

**FALLS TOWNSHIP
ZONING HEARING BOARD
FEBRUARY 9, 2021**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 9:35 p.m.

Members present: Alfred Brooks, William Kiernan, Daniel Miles, Doug Molle

Members absent: Scott D’Oria

Also present: Matthew Takita, AIA, MCP, Township Manager/Zoning Officer; Ed Neubauer, Code Enforcement Officer; Keith Bidlingmaier, ZHB Solicitor; Karen Browndorf, Court Stenographer

Chairman Miles makes an announcement there are only four Board members in attendance so if a vote on any application is a tie vote, it will be deemed as denied. If any applicants wish to be heard before a full Board, they may request an extension until the March hearing.

Petition #1: Pratik Patel, 305 Stanwood Road, Fairless Hills, PA 19030; TMP #13-019-047; Zoned: NCR. Requesting dimensional variances to erect a fence in the secondary front yard and a shed which does not meet the front yard setback. Section 209-37.C(1) and 209-34.E.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 9. Witness sworn in: Pratik Patel

Mr. Patel presents the application and states he would like to install a 6 ft. high fence but only 4 ft. high is permitted. The shed meets the rear yard setback and minimum distance from the house requirements, but it does not meet the 25 ft. front yard requirement.

Discussion occurs about the sight triangle and the need for the fence to possibly be moved back a bit. Applicant was agreeable to this suggestion.

No public comment.

Member Brooks makes a motion the application of Pratik Patel requesting dimensional variances from Sections 209-37.C(1) and 209-34.E of the Falls Township Zoning Ordinance be GRANTED to erect a fence in the secondary front yard (the fence must be out of the sight triangle as per the Township requirements) and the shed which does not meet the front yard setback at the property located at 305 Stanwood Road, 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 #2: Stacey Vares and Bryan Miller, 54 Peartree Lane, Levittown, PA 19054; TMP #13-041-054; Zoned: NCR. Requesting dimensional variances for a shed which encroaches into the rear yard setback and for the shed and hot tub which is over the allowable impervious surface coverage. Section 209-20.F, Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 –9. Witnesses sworn in: Stacey Vares, Bryan Miller

Stacey Vares presents the application and states they purchased the house with the shed and hot tub which were installed by the previous owners. The Township required permits and those permits were denied for zoning.

Member Molle asks if there is a setback requirement for hot tubs.

Mr. Takita responds there is a 10 ft. requirement for pools; however, hot tubs and spas are exempt.

Member Kiernan asks about water runoff because you are over allowable impervious surface coverage.

Mr. Miller states when it rains, the water runs down towards our house. It is self-contained on our property.

No public comment.

Member Brooks makes a motion the application of Stacey Vares and Bryan Miller requesting dimensional variances from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to allow a shed which encroaches into the rear yard setback and to permit the shed and hot tub to remain which is over the allowable impervious surface coverage at the property located at 54 Peartree 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: Jacqueline K. Passarelli, 224 Andover Road, Fairless Hills, PA 19030; TMP #13-004-230; Zoned: NCR. Requesting a dimensional variance to extend an existing fence further into the secondary front yard. Section 209-37.C.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7. Witness sworn in: Jacqueline Passarelli

Jacqueline Passarelli presents the application and states she obtained a variance in 2010 for the fence placing it 11 ft. from the sidewalk. She now wants to extend the fence out 34 inches from the sidewalk.

Board questions on the fence being located out of the sight triangle (Mr. Neubauer confirms it is).

No public comment.

Member Molle makes a motion the application of Jacqueline Passarelli requesting a dimensional variance from Section 209-37.C of the Falls Township Zoning Ordinances be GRANTED to extend an existing fence further into the secondary front yard at the property located 224 Andover Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Brooks seconds the motion.

All in favor 4-0. Motion carries.

Petition #4: Falls Township Fire Co. No. 1, 310 Yardley Avenue, Fallsington, PA 19054; TMP #13-032-081; Zoned: IN. Requesting a use variance to allow for the storage of merchandise and packing materials, packaging of orders and office space for a business. Section 209-20.1.B.

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

Witnesses sworn in: David Shanberg, Jesse Sommer, Jim Haas, Charles Calvert

David Shanberg presents the application and states the Fire Company is looking for revenue to better serve the residents of Falls Township with updated equipment. We no longer have the Ladies' Auxiliary to raise funds, and no longer use the banquet hall. We believe we have found an adequate partner with Elangrini, an online business of selling antiques with minimal employees and no customers coming into the property. This is a dual phased approach. This is the first phase of our property re-allocation. We have a half-acre lot in the back which is fenced which we would like to utilize with a tenant – but that is for another time. Today, we want to proceed and get the use variance for this prospective tenant.

Board questions center on adding an additional shed (yes, somewhere in the future), completely on-line business (yes), all business conducted inside the building (yes), and customer pickup (no, using outside couriers like Fed Ex and UPS; applicant will take packages to them mostly).

Amy Ransley, 290 Yardley Ave., is sworn in and requests Party Status. The Board grants Party Status. Atty. Bidlingmaier, in response to a question from David Shanberg, explains Party Status.

Ms. Ransley questions why she was never notified (not an abutting property owner). Atty. Bidlingmaier replies notification is also considered by the proof of publication in the Bucks County Courier Times and by the property being posted.

Ms. Ransley asks questions of the business owner, Jesse Sommer.

No public comment.

Closing statement by David Shanberg and Ms. Ransley.

Member Brooks makes a motion the application of Falls Township Fire Co. 1 requesting a use variance from Section 209-20.1.B of the Falls Township Zoning Ordinances be GRANTED to allow for the storage of merchandise and packing materials, packing of orders and office space for a business at the property located at 310 Yardley Avenue, Fallsington, 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 #5: Cima Network, 547 West Trenton Avenue, Morrisville, PA 19067; TMP #13-028-028; Zoned: HC. Requesting dimensional variances for façade signs for Rite Aid which exceed the 35 sq. ft. maximum. Section 209-45.Q(5)B.

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

Witness sworn in : Bill Lockett

Bill Lockett presents the application and states Cima is Rite Aid's national sign company. Rite Aid is rebranding, changing their business, and offering more of organic and holistic products. They are applying the rebranding to all their locations. It is usually a like for like sign replacement which means taking down the existing square footage and putting up new square footage. In this case, we are seeking a dimensional variance to have more than the 35 sq. ft. in total. We are reducing the number of signs at this location by 5 signs -- a reduction of 50 sq. ft. in total to bring it more into zoning conformance.

No Board questions.

No public comment.

Member Brooks makes a motion the application of Cima Network requesting a dimensional variance from Section 209-45.Q(5)(B) of the Falls Township Zoning Ordinance be GRANTED to allow for façade signs for Rite Aid which exceeds the 35 sq. ft. maximum at the property located at 547 W. Trenton 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.

Petition #6: Restoration Church, Inc., 401 Pinewood Drive, Levittown, PA 19054; TMP #13-041-218.001; Zoned: IN. Requesting the following variances: Section 209-20.1.C(5) - a use variance to permit a “coffee shop” amenity to be made available not only to Applicant’s congregants but also to the community at large; Section 209-20.1.E and Table 4 - dimensional variances to construct an addition to permit a 14 ft. 5 in. setback from Lakeside Drive, where a 100 ft. setback is required and to permit a 16 ft. 9 in. setback from Pinewood Drive where a 100 ft. setback is required.

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

Witnesses sworn in: Diana Peschen, Jim Somlen, Ross Manders, Mike Melynk, Todd Phillippi

Edward Murphy, Esquire, presents the application and states the site where the Restoration Church is unique with three frontages on Link, Pinewood and Lakeside Drives. The Church building is 6,700 sq. ft. and has parking on the lot and across the street. The Church would like to build a 4,700 sq. ft. addition which would have the ability to house the ministries which the church presently maintains and to provide a lobby and a coffee shop. The dimensional relief we seek are already existing non-conformity conditions. At Lakeside, there is an existing 34.5 ft. setback, and we are asking to reduce that setback by 20 ft. down to 14.5 ft. On Pinewood, there is an existing setback of 41 ft. setback, and we are asking to reduce that setback down to 15.9 ft. The other item of relief would not be required for the coffee shop but for the fact the Church would like to open the coffee shop to the entire community.

Pastor Manders testifies the Church is 8 years old. Prior to COVID we were seeing about 350 people on Sunday mornings over two services. We have grown and were discussing adding a third service. We were anticipating 600 people at Easter. We have no lobby – nowhere for people to gather. I never wanted the building to be used just once a week. Our Church is all about the community, loving our community, serving our community, being as generous as we possibly can to our community. My goal was, if there was ever an expansion, it would be for the community. If approved, we would use this space, not just for the Church ministry, but for the community to use as a workspace, a classroom, or a living room or a place to connect and build better and more intimate relationships with their friends, neighbors, family members.

Member Kiernan states he does not feel the use is appropriate for the neighborhood and questions the zoning on the property.

Member Brooks asks what hours of operation for the coffee shop.

Pastor Manders responds it has not been decided but most coffee shops close at the dinner hour.

Atty. Murphy says the addition will be the subject of the land development process so there are more reviews still to come.

No public comment.

Member Brooks makes a motion the application of Restoration Church requesting a use variance from Section 209-20.1.C(5) to permit a coffee shop amenity to be made available not only to the applicant's congregants but also to the community at large and dimensional variances from Section 209-20.1.E and Table 4 to construct an 14 ft. 5 in. setback from Lakeside Drive where a 100 ft. setback is required and to permit a 16 ft. 9 in. setback from Pinewood Drive where a 100 ft. setback is required from the Falls Township Zoning Ordinance be GRANTED at the property located at 401 Pinewood Drive, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Miles seconds the motion.

All in favor 4-0. Motion carries.

Petition #7: VCA, Inc., 183-B Bristol-Oxford Valley Road, Langhorne, PA 19047; TMP #13-004-004-004; Zoned: NC. Requesting the following variances: Section 209-45.H(1)(a)[1] - a use variance to install an off-premises sign; Section 209-45.H(3)(a) – a dimensional variance to permit sign height of 2.6 ft. where 7 ft. is minimum; and Section 209-45.H(4)(b) – to permit sign location closer than 25 ft. from property line.

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

Witnesses sworn in: Marilyn Katz, Wain Fischler, Eric Hittleman

Michael Meginnis, Esquire, presents the application and states the property is set back a significant distance from Bristol-Oxford Valley Road within the business complex. In addition to the setback, it is obscured by a significant amount of vegetation in the building occupied by Livengrin. There is a strip of land where the sign will be placed, and after months of research, discovered the property owner is the same as the property owner for the VCA; however, it is a different parcel. The owner is Oxford Crossing Associates. Even though this is near the business complex for which the VCA leases its building, it is a separate parcel and therefore, signage advertising for the VCA would be considered off premises advertising. When we put together documentation to supply to the Township to secure the approvals for the free-standing sign, we noticed A Child's World had a pre-existing sign in a similar location. Through our investigation it appeared A Child's World did not secure the permits for the sign. We wanted to rectify the situation by applying in conjunction with A Child's World so there would be one free-standing sign advertising both businesses. The sign would not be an electric or LED sign.

Mr. Hittleman affirms Atty. Meginnis' statement.

No Board questions.

No public comment.

Member Molle makes a motion the application of VCA, Inc., located at 183-B Bristol Oxford Valley Road, Langhorne, PA 19047 for a use variance from Section 209-45.H(1)(a)[1] to permit the installation of an on off-premises sign and dimensional variances from Section 209-45.H(3)(a) and Section 209-45.H(4)(b) to permit a sign height of 2.6 ft. where 7 ft. is minimum and to permit a sign location closer than 25 ft. from the property line from the Falls Township Zoning Ordinance be GRANTED as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Brooks seconds the motion.

All in favor 4-0. Motion carries.

Petition #8: Gloria Hunter, 300 W. Trenton Avenue, Morrisville, PA 19067; TMP #13-035-027; Zoned: NC. Requesting a use variance to permit a Senior Personal Care Home in existing 2-story structure and proposed 2-story structure. Section 209-22.B.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7 and Applicant Exhibit A-1 (proof of neighbor notification)

Witnesses sworn in: Gloria Hunter, Mark Hunter

Shawn Ward, Esquire, presents the application and states the property is under an agreement of sale for Gloria Hunter's purchase of the property. She currently operates her existing business from this location which is Infinity Healthcare Services. Infinity Healthcare currently provides personal care, skilled care, certified nurse assistant or home health aids in their homes. In this application, they want to provide that service at this location for people who want to age in place and need some care but are not necessarily a candidate nor can afford assisted living convalescent homes. Their potential clientele do not meet the requirements for a group home. The senior personal care home would have single resident bedrooms, would have a common lounge area, a common kitchen, a common bathroom. No design to the second floor is evident yet. The existing configuration of the second floor is offices, which would be modified like the first floor. Under the zoning ordinances, a senior care facility is not defined, nor permitted anywhere in the Township. While we are not seeking a validity challenge to the ordinance, we are seeking a variance to permit this use. The closest use the Township provides for is an assisted living facility; they also have a convalescent home use and group home use. All these uses are designed for people with permanent, temporary or periodic disabilities, infirm or ill persons, or mentally handicapped persons. There are also family care uses permitted.

Ms. Hunter affirms Atty. Ward's statement.

Member Kiernan asks if this is a medical facility (no).

Member Molle asks if this is state regulated and inspected by the state (yes).

No public comment.

Member Brooks makes a motion the application of Gloria Hunter requesting a use variance from Section 209-22.B of the Falls Township Zoning Ordinance be GRANTED to permit a senior personal care home in an existing two-story structure and a proposed two story structure at the property located at 300 W. Trenton Avenue, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries.

Petition #9: Tyburn Road Associates, 418 Tyburn Road, Fairless Hills, PA 19030; TMP #13-028-066 and #13-028-068; Zoned: PIP. Requesting the following dimensional variances for the construction of a new warehouse and building connection to the existing building: Section 209-28.F – to permit the maximum impervious surface area of 53% where 50% is permitted; Section 209-28.G(2) – to allow parking to be located within the first 30 ft. adjacent to any street line, where the proposed parking areas is proposed

6'8" from the legal right of way of Tyburn Road, and from the requirement that the 30 ft. area be planted and maintained in lawn area, ground cover or landscaped with evergreen shrubbery; Section 209-40 – lightings – all parking areas and walkways thereto and appurtenant passageway and driveways serving commercial, public instrumental office, industrial, apartment or other similar uses having common off-street parking and/or loading areas shall be illuminated adequately from ½ hour after sunset to ½ hour before sunrise; Section 209-42.C – from the lighting requirement of this section, where the illumination off-street parking is not proposed; Section 209-42.D and 209-42.H(22)(A) – from the surfacing and curbing requirements of these sections applicable to the proposed parking and driveway areas, where Applicant proposed to maintain a portion of the improved area as crushed stone, and does not propose curbing.

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

Witnesses sworn in: Kevin Wolf, Thomas Richey

Kellie McGowan, Esquire, presents the application and states the current use is an electrical contracting office use and warehouse with outside storage. The proposed use is to construct a new second building which will be connected to the current two-story building which will provide additional warehouse space for that contracting use. The property is irregular in shape and is currently non-conforming on multiple issues, including the fact it is under two acres in size. Currently, it is non-conforming about the rear yard. None of these non-conforming conditions are the subject of this proposal.

The proposal is for construction of a new 10' x 15' building connection which will attach to a proposed 5,000 sq. ft. warehouse. The applicant has owned the property since 2017; Mr. Richey has had an ownership interest in the property for 15 years. It has been used as an electric contracting business owned by Mr. Richey. The purpose of these improvements is to provide additional space for this user and to improve the property. There will be additional parking (will be compliant). There will be additional access to this property in the rear to the left of the existing building to access the new warehouse.

Atty. McGowan goes through the items of relief requested.

Tom Richey and Kevin Wolf affirm Atty. McGowan's statement.

Member Kiernan asks about parking and it being adequate for the addition (yes).

No public comment.

Member Molle makes a motion the application of Tyburn Road Associates requesting the following dimensional variances from the Falls Township Zoning Ordinance be GRANTED for the construction of a new warehouse and building connection to the existing building; Section 209-28.F – to permit the maximum impervious surface area of 53% where 50% is permitted; Section 209-28.G(2) – to allow parking to be located within the first 30 ft. adjacent to any street line, where the proposed parking areas is proposed 6'8" from the legal right of way of Tyburn Road, and from the requirement that the 30 ft. area be planted and maintained in lawn area, ground cover or landscaped with evergreen shrubbery; Section 209-40 – lightings – all parking areas and walkways thereto and appurtenant passageway and driveways serving commercial, public instrumental office, industrial, apartment or other similar uses having common off-street parking and/or loading areas shall be illuminated adequately from ½ hour after sunset to ½ hour before sunrise; Section 209-42.C – from the lighting requirement of this section, where the illumination off-street parking is not proposed; Section 209-42.D and 209-42.H(22)(A) – from the surfacing and curbing requirements of these sections applicable to the proposed parking and driveway areas, where Applicant proposed to maintain a portion of the improved area as crushed stone, and does

not propose curbing, at the property located at 418 Tyburn Road, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries.

Hearing adjourned 9:35 p.m.