

**FALLS TOWNSHIP
ZONING HEARING BOARD
MARCH 10, 2020**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 10:55 p.m.

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

Members absent: None

Also present: Matthew Takita, AIA, MCP, Zoning Officer; Ed Neubauer, Code Enforcement Officer; Aaron Kostyk, Esquire (Rudolph Clarke) representing Township of Falls; Keith Bidlingmaier, ZHB Solicitor; Karen Browndorf, Court Stenographer

Petition #1: Jerome L. Trzaska, 272 Glouster Road, Fairless Hills, PA 19030; TMP #13-017-003. Zoned: NCR. Requesting a dimensional variance to erect a carport which extends beyond the face of the principal building into the front yard. Section 209-34.E.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Jerome Trzaska presents the application and states that he recently purchased a motor home and he wants to protect it. He would like to have the carport to protect the motor home from the sun and weather. In order to cover the RV, the carport would protrude passed the front of my house.

Board questions center around how far passed the front of the house the carport would protrude (8 ft.), the height of the RV (14 ft.), any offsite properties to store the RV (would not be weather protected), and any water runoff (carport to sit on existing concrete driveway).

No public comment.

Member D’Oria makes a motion that the application of Jerome Trzaska requesting a dimensional variance from Section 209-34.E of the Falls Township Zoning Ordinance be GRANTED to erect a carport which extends beyond the face of the principal building into the front yard at the property located at 272 Glouster 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 4-1, Brooks dissenting. Motion carries,

Petition #3: Caliber Collision, 124 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-004-088-001; Zoned: HC. Requesting a dimensional variance to allow a second wall sign. Section 209-45.Q(5)(a) and 209-45.U(2).

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

Allison Matherm, a real estate development manager with Caliber Collision, presents the application and states that Caliber is a national company and has recently merged with Abra Auto Body with over 1,100 locations in 35 states. This location had been an Abra facility even though the signage was never changed over from Collision Max. We have installed a 32 sq. ft. sign allowed by code on one side of the building. We are

requesting a variance to allow a second 32 sq. ft. sign because the building is situated at an angle to the roadway so that only one elevation of the building is visible to traffic in each direction. Collision Max did have two signs on the building and their signs were both 86 sq. ft. We feel the sign is in keeping with what the area currently has (Patient First, IHOP, Meinke).

Board question center around where on the building the sign is located.

No public comment.

Member Brooks makes a motion that the application of Caliber Collision requesting a dimensional variance from Sections 209-45.Q(5)(a) and 209-45.U(2) of the Falls Township Zoning Ordinances be GRANTED to permit a second wall sign at the property located at 124 Lincoln Highway, Fairless Hills, PA 19030, as depicted on the plans and in accordance with testimony presented to the Zoning Hearing Board.

Member Molle seconds the motion.

All in favor 5-0. Motion carries.

Petition #2: (CONT'D FROM 2/11/2020) New Freedom Behavioral Health, LLC d/b/a Daybreak Treatment Solutions 72 Hillside Lane, Fallsington, PA 19054; TMP #13-020-165; Zoned: LR. Requesting a use variance to permit residential treatment and rehabilitation services to the residents at the property located in an LR District. Section 209-12. In the alternative, Applicant challenges the substantive validity of the Falls Township Zoning Ordinance as it relates to such use.

Aaron Kostyk, Esquire, states that the Township is requesting party status in this matter.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 10 and Applicant Exhibit A-2 (proof of neighbor notification).

Pamela Tobin, Esquire, represents New Freedom Behavioral Health, the applicant. Jonathan Goodman, owner of the property, is introduced. New Freedom Behavioral Health does business as Daybreak Solutions and it operates as Sober Living Environment at the property 72 Hillside Lane. Mr. Goodman owns the entity that owns the property and is also the manager of New Freedom.

In January 2017, the Township Zoning Hearing Board granted a variance to the applicant to operate a sober living environment at the property and for the past 3 years has successfully operated there. She introduces Stacy Hill, the V.P of Operations for Daybreak.

Ms. Hill gets sworn in and testifies as to her educational and work experience, describes the facility layout and site detail, the type of residents (adult), the fact that no resident drives, the in-take procedure and daily life, process for treatment (they are driven to the Yardley facility), the current length of stay (35 days), next step of a resident who completes the sober living environment program, the current number of staff, the relationship with the neighbors, describes the types of services they now want to offer the residents (individual and group counseling services at the facility instead of traveling to the Yardley facility), if use granted we would then be a State licensed facility (you don't need a state license for the sober living environment), the application process to get the license, the increase of employees when getting the license (3-4), procedures for a resident who wants to leave against medical advice, medications can be dispensed for the residents, and the benefits to allowing the use for treatment at this center.

Atty. Kostyk asks questions about dispensing medications now (they just dispense, but do not prescribe), and prescribing with the expanded use (yes, through a nurse practitioner).

Board questions center around weekend activities (they have activities on site), current residents (8), the maximum amount of residents (16), enough parking (yes), police called to the facility (yes, a few times).

Atty. Bidlingmaier explains party status to the public.

Public Comment

Glenn Vedder, 263 Woolston Drive, states that the property is formerly Jim Armstrong's property, a former Falls Township supervisor. The property has always been gated property. He likes what they are doing for the community and people need help. Hopefully, the resident count will not be increased.

Ann Clements, 108 Vermont Lane, expresses her concern that she wants to confirm the only people being treated there are the ones that are living there – nobody will be coming in for treatment (yes).

Andrew Dudley, 60 Hillside Lane, expresses his concern that another variance is being requested to change the initial approval of the use and any future changes that may occur. He is granted Party Status.

Kristen Dudley, 60 Hillside Lane, expresses her concern that the new use could adversely impact her neighborhood and has questions about the new use which the applicant answers.

Lucinda Hermes, 18 S. Main Street, a nurse, expresses her concern about the licensing and higher level of patients being treated if the use is permitted, treatment of the residents, and how they get out into the community.

Harry Colbert, 18 Vermont Turn, states he has been there for 52 years and they have been great neighbors. His expresses his approval of this use provided there is some guarantee that nothing is going to change, that there won't be more than 16 residents, they are not going to be a de-tox center, and there won't be any other people coming in other than the residents. They've been great neighbors and very responsive.

Township calls one witness – Matthew Takita.

Responding to questions from Twp. Solicitor Aaron Kostyk regarding the brief for the substantive validity of the ordinance, Mr. Takita states his employment (Twp. Director of Bldg. and Zoning Dept.), his job history and current responsibilities and that the Institutional District would provide for the use they are seeking.

Responding to questions from Atty. Tobin regarding where the sober living environment use is permitted, Mr. Takita states at Section 209-20.1.H(1) assisted living facility, that the definition of assisted living facility does not specifically state counseling and rehabilitation services for persons with additive disorders, and responds to some questions about exhibits.

Atty. Tobin makes a closing statement on behalf of the applicant.

Atty. Kostyk makes a closing statement on behalf of the Township.

Mr. Dudley (Party Status) makes a closing statement.

Board takes a recess.

Member D'Oria makes a motion that the application of New Freedom Behavioral Health LLC d/b/a Daybreak Treatment requesting a use variance from Section 209-12 of the Falls Township Zoning Ordinance be GRANTED to permit residential treatment and rehabilitation services to the residents at the property located at 72 Hillside Lane, Fallsington, PA 19054, as depicted on the plans and in accordance with the testimony to the Zoning Hearing Board; that the application request for the substantive validity challenge is DENIED and that with this motion is the following conditions -- 1) that no more than 16 persons receive treatment and live at the facility at one time; and 2) will only provide residential treatment and rehabilitation and counseling services which would not include detox.

Member Molle seconds the motion.

All in favor 3-2, Members Kiernan and Brooks dissenting. Motion carries.

Petition #4: JR 915, LLC, 905 Lincoln Highway, Morrisville, PA 19067; TMP #13-028-022-005; Zoned: HC. Requesting dimensional variances for: (1) Section 209-45.Q(10)(b) to allow two signs of 90 sq. ft. instead of the allowed 50 sq. ft; (2) Section 209-45.F(6)(d)[3][a] to allow a digital display sign of 44.69 sq. ft. which exceeds the allowable 15 sq. ft; and (3) Section 209-45.Q(10)(c) to allow a height of 22 ft. instead of the allowable 20 ft.

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

Francis Dillon, Esquire, presents the application and states the applicant is requesting dimensional variances to replace signs currently there. He introduces Rick McLaughlin, the owner of Truck Smart.

Mr. McLaughlin says that Truck Smart is involved with a lot of different things besides truck sales. We outfit for five different companies. We build onto the new trucks that we sell. Our current sign is from the previous owner (Acme). The reason why we want the message board is because we are close to a traffic light. If we could advertise for some of the things that we do, it would alert the public to our services. We want to give the public information on the fact that we do more than sell trucks. The new sign will be lower and smaller.

No Board questions.

No public comment.

Member Brooks makes a motion that the application of JR 915, LLC requesting a dimensional variance from Sections 209-45.Q(10)(b), 209-45.F(6)(d)[3][a] and 209-45.Q(10)(c) of the Falls Township Zoning Ordinance be GRANTED to permit two signs of 90 sq. ft. instead of the allowed 50 sq. ft., to allow a digital display sign of 44.69 sq. ft. which exceeds the allowable 15 sq. ft. and to allow a height of 22 ft. instead of the allowable 20 ft. at the property located at 905 Lincoln Highway, 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 5-0. Motion carries.

Petition #5: Highland Development Ventures, LLC, Stony Hill Road and Woolston Drive, Morrisville, PA 19067; TMP #13-028-008-001; Zoned: LI. Requesting the following dimensional variances: (1) Section 209-27.C(4) requires that off-street loading is an accessory use and Section 209-34.E requires accessory use be in the side and rear yard while this loading will be in front yards.; (2) Section 209-27.F, Table 5 – minimum lot width at required setback, 60 FT vs. not required or provided; minimum lot depth at midpoint of rear property line, 150 FT vs. 140 FT; front yard setback Route 1, 100 FT vs. 18 FT; front yard setback at Stony Hill Road, 100 FT vs. 64 FT; side yard setback, 20 FT vs. N/A or provided; buffer yards of additional 50 FT not required; (3) Section 209-27.G(1) requires that at least 30 FT adjacent to any street line shall not be used for parking or loading and Applicant may be providing such with 30 FT of Stony Hill Road; (4) Section 209-27.G(2) requires adequate screening with evergreen planting which Applicant believes it has but requests such a determination by the Zoning Hearing Board; (5) Section 209-38.1 requires a buffer yard of 25 FT or 50 FT along Route 1. Applicant is requesting a variance in conformance with the Plan or no buffer yard given the distance from Route 1; (6) Section 209-42.H(22) – Applicant seeks parking in conformance with the Plan, but is unsure of the required number of spaces required by the Section and therefore seeks a variance or determination; and (7) Section 209-41 – Applicant seeks confirmation of a non-conforming lot.

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

Atty. Kostyk states that the Township is seeking Party Status in this matter.

Adam Hird (applicant) and Eric Britz, P.E. (Bohler Engineering)

Francis Dillon, Esquire, presents the application and states that we had initially met with Township staff on the issue of whether or not this was a permitted use. It was determined that this is a permitted use in this district. We subsequently met with the Township to review certain other issues and it was suggested that we give our application to the Township Engineer to review and he suggested certain other things that we add to our application. This is a confusing property due to the fact that it is surrounded by roads and rights of way and was originally a 15 acre property, they put in the roads and now it's a 4 acre property surrounded by significant rights of way. The zoning regulations restricted it to such an extent that there is no building envelope. There is a 100 ft. setback from Route 1 with a 50 yard buffer with the same requirement from the Stony Hill side. This property cannot be developed in conformance to the zoning regulations. He then introduces Adam Hird.

Adam Hird gets sworn in and, responding to questions by Atty. Dillon, testifies that this is a wooded lot where we would like to construct a self-storage facility, describes the self-storage industry, what can and cannot be stored in the facility, number of employees and responsibilities, and the ownership of the property.

Atty. Dillon states that this use is allowed by the terms of the Township Zoning Ordinances.

In response to Atty. Kostyk's questions to Mr. Hird, he testifies that there is no access to the property from Rte. 1, two restrooms will be installed, there is a high speed glass door to punch in a code to get in and out so it's a lot more convenient to pull in, customers could access the facility when staff is not there, there is video monitoring of loading area, all access points, elevators, etc.,.

Discussion occurs about the building height, the use is allowed in this zoning district, you are allowed 50% building coverage, impervious surface coverage, and the fact that you are allowed a reasonable use of your property.

Eric Britz, P.E. is sworn in and, in response to Atty. Dillon's questions, details the project and the need for variances.

Discussion occurs about the various variances needed.

Public Comment

Denise Clayton, 253 Woolston Drive, said that she did not receive notification and expresses concern about the water runoff, and traffic impact and is not in favor of a 3-story building at this location.

Glenn Veddor, 263 Woolston Drive, provides history of the area and states he is not in favor of this project.

Mr. Britz makes a closing statement.

Atty. Dillon makes a closing statement.

Atty. Kostyk makes a closing statement.

Member Brooks makes a motion that the application of Highland Development Ventures, LLC be DENIED all relief requested.

Member Kiernan seconds the motion.

All in favor 5-0. Motion carries. Application is denied.

Hearing adjourned 10:55 p.m.