

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – AUGUST 18, 2020

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on August 18, 2020. Mr. Zamparelli called the meeting to order at 7:40 p.m.

Those present:

Zoning Hearing Board:                   Anthony Zamparelli, Chair/Temporary Secretary  
  Pamela VanBlunk, Vice Chair  
  Matthew Connors, Member  
  Michael Tritt, Member

Others:                                       James Majewski, Director Planning & Zoning  
  Barbara Kirk, Township Solicitor (left meeting  
  in progress)  
  Adam Flager, Zoning Hearing Board Solicitor  
  John B. Lewis, Supervisor Liaison (left meeting  
  in progress)

Absent:                                       Peter Solor, Zoning Hearing Board Member

Mr. Zamparelli noted that there are only four Board members present this evening which could result in a tie, and the Applicants have the option of requesting a Continuance.

APPEAL #20-1857 – TIMKO FAMILY ASSOCIATES, L.P.  
TAX PARCEL #20-016-096 – NORTHWEST CORNER OF INTERSECTION OF EDGEWOOD ROAD & SANDY RUN ROAD, YARDLEY, PA 19067

Mr. Flager stated the Applicant was ready to proceed at the August 4 meeting which was canceled due to a Township power outage. Mr. Flager stated one of their Witnesses was not available this evening so they have requested a Continuance. Mr. Flager stated Mr. Murphy is not available for the September 15 meeting; and he was going to check if his Associate, Joe Blackburn, was available to cover for him. He stated the Board also has the option of Continuing this matter to October. Mr. Zamparelli stated he would prefer that Mr. Murphy be present at the meeting.

Mr. Connors asked if there would be a timeframe limitation if this were done. Ms. Kirk stated she does not believe so. She stated the Township is participating and the Hearing had been opened for this Application. She stated if they receive a written request from Mr. Murphy waiving any time constraints, this should be fine; and Mr. Flager agreed that if all the Parties are in agreement, there would not be an issue.

Mr. Zamparelli moved, Ms. VanBlunk seconded and it was unanimously carried to Continue the matter to October 6, 2020.

APPEAL #20-1867 – JENNIFER PAN

TAX PARCEL #20-025-189 – 908 MORGAN DRIVE, YARDLEY, PA 19067

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 breakdown was marked as Exhibit A-3. An impervious surface breakdown calculation was marked as Exhibit A-3. The Stormwater Management small project volume control was marked as Exhibit A-5. 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.

Ms. Jennifer Pan was sworn in and stated she would like to get a swimming pool. She stated she did not know about the impervious surface breakdown of 1987 when she bought the home in 2014. She stated she submitted a Plan which was rejected since her existing impervious surface is already over at 21.4%, and with the pool it would put her at 26.7%. She stated she had her engineer re-do the Plan, and he suggested installing fifteen large arborvitaes, and she has called a number of contractors to get a quote to install the trees.

Mr. Zamparelli asked Mr. Majewski if the fifteen trees would be the appropriate number to mitigate it back to at least where she was before, and Mr. Majewski agreed.

Mr. Zamparelli stated there is a 5.3% increase and she is proposing to use trees for mitigation. He noted other mitigation techniques. Mr. Zamparelli stated this request is a significant increase, and trees are not usually something the Board likes since they are concerned about maintenance and how long they would live. Mr. Zamparelli asked Ms. Pan if she considered any other type of mitigation besides trees such as a dry well or a seepage pit. He asked Ms. Pan if her engineer discussed those options with her; and Ms. Pan stated he did

mention a seepage pit, but it was suggested that the trees would be easiest. Ms. Pan stated she does not know much about dry wells or anyone who would be able to install one or how she would get quotes for that. She stated if she had to do that, she could make phone calls.

Ms. VanBlunk stated she agrees with Mr. Zamparelli's assessment that usually they try to stay away from trees for mitigation because subsequent homeowners could get rid of trees or they could die. She stated they tend to grant these Variance requests if there is something more permanent like a dry well or a seepage pit.

Mr. Zamparelli stated he agrees with Ms. VanBlunk. He stated if there is a minor increase in impervious surface, they may be in favor of water-loving plants or something other than a seepage bed or a dry well; however, this is a large increase.

Ms. Pan stated the pool company had told her to add a larger patio than she really wanted. She stated she has an existing patio, but the with regard to the proposed patio next to it, it is shown larger than she really wants, and she is only looking to do about half of that. She asked if that would help decrease the impervious surface. Mr. Zamparelli asked Mr. Majewski if he could do a calculation to see if that would make a substantial difference. Mr. Zamparelli stated they would like to get the impervious surface down to the absolute minimum. Ms. Pan stated as shown on the diagram, he made the proposed patio the same size as the existing patio that was there when she purchased the home; and she would only do about half of that. She stated she might try to round out the corner from the one side of the patio to the edge of the pool.

Mr. Tritt stated with regard to the dry well, the pool contractor could also install that since he would have excavating equipment there and crushed stone, so that is something that she could add in with the pool contractor. Ms. Pan stated she would ask the pool company, but she would also like to get other quotes on that as well; and she asked who else she could call. Mr. Tritt stated most landscapers who have excavation equipment could provide a quote; however, because the pool contractor will be there digging anyway, it would probably be more cost effective to get an add-on price from him.

Mr. Zamparelli agreed with Mr. Tritt adding that the pool contractor would have the equipment there. Mr. Zamparelli stated this requires no maintenance once it is completed. He asked Ms. Pan if she would consider this as a seepage pit does a good job of mitigation, and with the equipment there, it would be easy to do. Ms. Pan stated she would do this if she had to; however, she wanted the trees because her back yard is completely open and there are homes behind her house. She stated the trees would provide privacy. Mr. Zamparelli stated she could still plant trees as well; however, when there is a big percentage, it is a lot to mitigate with just trees, and trees do die so that is a concern; and they would like there to be something more permanent.

Ms. Pan asked Mr. Majewski could advise how big of a dry well or seepage pit that she would need to have dug out. Mr. Majewski stated if they were to cut the size of the patio in half, that would reduce the total impervious surface to 25.5%. He stated that would require a seepage bed that would be 2 ½' deep, and that would be lined for fabric so that soil could not seep into it yet water could escape. He stated that would be filled with larger ballast-type stone or other clean stone without fines. He stated that the seepage bed would be 2 ½' deep, 5' wide, and 21' long in order to handle the run-off. He stated if she were to do the full amount of the patio, the size would need to be 3' wide, by 6' deep, by 21' long.

Ms. Pan stated her plan is to cut the proposed patio in half but round out the corner slightly to the one edge of the pool toward the middle of the yard. She asked if the 2 ½' deep, 5' wide, and 21' long would suffice, and Mr. Majewski agreed. Mr. Zamparelli stated this is done often, and there could be different measurements and it could be deeper or wider depending on how much room there is. Mr. Majewski agreed that the dimensions could be adjusted to fit the property, and it could be curved, more rectangular, or longer like a trench; and there are a lot of configurations that she could use. Ms. Pan asked if it would be where the trees were proposed toward the back of the yard, and Mr. Majewski stated it could although sometimes it is put right off the edge of the decking and use larger stones on top such as river rock so it looks decorative and water can run off and seep in. Mr. Zamparelli stated if there are any existing issues with water, this will solve those issues. He stated the drain leaders can go into it. Mr. Zamparelli stated the Board does not generally approve this much impervious surface increase without that kind of mitigation.

It was noted that the Township is not participating in this matter.

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

Mr. Zamparelli stated they could make a Motion to approve this with Conditions.

Ms. Pan asked if she then submit a new Plan with the seepage pit to Mr. Majewski, and Mr. Zamparelli agreed. This was acceptable to Ms. Pan.

Ms. VanBlunk moved, Mr. Connors seconded and it was unanimously carried to grant the Variance as requested subject to the Township's approval of mitigation factors that would bring the impervious surface back down to 21.4%

Mr. Lewis left the meeting at this time.

APPEAL #19-1846 – MARIA JIMINEZ GALVIS

TAX PARCEL #20-033-001 – 236 OXFORD VALLEY ROAD, YARDLEY, PA 19067

Mr. Zamparelli stated this matter has been Continued several times.

Ms. Kirk stated the Township directed her to participate in this matter. She stated the first Hearing was held before the Board on February 4, 2020 at which time the property owner and Applicant were present with Counsel. She stated this matter was Continued subject to the Applicant producing several things one of which was the engineer hired by the Applicant was to complete soil testing. She stated there was also supposed to be As-Built Plans provided for the completed addition so that the Township could conduct inspections. She stated the Applicant's wife, Diana, was supposed to attend with all the other documents relevant to the addition and other impervious work done to the property.

Ms. Kirk added that when this was scheduled back in May, the Zoning Hearing Board was sent a letter indicating that the attorney was no longer representing the Applicant who intended to move forward without Counsel.

Ms. Kirk stated despite the request for documents, she, on behalf of the Township, has not seen any additional paperwork. Mr. Zamparelli stated he has not received anything either. Mr. Majewski stated they did receive architect's plans for the addition that show how the addition had been built so that is a good starting point in order to issue a Building Permit should

the Board be willing to grant a Variance for the addition. Mr. Flager stated they do have ten-page architectural plans that had been marked as Exhibit A-4 although he is not sure everyone received that.

A slide of Exhibit A-4 was shown to the Board. Mr. Majewski stated the first sheet shows some general information and how much the addition is in area. He stated the square footage of the first floor is 1,764 square feet, and the addition totals 772 square feet which is a total ground floor area of 2,536 square feet.

Mr. Majewski showed a slide of the general schematic of the lay-out of the existing conditions of the house showing where everything is, the existing room configuration, walls, doors, etc. He noted Page 3 shows the demo that would be done where they are knocking out certain items in order to facilitate the addition onto the house. He stated it shows where they filled in the whole back area with the addition, and it shows the expanded rooms, the bathroom, bedroom, and other items along with the information on the sizing of beams, joists, etc. He stated the next sheet shows general construction notes that outline how it was constructed.

Mr. Majewski stated A6 shows a rear elevation showing how the new addition looks on the house, He stated the next sheet shows how it looks with the new dormer and the one-story addition off the back of house. He stated the next sheet shows how everything is laid out inside with the items needed for a Building Permit. He stated A-9 shows the roof plan. He stated the final sheet shows the dormer and its method of construction.

Mr. Majewski stated there may be some additional items that would be needed by the Building Inspector during the Code review, but the Plans do show the addition in sufficient detail in order to be able to conduct an inspection and make any modifications that would be necessary.

Mr. Zamparelli stated that is just for the addition, and he asked about all of the other impervious surface that was put in after the addition. He stated he felt that there were Permit issues. Mr. Majewski stated they did put in a Permit for the addition. He stated the Township had gone out to inspect a swimming pool that had been constructed with a Permit; and while the Building Inspector was out there he noticed that they had built an addition without a Building Permit. He stated they were cited, and they have been working through that process for quite some time in order to get to this point. Mr. Majewski stated they finally submitted the architectural plans for the construction that they

did not get Permits for. Mr. Majewski stated one of the issues was if the addition was even worthy of staying up, and that is why they provided the architectural plans to show that it was actually done by an architect; and maybe with some minor modifications, it would be suitable for habitation.

Mr. Zamparelli stated while he understands that, there are all the other impervious surfaces that were added including a basketball court and out-lying patios.

Mr. Majewski showed the original Plan which shows all of the items that have been added on the property including the addition, and the concrete around the pool. He stated the pool itself was Permitted with some decking, but they expanded that decking and added the basketball court, a shed, and some other minor things.

Mr. Zamparelli stated he understands they want to try to give a Variance for the addition, but he asked how can they do that with all the other impervious surfaces that have been added.

Ms. Daziana Antero was sworn in.

Mr. Zamparelli asked how this occurred chronologically so the Board can understand what Permits they did get and which they did not get. Ms. Antero stated they had a contractor come out to do an extension of the house. She stated this was the first time they had bought a house, and they assumed that the contractor would take care of everything. She stated they then wanted to add a pool, and people from the pool company came out and suggested patios. She stated they also wanted a basketball court for her little brother. She stated they did not know that they needed any Permits.

Mr. Zamparelli stated for the pool they did get a Permit, and Ms. Antero stated the pool people took care of everything. She stated they did not know that the other contractor did not take out a Permit. Mr. Zamparelli asked if all the work was done with the same contractor or different contractors, and Ms. Antero stated it was the same contractor. Ms. Antero stated they also cannot “get a hold of him anymore.”

Mr. Zamparelli stated there is a lot of impervious surface. Mr. Zamparelli stated this can cause water issues in the neighborhood, and everybody in the Township has to follow certain procedures. Mr. Zamparelli asked if they are prepared to remove some of the impervious surface if they

cannot mitigate it, and Ms. Antero stated they are not right now because her parents are not working because of COVID. Ms. Antero stated they did get an engineer, and he is supposed to do a stormwater design and has provided a plan. Mr. Zamparelli asked if he has been able to mitigate it down to the original 30%. Ms. Antero stated they wanted to ask for a Continuance so that he could do the stormwater design, and they could then move on to a plan as to how they could reduce it.

Mr. Zamparelli stated they would need to submit something for impervious surface mitigation, and Mr. Majewski agreed. Mr. Zamparelli stated the site is crowded; and he asked Mr. Majewski if he feels they would be able to provide the mitigation with everything they have in place. Mr. Majewski stated it would be difficult; and if they would remove some of it, it would make it a lot easier. Mr. Majewski stated he would have to look at the design. Mr. Zamparelli stated Ms. Antero should advise her engineer that it is unusual to have this much impervious coverage, and the mitigation systems have to be put in certain places in order to work effectively.

Mr. Zamparelli asked Ms. Antero if she is asking for a Continuance, and Ms. Antero stated they are so that they can work with their engineer. She stated they did talk to him a while ago; however, his office was closed so he was not able to do anything. Mr. Zamparelli stated they will be obligated to submit something that will mitigate it back to 30%, and submit Plans for the addition so that they can get a Permit for that.

Ms. Kirk asked who is the engineer that they hired, and Ms. Antero stated it is Nick Rose from ProTract Engineering. Mr. Majewski stated they are in Hatboro. Mr. Zamparelli stated he feels that their engineer should work with Mr. Majewski. Ms. Antero stated he told them that he knows him and has worked with him before.

Ms. Kirk stated the Township understands that the Applicants had an issue with their contractor; however, a 14% increase in impervious coverage could create significant stormwater issues. She stated while she is glad that they have secured an engineer, she hopes that they continue to work on this since this has been going on for some time. She stated she would like Mr. Rose to get in touch with Mr. Majewski soon so that they know that things are moving forward.

Mr. Zamparelli stated this matter goes back to August, 2019 which is a long time.

Ms. Antero stated Mr. Rose stated he did do the soil testing, and he indicated that there is minimal flood hazard in the area. Mr. Zamparelli stated they should stay in contact with the Township staff, and they should have their engineer contact Mr. Majewski sooner rather than later. He stated he feels that this has gone on long enough.

Ms. VanBlunk moved to Continue the Appeal to September 15 provided that the Applicant produces the soil testing to the Township and the Zoning Hearing Board and that the Applicant's engineer produce complete Plans including Mitigation Plans to the Township and the Zoning Hearing Board.

Mr. Zamparelli asked Mr. Majewski if he feels they can get this done by that time, and Mr. Majewski stated he feels it can be done by then.

Ms. Antero asked if they need a "Certificate for a contractor" for the addition, and Mr. Majewski stated he will have to work with the Township's Building Code Official on how they are going to handle this, and he will get back to Ms. Antero.

Mr. Connors seconded the Motion.

Mr. Connors stated he is very concerned that this has been Continued for a year. Mr. Zamparelli stated he agrees and that is why he wanted it known that it has to be done by September 15, and Mr. Majewski had indicated that it could be. Mr. Zamparelli stated they need all of the information by then; and if there are any questions, they should contact Mr. Majewski. Mr. Zamparelli stated this has gone on for too long.

Mr. Hector Tigreroes was sworn in and stated he is a contractor in New Jersey. He stated he was talking to "Maria" about how he could help the family but he needed to wait to see what the Township wanted them to do. He stated if they wanted to open any walls to check on insulation or anything else, he was waiting for the engineer and the architect. Mr. Zamparelli stated once everything is submitted, the inspectors will decide what they want removed. Mr. Tigreroes stated that would not be a problem. Mr. Zamparelli asked Mr. Tigreroes if he did the addition, and Mr. Tigreroes stated he did not. Mr. Tigreroes stated he is trying to help them out.

Motion carried unanimously.

Mr. Zamparelli stated the Continuance is until September 15, and they should come back with everything; and if their engineer should speak with Mr. Majewski as soon as possible.

Ms. Kirk left the meeting at this time.

APPEAL #20-1868 – MUNZ CONSTRUCTION (MR. & MRS. KAHNEY)  
TAX PARCEL #20-038-096 – 2313 YARDLEY-MORRISVILLE ROAD, YARDLEY, PA 19067

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 breakdown 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. Patrick Kahney, homeowner, and Mr. Peter Gilles, contractor, were sworn in.

Mr. Gilles stated the Kahneys want an addition off of the rear of the house to expand the kitchen, and there is a second-floor addition. He stated there is a 114 square foot addition which represents a .8% increase in impervious surface.

Mr. Zamparelli asked if there is an existing deck at that corner of the house. Mr. Gilles stated the existing deck to be removed is shown on the Plan. He stated the second-floor exists, and they are using the area of the first floor to expand out and expand the two rooms that are on the second floor. Mr. Zamparelli stated he assumes the 114 square feet is just the deck area, and Mr. Gilles stated that is just the building envelope addition on the ground floor.

Mr. Gilles stated the permitted impervious surface is 18%, and they are at 21.8%. He stated they are adding .8% with this addition which brings them to 22.6%.

Mr. Zamparelli asked Mr. Kahney if he did any additions to the house since he purchased it. Mr. Kahney stated he built a dormer into the attic on the third floor. Mr. Zamparelli stated nothing was done that would add impervious surface, and Mr. Kahney agreed. Mr. Zamparelli asked Mr. Kahney if he got a Permit for that, and Mr. Kahney stated he did.

Mr. Zamparelli asked Mr. Majewski if the impervious surface calculations are correct, and Mr. Majewski stated both the existing and proposed numbers shown on the Plan are accurate. Mr. Zamparelli stated what is being requested is only a small increase. He asked if they were planning to mitigate this increase, and Mr. Gilles stated they did not discuss that. Mr. Zamparelli stated it is less than a 1% increase.

Mr. Tritt asked if they could not just approve the request without the requirement for mitigation since it is under 1% or could he just plant a tree. Mr. Zamparelli stated he would be in favor of that. Mr. Majewski stated they could approve it just as it was submitted. He stated under the Storm-water Management Ordinance, which is outside of Zoning, they are required to mitigate minor increases in impervious surface, and there are ways they can do that such as a small seepage bed, plant a few trees, or install a few rain barrels. Mr. Majewski stated the Zoning Hearing Board could just approve this as submitted; but for their Building Permit, they will need to show something.

There was no one from the Public wishing to comment on this matter.

Mr. Tritt moved, Ms. VanBlunk seconded and it was unanimously carried to grant the request as submitted.

CANCEL 9/1/20 MEETING

Mr. Connors moved, Mr. Tritt seconded and it was unanimously carried to cancel the September 1, 2020 meeting due to lack of an Agenda.

There being no further business, Mr. Tritt moved, Ms. VanBlunk seconded and it was unanimously carried to adjourn the meeting at 8:45 p.m.

Respectfully Submitted,

Anthony Zamparelli, Chair/Temporary Secretary

