

**FALLS TOWNSHIP
ZONING HEARING BOARD
JANUARY 11, 2022**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 8:30 p.m.

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

Members absent: None

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

REORGANIZATION OF THE BOARD

Chairman:	Daniel Miles
Vice Chairman:	Al Brooks
Secretary:	William Kiernan
Solicitor:	Keith J. Bidlingmaier, Esquire
Court Reporter:	Karen Browndorf
Date / Time of Meetings:	2 nd Tuesday of Month at 7:00 p.m.

Petition #6: All State Auto Sales, 981 Lincoln Highway, Morrisville, PA 19067; TMP #13-028-034; Zoned: HC. Requesting a use variance to allow an accessory automotive salvage / storage operation in addition to the currently existing used car dealership. Sections 209-23.B and 209-23.E.

Chairman Miles states the Board has received a notice of continuation of their petition until February 8, 2022. All Board members agreed (4-0).

Petition #1: Robert Kaucher, 220 Chelsea Circle, Fairless Hills, PA 19030; TMP #13-004-269; Zoned: NCR. Requesting dimensional variances to construct a garage which has a minimum of 4 ft. from the property line and a 10 ft. separation between the garage and house. Section 209-20.F and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Robert Kaucher presents the application and states they want to replace an existing garage because the current one is in disrepair. He wants to use the current foundation. They want to store their daughter's belongings in the garage (she died in July of COVID).

No Board comments.

No public comment.

Member Brooks makes a motion the application of Robert Kaucher requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to construct a garage which has a minimum of 4 ft. from the property line at the property located at 220 Chelsea Circle, 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 #2: Ia Shubitolze, 296 Thornridge Drive, Levittown, PA 19054; TMP #13-023-245; Zoned: NCR. Requesting a dimensional variance to allow a shed to encroach into the minimum distance of 10 ft. between the shed and pool. Section 209-46.E.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 10.

Ia Shubitolze presents the application and states we purchased the shed (8 x 8) in 2018 and placed it in the back, but the water authority told us to move it near the pool, which we did. We were not aware we needed a permit from Falls Township. There is no other spot to place the shed because of the pool.

No Board questions.

No public comment.

Member Brooks makes a motion the application of Ia Shubitolze requesting a dimensional variance from Section 209-46.E of the Falls Township Zoning Ordinances be GRANTED to allow a shed to encroach into the minimum distance of 10 ft. between the shed and the pool at the property located at 296 Thornridge Drive, 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: John Asta (Big Oak Fuel) (CONT'D FROM DECEMBER 14, 2021), 1056 Trenton Road, Fallsington, PA 19054; TMP #13-020-152; Zoned: NC. Requesting a use variance to allow parking of vehicles used to deliver heating oil. Section 209-22.B.

John Asta and Tom Desisto get sworn in.

Atty. Bidlingmaier marks ZHB Exhibit 1 – 9. Mr. Desisto hands up the neighbor notification letters. Atty. Bidlingmaier asks if this is the only letter sent to the adjoining property owners. Mr. Desisto says yes. Chairman Miles says the date of the hearing is not on the letters, just the day (Tuesday) and the time (7:00 p.m.). To be effective service, it must have the date on the letters as well. Mr. Desisto says the two property owners affected are here.

Board goes off record for an executive session.

Atty. Bidlingmaier ask if you advised the two property owners affected, Calvin Hopkins and Joy Sill, and if they are both here.

Mr. Desisto says yes, there are five parcels, and they are the owners of all the parcels.

Atty. Bidlingmaier says since the property owners that should have received notice are here, it would be sufficient for service. He marks neighbor letter as Exhibit A-1 and the two addresses at Exhibit A-2. I am now satisfied the appropriate notices have been given.

Gregory Heleniak, Esquire, of Rudolph Clarke, the Township Solicitor's office, requests Party Status.

Mr. Desisto presents the application and states we are looking to store oil trucks on the property. We needed parking and Ms. Sill's property has the space. We entered into a lease agreement but then discovered the zoning ordinances did not permit it when our letter of intent was denied. I would like to point out that within this Township there are two other oil companies of fuel trucks – Rex Fuel and Costello Fuel. They've been there for years with no problems. Costello has the same rating as Big Oak Fuel. We are looking for the same consideration.

Member Kiernan asks what happens with a hazardous spill – is there anything there to contain it?

Mr. Desisto says if it's a small spill, we have accommodations for that – Speedi Dry and certain absorbent material. There is no activity here; it is just parking for the trucks. The trucks leave the yard and they come back at night and are stored overnight. The trucks are empty when they come back to the site. The transfer of the fuel oil is done at the refineries or at the customer's home. The trucks are sealed, they are inspected once a year by Weights and Measures, and they are all up to date on maintenance schedules. Never have I seen all the trucks leak oil out of them. It would not be the case here as they are stored empty.

Member Kiernan asks if the trucks will always be empty in the yard.

Mr. Desisto says the trucks will come back empty at the end of the day. We buy the oil, we sell it and we return the trucks empty. For a large spill, they trucks would have to be running pump and oil. If there should be a gasket leaking, it's a small amount which would be discovered at our pre-trip inspection every day. Our drivers perform a pre-trip and post-trip inspection every day.

Member Kiernan says you are not in a secured location and your trucks would be open to the public. Will the trucks be parked on stone or blacktop?

Mr. Desisto says they are on stone.

Member Kiernan says that's where my concern is– if oil does leak, it will get down into the soil.

Member Brooks says he has that same concern. What is your hardship?

Mr. Desisto says the hardship is why we are here. We are trying to find a place to park our trucks.

Member Brooks asks where they are currently parked?

Mr. Desisto says we are in Bristol, and they are not renewing. We are a local Township company close to our home base. The owner of the property is fully aware of the same concerns expressed by the Board, and she is comfortable with the trucks being stored there. The location is not in the middle of a neighborhood or on the street. Again, the Township already has pre-existing oil companies. Costello is on New Falls Road around places you eat and off a major road. That's why we didn't think it would be a problem because we are not asking for anything more than that.

John Asta says both of those companies are on stone.

Chairman Miles says the only way in and out of this property is on Trenton Road – no other entrances onto Tyburn – correct?

Mr. Desisto says that is correct.

Chairman Miles asks Matthew Takita (zoning officer) if there are any ordinances about needing the area to be fenced for the fuel trucks?

Mr. Takita replies there is not.

Atty. Heleniak asks Mr. Desisto what his relationship to the application is.

Mr. Desisto says he is the Director of Operations for Big Oak Fuel.

Atty. Heleniak asks if there is an office at the location?

Mr. Desisto say it will be for parking only; their office is on Viaduct Lane.

Atty. Heleniak asks if there is anything about the property uniquely suited for truck parking.

Mr. Desisto says the space for trucks that we can navigate through the property is adequate. It is not surrounded by a lot of houses. All five parcels in that area are owned by Joy Sill and Calvin Hopkins. I don't see neighbors having issues with the trucks parked there.

Atty. Heleniak asked if you have looked elsewhere for parking where it would be permitted under the Township ordinances.

Mr. Asta says he's owned the property directly across from the old Clover. I sold it to the guy directly across the street who sells asphalt. I was approved there to park, and I stayed there for two years and then I sold it because it was too big. Then I was parked behind Engine 30 in Falls Township back behind the fence for eleven years. The reason I like this location is that it is right next door to my house, and I see no reason to spend \$300 grand on a property just to park four oil trucks when my office is right in Vermillion Hills for the last 30 years.

Atty. Heleniak has nothing further.

No public comment.

No further Board questions.

Public Comment

Joy Sill and Calvin Hopkins get sworn in.

Calvin Hopkins says we have 1056 Trenton Road and 1046 Trenton Road as well. My grandfather started the insurance office there 60 years ago and we've had all kinds of things back there, but never oil trucks. John is a friend of mine and needed help finding a space. We knew there were oil trucks parked elsewhere in the Township, so we figured this wouldn't be anything different than that.

Joy Sill says we are just trying to help a local business owner, but we also have great respect for all the great things in Bucks County in general. We are not looking to be offensive or disturbing to anyone.

Atty. Heleniak has no questions for Mr. Hopkins and Ms. Sill.

Atty. Heleniak then questions Matthew Takita about his position (zoning officer), what the applicant applied for (store 4 oil trucks), was this a special exception or conditional use (no), is the use permitted in the neighboring

districts (no), the zoning of the neighboring districts (NCR, LR, IN), where is this use permitted (LI), is there anything particular or unique about this property that it is not suited for any of the permitted uses in the NC district (no), is Rex Oil in an NC district (would have to look it up), is the LI district in close proximity to the NC District (no). In the alternative if the Board is inclined to grant the variance, are there any conditions you would suggest to mitigate the impact of such a use variance (if the Board were inclined to grant, I would recommend some visual barrier in the form of a fence or landscape buffering and also limit the number of trucks stored on the site), the application was for four trucks (yes), is that a reasonable amount of trucks (yes).

After Mr. Takita's testimony, Mr. Desisto disagrees and compares the subject property to Costello Fuels – four trucks and no fence. We would expect if we had to put up a fence, so would Costello.

Atty. Heleniak objects to Mr. Desisto's questioning of Mr. Takita.

Chairman Miles states every variance is unique for each property. To say that if we put a stipulation on any approval tonight, we then must make that stipulation on everyone else is not something we will entertain.

Mr. Asta says the property he owned across the street from the old Clover was zoned LI – it was not permitted, and I had to come up here and get zoning approval to park there.

Chairman Miles states that sometimes the zoning changes.

No further public comment.

No further Board comment.

Board takes an executive session to discuss the petition.

Testimony closed.

Member Brooks makes a motion the application of John Asta, Big Oak Fuel, requesting the use variance from Section 209-22.B of the Falls Township Zoning Ordinance be GRANTED to allow a maximum of four vehicles used to deliver heating oil at the property located at 1056 Trenton Road, 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 3-1 (Miles dissenting). Motion carries.

Petition #4: Martin McLoughlin, 8724 New Falls Road, Levittown, PA 19054; TMP #13-018-078, #13-018-077, #13-018-076; Zoned: NC. Requesting a dimensional variance to erect a façade sign which exceeds the 24 sq. ft. allowable coverage. Section 209-45.P(5)(b).

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

Denis Lanctot, Esquire, begins and asks Martin McLoughlin (who has been sworn in) to give a brief statement regarding his application.

Martin McLoughlin continues and states they have been operating 13 years in Falls Township in two different locations. This will be our third location in Falls Township. Our building façade is 75 ft. long and 20 ft. tall. The ordinances only allow a 24 sq. ft. sign. On that size façade, a 24 sq. ft. sign would be too small. We wanted to have a sign that is competitive with other like businesses.

No Board comments.

No public comments.

Member Brooks makes a motion the application of Martin McLoughlin requesting a dimensional variance from Section 209-45.P(5)(b) of the Falls Township Zoning Ordinances be GRANTED to erect a façade sign which exceeds the 24 sq. ft. allowable coverage at the property located at 8724 New Falls Road, 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 #5: 72 Hillside, LLC, 59 Hillside Lane, Fallsington, PA 19054; TMP #13-020-166; Zoned: LR. Requesting a dimensional variance to allow for a 6 ft. fence along two frontages of the property. Sections 209-37.B and 209-37.C.

Jonathan Goodman and Michael Thom are sworn in.

Atty. Bidlingmaier marks ZHB 1 – 5 and Exhibit A-3 (proof of neighbor notification)

Natalie Young, Esquire, presents the application and states we here for fencing along the primary frontage (Hillside) and the secondary frontage (Tyburn). The application states the fence along Tyburn Road is an aluminum chain link fence. It is now a white vinyl fence instead.

Michael Thom says the reason for the change is lack of getting material. It was supposed to be a picket fence, but vinyl was all we could get.

Atty. Young states the fences are up already – they were installed on an emergency basis. This property received its use variance for a residential treatment facility operating alongside the property located at 72 Hillside.

Mr. Thom states after they purchased the house after obtaining the use variance, we've had people try to move back in, people trying to buy drugs. We've installed cameras and fence so we can keep out the undesirables.

Jonathan Goodman says everyone knows this property; it has had a lot of illegal activity in the past. We had to secure it after we purchased it because of all the unwanted people and drug activities.

Chairman Miles asks if the fence is in the sight triangle.

Edward Neubauer says there are no sight triangle issues.

No public comment.

Member Brooks makes a motion the application of 72 Hillside LLC requesting a dimensional variance from Sections 209-37.B and 209-37.C of the Falls Township Zoning Ordinances be GRANTED to allow for a 6 ft. fence along two frontages of the property at the property located at 59 Hillside Lane, 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 3-1 (Kiernan dissenting). Motion carries.

Hearing adjourned 8:30 p.m