

**FALLS TOWNSHIP
ZONING HEARING BOARD
DECEMBER 8, 2015**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 7:45 p.m.

Members present: Brooks, Henderson, Miles, Molle, Powers

Members absent: None

Also present: Thomas Bennett, Zoning Officer/ CCEO; Ed Neubauer, Code Enforcement Officer; Alyson Fritzges, Esquire, ZHB Solicitor; Noah Marlier, Esquire (Rudolph and Clark), representing the Township; Karen Browndorf, Court Stenographer

Petition #5: Falls Industrial Park, LC, 221-B Lower Morrisville Road, Fallsington, PA 19054; TMP #13-032-084; Zoned PIP. Requesting a use variance to allow the parking of armored vehicles within a building in the PIP District. Section 209-28.

Chairman Miles states that the above applicant has sent a letter indicating their intention to be taken off the agenda for tonight.

Petition #1: Dennis Dewitt, 57 Pond Lane, Levittown, PA 19054; TMP #13-042-070; Zoned: NCR. Requesting dimensional variances to install an inground pool which encroaches into the side yard setback and the minimum distance from edge of water to building. Section 209-46.

Atty. Fritzges marks ZHB Exhibits 1 – 4.

Mr. Dewitt presents the application. He states that the house has a ten foot easement on the back of the property. The only place to reasonably place the pool is within 6.96 ft. of the building (where 10' is the allowable distance from the water to the building). The side setback is 5.9 ft. (where a 6' side setback is required). By placing the pool as indicated on the plan, it will not create public safety issues and it will increase the value of the home.

No Board comment. Mr. Bennett mentions on the plan the pool equipment does not show the side and rear yard setbacks and states that the pool equipment needs to have a 6 ft. side and rear yard setback.

No public comment.

Member Henderson makes a motion that the application of Dennis Dewitt for variances from Section 209-46(A) and 209-46(E) of the Falls Township Zoning Ordinance be GRANTED to allow the installation of an inground pool at 57 Pond Lane, Levittown, PA 19054, with a minimum side yard setback of 5 ft. 9 inches, and a minimum distance between the water's edge and a principal structure of 6 ft. 9 inches at the location depicted on the plan and in accordance with the testimony presented to the Zoning Hearing Board.

Member Brooks seconds the motion.

All in favor 5-0.

Petition #2: Cathleen McGarvey, 55 Tall Pine Lane, Levittown, PA 19054; TMP #13-023-136; Zoned: NCR. Requesting a dimensional variance to erect a shed which encroaches into the minimum distance between buildings. Section 209-20 and Table 1.

Atty. Fritzges marks ZHB Exhibits 1 – 4.

Ms. McGarvey presents the application. I have a very small yard which has a 10 ft. sewer easement in the backyard. I am looking to purchase another shed (10' x 16') to store the outside furniture. We already have a smaller shed (10' x 8') for the outside tools. Both sheds sit on the sewer easement and LBCJMA states that I must maintain 6' off the rear yard for both sheds. I'd like to move the smaller shed to the other side of the house, but in order to maintain the 6' rear yard setback required by LBCJMA, it encroaches by 9 inches into the minimum distance from the shed to the principal structure.

No Board comment.

No public comment.

Member Brooks makes a motion that the application of Patrick Rivera and Cathleen McGarvey for a variance from Section 209-20 and Table 1 of the Falls Township Zoning Ordinance be GRANTED to allow the minimum distance between buildings to be no less than 14 ft. in order for applicant to erect a shed which encroaches into the required minimum distance between buildings (15 ft.) at the property located at 55 Tall Pine Lane, Levittown, PA 19054, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

All in favor 5-0.

Petition #4: 115 Lincoln Highway, LLC, north side of Lincoln Highway (U.S. Rte. 1) east of intersection with Oxford Valley Road, Fairless Hills, PA 19030; TMP #13-004-608, #13-004-609, #13-004-612, #13-004-616 and #13-004-617 requests variances from the following sections of the Falls Township Zoning Ordinance: Section 209-23.G and 209, attachment 7, Table 4 to permit a 52' front yard setback for car wash building and a 10' front yard setback for the payment kiosks and canopy from the Edward Street Right-of-Way; Section 209-34.D and 209, Attachment 7, Table 4 to permit an accessory building/structure to be located 0' from the principal car wash building; Section 209-23.E, Section 209-23.H(3)(b) and Section 209-34.E to permit the vacuum area, parking, loading areas and other accessory uses, buildings and structures, signs, kiosks, dumpster, etc. associated with the car wash to be located in the front yard since the vacuum area component is accessory to the aforesaid car wash; Section 209-42.H(19) to permit vehicular entrance to the single tunnel car wash to be in accordance with the plan which would permit vehicles to enter from the "side" of the building rather than requiring all vehicular access to the car wash from the rear of the building; Section 209-42.I to permit loading areas to face Edward Street; Section 209-43.D to permit the lighting levels to exceed 1 footcandle at the property lines.

Atty. Fritzges marks ZHB Exhibits 1 – 4 and Exhibit Applicant 1 (proof of neighbor notification)

Edward Murphy, Esquire, presents the application. This plan had previously been submitted to the Zoning Hearing Board and received approval. Subsequent to that approval, we received a review letter from the Township Engineer that highlighted a number of other zoning issues that we did not address when we first made our application to this Board. What is in front of you tonight is essentially the same plan – with one exception which our engineer will be discussing tonight. In all other respects, the plan is identical in terms of the location of the buildings. The relief that is requested tonight is overlapping, but also very technical. It is the same plan, with the exception of a bypass lane in response to the Township Engineer's comments.

Mark Havers, P.E. (Pickering, Corts) gets sworn in. Mr. Havers states that in the rear of the property there are two paper streets. They are not open, but they are considered front yards. We are asking for variances from front yards from these paper streets. As well there are accessory structures within the front yard, being the kiosk for payment, so we also need relief for those accessory structures in those front yards on Edward Street (the paper street).

Atty. Murphy says that we have talked to the staff and the solicitor about vacating Edwards Street. I don't think anyone has an objection to doing that, but the question is the process and procedure to do that. I'm still waiting for the solicitor's office to inform us on how to do this. So rather than wait until that process is concluded (which may take some time), the staff and I agree that the quickest way to handle this issue would be to ask for relief as if those were real streets.

Mr. Havers continues that we sought and received relief previously to have the canopy in the front yard. The Township Engineer identified that as an accessory use and it is self-serving. The relief we are asking for is to allow the use of the vacuum area to be allowed in the front yard.

Mr. Havers states that another item mentioned is the entrance to the car wash. It is positioned exactly as it was previously. It was our thought that this was more in the rear, but the Township Engineer indicated that it could be considered a side yard, so we need relief to allow the car wash to come to the side, rather than from the rear.

Atty. Murphy states that are withdrawing the relief request for Section 209-43(D) regarding the footcandles. In all other respects, the plan is the same and the operation is the same. We have added a bypass lane which doesn't trigger any zoning issues. The bypass lane was installed at the Township Engineer's request to allow emergency vehicles access to the car wash. Once we receive all zoning variances, we will proceed to the Planning Commission.

No Board comments.

Public Comment

A question was about the canopy and front yard setback relief and whether it would be too close to the highway. It is explained that the request deals with the paper street (Edward Street) in the rear of the property.

Member Powers makes a motion that the application of 115 Lincoln Highway, LLC for variances from the following sections of the Falls Township Zoning Ordinances be GRANTED to allow the construction of a single car wash at the property located at the north side of Lincoln Highway (U.S. Route 1) east of the intersection with Oxford Valley Road, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board:

- 1) Section 209-23(G) and 209 Attachment 7, Table 4, to allow a 52 ft. front yard setback for the car wash building and a 10 ft. front yard setback for the payment kiosks and canopy from the Edward Street right-of-way (which is a paper street)
- 2) Section 209-34(D) and 209 Attachment 7, Table 4, to allow an accessory building / structure to be located 0 ft. from the principal car wash building;
- 3) Section 209-23(E), 209-23(H)(3)(b) and 209-34(E) to allow the vacuum area, parking, loading areas and other accessory uses, buildings and structures, signs, kiosks, dumpster, associated with the car wash to be located in the front yard;
- 4) Section 209-42(H)(19) to allow vehicular entrance to the single tunnel car wash from the side of the building rather than requiring all vehicular access from the rear of the building.

Member Molle seconds the motion.

All in favor 5-0.

Petition #3: U.S. Venture, Inc., 355 Newbold Road, Fairless Hills, PA 19030; TMP #13-028-061 and #13-028-060-001 for variances from the following sections of the Falls Township Zoning Ordinance: Parcel 13-028-060-001 (FM District) Section 209-26(B) to allow a CNG fueling station as a permitted use; Section 209-26 Table 5 to permit the fueling canopy to be located within 20.1 feet from the front yard and 46 feet from the east side yard; Section 209-26 Table 5 to allow greater than 80% maximum impervious surface (83% proposed); Section 209-34(C) to allow for an accessory structure to be placed in a front yard; Section 209-42(D) to eliminate curbs along the driveways; Section 209-42(B)(1) to allow existing vegetation to satisfy the requirements from this section which require dense plant material between off-street parking areas and property lines and street lines; Section 209-42(D) to remove the requirement that curbing be placed in parking and loading areas; Section 209-42(H)(15) to eliminate the requirement of providing employee parking for the fueling station; Section 209-42(I) to eliminate the need for off-street loading for the proposed fueling station. Parcel No. 13-028-061 (PIP District) Section 209-28(B) to allow a CNG fueling station as a permitted use; Section 209-28(F) Table 5 to allow greater than 70% impervious surface (93% is proposed); Section 209-28(G)(2) to allow pavement to be within the first 30 feet against a street line and within 10 feet of a lot line; Section 209-42(D) to eliminate curbs along the driveways; Section 209-41(D) to waive the requirement for parking and loading areas be paved and allow the existing gravel lots to remain; Section 209-42(E) to allow a driveway width of 34 feet for the existing driveway but which is not part of this development proposal; Section 209-42(B)(1) to allow existing vegetation to satisfy the requirements from this Section which require dense plant material between off-street parking areas and property lines and street lines; Section 209-42(H)(15) to eliminate the requirement of providing employee parking for the fueling station; Section 209-28(H)(20)(a) to waive the requirement for parking and loading areas be paved and curbed; and Section 209-42(I) to eliminate the need for off-street loading for the proposed fueling station.

Atty. Fritzges marks ZHB Exhibit 1 – 4.

Atty. Harris presents the application. He states that this is the third time we've been before this Board. The first time was for the private use of the compressed natural gas facility (Exhibit A-1). The second time was for the public use of the compressed natural gas facility (Exhibit A-2). This is the plan that was approved about a year ago. We moved the compressor station to the middle of the property which straddled a property line – one owned by the Silvis and one owned by Riverside Complex. It was located within the flood plain. In addition, the dispensing facility under the canopy was also located within the flood plain. When we took the land development plan showing this configuration to the Board of Supervisors, they refused to grant a waiver to allow the compressor and dispensing facilities to be located in the flood plain and, therefore, denied the land development plan.

We re-configured the application (1) to return the compressor station to where it was initially approved when the Board granted the private use (which is already built and in operation) and (2) we moved the canopy so that both the dispensers are now removed from the flood plain. By doing this, we removed the problem of the compressor and dispensing facilities straddling the lot line.

The Township has requested that because there are two property lines, that we grant a cross-easement agreement between the two properties (marked as Exhibit A-3) which allows the free flow of traffic between the two parcels in perpetuity.

Atty. Harris produces a letter from the Falls Township Fire Marshal (Exhibit A-4) stating that the Fire Marshal doesn't have any issues with the plans at this time.

Noah Marlier, Esquire, Rudolph Clark requests **party status** on behalf of the Township. He states that they are monitoring the hearing and the Township is taking no position. However, we would ask if the Board grants the zoning relief, it is contingent upon the cross-easement agreement (Ex. A-3).

Atty. Harris states that the applicant is agreeable to this condition.

No Board comment.

No public comment.

Atty. Fritzges frames a motion that the application of U.S. Venture, Inc. for variances requested in the application dated November 13, 2015 is GRANTED, conditioned upon the cross-easement agreement and the applicant providing the proof of the quarter mile neighbor notification.

Member Powers makes the motion to approve.

Member Molle seconds the motion.

All in favor 5-0.

Hearing adjourned 7:45 p.m.