TOWNSHIP OF LOWER MAKEFIELD

ZONING HEARING BOARD

MINUTES – DECEMBER 5, 2023

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield

was held in the Municipal Building on December 5, 2023. Mr. Solor called the meeting

to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Peter Solor, Chair

Judi Reiss, Secretary

Matthew Connors, Member (joined meeting in progress)

Masood Bilal, Alternate Member

Christian Schwartz, Alternate Member

Others: Dan McLoone, Planner

Barbara Kirk, Township Solicitor

Adam Flager, Zoning Hearing Board Solicitor

Absent: James Dougherty, Zoning Hearing Board Vice Chair

Mike McVan, Zoning Hearing Board Member

APPEAL #Z-23-2016 – MEGINNISS/HARRIS

Tax Parcel #20-034-130

0 EDGEWOOD ROAD, YARDLEY, PA 19067

(Continued from 10/3/23)

Mr. Solor stated they have requested a Continued to February 6, 2024.

Mr. Schwartz moved, Ms. Reiss seconded and it was unanimously carried to grant a

Continuance to February 6, 2024.

APPEAL #Z-23-2035 – JOSEPH MENARD

Tax Parcel #20-025-152

917 PUTNAM DRIVE, YARDLEY, PA 19067

(Continued from 11/6/23)

Mr. Joe Menard was sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit

A-1. The Site Plans were marked as Exhibit A-2. Project Worksheets were marked

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as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of

Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as

Exhibit B-3.

Mr. Connors joined the meeting at this time.

Mr. Menard stated he is looking to put in a basic paver patio in the back yard.

He stated initially using the Township methodology they were a little bit over on

the impervious surface calculation. He stated they were four cubic feet short of

100% mitigation. He stated on the Revised Application, he had a very large tree

within 20’ of the patio that more than 100% mitigates the run-off calculations

that the Township requires. He stated he believes that they are in compliance.

Mr. Solor stated it indicates that the property was acquired in 1976, and he asked

Mr. Menard if he has done any other construction that brought the impervious

up prior to the paver patio that is being discussed. Mr. Menard stated he has.

Mr. Solor asked Mr. McLoone about that prior construction. Mr. McLoone

stated he does not know the Permit history.

Mr. Menard stated they had a 3’ walkway in front of the house, and they

widened it to 4’. He stated instead of a straight shot down to the drive, they

made a little bit of a curve to add curb appeal to the house. He stated that

increased 120 it square feet.

Ms. Kirk stated the proposed rear paver patio is 390 square feet, and

Mr. Menard agreed. She asked Mr. Menard what existed on the property when

he acquired it in 1976. Mr. Menard stated it was everything that is there now

except for the widening of the front walkway and the proposed patio. Ms. Kirk

asked if the patio that shows on the Plan at the rear of the property was there in

1976 when he bought it, and Mr. Menard agreed. Ms. Kirk asked if it is a two-story

house, and Mr. Menard agreed. She asked if there is also an attached garage.

Mr. Menard stated he would like to clarify a statement that he made as twenty

years ago they added a half garage, and they did get a Building Permit for that.

Ms. Kirk asked the size of the half garage, and Mr. Menard stated it is half the

size of a regular garage. Ms. Kirk asked if that would be about 150 square feet,

and Mr. Menard stated he believes it is close to that. He stated you could not

fit a car in it, and it is more for storage.

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Ms. Kirk asked if there was an expansion of the driveway or anything off of Putnam;

and Mr. Menard stated the only thing they did in terms of the driveway was that

when it was repaved they added a little less than 2 square feet of additional pave-

ment in order to keep the driveway from sinking.

Ms. Kirk asked in the proposal for 390 square feet for the proposed patio is that

the section that was on the photo that says, “arched fire area;” and Mr. Menard

stated that is part of the patio. He added there are detailed calculations of that

arched area that were submitted. Ms. Kirk stated on the sheet it states that the

basic patio is 366 square feet and then there is another 24 square foot walkway

that is being added, and Mr. Menard agreed. Ms. Kirk asked if that is from the

existing patio to the new patio. Mr. Menard stated there is a side door out to

the patio and the foundation was already there, and there is 8’ from the door

of the house and the beginning of the proposed patio. He stated it will be 3’

by 8’.

Mr. Solor noted the slide being shown, and it is broken out as 308 square feet

to the main rectangular portion of the patio and 58 for the arched. He stated

that plus the walkway equals the 390.

Ms. Kirk stated based on what Mr. Menard completed for the stormwater

control, he is taking the position that the existing tree and two new trees would

control the run-off; and Mr. Menard stated those and the six pine trees that

they added previously which are within 100’ of the patio.

Ms. Kirk asked Mr. Menard if he is aware that the property as it presently sits

exceeds the maximum impervious surface coverage by at least 5%. Mr. Menard

stated he agrees, before mitigation. He added that if you look at the calculations

as a whole, even before they did anything the initial regulations of the Township

put their house over the limit in itself so it was not very well planned out by the

Township. He stated they were already over by the existing footprint of the

house. Ms. Kirk stated she understands that at the time that the house was

designed and built, the impervious surface calculations were different from

what they are today.

Ms. Kirk asked Mr. Menard if he is aware that there have been severe storms

occurring recently, and Mr. Menard stated that has been pointed out by the

Board of Supervisors.

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Ms. Kirk asked Mr. Menard if he is unwilling to work with the Township engineer

to install some sort of stormwater management facility such as a seepage pit or

a drainage trench to help collect the water to assure that he reduces the effect

of the impervious as close to the current allowable amount. Mr. Menard stated

that would be a reasonable solution if he did not already have sufficient compo-

nents of mitigation already in place. Ms. Kirk stated what is being shown are

evergreen trees, and Mr. Menard stated that is per the Township’s mitigation

calculation. Ms. Kirk stated with the volume of water that has recently occurred

especially this past summer, there is no way of insuring that those evergreen

trees will remain rooted in the ground should another severe storm happen.

Mr. Menard stated there are evergreen trees in the development that were

approved by the Township that have been there for fifty years, and maybe 2

of those 3,000 trees have fallen down. He stated it is true that they could fall

down, but you would then plant a new one.

Ms. Kirk asked Mr. Menard if it is his position that he does not want to install

any other sort of stormwater management control other than the trees that

he has planted, and Mr. Menard stated it is “not that he wouldn’t, but he

does not need to” because he is already in compliance with mitigation factors

that were required.

Ms. Reiss stated the issue with trees is that you cannot be sure that trees will

not catch a disease, or die, or be hit by lightning, or that the next person who

has the home decides that they do not like them and cuts them down.

She stated the Township has made a practice/decision that we cannot accept

trees as mitigation. She stated she went through this with her property as well

as her home was built in 1976. She stated Mr. Menard needs to come up with

another type of mitigation since trees are not a permanent solution.

Mr. Solor stated Mr. Menard indicated that he “did about another” 120 square

feet of additional sidewalk and 150 square feet of a garage addition, and he

asked if that was all post-1987. Mr. Menard stated he believes the garage

could have been pre-1987 although he does not remember.

There was no one from the public wishing to speak on this matter.

Mr. Solor asked Mr. Menard when he did the sidewalk in the front, and

Mr. Menard stated he believes it was within the last two years. Mr. Solor

stated the Application indicates the sidewalk was added in 2022. He stated

at a minimum he would ask that mitigation include the sidewalk addition

which would make it 510 square feet to be mitigated and not 390.

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Mr. Menard asked for clarification, and Mr. Solor stated Mr. Menard did 120

square feet of additional impervious surface work two years ago. Mr. Menard

stated that was in the front yard; and Mr. Solor stated is still part of the property,

and the calculation is based on the total area of the property.

Ms. Reiss asked Mr. McLoone what he would suggest for mitigation.

Mr. McLoone stated he would suggest an infiltration trench although he does

not know what it would be based off of the 510, but for the 390 it would be

about 3 by 4 by 20. Mr. Solor stated it would be about one-third more than

that.

Ms. Kirk stated the Township is not necessarily in favor of mitigation by

planting of trees. She stated because of the severe weather that we have

been experiencing over the last several years, a more-stable form of infiltra-

tion is being requested. She stated they recognize that a lot of the impervious

surface had occurred prior to the current Ordinance, so the Township is not

necessarily asking that mitigation be down to produce a net effective 18%

maximum, but at least bring it down to a decent number to help offset any

stormwater.

Mr. Menard stated he believes that a better solution would be that instead

of counting on “God or storms or future residents,” he has been there 47

years, and they lost one tree to lightning, and he did not include that in the

calculations. He stated he feels this should be permitted with the “given

mitigation that has been accomplished and if that goes away, you have to

do something else.” He stated he is following the Township’s own calculation

“in how to do this.” He stated if you look at the Township’s sheet for mitigating,

he is in compliance. Ms. Kirk stated she is not saying he is not, but she is saying

that the Township is not in agreement with using plantings or trees. Mr. Menard

stated it is in the Township’s calculations as to how to mitigate. He added he

“cannot help that the Township already has that in.”

Mr. Solor advised Mr. Menard that what he is asking for is a Variance from the

Zoning, and the Board is discussing what Conditions might apply to receive a

Variance, and it is not automatic. Mr. Menard stated after meeting the miti-

gation that is “in the Application that you send out to people, if he has complied

with that and something else causes to be out of compliance, then you should

have me come back and do whatever additional mitigation is necessary.”

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Mr. Connors asked Mr. Menard if he is saying he is in compliance based upon

the Township Code, is he also requesting to remove the added impervious

surface so that he would not need to be before the Zoning Hearing Board.

Mr. Menard stated he understands the purpose of having the Hearings and

“reviewing,” but once people are in compliance. Mr. Connors advised

Mr. Menard that he is not in compliance as he is exceeding the impervious

surface. Mr. Menard stated he is mitigating it in accordance with the Town-

ship’s own calculation as to how to mitigate. Mr. Connors advised Mr. Menard

he is not in compliance based upon the Township’s impervious surface and

therefore he is before the Zoning Hearing Board. He added the Board reserves

the right to evaluate drainage and impervious surfaces in compliance with what

is ”being requested that is not part of the Zoning Board.” Mr. Menard stated he

disagrees with that conclusion because it “does not follow the facts.”

Mr. Connors asked Mr. Menard if he would like to withdraw his request, and

Mr. Menard stated he would not. Mr. Connors advised Mr. Menard that he

will have to listen to what the Zoning Hearing Board is saying. Mr. Menard

stated he is listening as it is a discussion, and “he is not sitting here and

listening to you.” He stated this is a discussion and he is telling his part of it

and listening to the Board’s part of it. Mr. Connors stated Mr. Menard is

telling his opinion of it. Mr. Menard stated he is saying that he followed the

regulations and followed the form that was sent out to show mitigation and

he explained what he did to mitigate.

Mr. Flager stated the Board has the authority to grant requested Variances

and also has the power to impose reasonable Conditions upon those

approvals. He stated for every Application that comes before the Board

having to do with impervious surface; and unless it is a negligible amount,

which would be less than 1% over, the Board requires stormwater manage-

ment. He stated people can still plant trees; however, the Board is allowed

to attach reasonable Conditions. He stated the reason the Board does that

is because, as Ms. Reiss noted, the next owner could do whatever they want

and remove all of the trees they want. He stated the problem is that if the

Board went with what Mr. Menard suggested that if something happens he

would come back to the Board, once the approval is granted, the Zoning

Hearing Board does not have the power anymore. He stated an approval is

granted and it runs with the land. He stated that the Board needs to make a

decision now because now is when the Board has the authority to grant or deny.

Mr. Menard stated there are various alternatives to doing the mitigation.

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Mr. Solor stated the Board has seen dry wells, infiltration trenches, and for

small quantities, they have seen rain barrels; however, the amount being

requested is more than could be sustained by a rain barrel. Mr. McLoone

stated those are the main kinds that have been used for best management

practices regulated by the DEP.

Mr. Schwartz asked Mr. Menard if two years ago when he replaced the

sidewalk, did he seek a Variance to allow more impervious for that at that

time. Mr. Menard stated he has a Building Permit for that. Mr. Solor stated

that is separate from asking for a Variance for the increased impervious.

Mr. McLoone stated he would need to look into whether a Variance was

obtained for that.

Ms. Kirk stated one of the Township’s concern is that some of these items that

were modified on the property were done with the appropriate Permits based

on appropriate numbers of impervious surface calculations provided at the

time of the Application. She asked if there could be a Recess to see if

Mr. McLoone could find the Permit files and present to the Board, and this

was acceptable to the Zoning Hearing Board.

Mr. Menard stated the walkway he discussed is in the front of the house and

the patio is in the rear of the house. He asked how would one kind of mitiga-

tion work. Mr. Solor stated you would be mitigating the impervious on the

property. He stated if the location of the proposed patio is on the lowest

portion of the property, a mitigation measure could be done that would

take impervious “somewhere else,” such as intercepting the rain leaders

and putting them in which would mitigate that amount of impervious surface.

Mr. Menard stated if he mitigates whatever he is over, that would take

care of the whole yard; and Mr. Solor stated that would bring it down.

Mr. Solor added that we need to discuss this further. He stated Ms. Kirk

is representing the Township and not the Zoning Hearing Board, and she

is presenting the Township’s position. He stated the Zoning Hearing Board

is independent of the Township. He stated Ms. Kirk has asked about

requesting more mitigation, but they have not discussed that yet; and he

does not yet know if the Board feels that is necessary at this point.

A short recess was taken at this time.

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When the Board reconvened, Mr. McLoone stated the previous Permit was

#22-0651 was approved to replace the walkway in accordance with the

approved Plan. He stated the Application states, “As set forth in supplemental

info, this is not a construction project but replacement of existing walkway at

front of home.”

Ms. Kirk stated it was dubbed as a replacement of a walkway, and she asked

if there was anything in the Permit Application that indicated that they were

making it wider. Mr. McLoone stated it does say that there is a 103 square

foot increase, and it might have been considered de minimus. He stated

because of the way it was written as a “replacement,” it might have been

an oversight. Mr. McLoone stated he does not know about the garage, and

this was the most recent Permit that he pulled.

Mr. Solor stated the Township has made a request for more mitigation than

the 390 square feet, and the Board should weigh in on what they believe it

should be mitigated back to.

Mr. Menard asked if the Board mentioned a dry well for mitigation, and

Mr. Solor stated that is an option. Ms. Kirk stated a dry well is similar to the

infiltration trench mentioned by Mr. McLoone. She stated it is a matter of

the size which will capture a certain amount of stormwater run-off to reduce

the net effect of the increase of impervious surface. Mr. Menard stated he

would accept either one of those although he does not want to have to build a

$10,000 French drain around his property. He stated he would be willing to

work with Mr. McLoone and Mr. Majewski, and Mr. McLoone stated he and

Mr. Majewski would be happy to work with him on the parameters.

Ms. Reiss asked the amount of impervious surface, and Mr. McLoone stated it

is 23.1%. Mr. Solor stated it was 22.4% before Mr. Menard did the sidewalk.

Mr. Flager advised Mr. Menard that many times with these approvals, the

Board puts on a Condition to remediate back to a certain amount, and he can

work with the Township as to how to do that since the Board does not

dictate which option they have to choose as long as it is acceptable to the

Township engineer. Mr. Menard stated he also wants to know that it is

draining the right way or the “mitigation could go into the house and not

mitigate.”

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Mr. Menard stated many years ago there were significant problems with people

trying to come into the Township to get approvals for “doing things with their

house,” and there were contractors who, once they found out where you lived,

refused to do a project. He stated the way, Dan, Jim, and Jamie work, this is a

“5,000 improvement in terms of working with the Township than what we had

before.” He stated he wanted to give them recognition because “this is a tough

area,” and they do a great job.

Mr. Schwartz stated he feels the Board should look to get mitigation to cover

the 390 proposed and the 103 additional from the last project. He stated this

would be 493 square feet. Mr. Schwartz stated while his property is under the

permitted impervious surface, the property around his house is flat; and he

reviewed the work he did at his property including French drains and dry wells

to get the water away from the foundation.

Mr. Menard stated when his development was first built, the builder had to

come back out and re-do about five of the properties because the drainage

design was not right.

Mr. Solor moved to approve the Appeal subject to mitigation back to 22.4%

utilizing stormwater detention to the satisfaction of the Township engineer.

Ms. Reiss asked if most of the properties are at 22.4%, and Mr. Solor stated

according to the Code they should be 18%. Ms. Reiss stated she was thinking

about requiring 18% or 19%; however, Mr. Solor stated he is just adding a

patio. Ms. Reiss noted flooding that happened in the 1990’s, and she is

concerned about something like that happening again. Mr. Menard stated

there is nothing that could be done to mitigate everything, and Ms. Reiss agreed.

Mr. Menard stated that is why it has to be practical. Ms. Reiss stated she would

be in favor of the Motion.

Mr. Schwartz seconded and the Motion carried unanimously.

Mr. Menard recommended that on the impervious calculation sheet, the people

need to be given a better understanding since he felt he complied; but then he

was told that he did not comply. Mr. McLoone stated he agrees that the work-

sheet needs to be changed, and there is an RFP out on the Website to work

with a consultant and look at the entire Stormwater Management Ordinance

in light of the flooding. Mr. Menard stated it also does not take into account

the way some of the newer calculations work with stormwater management

with the water draining in different direction, and the regulations need to

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be adjusted to accommodate the new methodology for calculating stormwater

management. Ms. Kirk stated the Township is looking into alternatives.

She stated a lot of the Township has clay soil, and there is difficulty with

infiltration; and they are looking into an overall review.

APPEAL #Z-23-2040 – MUNZ/PELLEGRINO

Tax Parcel #20-059-267

872 HENRY DRIVE, YARDLEY, PA 19067

Mr. Bruce Pellegrino, Ms. Gloria Pellegrino, and Mr. Colin Craige, Munz

Construction were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as

Exhibit A-1. The Site Plans were marked as Exhibit A-12. The Impervious

Surface Breakdown and Stormwater Management Small Project Volume

Control was marked as Exhibit A-3. The Proof of Publication was marked

as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice

to the neighbors was marked as Exhibit B-3.

Mr. Craige stated they are proposing an addition which will be an additional

358 square feet to what they currently have on their lot and would like to

mitigate that additional 60 cubic feet with a dry well system. He stated it

would be 4’ deep, 5’ wide, and 7 ½’ long, and that would make up the

additional 60 cubic feet for the addition that is being proposed.

Ms. Kirk stated according to the information provided, it shows that the

property already exceeds the maximum allowed 18% impervious surface;

and she asked the basis for the existing increase. Ms. Kirk stated the paper-

work indicates that they have 20.5% impervious surface coverage on the

property currently. Mr. Craige stated it is an existing non-conforming.

Mr. Pellegrino stated that is as built, and the house has not been modified

as far as he knows. He stated they have been there for ten years. Ms. Kirk

asked Mr. Pellegrino if he has added any walkways or patios to the property

since he has owned it, and Mr. Pellegrino stated they have not. Ms. Kirk

asked if there was any increase to the driveway width, and Mr. Pellegrino

stated there was not.

Ms. Kirk asked if the house is in Yardley Hunt, and Mr. Pellegrino agreed.

Ms. Kirk asked if there is clay soil. Mr. Pellegrino stated he has added soil

for a garden in the back. He stated there is clay underneath but there is

“good topsoil on it.”

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Ms. Kirk stated the Township is concerned about the increase stormwater

run-off, and she asked if they would be willing to increase the size of the

proposed trench to bring it down to a net effect of 18% impervious surface

coverage. Mr. Pellegrino asked what would be the additional size required

for that. Mr. Craige stated if the Township would like to see it back to the

18% allowable, one could be proposed at 3’ deep, 9 ½’ wide by 11 ½’’ long,

and that would cover a total 130 cubic feet which would take it back to the

18% allowable.

Mr. Solor asked the Applicants if they would be amenable to mitigating it back

to 18% which is what the Board would look on favorably; and Mr. Pellegrino

stated if that would fit on the property at the proper location, they would be

agreeable to that.

There was no one from the public wishing to speak on this matter.

Ms. Reiss moved, Mr. Connors seconded and it was unanimously carried to

approve the Variance with the Condition that it be mitigated back to the 18%

with the approval of the Township engineer.

APPEAL #Z-23-2041 – MUNZ/CHUD

Tax Parcel #20-043-047

1807 WESTOVER ROAD, YARDLEY, PA 19067

Mr. Sam Chud and Mr. Colin Craige, Munz Construction, were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as

Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Impervious Surface

and Stormwater Plan were marked as Exhibit A-3. The Proof of Publication

was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2.

The Notice to the neighbors was marked as Exhibit B-3.

Mr. Craige stated they want to build a garage and be able to access the garage

with the extension of his driveway. He stated he has proposed a dry well sized

to mitigate the additional 858 square feet of driveway to the new garage location.

He stated the dry well size for the 143 cubic feet would be 4’ deep by 8.25’ wide

by 11’ long.

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Mr. Connors asked how the property got to 24%. Mr. Craige stated there is an

approved Permit based off of the garage adding that the garage has not been

built yet. He stated they wanted to make sure that they could get the driveway

approved before building the garage. He stated the garage is included in the

calculation.

Mr. Chud stated the garage is replacing an already-existing covered porch.

He stated the house was constructed in the 1960’s and the 24% goes all the

way back to when it was constructed. Mr. Connors asked if this is one of the

areas in the Township where the Zoning was updated for a reduced impervious

coverage calculation; however, Mr. McLoone stated he did not believe so.

He stated it is in Westover, and he believes it has always been 18% since the

Zoning Ordinance was adopted. Mr. Solor stated given the neighborhood that

it is in, it was probably constructed long before the current Ordinance; and

Mr. McLoone agreed.

Ms. Kirk asked Mr. Craige to describe the elevation of the property; and Mr. Craige

stated the house does sit higher up, and the front yard runs down to the street.

Mr. Chud stated the property is sloped from the back to the front, and there is

about a 10’ difference from the back of the property line to the front of the

property line.

Ms. Kirk stated given the slope, the additional stormwater will be draining from

the Applicant’s property down to other residences. She asked Mr. Chud if he

would be amenable to increasing the size of the infiltration trench in order to

bring it back down to a net effect of 18% not only to deal with the increase

that is being put on the property but to deal with the increase that has been

sitting there for a number of years. Mr. Chud stated the water runs down the

driveway because of the slope, and there is a drain at the bottom of the drive-

way which the water drains into. He stated as long as Mr. Craige can determine

the proper dimensions and placement, he would agree to bring it back down

to 18%.

Mr. Solor stated one of the goals of stormwater management system is to

reduce the amount of water that is getting into the drains because during

these storms, there is a limit as to how much can be handled in the detention

system before it creates a flooding situation downstream. Mr. Chud stated he

understands that; and while currently there is not an issue, with discussions

about future mega storms, he is fine with increasing the size of the infiltration

trench.

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Ms. Kirk stated it does not necessarily have to be one huge infiltration pit, and

Mr. Craige may be able to place two different trenches on the property to

capture water to bring it to 18%. Mr. Craige stated he hopes that they will be

able to come up with the most cost-effective means of mitigation that will

suffice for the Township.

Mr. Solor stated another option that is sometimes used to reduce the amount

that needs to be mitigated is to remove other pavement. He stated it appears

that there may be a section of driveway going to an existing garage, and he

asked if that garage is being converted to be part of the house since then some

of that driveway may be able to be removed which would reduce the amount

of increase in impervious surface. Mr. Chud stated that could be a consideration.

He stated the reason that they are building a new garage is because the existing

garage is under the house, and the driveway slopes down with a 45-degree slope.

He stated during the winter that can be very treacherous bringing cars up and

down that driveway. He stated that is why they want to construct a new garage

up top replacing the existing porch.

Mr. Chud stated they could look at that driveway. He asked if Mr. Solor is

suggesting also removing pavement if they are going to do a dry well so that

they could reduce the size of the dry well, and Mr. Solor stated that would be

an option. Mr. Connors stated they are proposing over 28% impervious which

means almost a third of the property is paved. He stated if he were to remove

portions of that driveway, that would reduce the impervious, and he would

not have to mitigate as much. He stated green space could be incorporated

as well to make the property look a little bit less paved.

There was no one from the public wishing to speak on this matter.

Mr. Solor stated if the Board were to make a proposal reducing the impervious

surface to 18% effective subject to the approval by the Township engineer,

that would give leeway for the Applicant to consider removal of pavement

to bring the impervious surface down so that he would not have to use storm-

water mitigation measures. Mr. Chud stated he understands he would be

working with the Township engineer. Mr. Solor stated if he were to remove

300 square feet of paving, that would be 300 square feet less that he would

need to do mitigation measures for. Mr. Chud stated he is open to the

possibility, but would like to understand the combination of dry well and

potentially removing any driveway. Mr. Craige stated they would explore

all of those options. He stated he understands that the approval would be

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based upon what he and Mr. Chud are satisfied with that would also fall

within the parameters being discussed. Mr. Chud stated he understands

that the Board is looking to bring it down to 18%, and Mr. Solor agreed.

Mr. Connors stated the Board would like to see the effective impervious

brought back to 18%. Mr. Connors stated he would like to see less actual

impervious coverage than what has been proposed, and he does not

believe under any circumstances would Mr. Chud be able to pave anything

more than what is shown on the Plan right now. He stated he would like

to see less impervious pavement.

Mr. Schwartz moved and Ms. Reiss seconded to approve the Appeal per the

Application to a maximum of 28.6% impervious mitigated back to an effective

18% by any means approved by the Township engineer.

Mr. Connors stated with regard to the existing driveway, his concern is that

if the Board approves this as it stands, we could have six parking spaces in

front of a Residential home. Mr. Solor stated that is why it was referred to

as a maximum in the Motion. Mr. Connors stated he is comfortable with

how the Motion reads, but he would like to reinforce to the Applicant that

he really consider removing some pavement.

Mr. Chud noted that driveway is below ground so you really do not see if from

the road. He stated his only concern about removing that is that the previous

owner put a big drainage system so that when the water runs down the drive-

way it goes into a drain; and while he would like to consider what Mr. Connors

is suggesting, he does not want to have an issue where water runs down and

goes into the garage. He stated he will work with the Township engineer to

determine the best way to get it down to 18%. Mr. Connors stated he under-

stands that and would not want to cause any damage to the property.

Motion carried unanimously.

OTHER BUSINESS

Ms. Desiree Holtzworth was sworn in.

Ms. Holtzworth stated she lives at 2012 Yardley-Morrisville Road and she has

signed, approved Building Plans for the lot next to her. She stated the Building

Plans say that the minimum lot requires 34,000 square feet, and the existing

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square footage of the lot is 11,400. She stated it is supposed to be a non-

conforming lot based on the fact that it was created prior to January 1, 1947.

She stated that is not correct adding that she has a Deed, and that lot was

subdivided in 1951.

Ms. Holtzworth stated she has had a lot of discussions with Mr. Majewski who

told her that there is an existing Ordinance from 1951 that says that 11,000

square feet was still “within agreeable things.” She stated she has requested

that information multiple times, but has not received anything. Ms. Holtzworth

stated she believes that this is a Zoning issue since it does not meet requirements.

Ms. Kirk asked Ms. Holtzworth what she has requested. Ms. Holtzworth stated

she has multiple forms of communication from Mr. Majewski that say this is a

non-conforming lot, and he “has thrown out different dates including the date

1947.” She stated she has an e-mail from Mr. Majewski that says it is non-

conforming because it existed prior to 1939. She stated the Deed she has shows

that it was subdivided by the Westover Corporation to the original owners   
“to the smaller lot.” She stated it was originally 100’ wide; and in 1951 it was

subdivided, and it is now 60’ wide. Ms. Holtzworth stated the Building Plans

which are signed and approved say that is in accordance with a date prior to

1947, “but that is wrong.”

Ms. Kirk asked Ms. Holtzworth what she has asked for that she has indicated

that she is not getting. Ms. Holtzworth stated Mr. Majewski told her that the

11,000 square foot was in compliance according to what was the Ordinance

of 1951, and she asked to be shown that. Ms. Kirk stated there may not be a

copy of the Ordinance from 1951. Ms. Holtzman asked how they could make

a decision based on those facts if you do not have the facts. Ms. Kirk stated

he may have a notation in the file about it.

Mr. McLoone stated Mr. Majewski showed him something in a green book, and

asked that Ms. Holtzworth come into the office so that he can show here the

book and explain his reasoning for why he sent her the e-mail. Ms. Holtzworth

stated she feels it should be a conforming lot, and Mr. Majewski is saying that it

is not.

Ms. Kirk stated if at the time the lot was created it was supposed to be 11,000

square feet per the Zoning regulations at the time or possibly based on a

Variance approval from the Zoning Hearing Board, and since then the regula-

tions have changed to say that lots need to be a larger size, under the Law,

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that is a legal, non-conforming lot saying that even though it does not meet

today’s regulations, because it did when it was created, it can exist in its

present size.

Mr. Holtzworth stated she understands that. Ms. Kirk stated she is confused

as to what the issue is. Ms. Holtzworth stated she wants proof that it was a

conforming lot in 1951. Ms. Kirk stated Mr. McLoone has indicated that

Ms. Holtzworth could come in, and he would show her what the Township

has. She added that is assuming that the Township still has all of that infor-

mation still on file from 1951. She stated not everything is on microfiche

like it may be in Doylestown where Ms. Holtzworth pulled the Deed.

Ms. Holtzworth stated while that makes sense, she does not understand

how they could approve something if there is not the documentation

showing what is required.

Ms. Kirk stated she would recommend that Ms. Holtzworth come in and talk

to Mr. Majewski, and Ms. Holtzworth stated she has tried that. Mr. McLoone

stated while he agrees she has tried, he does not believe that she specifically

asked for the document that he is referring to. He asked that she come in

and he will show her the document that he believes Mr. Majewski was

referring to in his e-mails. He stated he feels the reason that she has not

been given exactly what she is looking for is because she did not explicitly

ask for that. Ms. Holtzworth stated she has e-mail communication where she

has specifically asked for that, and it goes unanswered for weeks at a time

and phone calls do not get returned.

Ms. Kirk stated the other option is to file a Right-To-Know request specifying

what she is looking for, and the Township has certain obligations under the

Law to respond to the request. She stated that could be done if she feels she

is not getting an appropriate response.

Ms. Holtzworth stated they have signed Building Plans, and the Building Plans

that are signed and approved has incorrect data. She asked how they could

be approved when it states in the Building Plans something that is not true.

Ms. Kirk stated when Building Plans are submitted, they are usually done by

an architect or an engineer, and the Township has to rely on the information

that is presented in the Plans as being accurate. She stated there is not a

person in the Township who independently goes out and does a survey of

the Lot. She stated someone either falsified the Plans and submitted them

to the Township or there is other information that Ms. Holtzworth may not

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be aware of. She stated the only way to find out about that is to either come in

and speak to Mr. McLoone and look at the book he is talking about or submit a

Right-To-Know Request with specificity as to exactly what she is looking for,

and the Township will have to respond under the Law.

Mr. Solor stated this discussion can be continued with the Township, but it is

not a Zoning Hearing Board issue. Ms. Holtzworth stated she feels that it

should require a Variance which is why she came. Mr. Solor stated while he

understands that, that has to be dealt with at the Township level and not the

Zoning Hearing Board level at this point.

CANCEL DECEMBER 19, 2023 MEETING

Ms. Reiss. moved, Mr. Connors seconded and it was unanimously carried to

cancel the December 19, 2023 meeting.

It was noted that the next meeting of the Zoning Hearing Board will be held

on Wednesday, January 3 as the Board of Supervisors. This will also be the

Reorganization Meeting. The meeting after that will be on the regular date

of January 16. Mr. Solor stated currently that is when the Cell Co Appeal will

be heard. Mr. Solor stated as Ms. Reiss will not be participating in that matter,

there will be the need for an Alternate.

There being no further business, Ms. Reiss moved, Mr. Schwartz seconded

and it was unanimously carried to adjourn the meeting at 8:49 p.m.

Respectfully Submitted,

Judi Reiss, Secretary