

**FALLS TOWNSHIP  
ZONING HEARING BOARD  
FEBRUARY 13, 2024**

**Hearing commenced:** 7:00 p.m.

**Hearing adjourned:** 10:00 p.m.

**Members present:** Aaron Mackey, Robert McTague, Lolain Striluk, Chris Kilmer (Alternate)

**Members absent:** William Kiernan, Nastasha Raisley

**Also present:** Keith Bidlingmaier, ZHB Solicitor; Matthew Takita, Zoning Officer; Harrison Fonteix, Esquire (Rudolph Clarke) Twp. attorney; Ed Neubauer, Code Enforcement; Karen Browndorf, Court Reporter

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**REORGANIZATION OF THE BOARD**

Chairman:	Lolain Striluk
Vice Chairman:	Robert McTague
Secretary:	Aaron Mackey
Solicitor:	Keith J. Bidlingmaier, Esquire
Court Reporter:	Karen Browndorf
Date / Time of Meetings:	2 <sup>nd</sup> Tuesday of Month at 7:00 p.m.

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Atty. Bidlingmaier states the Board has received a letter requesting a continuance of Petition #6 (Laundry Properties) at 316-320 W. Trenton Avenue, Morrisville, until the March 12, 2024 hearing.

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**Petition #1: Jonas Moulic, 38 Poplar Lane, Levittown, PA 19054; TMP #13-041-121; Zoned: NCR. Requesting a dimensional variance to construct a sunroom which exceeds the allowable impervious surface coverage. Section 209-20.F and Table 1.**

Jonas and Marissa Moulic get sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8.

Jonas Moulic presents the application and states they would like to install a sunroom over existing impervious in the back of their house.

Member McTague asks Matt Takita about the impervious calculations.

Member Kilmer asks where the sunroom is going (over the existing patio pad).

Member Mackey asks if there will be a gutter system on the sunroom (yes, it will connect to the existing gutter).

No public comment.

Member McTague makes a motion the application of Jonas Moulic requesting a dimensional variance from Section 209-20.F and Table 1 of the Falls Township Zoning Ordinances be GRANTED to construct a sunroom which exceeds the allowable impervious surface coverage at the property located at 38 Poplar Lane, Levittown, PA 19054 as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Mackey seconds the motion.

**All in favor 4-0. Motion carries.**

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**Petition #2: Lawrence Pontrelli, 60 Burgess Avenue, Morrisville, PA 19067; TMP #13-038-028; Zoned: NCR. Requesting a dimensional variance to allow a 6 ft. fence along Hamilton Avenue. Section 209-37.C(2).**

Lawrence Pontrelli gets sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 5.

Lawrence Pontrelli presents the application and states he owns a corner property and is looking to put a 6 ft. privacy fence along Hamilton Avenue. They want to make the property safe for their dogs and any future children. The fence will not be in the sight triangle. He lists a few properties in his neighborhood who do have privacy fences on a corner lot.

Chairman Striluk asks if you are tying into another fence (yes, neighbor in the rear).

No public comment.

Member McTague makes a motion the application of Lawrence Pontrelli requesting a dimensional variance from Section 209-37.C(2) of the Falls Township Zoning Ordinances be GRANTED to allow a six ft. fence along Hamilton Avenue at the property located at 60 Burgess Avenue, Morrisville, PA 19067 as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board conditioned on the fence installed out of the sight triangle.

Member Mackey seconds the motion.

**All in favor 4-0. Motion carries.**

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**Petition #3: Waste Gas Fabricating Co., Inc., 450 Newbold Road, Fairless Hills, PA 19030; TMP #13-028-088-002; Zoned: PIP. Requesting a dimensional variance to permit an impervious surface ratio of 71% to add additional parking spaces. Section 209-28.F and Table 5.**

Kyle Cloman (Chairman and CEO of Waste Gas) gets sworn in.

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

Russell Sacco, Esquire, presents the application and questions Mr. Cloman on the following: history of company (since 1985), what Waste Gas manufactures (full time steel fabricators), and asks about parking (they have 67 and will be adding 17 due to shift overlap).

Mr. Cloman states by moving the curb out five feet, we can park on both sides at 45-degree angles. The parking will remain in front of the building adjacent to Newbold Road.

Details are discussed on the retention basins and how this improvement will not cause any water runoff.

No Board questions.

No public comment.

Member McTague makes a motion the application of Waste Gas Fabricating Co, Inc. requesting a dimensional variance from Section 209-28.F and Table 5 of the Falls Township Zoning Ordinances be GRANTED to permit an impervious surface ratio of 71 percent to add additional parking spaces at the property located at 450 Newbold Road, Fairless Hills, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Mackey seconds the motion.

**All in favor 4-0. Motion carries.**

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**Petition #4: Jennifer Gage and James Pelissero, 8025 Mill Creek Parkway, Levittown, PA 19054; TMP #13-042-320; Zoned: NC. Requesting the following dimensional variances for a fast food restaurant: Section 209-22.F – to not require the first 20 ft. from the street line to be landscaped; Section 209-23.E.(8)(a)[1] – to not require a drive-thru bypass lane; Section 209-34.E & K; Section 209-48.3.L.(1) – to permit an accessory use to be located within the front yard and to have a front yard setback of 19.18 ft. where 70 ft. is otherwise required; Section 209-42.B.(1) – to not require a 10 ft. wide planting area between the off-street parking areas and any lot line or street line; Section 209-42.H.(26) – to allow 28 parking spaces where 36 spaces would otherwise be required; Section 209-42.I – to not require a designated space/area for loading and unloading; Section 209-48.3.L.(2) – to permit an outdoor dining area within 250 ft. of a residential use where 500 ft. would otherwise be required.**

Jennifer Gage and John Richardson, P.E., get sworn in.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6. Upon looking at the certificate of service provided by Bryce McGuigan, Esquire, for the neighbor notification letters, Atty. Bidlingmaier determines service was not adequate and states because of this the hearing on this application cannot continue. However, as we discussed off the record, it would be permissible to allow whoever is here for this application to speak for or against this application in the event they cannot come back for the March hearing.

Chairman Striluk asks if there are any members of the public to speak to this application.

Roseanne Hartley gets sworn in. She is the owner of the Mill Creek Center across the street from this location. Her biggest concern is the traffic at this intersection and the safety of the people who use it. We have cameras around the shopping center so sometimes the police come in and request video of the intersection when there are accidents. The setbacks are a big concern as well. She would like to have a traffic impact study conducted. Parking is a concern as well. There are no sidewalks. A drive-thru is a concern because it could back up onto Mill Creek Parkway or Falls-Tullytown Road (it appears there are entrances on both sides). What happens if this business fails and another business like Dunkin Donuts goes in there. Once you put a drive-thru in that location, it opens it up for other businesses.

Atty. Bidlingmaier explains Party Status.

Ms. Hartley says she wants to receive Party Status and the Board grants it.

Chairman Striluk says anyone else with concerns can come back next month for the hearing.

Atty. Bidlingmaier says to Atty. McGuigan he thinks it best if he would provide proper neighbor notification to the adjoining or abutting property owners for the March hearing and continue then. Atty. McGuigan agrees.

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**Petition #5: Brian Brzezinski, 654 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-017-231; Zoned: HC. Requesting the following variances: Section 209-23.B – to permit an apartment/condominium use (with maximum building height of 50 feet); Section 209, Table 4 -- To permit a front yard setback of 61.85 feet along Trenton Avenue and a front yard setback of 80.75 feet along Lincoln Highway instead of the required 100 feet. The latter request is a reduction in an existing non-conformity (existing front yard set-**

**back along Lincoln Highway is 35.53 feet); To not require a 25-foot buffer along a residential district; To permit a maximum impervious surface coverage ratio of 76.43% where a maximum allowable is 70%; Section 209-23.H(2) – To permit the parking area to be 3.58 feet from property line instead of the required 10 feet and 9.85 feet from any street line instead of the required 30 feet; Section 209-38.1.E(2) – To not require a buffer yard along the NCR district (existing non-conformity); Section 209-42.B(1) To not require the clustered planting of dense plant material not less than four feet in height and 10 feet in width between the off-street parking areas and any lot line; and Section 209-42.H.(2)(a)[1] and [4] – To permit 192 parking spaces instead of the required 264 spaces, with up to 85 of those spaces placed in reserve.**

Heath Dumack, P.E. and Brian Brzezinski gets sworn in.

Atty. Bidlingmaier states his firm has previously represented Mr. Brzezinski's son. Atty. Barbara Kirk who works with Mr. Duffy, talked to Mr. Brzezinski and he would waive any conflict.

Atty. Bidlingmaier marks ZHB Exhibit 1 – 6 and Applicant Exhibit A-5 (proof of neighbor notification)

Timothy Duffy, Esquire, presents the application and calls Brian Brzezinski who testifies he does excavation and demolition in Falls Township. He states he is under agreement to purchase the property contingent upon zoning approval and land development approval. He testifies to the previous use (Lincoln Garage), describes the negotiations with the current owners, the length of time the property has been vacant, and his desire to improve the property. He explains they would like to build a 55 and over community with two buildings, totaling 96 units. Heath Dumack was hired to produce several sketch plans. Due to the odd nature of the lot, it was difficult for other uses. He states this use will have much less impact on traffic than other uses.

A handout is presented as Exhibit A-1 which has pictures of the present condition of the property, two proposed plans of the property and some sketches. A rendering of the potential development is shown. Discussion occurs around these exhibits.

Heath Dumack is recognized as an expert in land use and civil engineering. He goes through the current site conditions, the proposed development of the two 2-story buildings, the stormwater management mechanisms which will be put in place, the fire truck turning lane requested by the Fire Marshal, and some of the other options (McDonald's, Starbucks with drive-thru, a commercial strip mall, a townhouse development). The decision to go with the 55 and over age restricted community was a result of the ITE (traffic code) for a residential use which mandates 4 trips per day per unit, which is less than other uses. Based on 4 trips a day, for 96 units it would generate less than 400 trips in and out of this site as opposed to 10,000 trips a day for a use like a Starbucks.

Atty. Duffy and Mr. Dumack go through the variances and the reasons for them.

Member Mackey says the issue for most is the density of the property and the height of the buildings.

Atty. Duffy states in our view the justification is there to grant relief because the dimensional variances are largely de minimus, they are consistent with other surrounding properties in the area, and they are driven by the need that if this property is going to be returned to a productive part of the community, this is the best use for the property.

Harrison Fonteix, Esq., (Rudolph Clarke), solicitor for the Township, states there were representations made by the applicant and the witnesses tonight about conversations with the Township. I want to make abundantly clear to the Board that we are not opposing this application; we are not in support of the application. The Township is taking a position of neutrality. We leave it up to the Board to decide.

The Board takes an executive session.

Atty. Bidlingmaier explains Party Status.

Public Comment

*Frank Bray*, 17 Oak Lane, states he is not against the development of the property, but has a problem with the height of the buildings (loss of privacy in the back yard), has a problem with how close to the road it will go, number of units, increase in water usage, and extra traffic.

*Ron Seal*, 658 Lincoln Highway, asks if it will be age qualified and has concerns with the polluted ground on the property, and the height of the buildings.

*Terry McKeown*, 15 Oak Lane, states her concern with the trees and wildlife will be removed, no more noise barrier from Rte. 1, Tyburn Road, or Trenton Road, increase in traffic, loss of privacy, loss of property values to the surrounding neighbors, setback concerns, height of buildings, and lighting. She hopes the Board rejects the application.

*Nicholas Tocchi*, 981 Trenton Road, agrees with the others about privacy and traffic. His concern is the paper road and how it will impact his two-entrance driveway.

*Toni Battiste*, 218 Gloucester Road, states her concern with water increases, setback issues, fire trucks accessing the property, paper street concerns, and adequate parking. She hopes the Board rejects the application.

*Jennifer Kramer*, 658 Lincoln Highway, agrees with all comments made against approval and is concerned about noise, snow removal, emergency access, and parking.

*Mike Cantrell*, 5 Vermillion Lane, states his concern about the size of the development, it is too big for this area, the number of variances needed, the increase in traffic, and the plantings are not adequate.

Chairman Striluk gives Atty. Duffy copies of two emails/letters from residents that were sent to the Township.

*Carl Newtown*, 15 Oak Lane (lives) and owns 12 Oak Lane and gives Atty. Duffy a petition signed by all the neighbors on Oak Lane.

*Danielle Tomlinson*, 11 Oak Lane, expresses concern about removing the paper road and the fact it would land lock her property.

Atty. Bidlingmaier marks the petition as Exhibit ZHB 7.

Atty. Duffy gives a closing statement.

The Board takes an Executive Session.

Member McTague makes a motion the application of Brian Brzezinski be DENIED.

Member Mackey seconds the motion.

**All in favor 4-0. APPLICATION IS DENIED.**

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**Hearing adjourned 10:00 p.m.**