

**FALLS TOWNSHIP
ZONING HEARING BOARD
AUGUST 8, 2023**

Hearing commenced: 7:05 p.m.

Hearing adjourned: 8:55 p.m.

Members present: Robert McTague, William Kiernan, Nastasha Raisley, Lolain Striluk

Members absent: Douglas Molle, Aaron Mackey

Also present: Keith Bidlingmaier, ZHB Solicitor; Matthew Takita, Zoning Officer; Ed Neubauer, Code Enforcement; Karen Browndorf, Court Reporter

Lolain Striluk was the Acting Chairperson.

Atty. Bidlingmaier states a letter has been received for the attorney representing Night and Day Properties, LLC, (Petition #5), 99 Bristol-Oxford Valley Road, Langhorne, PA 19047, requesting a continuance until the September 12, 2023 hearing. Atty. Bidlingmaier marks the continuance letter as Exhibit A.

Member Mc Tague makes a motion to continue Petition #5 until the September 12, 2023 hearing.

Member Raisley seconds the motion.

All in favor 4-0. Motion carries. Petition #5 is continued until September 12, 2023.

Petition #1: Taylor and Suzy Cox, 18 Chamberlain Way, Fallsington, PA 19054; TMP #13-024-062; Zoned: NCR. Requesting a dimensional variance to allow a fence in the secondary front yard. Section 209-37.C(2).

Taylor and Suzy Cox get sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6.

Suzy Cox presents the application and states they recently moved in a newly constructed home located on a corner lot. We would like to build a 6 foot privacy fence along the secondary front yard as well as continuing around the back.

Member Kiernan asks if the fence is in the sight triangle.

Mr. Neubauer responds it is. The fence needs to be installed 9-1/2 ft. off the curblin in order to get out of the sight triangle. I met Mr. Cox at the property and explained it to him.

No further Board questions.

No public comment.

Member McTague makes a motion the application of Taylor and Suzy Cox requesting a dimensional variance from Section 209-37.C(2) of the Falls Township Zoning Ordinances be GRANTED to allow a fence in the secondary front yard at the property located at 18 Chamberlain Way, Fallsington, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board, conditioned upon the fence being installed out of the sight triangle.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries.

Petition #2: Michael Pone, 7 Vine Lane, Levittown, PA 19054; TMP #13-019-306; Zoned: NCR. Requesting a dimensional variance for a rear yard setback to construct a covered porch. Section 209-20.F and Table 1.

Michael Pone gets sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Michael Pone presents the application and states we are trying to construct a covered porch in my back yard. My back yard is a pie-shape lot with sewer easements on both sides. It's a very small variance request – 2 ft. by 12 ft. That's what I am asking for tonight.

No Board questions.

No public comment.

Member McTague makes a motion the application of Michael Pone requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to allow a rear yard setback to construct a covered porch at the property located at 7 Vine Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Raisley seconds the motion.

All in favor 4-0. Motion carries.

Petition #3: Sardar Jaaf, 201 Valarie Road, Morrisville, PA 19067; TMP #13-033-118; Zoned: MHR. Requesting a dimensional variance for a side yard setback to construct an addition. Section 209-15.F and Table 1.

Sardar Jaaf and Rowayda Jaaf get sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Rowayda Jaaf presents the application and states in the kitchen there is a dining area, and my husband would like to make a room close to the dining area because I have a hardship with arthritis and sciatica and cannot use the stairs like I've been. The way the house is constructed it does not meet the 10 ft. setback requirement.

Member McTague asks if it's a bedroom. Are there any exits to the exterior like a deck in the rear?

Mrs. Jaaf says yes, it's a bedroom and there are no exterior exits or deck in the rear.

No further Board comment.

Public Comment

John Sirovetz, 19 Jennifer Lane, speaks in opposition to the application. Their property is directly behind the applicant's property. He presents an aerial photograph of the properties (marked as Exhibit S-1). There has been a flooding issue in the right rear area of my property; we believe the addition would make the flooding worse. The addition also creates a privacy issue for us.

Atty. Bidlingmaier explains party status and asks if Mr. Sirovetz is requesting party status.

Mr. Sirovetz says yes.

The Board takes a recess.

The Board agrees to accept party status for Mr. Sirovetz.

Member Kiernan questions about the flooding – this will cause more flooding?

Mr. Sirovetz says there is no topographical study. The addition may cause more flooding.

Acting Chairperson Striluk asks if Mr. Sirovetz knows in which direction the water flows when flooding occurs.

Mr. Sirovetz says he does not.

Mr. Jaaf says he has pipe which drains the water all the way down so water doesn't go into his back yard or his neighbor's yard.

Acting Chairperson Striluk asks if he installed a French drain.

Mr. Jaaf says yes. He explains how his property and Mr. Sirovetz's property slopes to the space in between their properties.

Acting Chairperson Striluk says so you are saying the water issue that Mr. Sirovetz is experiencing is actually coming from his house, running along the fence and not from your property.

Mr. Jaaf says correct, I have a pipe which directs the water away.

Mr. Takita says this application will require an earth disturbance permit which will be reviewed by the Township Engineer for drainage and stormwater management. A lot of the concerns being raised right now will be addressed through this permit process.

Member McTague asks if they are over the impervious surface coverage.

Mr. Takita says no they are not.

Mr. Sirovetz states he wants to re-emphasize he is not questioning the current structure. If the addition is constructed, where is the water going especially being 4-1/2 feet away from my rear property line.

Walt Lutinski, 205 Valarie Road, states when our development was built, our houses are on a hill. In order for the developer to run water away from our houses, they built a swale between our back yards. That is what Sam and John are talking about in terms of the water runoff. This swale runs through all of the back yards from Valarie and Jennifer that face each other back-to-back.

Mr. Jaaf says the addition will be added to the drainage pipe which runs all the way down far from Mr. Sirovetz's property.

No other public comment.

No further Board comment.

Member McTague makes a motion the application of Jardar Jaaf requesting a dimensional variance from Section 209-15.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to allow a side yard setback to construct an addition at the property located at 201 Valarie Road, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Raisley seconds the motion.

All in favor 4-0. Motion carries.

Petition #4: AVA Express LLC, Old Bristol Pike and Mill Creek Road, Morrisville, PA 19067; TMP #13-040-008; Zoned: LI. Requesting the following dimensional variances to construct a motor vehicle (truck) repair garage: Section 209-27.F – to permit a front yard setback to Old Bristol Pike of 10 ft. where 100 ft. setback is required; Section 209-42.B(1) – to permit no clustered planting along two corners of the lot lines, where the distance from the parking area to the lot/street line is less than 10 feet; and Section 209-42.H(17) – to permit 7 parking spaces where 62 parking spaces are required.

Shunkor Khimmat (Operations Manager for AVA Express) and Joon Pak, P.E. (engineer who prepared the plans) get sworn in.

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

Joseph Console, Esq. (Console Madison) presents the application and states this is a 12-acre lot which only has two acres of buildable or useable space because the majority of the property is in the AE Floodway Zone. Because of this hardship, the variances requested tonight are necessary. AVA Express is in the trucking business and their goal with this property is to create a building which is 78 x 79 sq. ft. for truck service, parking for 21 of their trucks and parking for 7 passenger vehicles. They purchased the property in August of 2022. The property will also include a water well underneath which will be part of the stormwater management plan.

Atty. Console describes the reasons for each of the three variances requested.

Acting Chairperson Striluk says the Board will hold any questions until after the public comment period.

Public Comment

Shara Begley, 9145 Mill Creek Road, across from the proposed parcel.

Atty. Bidlingmaier explains party status.

Ms. Begley asks for more details on party status. She states she will consider party status and let the Board know.

Ms. Begley speaks in opposition to the petition. Her property adjoins Martin's Creek, the Delaware Canal is above their property, we require flood insurance, and our property floods terribly in any storm. The new bridge over Martin's Creek has alleviated a lot of the flooding. My concern is flooding with all the impervious surface coverage on this parcel and the removal of a lot of trees. Part of this parcel is wetlands. Traffic is another

concern and the impact they might have on the newly constructed bridge. Another concern is their hours of operation and type of trucks (diesel).

Mrs. Begley showed a picture to the Board.

Edward Begley, 9145 Mill Creek Rd, and states his opposition to the petition. He asks if it is possible to show a video on my phone of my property on the screen.

After consultation with our IT person, we were not able to show a video.

Mr. Begley showed the video on his phone to the Board members. He states his property is surrounded 360 degrees by water when it floods. The new bridge alleviated a lot of the flooding, but not all of it. If they put a parking lot across the street, my house will be under water.

Michael Weik, 9010 First Street, states his opposition to the petition. The canal has wildlife in it (the canal is his neighbor) and expresses the same concerns at the Begleys. Also, there is another lot that was cleared of trees and a parking lot installed down the street – my fear is that combining the existing parking lot with this one will create more flooding issues. Noise of the trucks is also a concern.

Atty. Console says there will be a storm management plan required for development approved by Falls Township to develop this site as well as compliance with FEMA regulations for building in a floodway. He asks Mr. Khimmat to answer questions about AVA Express.

Mr. Khimmat states the hours of operation for the shop will be 9:00 a.m. to 5:00 p.m., there are 20 units, and they are diesel trucks, flatbeds, general freight (non-hazardous). Trucks will come in and out, but it can be any time of the day, including early morning hours. There will be three mechanics at the shop, servicing their trucks.

Member Raisley asks about the hours of operation (9-5).

Member Kiernan asks about the 100-year flood plain. It appears part of the building is within the flood plain. Is that correct?

Mr. Pak responds that everything is in the flood plain. He shows the inner line with the 100-year flood plain and shows the 500-year flood plain line. There is another blue line which is the floodway, and this is the line we cannot cross in any part of our development. We are allowed to build on the flood plain, but there are many design criteria and considerations to calculate to ensure sure we are not increasing the base flood elevation, that we are safeguarding the downstream properties, and that we are not going to make things worse. The only place, unfortunately, we can build on is in the flood plain.

Member Kiernan asks where will all the water go?

Mr. Pak says nothing has been designed yet, but the general concept is an underground basin which will handle the runoff from the extra impervious. All of this will be designed in accordance with the local ordinances, it will be checked by the Township engineer, by the Bucks County Conservation District, and by FEMA. There is a lot of checks and balances we would have to go through to make this work.

Acting Chairperson Striluk clarifies the hours of operation, type of business (parking of trucks / trailers and a repair facility), asks if they were aware of the flood plain issues. Her concern is with the oil and liquids dripping out of the trucks in the yard even though the work will be done inside the garage. Another concern is the trucks going in and out. Another concern is buying a property knowing you only had a small area to build in.

Member Kiernan asks if there will be loading and unloading of the trucks at the property.

Mr. Khimmat replies they may exchange trailers but not loading or unloading.

Mr. Begley insists on showing his entire phone video to the Board. He again expresses concern with flooding of his property.

Mrs. Begley again expresses concern about idling trucks at all hours of the night and the removal of the trees.

Mr. Weik expresses concern about the front yard setback of 10 ft. instead of 100 ft.

Mr. Pak explains they will have to investigate the PennDot owned property next to this parcel.

Board takes a recess.

Member McTague makes a motion the application of AVA Express be DENIED.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries. Petition is denied.

Hearing adjourned 8:55 p.m.