any lawn mowers in the morning.

Mr. Tobar says that's correct. They are already on the trailer. It might happen occasionally, but not regularly. I have two trailers, one for the mowing and the other trailer is set up for lawn care. Both are enclosed and ready to go when I need them.

Atty. Sander points out that in his letter of intent in May, he said he had two open trailers and one enclosed trailer.

Mr. Tobar states that was true at the time, but in July, he received a new trailer that was ordered in the spring.

Atty. Sanders asks if you have two trucks, one open trailer, two enclosed trailers.

Mr. Tobar states yes, but he doesn't use them everyday.

Discussion occurs about the storing of gasoline and other issues.

Member Powers states that in her opinion, the applicant has created the hardship himself, that it is a residential neighborhood and that the applicant might consider looking for another location to store and maintain his equipment.

Mr. Tobar states that he understands, but his concern is that his equipment might not be there the next day. He is not asking for five years -- perhaps one more season.

Member Lawson asks how much fertilizer and pesticides Mr. Tobar keeps on the property.

Mr. Tobar states that he is a certified applicator for 12 years. He buys what he needs. He has approximately 4-5 gallons at one time.

Mr. Foster states that it isn't every morning regarding starting of the lawn motors.

Member Molle asks Mr. Foster and Ms. Williamson if they would have any objection to Mr. Tobar loading his equipment the night before and not doing any maintenance at the property.

Mr. Foster states the noise is their issue.

Member Molle states that if he was going to do the maintenance offsite and if he is to start no equipment up at his house would that be an acceptable resolution?

Mr. Foster states yes, his only issue is the noise – the parking affects other neighbors.

Hearing closes.

Member Powers makes a motion to DENY the application of Gabriel Tobar for variance from Section 209-20(C)(1) of the Falls Township Zoning Ordinance.

Member Brooks seconds the motion.

**All in favor 4-1 – DENIED (Member Molle dissenting)**

---

**Petition #2: Michele Crouse, 57 Briarroot Lane, Levittown, PA 19054; TMP #13-022-137; Zoned NCR. Dimensional variances for side and rear yard setbacks, minimum distance between buildings and maximum allowable impervious. Section 209-20 and Table 1.**

Atty. Sander marks ZHB Exhibits 1 – 4.

Michele Crouse presents the application. The property belonged to my parents who left the property to me. I am making renovations to it and plan on living there. The garage will be used for storage.

No public comment.

Member Brooks makes a motion that the application of Michele Crouse of the stated sections of the Falls Township Zoning Hearing Board be GRANTED to allow the erection of the detached garage at 57 Briarroot Lane be located no less than 10' from the existing house where 15' is required, to allow the garage to encroach no more than 7" into the required 3' side yard setback, to allow the garage to encroach no more than 2-1/2" into the required 3' rear yard setback, to allow no more than 2,986.124 square feet of the impervious coverage where 2,800 sq. ft of impervious coverage is permitted, all in accordance with the plans and supporting documents and the testimony at the Zoning Hearing Board.

Member Lawson seconds the motion.

**All in favor 5-0 --APPROVED**

---

**Petition #3: Daniel Coulter, 252 Liberty Drive, Langhorne, PA 19047; TMP #13-001-014; Zoned: HR-TH. Dimensional variance to construct a deck which encroaches into the rear yard setback. Section 209-16.1 and Table 2A.**

Atty. Sander marks ZHB Exhibits 1 – 5 and later marks Exhibits A1 and A2.

Daniel Coulter presents the application. The homeowner wants to take down the existing original deck and put up a 12' x 15' deck to enjoy for their retirement.

Member Lawson asks if the homeowner's association has signed off on this deck.

Mr. Bennett states that he asks for documentation before approving the permit.

Mr. Pattershall produces the documentation as well as pictures of his neighbors' decks.

No other Board questions.

No public comment.

Member Powers makes a motion to APPROVE the application of Daniel Coulter for variances from Section 209-16.1 and Table 2A of the Falls Township Zoning Ordinances to allow a 15' x 15' (225 sq. ft). wooden deck to be erected to the rear of the existing house at 252 Liberty Drive, Langhorne, PA 19047, such that the deck may encroach no more than 8' into the required 25' rear yard setback in accordance with the plan, supporting documents and testimony at the Zoning hearing.

Member Brooks seconds the motion.

**All in favor 5-0 –APPROVED**

---

**Petition #4: Extra Space Morrisville, LP, 915 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-028-022-004; Zoned HC. Dimensional variances for maximum impervious coverage, maximum building coverage and side yard setbacks. Section 209-23 (209 Attachment 7 – Table 4).**

Atty. Sander states that he has received correspondence dated September 9, 2014, from Thomas R. Hecker, Esquire, advising that he wishes to have this matter continued until the Board's October 14, 2014 meeting as there is an amendment required to his prayer for relief that will require readvertising. Atty. Sander marks letter as ZHB Exhibit 1.

Atty. Sander frames a motion to CONTINUE this application until Tuesday, October 14, 2014, at 7:00 p.m. at the Falls Township building.

Member Powers makes the motion to continue this application.

Member Brooks seconds the motion.

**All in favor 5-0 – CONTINUED UNTIL OCTOBER 14, 2014**

---

**Petition #5: Brad Warner (Fairless Credit Union), 8525 New Falls Road, Levittown, PA 19054; TMP #13-018-001-002; Zoned: NCR. Seeking variances for front yard setbacks, impervious coverage, buffer, parking improvements. pylon sign, right of way and building height for a proposed commercial use to construct a two-story building with two drive-up lanes. Relief is requested from the following sections of the Falls Township Zoning Ordinance: 209-22(E), Table 4, 209-38.1(F)(2), 209-45 and 209-22(D).**

Atty. Sanders marks ZHB Exhibit 1 – 7.

Thomas Profy, IV, Esquire, presents proof of quarter mile neighbor notification (Exhibit A-1).

Atty. Profy presents the application. Fairless Credit Union's corporate headquarters is currently located at 1900 S. Penna. Avenue in Morrisville, PA. The credit union is seeking to relocate its corporate headquarters onto New Falls Road, and this will be the future site of Fairless Credit Union's corporate offices. It is their intention to build a 2-story, less than 5,600 sq. ft. facility with two drive-up lanes with a drive-thru ATM, secure 24 hour ATM area for member deposits, safe deposit boxes, etc. Fairless Credit Union currently has 4,000 plus members, and it anticipates that the new facility will further its business objective of remaining in Falls Township and providing quality credit to its members.

Vincent Fiorvanti, P.E., gets sworn in and testifies that he is familiar with the project and has appeared before the Planning Commission on the project. The Planning Commission recommended that the building be moved forward closer to New Falls Road in order to provide adequate buffer to the residential neighbors in the rear of the building. The commissioners also requested that the sign be relocated. The parcel has a unique shape, and because of that and other issues, it is not possible for this property to be developed in strict conformity to the provisions of the existing zoning ordinances. The hardship was not created by the applicant and/or owner and, if granted, would not alter the essential character of the neighborhood or the district.

Member Powers asks the height of the building.

Mr. Fiorvanti responds that it will be 32' which will match the building across the street. By having it 32' it will hide the roof top HVAC units and look nicer.

Mr. Lawson asks if the inlet will be enough to contain the stormwater from running out onto New Falls Road.

Mr. Fiorvanti says that it will and was addressed at the Planning Commission meeting.

Discussion occurs about lighting, security and whether the property is partially in Bristol Township.

No further Board comment.

No public comment.

Atty. Sander frames a motion to APPROVE the application of Brad Warner (Fairless Credit Union) for variances from the following sections of the Falls Township Zoning Ordinance to allow the construction of a 2-story, less than 5,600 sq. ft. credit union building at 8525 New Falls Road, Fairless Hills, PA 19030, as depicted on the plan, supporting documentation and testimony presented to the Zoning Hearing Board: (1) Sec. 209-22.E and Table 4 to allow a front yard of no less than 49.45 feet, where 70 feet is required; (2) Sec. 209-22.E and Table 4 to allow no more than 75% impervious coverage where a maximum of 70% impervious coverage is permitted; (3) Sec. 209-38.1.F(2) to allow no less than a 15' minimum width landscape buffer against all other uses or zoning districts where a 20' minimum width buffer is required; (4) Sec. 209-22.F(2) to allow parking within the first 20 feet from the front lot line; (5) Sec. 209-45.I(2)(C) (2)(a) to allow a pylon sign to be located no less than 1 foot from the right of way line where 20' is required; and (6) Sec. 209-22.D to allow a building height no greater than 32' where 25' is required.

This approval is granted subject to the following conditions: (1) prior to any of the above stated relief being effective, the property must be unappealably re-zoned to NC (Neighborhood Commercial) by the Board of Supervisors of Falls Township; and (2) prior to any of the above stated relief being effective the applicant shall obtain unappealable land development approval for the proposed credit union from the Board of Supervisors of Falls Township.

Applicant accepts the conditions.

Member Powers makes motion to approve.

Member Brooks seconds the motion.

**All in favor 5-0 – APPROVED WITH STIPULATIONS TO REZONE TO NC AND GO THROUGH LAND DEVELOPMENT PROCESS**

**Petition #6: Buckingham Retail Properties, LLC, West Trenton Avenue and Pine Grove Road (Rte. 13), Morrisville, PA 19067; TMP #13-028-028; Zoned: HC. Seeking variances for front yard setbacks, parking setbacks, minimum distances between service stations, full service pump requirements, and signs, and a special exception for maximum freestanding sign area, for a proposed commercial use to include a Wawa convenience store with gasoline pumps, a Rite Aid Pharmacy, and a convenience restaurant. Relief is requested from the following sections of the Falls Township Zoning Ordinance: 209-23.G, 209-23.H.(1), 209-23.H.(2), 209-34.E., 209-50.F.(1)(a), 209-50.F.(1)(g)[9], 209-45.E.(7)(b)[3], 209-45.I.(2)(d)[2][a], 209-45.I.(2)(d)[2][d][i][A], 209-45.I.(2)(d)[2][d][v], 209-45.I.(2)(d)[2][d][vi], and Table 4.**

Atty. Sanders marks ZHB Exhibits 1 – 7 and Exhibit A1 (proof of neighbor notification).

Atty. Sanders inquires if anyone is seeking **party status**.

**Darrell M. Zaslow, Esquire**, One Oxford Valley, #312, Langhorne, PA 19047, **seeks party status on behalf of Village Mall, Inc.** at 833 W. Trenton Avenue in Falls Township. They are an adjacent property owner, just down the road. They are concerned about the uses of the property, the traffic from the property and methodology of the design of the property, all of which can adversely affect the neighborhood and impact upon the business interests of my clients who are in that same area. *ZHB grants party status.*

Thomas Hecker, Esquire, represents the applicant and objects to party status of Village Mall stating that it is a competitive interest only because Village Mall has a Rite Aid pharmacy within its property.

**Denis W. Lanctot, Esquire**, Jackson, Cook, Caricappa and Scott, 313 Oxford Valley Rd, Fairless Hills, PA **seeks party status on behalf of G.K. Automotive, Inc. and J.R. Sons, LLC, owners and operators of the Plaza Shell** at 907 W. Trenton Avenue in Morrisville Borough. They are located within 600 feet of the applicant. Falls Township Zoning Ordinance 209-50.F(1)(a) indicates that automobile service stations (conditional use) shall have a minimum of 1,500 feet between service stations, which distance shall be measured from the nearest property lines. Applicant also believes there are traffic and some safety issues and impact on other businesses. *ZHB grants party status.*

Atty. Hecker objects to party status of Plaza Shell as this is clearly a case where the motivation is competition and falls within the case law that says this does not qualify for standing and that competition is not one of the interests that is protected under the municipalities planning code.

**Anthony D'Amico**, 555 Stevens Road, Morrisville, PA19067, **seeks party status on behalf of himself and other neighbors** because his property is directly across the street from the property and his concerns deal with the safety, lighting, traffic, volume of automobile noise, 24 hour service, etc. *ZHB grants party status.*

**Joel R. Rosenberg, Esquire**, Stark & Stark, 401 Rte. 73 North, Ste. 130, Marlton, NJ 08053 **seeks party status on behalf of Leon Rosenberg** who lives at 517 Stevens Road, Morrisville, PA 19067 because of the community impact, lighting, traffic, the same as other area residents. *ZHB grants party status.*

Atty. Hecker objects to party status of Leon Rosenberg based on the fact that the location of Stevens Road will not be impacted by the traffic.

Atty. Sander states that Village Mall, Plaza Shell, Anthony D'Amico, and Leon Rosenberg have party status to this application.

Atty. Hecker withdraws the portion of the application relating to the variances and special exception for the signage. We are proceeding on the dimensional relief that has been set forth as well as the issues relating to the distance to another service station and full service requirements. So, from eleven variance requests we are down to six variance requests.

Atty. Hecker has two witnesses – Adam Benosky, an engineer from Bohler Engineering and Mike Rodell, a WAWA representative.

**Mr. Benosky** gets sworn in. He presents an aerial overlay of the property (Ex. A2) which indicates an odd shaped lot with two frontages – West Trenton Avenue and Pine Grove Rd. He also presents a proposed site plan (Ex. A3) showing the WAWA convenience store, the gasoline pumps, the Rite Aid Pharmacy as well as the convenience restaurant. The site plan also shows access from Rte. 13. Closest to the intersection of W. Trenton Ave, we are proposing a right-in, allowing people to exit on Pine Grove Road into the site. We are also providing a right turn lane and a proposed signalized access for the down road which would come into the site between the Rite Aid building and proposed restaurant. Internal circulation is handled from the signalized intersection and around the back of the Rite Aid store and to the existing access on W. Trenton Avenue.

The existing building (formerly Acme) is 57,200 sq. ft. Our total combined square footage for the three uses is 30,904 sq. ft – an 8% reduction in sq. footage for building coverage. We are also eliminating quite a bit of parking. By reducing parking and building coverage we are significantly reducing the impervious coverage. We are going from approximately 81, 465 sq. ft to a proposed 63,543 sq. ft which is a 22% reduction in impervious coverage. There are currently 325 parking spaces, and we are reducing that down to 139 – a 57% reduction.

Discussion continues with details on islands, buffers, landscaping.

Atty. Hecker asks if by eliminating parking, it allows for more green areas within the property which allows for planting of trees and shrubs which currently doesn't exist either internally or around the perimeter of the site.

Mr. Benosky answers yes.

Atty. Hecker asks with regard to the additional buffering, what is the impact of this redevelopment on your ability to manage stormwater.

Mr. Benosky states we have almost a half acre reduction in impervious which will help the existing basin. We are also looking at adding another basin and are implementing infiltration testing to see the best placement. The commitment of the developer is to better the stormwater system.

Atty. Hecker states that this project still needs to go for land development after zoning.

Mr. Benosky states that is correct, and also needs to submit to the Conservation District and the DEP with regard to stormwater.

Atty. Hecker states with regard to access we are proposing to use the existing access off of W. Trenton Rd and a right-in off of Pine Grove. Those new access points are under the jurisdiction of the Pa. Department of Transportation and we will address any of PennDOT's issues or concerns regarding access with them – correct?

Mr. Benosky agrees.

Atty. Hecker states a variance request from Sec. 209-2.G and Table 4 dealing with 100' minimum front yard setbacks along Rte. 13 required for Table 4 for gasoline canopy and restaurant use.

Mr. Benosky states that we are required for structures to have 100 feet from the curb line. Both the canopy over the gasoline pumps and the restaurant encroach into that setback. Regarding the restaurant we are asking for 61.4 ft. instead of 100 ft. Regarding the WAWA canopy we are asking for 62 ft. instead of 100 ft.

Both are within the existing paved area of the property. To bring both into the setback compliance of 100 ft. is difficult because of the odd shape of the property and the 45 degree angle from W. Trenton Rd to Rte. 13.

Atty. Hecker asks if the canopy or the proposed restaurant have any adverse impact on the properties across the street.

Mr. Benosky states in his opinion no because the properties across the street are lower than the road.

Atty. Hecker asks what the size of the property is.

Mr. Benosky states it is 8.76 acres.

Atty. Hecker asks Mr. Benosky if he had looked at Sec. 209-23.H(1) and (2) which states that any lot may contain more than one structure, provided that each principal structure is located in a manner which will allow the possibility of subdividing. Mr. Benosky said that he did and it raised the issue of the 10 ft. parking setback. He stated that the proposed location is the best possible location and gave specifics of the dumpster being hidden from view when looking at the property from W. Trenton Ave.

Atty. Hecker asks about the variance request for Sec. 209-50.F(1)(a) regarding the minimum distance of 1,500 feet between service stations, measured from the nearest property lines – Shell station approximately 600 feet away.

Atty. Hecker asks Mr. Benosky to read the Falls Township ordinance definition of service station into the record and introduces Morrisville Borough's zoning ordinance Sec. 406.E(3) with definition of a service station (Ex. A5). His assertion is the Falls Township ordinance definition of service station includes "maintenance and minor repairs" which WAWA does not engage in. Also, Morrisville Borough's zoning ordinance does not contain the same definition.

Atty. Zaslow begins and finishes cross-examination of Mr. Benosky (see transcript for questioning).

**Mr. D'Amico** begins cross-examination of Mr. Benosky. His questions dealt with the fact that his house is 180 feet from the dumpster location and could the dumpster be located in a different location. His other concern was the gas pumps and whether they be relocated.

Mr. Benosky indicated that no matter where the pumps are located, there will be some visibility from Mr. D'Amico's property.

Atty. Sander recommended that Mr. D'Amico get together with his neighbors in order to compile a list of questions for the engineer and finish his cross-examination at the next hearing.

Member Powers makes a motion to continue the hearing.

Member Molle seconds the motion.

**All in favor 5-0 – PETITION IS CONTINUED until October 14, 2014 Zoning Hearing Board session.**

---

**Hearing Adjourned 11:00 p.m.**