

**FALLS TOWNSHIP
ZONING HEARING BOARD
NOVEMBER 9, 2022**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 9:00 p.m.

Members present: Albert Brooks, Daniel Miles, William Kiernan, Lolain Striluk

Members absent: Doug Molle

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

Petition #3: Britton Realty of Morrisville, LLC, 835 West Bridge Street, Morrisville, PA 19067, TMP 13-028-081, Zoned: HC. Requesting a dimensional and use variance to permit a warehouse in the HC District; Section 209-23.B; to not require parking areas to be paved with a dust-free all weather surface; Section 209-42.H.(22)(a) and to permit 50 parking spaces instead of the required 57 spaces. Sections 209-42.H (7) and 209-42.H.(22)(B)[1].

Chairman Miles states a request has been received from Begley, Carlin and Mandio for a continuance of this application to the December 13, 2022 hearing.

Member Brooks makes a motion to continue this matter until the December 13, 2022 hearing.

Member Striluk seconds the motion.

All in favor 4-0. Motion carries. Application continued until December 13, 2022 hearing.

Petition #4: Oak Village at New Falls Road, LLC (CONT'D FROM 8/9/22) 9175 New Falls Road, Levittown, PA 19054; TMP #13-020-168; Zoned: NC. Requesting the following variances to construct a multi-family residential development with parking: Section 209-22.B -- a use variance to allow a multi-family dwelling within a neighborhood commercial district; and Section 209-22.D – to permit a building and/or structure height in excess of 25 feet which is the maximum permitted in the neighborhood commercial district.

Chairman Miles states a request has been received from Begley, Carlin and Mandio for a continuance of this application to the December 13, 2022 hearing.

Member Brooks makes a motion to continue this matter until the December 13, 2022 hearing.

Member Kiernan seconds the motion.

All in favor 4-0. Motion carries. Application continued until December 13, 2022 hearing.

Petition #1: Jared Persson, 400 Alden Avenue, Morrisville, PA 19067; TMP #13-030-317; Zoned: NCR. Requesting dimensional variance to allow second story addition to encroach into the 10 ft. side yard setback. Section 209-20 and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 4.

Jared Persson presents the application and states we purchased the property in 2013 and have been working on improving the property. We now have two children and need more room. We would like to add a second story addition. Unfortunately, it goes into the side yard setback. We would like to keep the dimensions as drawn so we are seeking a variance.

No Board questions.

No public comment.

Member Brooks makes a motion the application of Jared Persson requesting a dimensional variance from Section 209-20 and Table 1 of the Falls Township Zoning Ordinances be GRANTED to allow a second story addition to encroach into the 10 ft. side yard setback at the property located at 400 Alden Avenue, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Striluk seconds the motion.

All in favor 4-0. Motion carries.

Petition #2: NP Falls Township Industrial, LLC, (CONT'D FROM 10/11/22) One Ben Fairless Drive, Fairless Hills, PA 19030; TMP 13-051-001; Zoned: MPM. Requesting a dimensional variance to permit building coverage of 41.21% where a maximum of 40% is otherwise allowed. Section 209.30.D, Table 5

Atty. Michael Meginniss introduces Eric Clase, P.E. from Gilmore & Associates and Jeremy Michael from NorthPoint, and they get sworn in.

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

Atty. Meginniss presents the application and states this lot relates to Building 5 which is Phase 2 of the development of the KTC along with proposed Buildings 4 and 6. Building 5 secured approval from the Board of Supervisors. The building will remain as approved. The building itself is 1,035,000 sq. ft. There is no additional site work or modifications other than what is discussed here.

What happened is NorthPoint has a road network for their development. The road network (driveway “A”) was considered as part of this parcel. When NorthPoint submitted a declaration for recording for the balance of the KTC for the road network, the title company said the listing of driveway “A” as a limited common element removed it from the title of this property. And the act of pulling driveway “A” out of this parcel messed up the building coverage ratio. It doesn’t mess up the total impervious coverage, just building coverage. This means we need a variance from Section 209-30.D Table 5.

Mr. Michael agrees with what Atty. Meginniss has said. This variance is important, so we don’t have any non-conformities in the future.

No Board questions.

No public comment.

Member Brooks makes a motion the application of NP Falls Township Industrial requesting a dimensional variance from Section 209-30.D and Table 5 of the Falls Township Zoning Ordinances be GRANTED to permit building coverage of 41.21% where a maximum of 40% is otherwise allowed at One Ben Fairless Drive, 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: NSE Pennsylvania, LLC, 203 Lincoln Highway, Units 6 and 7, Fairless Hills, PA 19030; TMP #13-003-018; Zoned: HC. Requesting the following: Section 209-23.C(6) a Special Exception to permit the operation of a medical marijuana dispensary in the existing vacant storefront in the shopping center; and Section 209-23.C(6)(c) a variance because the proposed location is within 1,000 feet of a residentially zoned property.

Michael Mattioni, Esquire, introduces three witnesses which are sworn in: Anthony Marsico, Ted Hozza, Peter Angelides.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Applicant’s pre-marked Exhibit A-10 (proof of neighbor notification).

Atty. Mattioni presents the application and states the perspective tenant is called Agrnomid Biologics LLC. They are a subsidiary of Verano Holdings. Agrnomid is seeking a special exception to permit the operation of a medical marijuana dispensary. Verona is a publicly traded operator of numerous dispensaries nationwide. They operate several dispensaries in Pennsylvania. They are a fully integrated cannabis producer and retailer. Agrnomid is NSE of Pennsylvania (the originally named applicant). NSE Pennsylvania is also a subsidiary of Verano Holdings.

NSE Pennsylvania is seeking the special exception as noted in the zoning ordinance which permit this type of use in the HC (highway commercial) district through a special exception. We are also seeking a variance from Section 209-23.C(6)(c) which requires dispensaries to be more than 1,000 feet from residentially zoned districts. This site is approximately 700 feet from the nearest residentially zoned districts. There are two zoning districts which are close to the site -- neighborhood conservation residential and the manufactured home community.

We will present testimony to show even though the property does not meet the requirement of 1,000 ft. from residentially zoned properties, a pedestrian would have to travel far more than 1,000 feet from the residentially zoned districts to get to the dispensary because there is no direct route from the residentially zoned district. There are no sidewalks on Lincoln Highway which is a four-lane road which separates this parcel from the residentially zoned district which are on the other side of Lincoln Highway.

The site in question has been vacant for more than six years, creating a blight on the Township. A dispensary would bring a productive use to the long vacant property. The site is ideal for a dispensary as will be explained by the witnesses tonight. By approving this use, it would allow Township residents seeking medical treatment to find it in the Township. There is no facility in the Township which provides this treatment.

Verano will renovate the interior of the building. They will bring 20-30 jobs to the community with benefits and competitive wages. Other tenants will also benefit from the added traffic at the shopping center.

Verano has all required licenses from the Commonwealth of Pennsylvania to operate a dispensary. The proposed use is consistent with the purpose and spirit of the zoning code. The special exception will not injure

or detract from neighboring properties and conforms to the character of the community. The special exception will not be detrimental to the health, safety and welfare of the community, but will provide the public a benefit by providing access to medical treatment not presently available to the Township.

Anthony Marsico testifies. He is with Verano Holdings as Executive Vice President of Retail. He testifies as to his credentials and the relationship of Verano and Agrnomid. Verano is a vertically integrated cannabis company, both for medical and recreational markets across the country. We currently operate in 18 states, with 15 dispensaries in Pennsylvania. We have licenses to open 18 dispensaries, and we are hopeful this will be one of those remaining three. Pennsylvania is one of the strictest when it comes to regulations.

Testimony continues about the location of the residentially zoned properties and the exhibit packet furnished by applicant. He also states the procedure upon entering the facility, the days and hours of operation, number of employees, no live product on the sales floor to prevent theft, all product secured in the vault room, employee credentials, construction improvements, security plan, and why the site is ideal for this type of use.

Ted Hozza testifies. He is a realtor. He describes the property and location, previous use (dance studio), vacant for six years, describes the surrounding area and current tenants of the shopping center, describes how the shopping center sits back from the highway and no left turn into the shopping center and out of the shopping center, no pedestrian traffic to the shopping center, parking is adequate for dispensary, the use would breathe new life into the shopping center, dispensaries act like pharmacies, proper location for a dispensary because other tenants don't use a lot of parking and it sets back from Lincoln Highway.

Peter Angelides testifies. He is President of E Consultant Solutions, an economic and planning consulting firm in Philadelphia. He describes his credentials, describes the shopping center and tenants, no pedestrian access to shopping center, shows an aerial picture of the area depicting the residentially zoned property 700 ft. from the shopping center, difficulty in reaching the site from Lincoln Highway (no left turns in or out), and beneficial to other tenants as it would bring more people to the shopping center.

Member Brooks asks about the house next door to the shopping center.

Atty. Mattioni responds the ordinance states "residentially zoned district" not a residence. I'm not sure if this is zoned residential and if it's non-conforming.

Member Brooks asks for specifics on the actual business.

Mr. Marsico gives a brief description. Anyone entering the store needs to be a registered patient through the Pa. Dept. of Health and granted a medical card and must show medical card with valid state/federal ID to us.

Member Brooks asks if the medical card has a picture (no). Anyone can then make a card – correct?

Mr. Marsico states we check against the medical registry system so it is cross-referenced there. The registry tracks how much product a person gets so if you need two weeks' worth and use it within three days, you cannot come back in until two weeks for more product.

Member Brooks asks if the registry is tied into the other dispensaries?

Mr. Marsico says correct – everything is tied to your medical number.

Member Brooks asks if insurance covers this.

Mr. Marsico says no, it's a cash operation.

Member Brooks asks about product removal when product goes bad.

Mr. Marsico says there is a destruction protocol through the Dept. of Health (provides detail).

Member Kiernan says if the landlord kept up the property, wouldn't it be easier to rent out.

Mr. Hozza states even with renovations it wouldn't take away from the access issues and the location of the property.

Member Kiernan asks about patient care specialist that greets the customers – what are their qualifications.

Mr. Marsico says all employees go through state/federal background check, issued a badge, train all employees on product knowledge, security and compliance procedures, know the rules and regulations for the Commonwealth of Pennsylvania, how they can and cannot transport cannabis, where they can consume cannabis, emergency preparedness, etc. We have a robust security system – 24/7 security cameras.

Member Kiernan asks if anyone has a medical background?

Mr. Marsico says we do get those backgrounds from time to time, but it is not a requirement.

Member Kiernan states the pedestrian traffic will just cross Lincoln Highway.

Mr. Marsico says most dispensaries are a destination for visits, very rarely are they an impulse buy.

Member Striluk asks how many people allowed in the store at one time.

Mr. Marsico states typically there are two customers for every patient care specialist.

Member Striluk asks about people waiting and where they wait.

Mr. Marsico says there would be queuing areas and provides more detail.

Member Striluk asks where their product comes from.

Mr. Marsico says all their product must come from a state licensed cultivation or processing center from the Commonwealth of Pennsylvania – no out of state product. The way product is delivered it is manifested from one of the licensed cultivation centers and approved by the Department of Health for delivery. It gets delivered by the cultivation center and we accept the manifest through the state inventory tracking system. Types of products are smokable flower, vapes, topicals, lotions, balms, edibles, etc.

Member Striluk asks when product is delivered.

Mr. Marsico says delivery trucks are random; they are not allowed to tell us specific time to avoid diversion. They usually give us a window. I expect that we have 6 to 10 deliveries a week in the rear of the building.

Member Striluk asks if there are security personnel with the deliveries.

Mr. Marsico says it depends on the cultivator.

Member Striluk says another concern is the hotel next to the shopping center and that some people use it as their residence. They can get there by foot.

Discussion occurs about security of the property, types of products and limiting the product inventory and gives further detail on the dispensary.

Chairman Miles asks Matthew Takita if the property next to the shopping center is a residence or a commercial business.

Mr. Takita states we have issued commercial building permits at that location.

Chairman Miles asks if the customers would have the same impact as the dance studio – customers coming in and out at certain times.

Mr. Marsico says more than likely a similar type as a dance studio. There wouldn't be lines wrapped around the building as the Commonwealth has about 100 dispensaries. We like this area because it is a bit underserved versus some other parts of the Commonwealth.

Chairman Miles asks you are saying the customer impact would be the same as Uncle Charlie's might have during lunch and dinner.

Mr. Marsico says yes.

Chairman Miles asks if someone would be able to get a liquor license at this location.

Mr. Hozza says he is not sure of the zoning.

Public Comment

Bhalial Patel, owner of New Falls Motel, expresses concern about the 700 ft. distance as a lot of his customers rent weekly, the fact there is a mobile home community across the street, and his concern about security both at the shopping center and his motel.

Chairman Miles asks Mr. Marsico if having a security personnel at the site would be an option.

Mr. Marsico says it is something they can investigate and work with the community in this regard. If approved, we would reach out to the police and make them aware of our security protocols. We expect they know the community better than us so if there was a security concern, we could address it.

Chairman Miles asks questions about medical professionals at the dispensary and training of staff, how to handle walk-ins with no medical card, how customers get a medical card, and various security questions.

Member Brooks has questions on how to obtain a medical card and how quickly is the turnaround time to get one of these cards, how long before the cannabis takes effect.

Discussion occurs about the distance to Breezy Acres and how to walk to the property.

Executive session taken by the Board.

Member Brooks makes a motion to deny the application.

Member Kiernan seconds the motion.

All in favor 2-2 (Striluk and Miles dissenting). Motion is deemed denied by the tied vote.

Hearing adjourned 9:00 p.m.