

**FALLS TOWNSHIP
ZONING HEARING BOARD
DECEMBER 10, 2019**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 10:42 p.m.

Members present: Al Brooks, Scott D’Oria, Bill Kiernan, Dan Miles, Doug Molle

Members absent: None

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

Petition #1: Sumanta Mukherjee, 28 Bernard Drive, Morrisville, PA 19067; TMP #13-029-080; Zoned: LR. Requesting dimensional variances to install a shed which is over the allowable building and maximum impervious surface coverages. Section 209-12.D and Table 1.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7.

Sumanta Mukherjee presents the application and states he installed the shed in 2008. His house is now up for sale and the lack of a shed permit came up in the inspection. When the permit was submitted, it was denied because of the building and total surface coverages. Even if the shed is removed, the total impervious would still be over the allowable.

Member D’Oria asks if measures have been taken for water runoff (yes).

No public comment.

Member Brooks makes a motion that the application of Sumanta Mukherjee requesting a dimensional variance from Section 209-12.D and Table 1 of the Falls Township Zoning Ordinances be GRANTED to install a shed which is over the allowable building and maximum impervious surface coverages at the property located at 28 Bernard Drive, 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 #2: Beverly A. Mikuriya, M.D., 22 Fallsington-Tullytown Road, Levittown, PA 19054; TMP #13-024-002; Zoned: NCR. Requesting a use variance to permit a medical office or in the alternative to qualify the use of the subject property as a lawful non-conforming use. Sections 209-20, 209-41, and 209-77.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 11 and Applicant Exhibit A-1 (proof of neighbor notification) through A-8.

Lauren Gallagher, Esquire, states that the Township is requesting party status to this application.

Todd Savarese, Esquire, states that he represents Dr. Mikuriya. Dr. Mikuriya is seeking to qualify 22 Fallsington Tullytown Road as a medical office. In 2017, a letter of intent was submitted to the Township expressing her interest in using the property that has historically had commercial uses. The building's other tenant, Adine Koppes (24 Fallsington Tullytown Rd) received a zoning variance for an industrial sewing business in Feb. 2018. Subsequently, Dr. Mikuriya went before the zoning hearing board in April 2018, with a similar request, to use the other side of the building for a medical marijuana consultant business. Dr. Mikuriya has no intention to sell any product, to cultivate, to dispense any type of marijuana or cannibas; her sole purpose would be for a medical office as she is a licensed physician and has a sub-specialty of providing education and consulting services to individuals who qualify under Pennsylvania's law for medical cannibas.

Atty. Savarese wants to include as an exhibit the transcript from the February 2018 ZHB hearing of Adine Koppes. Atty. Gallagher objects to the inclusion of this transcript as it is a separate tax parcel number and has no relevance to this hearing.

Atty. Savarese states he is not aware that they are separate tax parcel numbers. Discussion occurs on this point.

Discussion occurs on how this application can be heard again when a denial was given in 2018.

Dr. Mikuriya gets sworn in and testifies to her medical experience, gives historical testimony as to the use of the property, her efforts to get the property rented for commercial tenants, and her previous ZHB application in April 2018 and her resulting actions.

Atty. Gallagher cross-examines Dr. Mikuriya.

Board members ask numerous questions.

Public Comment

Darrin Lehman, Moon Drive, asks about parking as this is a busy area.

John Hose, 4 Moon Drive, expresses his concern about the parking, especially handicapped. He also requested Party Status and it was granted.

John Feher, 140 Fallsington Tullytown Road, expresses his concern about the parking. He also states that people are living there in the sewing shop so it goes back to residential. Also the sewing shop does not generate a lot of traffic, but the medical practice would. He also requested Party Status and it was granted.

No further public comment.

Board members ask more questions.

Matt Takita, Zoning Officer, gets sworn in and is questioned by Atty. Gallagher and cross-examined by Atty. Savarese and Mr. Hose.

Recess taken by the Zoning Hearing Board.

Atty. Gallagher makes closing remarks.

Atty. Savarese submits a memorandum of law and makes closing remarks.

Testimony closes.

Member Brooks makes a motion that the application for a use variance and non-conforming use of Beverly Mikuriya be DENIED.

Member Kiernan seconds the motion.

All in favor 4-1, D’Orio dissenting. Motion carries – application is denied.

Petition #3: GSA Rentals, Inc., 275 Yardley Avenue, Fallsington, PA 19054; TMP #13-032-019; Zoned: NCR. Requesting a use variance to allow five residential apartments and storage garage for contractor business in existing building. Section 209-20.

Atty. Bidlingmaier states that he has a personal relationship with Matthew Antonini which could pose a potential conflict and asks Atty. Prokopiak if he wants to address that or waive it.

Atty. Prokopiak states he has no objection to Atty. Bidlingmaier remaining as solicitor for this application.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7 and Applicant Exhibit A-1 (proof of neighbor notification).

Atty. Prokopiak presents documents to the Board (Applicant Exhibits A2 – A3).

Atty. Prokopiak continues and states that Matthew Antonini is the owner of GSA Rentals and is proposing to put in five residential apartments as well as a small area for the storage of his materials for his masonry business. This building is the former TOFA building built in the late 1940s constructed as a mixed-use building. It contains about 6,000 sq. ft. total – 3,500 sq. ft. in office space and the rest of it is garage. TOFA was dissolved in 1993, and the property was transferred to a private individual. It was used intermittently over those years. Judge Vislosky, the former property owner, passed away in 2014 and the property has been vacant since that point.

Atty. Prokopiak questions Matthew Antonini about his history, his business, the previous zoning petition for a restoration business, the current condition of the property, and what he intends to do with the property.

Board Comments

Member Molle asks about the materials that will be stored there (2 trucks parked in the back; inside the bldg. scaffolding, ladders, liners and bricks on pallets).

Member Brooks asks if apartments will have kitchens (yes) and 55 and over (yes).

Member D’Oria asks what Mr. Antonini would do if he isn’t approved tonight (to be determined).

Member Kiernan asks about the size of the trucks (pick up truck and van – no dump trucks or big trucks).

Member Miles ask if there any outside dumpster storage (not for the business; trash dumpster for tenants).

Public Comment

Danny Vossbein, 39 Williamson Avenue, expresses his concern with the number of apartments and its negative impact on the community.

Frank Dringus, 50 E. Trenton Avenue, expresses his concern with the number of apartments and is not in favor of the application.

Donna Morgan, 280 Yardley Avenue, expresses her opposition with the number of apartments because they live across the street and the headlights of cars coming and going would be a bother. There's too much traffic already.

Amy Ransley, 290 Yardley Avenue, directly across the street, expresses her displeasure with the five apartments due to traffic, additional cars, no room for parking, etc. There are single family residences in Fallsington. She requests party status and was granted it.
Ms. Ransley questions Atty. Prokopiak and Mr. Antonini.

Dan Kearney, 290 Yardley Avenue, states that he is unsure how they came up with square footage of the building.

Beverly Dringus, 50 E. Trenton Rd, states that an apartment complex does not belong in Fallsington and expresses concern about safety for the children.

Robert Tracey, Commander of Post 84 American Legion, states he is not in favor of the apartments as Fallsington is a quiet neighbor and it doesn't fit in with the neighborhood.

Anne Marie James, 44 E. Trenton Avenue, states her concern about the starting time for the business as well as whether pets would be allowed in the apartments.

No more public comment.

Atty. Prokopiak makes closing comments.

Member D'Oria makes a motion that the application of GSA Rentals LLC requesting a use variance from Section 209-20 of the Falls Township Zoning Ordinance be GRANTED to allow five residential apartments and a storage garage for a contractor business in the existing building at the property located at 275 Yardley Avenue, Fallsington, PA 19054, as depicted in the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Kiernan seconds the motion.

All in favor 4-1, Miles dissenting. Motion carries.

Petition #4: ALRO Steel, Northwest Corner of Steel Drive and Progress Drive, Morrisville, PA 19067; TMP #13-047-166-001 and #13-047-166-002; Zoned: HI. Requesting dimensional variances to construct an office and warehouse which exceeds the allowable maximum impervious coverage and to allow three access points. Section 209-29.G, Attachment 7, Table 5, and Section 209-42.E.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 7 and Applicant Exhibit A-1 (proof of neighbor notification).

Francis Dillon, Esquire, presents the application and states that ALRO Steel is one of the top 10 largest distributors of raw steel in the country. ARLO Steel receives and distributes steel to surrounding industries within its 50 mile distribution area. ARLO has purchased this tract which is 14.63 acres at the northwest corner of Steel Drive and Progress Avenue. The progress will consist of approximately 10,000 sq. ft. of office space, 175,000 sq. ft. of initial warehouse space with a potential to expand up to 229,000 sq. ft. on the 14 acres. This is a 24 hour operation. The first shift accepts orders and deliveries and processes orders; the second shift processes orders and cuts steel for delivery to the customer and the third shift loads the truck for deliveries to be made the next morning. The property is zoned Heavy Industrial. We are seeking a variance from Sec. 209-29.G., Attachment 7, the maximum impervious surface requested is 67% as opposed to 50% allowed by your revised ordinance (it used to allow 80%). We are also asking for a variance from Section 209-42.E to have an additional access point for a total of three. The third access point is for cars only; we don't want the cars interacting with the trucks.

No Board comments.

No public comments.

Member Brooks makes a motion that the application of ARLO Steel requesting a dimensional variance from Sections 209-29.G and 209-42.E, Attachment 7, Table 5 of the Falls Township Zoning Ordinance be GRANTED to construct an office and warehouse which exceeds the allowable maximum impervious coverage and to allow three access points at the property located at the northwest corner of Steel Drive and Progress Avenue, Morrisville, PA 19067, 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.

Hearing adjourned 10:42 p.m.