

**FALLS TOWNSHIP
ZONING HEARING BOARD
SEPTEMBER 8, 2020**

Hearing commenced: 7:05 p.m.

Hearing adjourned: 9:20 p.m.

Members present: Alfred Brooks, Scott D’Oria, William Kiernan, Daniel Miles

Members absent: Douglas Molle

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

The hearing was conducted remotely through Zoom.

Chairman Miles opens the hearing and makes an announcement to the applicants there is a four-member Board. Should there be a tie vote on any application, the decision would be deemed denied. All applicants have the right to postpone their appearance until the next hearing with a full Board.

Petition #8: Cellco Partnership d/b/a Verizon Wireless, 400 N. Oxford Valley Road, Langhorne, PA 19047; TMP #13-003-031; Zoned: HC. Requesting an appeal of the determination of zoning officer denying zoning permit application for proposed non-tower based WCF on rooftop. Section 209-50.2.C(18), Section 209-50.2.F.(1)(a) and 209-75.

Atty. Bidlingmaier states that we have received a letter from Christopher Schubert, Esquire, who represents the applicant requesting a continuance until the next Board meeting on October 13, 2020. Mr. Schubert also waived any applicable time periods to hold a public hearing on his application.

Member Kiernan makes a motion that the application be continued until October 13, 2020.

Member Brooks seconds the motion.

All in favor 4-0. Motion carries. Application is continued until October 13, 2020.

Petition #1: (CONT’D FROM 8/11/20) Nishitkumar Patel, 12 Ellerdale Road, Fallsington, PA 19054; TMP #13-036-234; Zoned: MHR. Requesting a dimensional variance to erect a fence in the secondary front yard. Section 209-37.C(2).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 11.

Nish Patel presents the application and states he has two young daughters and wants to provide a safe area in their yard by putting up a fence. He would like to do this without detracting from the neighbors or impeding into the sight triangle.

Member Kiernan asks about the sight triangle and any sewer easements on the property.

Member D’Oria questions about the sight triangle and how far off the sidewalk the fence will be (3 ft.)

No public comment.

Member Brooks makes a motion that the application of Nishitkumar Patel requesting a dimensional variance from Section 209-37.C(2) of the Falls Township Zoning Ordinances be GRANTED to erect a fence in the

secondary front yard at the property located at 12 Ellerdale Road, Fallsington, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member D’Oria seconds the motion.

All in favor 4-0. Motion carries.

Petition #2: Daniel W. Helmuth, 64 Noblewood Lane, Levittown, PA 19054; TMP #13-027-189; Zoned: NCR. Requesting a dimensional variance for a shed that encroaches into the minimum distance between buildings. Section 209-20.F and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 11.

Atty. Kolla for the Township will not be taking party status on this application, but did want to put on the record that the condition at issue existed when the applicant purchased the property and many years prior to the applicant’s purchase.

Daniel Helmuth states that they purchased the property in 2014 with the shed in place. We were unaware of it being in violation of the zoning ordinances until we were selling the property, and the Township inspector came out in August. We talked to our neighbors who have no issues with the shed. It is not on any sewer easement. The shed is seven ft. from the house instead of 10 ft. We did secure a temporary certificate of occupancy and the buyers are living in the house. We do not wish to take the shed down.

No Board comments.

No public comment.

Member Kiernan makes a motion that the application of Daniel Helmuth requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to erect a shed which encroaches into the minimum distance between the buildings at the property located at 64 Noblewood Lane, Levittown, PA 19054, 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 #3: Robert and Alyssa Martin, 5 Vitaloak Lane, Levittown, PA 19054; TMP #13-019-240; Zoned: NCR. Requesting dimensional variances to erect an addition which encroaches into the side yard setback and is over the allowable maximum impervious surface coverage. Section 209-20.F and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 10.

Robert Martin presents the application and states the addition is following the existing footprint on the front of the house. We were going to expand along the front with the garage but would have had a similar problem, so it’s more important to us to expand our living space rather than garage space. Regarding the impervious calculation, we are over by 33.7 sq. ft.

Board questions center around impervious coverage and water runoff (French drain system around the front of the house).

No public comment.

Member D’Oria makes a motion that the application of Robert and Alyssa Martin requesting dimensional variances from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to erect an addition which encroaches into the side yard setback and is over the allowable maximum impervious surface coverage at the property located at 5 Vitaloak Lane, Levittown, PA 19054, 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: Susan Pianoforte, 242 Trenton Road, Fairless Hills, PA 19030; TMP #13-006-250; Zoned: NCR. Requesting a dimensional variance to erect an addition which encroaches into the side yard setback. Section 209-20.F and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Susan Pianoforte presents the application and states the addition is a bathroom being built onto my master bedroom. She has a few medical issues and her current bathroom doesn’t allow for her climb into the current bathtub. She uses a walker. She wants a walk-in shower with a bar to hold onto and a stool to sit.

No Board comments.

No public comments.

Member Brooks makes a motion that the application of Susan Pianoforte requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to erect an addition which encroaches into the side yard setback at the property located at 242 Trenton 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.

Petition #5: Daniel and Sandra Freas, 1372 Bristol Pike, Morrisville, PA 19067; TMP #13-040-033; Zoned: LI. Requesting a dimensional variance to erect a garage which exceeds the allowable 50% expansion of a non-conforming use. Section 209-41.

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

Michael Meginnis, Esquire presents the application and states the property is presently zoned LI because there is a residential use on site. Presently, the property has a single-family detached dwelling on a half acre. The house is 1,000 sq. ft with a rear patio and front covered porch, a garage and a small shed. The small shed will be removed. We want to build a garage to the rear of the lot. The purpose of the garage is the storage of three classic cars which the insurance company has requested be stored under cover and which are currently on the lot. This is a current non-conforming use and we cannot increase the non-conforming use by greater than 50% without a zoning variance. If the garage is approved, it will not be used for residential or living purposes. The adjacent property owners have no objection to this application.

Daniel Freas testifies he purchased the property in 2016, and wants to store his classic cars in the new garage and confirms there will be no living in the garage. Both his neighbors have large garages in their back yards and they have no problem with the garage.

Member D’Oria asks about whether the driveway will come up to the garage (no).

No public comments.

Member D’Oria makes a motion that the application of Daniel and Sandra Freas requesting a dimensional variance from Section 209-41 of the Falls Township Zoning Ordinances be GRANTED to erect a garage which exceeds the allowable 50% expansion of a non-conforming use at the property located at 1372 Bristol Pike, Morrisville, PA 19067, 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 #6: Endurance Sports, Inc., 225 Lincoln Highway, Ste. B1, Fairless Hills, PA 19030; TMP #13-003-016-001; Zoned: OIP. Requesting a use variance to allow a business that involves the exchange/delivery of merchandise, specifically a showroom with ski/snowboard rental area. Section 209-32.1.B(1)(a).

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

Michael Meginnis, Esquires, presents the application and states Endurance Sports is seeking to lease 1500 sq. ft. as an office /showroom and a ski/snowboard rental area, which use is not permitted by right. Endurance Sports has been in Lower Bucks County since 2000; their former location was in the shopping center near Carlucci’s on Oxford Valley Road before they were impacted by COVID 19. They are hoping to get approval before the winter season given the nature of the business. The products on site are skis, boots, snowboards, clothing and tools for skiing and snowboard equipment. Endurance Sports is currently leasing space at M10 for storage of their products.

Barbara Kuronya testifies she is president of Endurance Sports, gives background on their company, details the business (service/sell skis, snowboards, equipment & clothing and does seasonal and daily rentals and leases of that equipment), the type of customer she has, the amount of employees, and where she stores her equipment.

No Board comment.

No public comment.

Member Brooks makes a motion that the application of Endurance Sports requesting a use variance from Section 209-30.1.B(1)(a) of the Falls Township Zoning Ordinances be GRANTED to allow a business that involves the exchange/delivery of merchandise, specifically a showroom with ski/snowboard rental area at the property located at 225 Lincoln Highway, Ste. B1, 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.

Petition #7: Beverly A. Mikuriya, 24 Fallsington-Tullytown Road, Levittown, PA 19054; TMP #13-024-002; Zoned: NCR. Requesting confirmation of the existence of a permitted, non-conforming use, or in

the alternative, a use variance to permit a beauty shop on the premises. Sections 209-41, 209-20 and 209-77.

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

Todd Savarese, Esquire presents the application and states that this Unit (No. 24) was formerly a commercial sewing shop which the Zoning Hearing Board approved in February 2018 and received the required Certificate of Occupancy. The other unit (Unit 22) was the subject of an application which this Board denied in December 2019 and is the subject of an appeal to the Court of Common Pleas. In March 2020, the applicant gave Ms. Regina Shipp (Salon Navee Co.) permission to apply for a Letter of Intent for her use as a beauty shop, which is what is before the Board this evening. On July 2, 2020, the Township delivered a denial letter with regard to the Letter of Intent which was dated May 6, 2020.

Ronald Kolla, Esquire, for the Township. The Township is asserting the right of Party Status on this application and opposes the applicant in part. The Township takes no position on the request for a variance; however, the Township does oppose any determination that the use is a pre-existing and non-conforming.

Under questioning from Atty. Savarese, Dr. Beverly Mikuriya testifies about the current and former uses of the property (beauty salons, tanning salons, photographer and an accountant), ownership of the property, maintenance of the property, history of the permitting and previous marketing of the property as a commercial property, her intention to always use it as commercial uses, and the surrounding properties and their commercial uses.

Atty. Kolla asks about how long the property was vacant.

Board questions center around the parking and the amount of chairs in the beauty salon.

Chairman Miles asks John Feher if he is requesting Party Status (yes).

Under questioning from Atty. Bidlingmaier, Mr. Feher states his address is 140 Fallsington-Tullytown Rd; he does not abut the property.

John Feher is granted Party Status.

Mr. Feher asks about the parking and handicap parking spots and states that it is inadequate. Discussion occurs between the parties, Board members and attorneys on this issue.

Atty. Savarese asks Ms. Shipp to verify the facts in her Letter of Intent and is willing to accept conditions as to the amount of employees if the Board grants the use.

No public comment.

Atty. Savarese delivers his closing statement.

Atty. Kolla delivers his closing statement.

Mr. Feher delivers his closing statement.

Board members go into a breakout room – off the record.

Chairman Miles is back on the record and asks for a motion to be made.

Member Kiernan makes a motion that the application of Beverly Mikuriya requesting a use variance for Section 209-20 of the Falls Township Zoning Ordinance be GRANTED to permit a beauty shop at the property located

at 24 Fallsington-Tullytown Road, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

No one seconds the motion – motion dies.

Member Brooks makes a motion that the application of Beverly Mikuriya for allowing the application to be filed more than 30 days after the zoning officer's denial, the use variance and the continuing non-conformity be DENIED.

Member Scott D'Oria seconds the motion.

All in favor 4-0. Motion carries. APPLICATION IS DENIED.

Hearing adjourned 8:40 p.m.