

**FALLS TOWNSHIP
ZONING HEARING BOARD
DECEMBER 13, 2022**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 8:30 p.m.

Members present: Daniel Miles, Doug Molle, William Kiernan, Aaron Mackey (ALT), Lolain Striluk

Members absent: Al Brooks

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

Petition #2: Oak Village at New Falls Road, LLC (CONT'D FROM 11/9/22) 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.

Michael Meginniss, Esquire, states this was initially continued due to a medical condition and then continued again because we wanted to give traffic data to the neighbors. The original request was for a variance to permit 41 one-bedroom apartment units. The amended application now calls for 41 one-bedroom condominium units. As such the application needs to be re-advertised. This application can be withdrawn or continued, whatever the Board deems appropriate, so it can be re-advertised.

Chairman Miles says it is prudent to get the continuance.

Atty. Bidlingmaier marks the continuance letter of December 13, 2022 as Exhibit ZHB 1.

Member Mackey makes a motion the application is continued until January 10, 2023.

Member Kiernan seconds the motion

All in favor 5-0. Motion carries.

Petition #1: Don Graber, 284 Willow Drive, Levittown, PA 19054; TMP #13-025-177; Zoned: NCR. Requesting a dimensional variance to construct a porch which encroaches into the minimum distance of 10 ft. from a pool. Section 209-46.E.

Don Graber sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Don Graber presents the application and states they wanted to build a covered porch, but it is too close to the pool. The one corner of the porch does not meet the 10 ft. setback.

Member Mackey asks questions about the 10 ft. requirement (for safety).

No public comment.

Member Mackey makes a motion the application of Don Graber requesting dimensional variances from Section 209-45.E of the Falls Township Zoning Ordinances be GRANTED to construct a porch which encroaches into the minimum distance of 10 ft. from a pool at the property located at 284 Willow Drive, Levittown, PA 19054, 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 5-0. Motion carries.

Petition #2: Britton Realty of Morrisville, LLC, 835 West Bridge Street, Morrisville, PA 19067; TMP 13-028-081, Zoned: HC. Requesting the following variances to construct a warehouse addition: Section 209-23.B – to permit a warehouse use and outside storage unit in the highway commercial district; Section 209-42.H(22)(a) – to not require parking areas to be paved with a dust-free all weather surface; and Sections 209-42.H(7) and 209-42.H(22)(b)[1] – to permit 50 parking spaces instead of the required 57 spaces.

Witnesses sworn in:

Dan Carr, Vice President / General Manager of Britton

Heath Dumack, P.E., Dumack Engineering

Atty. Bidlingmaier marks ZHB Exhibit 1 – 6 and Exhibits A-1 (neighbor certification) and A-2 (aerial view of the site)

Michael Meginniss, Esquire, states Britton Industries is the equitable owner of this parcel which backs up to Rte. 1, adjacent to the Remedy Wellness location and the water tower. This large lot is 3.5 acres. Britton would like to purchase the property and then create a separate lease area for the Elks Lodge. The Elks Lodge are the current owners and operators of this property. The Elks Lodge has fallen on hard times financially. Britton owns and operates other properties near this location. Britton and the Elks Lodge's agreement is Britton would purchase the site and lease back the portion of the existing property for the Elks to remain in perpetuity for \$1.00. Britton would then take the back 5,400 sq. ft. of the building and utilize it as a warehouse space. There would be a privacy fence for the gravel stone to the rear where Britton could store some of its equipment and trailers in the rear. This site would not be used for any exterior mulch piles. The interior of the warehouse space would be utilized for storage of non-gas driven equipment for Britton. There would be no employees on the site – possibly one or two trips to this site. There is no additional parking demand. There is no exterior site work proposed with this application. The only construction would be to install a wall to separate the Elks and to install a fence and keep the existing status quo.

We need variances – to permit the use, need permission to allow 50 parking spaces to remain instead of the required 54 parking spaces, and to not require the parking area to be paved with dust-free all weather surface.

Dan Carr testifies Britton was approached by the Elks to purchase property. The Elks will use the clubhouse space, and the banquet hall would become Britton's warehouse space. Britton doesn't have enough indoor space at their current location, there would be no employees or additional parking demands, the trailer and equipment parking in the rear will be only on the gravel area, there will be fenced off from Bridge Street and no parking on grass.

Heath Dumack describes the lot as a double frontage lot on both Bridge Street to the north as well as Route 1 to the south. It currently consists of one building. There are 50 parking spaces and a larger gravel stoned area to the south that is typically used as overflow parking when the Elks had catering events in their hall. He describes the gravel area in the back which is used for parking. No site improvements other than the installation of the fence. This use would be consistent with the surrounding uses.

Atty. Meginniss states the use will be for Britton Industries only – it will not be rented out to a 3rd party company.

No Board questions.

Public Comment

Edward Okurowski, Exalted Ruler of the Fairless Hills Elks Lodge, expresses his support for the petition and the sale to Britton Industries. It would allow the Elks to continue to do their work in the community.

Fred Warren, Trustee of Elks Lodge, expresses his support for the petition and the sale to Britton Industries. The Elks are in financial difficulties and this transaction would allow the Elks to continue.

Member Mackey makes a motion the application of Britton Realty of Morrisville, LLC requesting dimensional and use variances from the following sections of the Falls Township Zoning Ordinances be GRANTED to construct a warehouse addition: 1) to permit a warehouse use and outside storage unit in the Highway Commercial district pursuant to Section 209-23.B; 2) to not require parking areas to be paved with a dust-free all weather surface pursuant to Section 209-42.H(22)(a); and 3) to prevent 50 parking spaces instead of the required 57 spaces pursuant to Sections 209-42.H.(7) and 209-42.H(22)(b)[1], at the property located at 835 W. Bridge Street, 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 5-0. Motion carries.

Petition #4: McDonald's USA LLC, 321 W. Trenton Avenue, Morrisville, PA 19067; TMP #13-035-072; Zoned: NC. Requesting a dimensional variance to permit 32 off-street parking spaces instead of the minimum 90 off-street parking spaces required by the Ordinance. Section 209-42.H(13).

Witnesses sworn:

Adam Citrullo, P.E. Bohler Engineering

Mike Abbanizio – owner / operator of Mc Donalds

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

Stephen Zaffuto, Esquire, presents an offer of proof for the two witnesses stating each witness would testify as follows:

Adam Citrullo: there would be double lane drive-thru with two order points, two primary order boards and two pre-browse menu boards; no change to the access of the property; some reconfiguration of the parking lot which will involve the removal of 7 parking spaces; no new construction or expansion of the building; stacking for 14 vehicles from the beginning of the drive-thru area and 11 from the first window; second driveway would allow for less backup onto W. Trenton Ave; a third bypass lane would be to the right of the drive-thru lanes for emergency personnel; impervious coverage will be decreased by 393 sq. ft.

Mike Abbanizio: he is the owner/operator for 6 years; he owns and operates 4 other McDonald locations; drive-thru volume has increased in recent years; one lane can have back-up past the lane; adding a second lane and order point will make it less likely that the stacking and queueing beyond where it's supposed to; two of his other locations have dual lane drive-thrus; there are 12 employees on the busiest shifts and most arrive by public transportation or get dropped off; hands out a parking study).

Member Kiernan asks about handicap parking (2 there currently; they are being shifted accordingly as shown on the site plan)

Public Comment

Matthew Matthias comes up to look at the plan. His concern was any impact to the rear of the property. There is none and has no objection to the application.

Member Mackey makes a motion the application of McDonalds USA LLC requesting a dimensional variance from Section 209-42.H(13) of the Falls Township Zoning Ordinance be GRANTED to permit 32 off street parking spaces instead of the minimum 90 off street parking spaces required by the ordinance at the property located at 321 W. Trenton Avenue, 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: ARD Pennsbury, LP, 223 and 237 Plaza Boulevard, Morrisville, PA 19067; TMP #13-028-028.001 and #13-028-029-001; Zoned: SC. Requesting the following variances to allow for the redevelopment of a portion of the shopping center: Section 209-24.F and Table 4 – to permit a shopping center building separation of 16.3 ft. rather than the minimum required 20 ft.; Section 209-42.H(12) – to permit 194 parking spaces rather than the required 358 parking spaces; and Section 209-45.Q(5)(b) – to permit one wall sign of 116.73 sq. ft. rather than the maximum permitted 32 square feet.

Witnesses sworn:

Matthew Rutt, P.E. – Landcore Engineering

Guido DiMartino, P.E. – Traffic Planning & Design

Jacob Abrams

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5 and Applicant Exhibit A-11 (proof of neighbor notification)

Julie VonSpreckelsen, Esquire, presents the application and states the shopping center is in both Falls Township and Morrisville Borough; cross-easement agreements are in place. The existing improvements and proposed improvements are in Falls Township and require the zoning relief we are seeking tonight. Regarding the improvements in Morrisville Borough, there are no variances required. However, as we move forward with the project, we will need land development in both municipalities. Because this property was developed and approved decades ago, it has numerous existing legal non-conformities, which include lot area, impervious coverage, number of parking spaces and the side and rear yard setbacks.

What is being proposed is redevelopment of a portion of the site. On the Falls Township parcels, what is being proposed is the demolition of 6,082 sq. ft. of the first floor of the two story retail center, the conversion of 1,140 sq. ft. of the commercial space of the second floor to add a storage area, and the construction of 9,128 sq. ft. of the one-story retail building in the area that is to be demolished. That area will be occupied by Dollar Tree. The

total building square footage is 10,500 sq. ft. but the remainder is in Morrisville Borough. The partial redevelopment in Falls Township will require a reduction in the existing number of parking spaces by 17, and a building separation distance of 16.3 feet. The redevelopment is necessary to assist in the revitalization of the shopping center that has had, and continues to have, several vacancies. Their hope is with the addition of the Dollar Tree it will encourage new tenancies within this strip shopping center.

She goes through the variances requested and the exhibit booklet handed out to the Board.

Atty. VonSpreckelsen submits an offer of proof for the two witnesses (Matthew Rutt and Guido DiMartino – both agree to her presentation of the application)

Member Kiernan asks about the number of handicap spots (same number as exist now – 4).

Member Mackey asks about the current tenants (they will be relocated at the shopping center's expense).

No public comment.

Member Kiernan makes a motion the application of ARD Pennsbury requesting the following variances from the following sections of Falls Township Zoning Ordinances be GRANTED to allow for the redevelopment of a portion of the shopping center: (1) to permit a shopping center building separation of 16.3 ft. rather than the minimum required 20 ft. pursuant to Section 209-24.F and Table 4; (2) to permit 194 parking spaces rather than the required 358 parking spaces pursuant to Section 209-42.H(12); and (3) to permit one wall sign of 116.73 sq. ft. rather than the maximum permitted 32 square feet pursuant to Section 209-45.Q(5)(b), at the property located at 223 and 237 Plaza Boulevard, 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 5-0. Motion carries.

Board Business

Chairman Dan Miles announces his retirement from the Zoning Hearing Board. His term expires the end of December, and he will not seek reappointment.

Hearing adjourned 8:30 p.m.