

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – SEPTEMBER 15, 2020

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on September 15, 2020. Mr. Zamparelli called the meeting to order at 7:30 p.m.

Those present:

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

APPEAL #20-1871 – STEPHEN & MARY MOONEY
Tax Parcel #20-022-142 – 1334 UNIVERSITY DRIVE, YARDLEY, PA 19067
(Continuation Requested to 10/20/2020)

Mr. Flager stated he understands they are asking for a Continuation. Mr. Flager stated they reached out to the Township and requested a Continuation to the October 20, 2020 meeting.

Mr. Solor moved, Mr. Tritt seconded and it was unanimously carried to Continue the Appeal to October 20, 2020.

APPEAL #19-1846 – MARIA JIMINEZ GALVIS
Tax Parcel #20-033-001 – 236 OXFORD VALLEY ROAD, YARDLEY, PA 19067
(Continued from 8/20/19, 10/1/19, 12/17/19, 2/4/20, 4/21/20, and 6/16/20)

Mr. Flager stated he understands that Mr. Majewski indicated before the meeting started that there are new Plans which should be marked as an Exhibit once they are introduced.

Mr. Nick Rose, engineer from ProTract Engineering, was sworn in. He stated that after the last Hearing, he sent Mr. Majewski a Plan which he prepared of the Site based on a survey he had done. He stated it characterizes and documents all of the impervious coverage on the site. This Plan was shown to the Board. Mr. Rose stated currently they have impervious over the limit of 30%, and currently they are at 46.9% so they are over the allowable impervious by almost 2,600 square feet.

Mr. Rose stated he discussed with Mr. Majewski taking out some items and putting in a stormwater management system that would account for the rest. He stated the owners were willing to take out the existing shed that is at the top right of the property. Mr. Rose noted the bottom right corner indicates “existing concrete court,” and there is a shape that indicates “existing patio – ex patio;” and he stated they would also be willing to take out that patio. Mr. Zamparelli asked if they would also take out the court, and Mr. Rose stated they would prefer to keep the court as he understands that given the current situation this is one of the places where they can get recreation on their property.

Mr. Rose stated they ran the numbers, and if they take out the two areas noted above, they would be at 2,350 square feet over the allowable impervious. He stated they then looked at what volume that would require in the stormwater calculations that the Township uses. He stated that would equate to just under 400 cubic feet of volume. Mr. Rose stated there are three places on the site where that could be placed, and two of them are in the locations where things would be removed. He stated it could go where the existing shed is or where the existing patio is that would be removed. He stated there is also a vacant area in the lower left corner of the Plan toward Oxford Valley Road. Mr. Rose stated it would have to be about 20’ long by 12’ wide by 4’ deep according to the Township’s calculations. Mr. Rose stated it could go in any of those three areas – in a couple of them or in just one of the areas.

Mr. Zamparelli asked what impervious coverage they would end up with effectively, and Mr. Rose stated they would be at 45.2% coverage if the two items were removed. Mr. Zamparelli asked if the effective would be 45.2% even with the mitigation, and Mr. Rose stated effectively that would take care of everything over the 30%. Mr. Zamparelli asked Mr. Majewski if he agrees with these numbers, and Mr. Majewski agreed.

Ms. Kirk stated she is looking at the patio by the concrete court, and she asked if that is what they are proposing to remove; and Mr. Rose agreed it is just to the left of the existing concrete court. Ms. Kirk asked if they would consider removing the other two sections designated “existing patio.” She stated there appears to be a patio section that comes off of the pool coping where it says, “existing bar;” and off to the side there is another existing patio area. She asked if they would be willing to remove those two items as well. Mr. Rose stated they did not discuss that, but the Applicants are available to comment on that.

Ms. Laura Escobar was sworn in. She stated they would prefer not to do that because that is an area they use. She stated it is also really expensive for them to remove everything especially right now since both of her parents are not working.

Ms. Kirk stated unfortunately all of the work was done without securing the appropriate Permits, and they have a lot of coverage in the back of the property. Ms. Kirk stated she is looking at the future in case there is something else they want to add as they are already maxed out. Ms. Escobar stated they are not thinking about anything in the future as they are “pretty set,” especially after everything that is going on. Ms. Escobar stated they did not think that they were going to have to go through this because they felt that the contractor was taking care of everything with regard to Permits, but he obviously was not. She stated they are not going to do anything else.

Ms. Kirk stated she is concerned that there is a lot of impervious coverage in the back; and even with the implementation of a stormwater facility that would give a net effect, they are still at the maximum of 30%.

Mr. Zamparelli asked if they would consider taking one of those patios out that Ms. Kirk has indicated. Mr. Zamparelli stated they are looking for a compromise. Ms. Escobar stated they could take out. She stated they are more worried about the basketball court; and if they can keep the basketball court, they would take out another patio.

Ms. VanBlunk noted the “extra patio behind the extra bar.” Ms. Escobar stated that is where their barbecue grill is. She stated it is not a patio, and it just a little bit of pavers.

Mr. Zamparelli stated there are two patios on each side of the existing bar, and Mr. Rose stated he felt they were looking at the one behind the bar closer to the property line and the one between the bar and the concrete court. Mr. Zamparelli asked the size of the one behind the bar, and Mr. Rose stated it is a little under 100 square feet. He stated the shed is a little bit bigger than that. Ms. VanBlunk stated she is trying to appease the Township and the homeowners by removing the shed, the two side extra patios and where the grill is but keeping the bar if that is what is important to them. Ms. Zamparelli stated he would be in favor of that. Ms. Kirk stated that was what she was contemplating – the shed, and the three sections that say “existing patio.” She stated it appears that there is a fairly large patio coping area around the pool.

Ms. VanBlunk asked if the property owner would be willing to do that; and Ms. Escobar asked if they would still have to put in the stormwater system, and Ms. VanBlunk stated they would. Mr. Solor stated it may reduce the size of the system needed, and Mr. Rose stated it could be smaller if they took out additional areas. Mr. Zamparelli asked if the Applicants would do that.

Mr. Connors asked where they would be putting the stormwater systems since there are high grade and low grade areas on the property. Mr. Rose stated it could even go in the location where the circled shed is located which is a low area between the properties, or he noted an area where it could go where the patio is between the bar and the court although that is a little bit higher. Mr. Connors stated he did not feel they were going to get a lot in that area. Mr. Rose stated there is also an area in the front which is actually lower, and they could catch the roof drains from the house and take that into the front. Mr. Rose noted the lower left corner of the Plan where there is a holly tree, and there is nothing between there and the property line which is where he was thinking of putting the stormwater system.

Mr. Zamparelli asked the elevation; and Mr. Rose stated it is between 171 and 172, but it is all sloping from there down to Oxford Valley Road. Mr. Connors stated the problem there is that they are actually detaining the upgrade of the property and not really doing anything for the Applicant’s property. Mr. Rose stated at the top there is a swale between the two properties, so it may be better to have it where the shed is which may be the area that would catch the most of the new impervious. Mr. Rose

stated it could be in two pieces. Mr. Majewski stated he feels this is something that Mr. Rose would have to determine out in the field, and it would also need to be reviewed and approved by the Township engineer.

Mr. Solor asked what was the effective impervious surface prior to all of the improvements including the addition that was built onto the house, and Mr. Majewski stated when they got the Permit for the pool, he believes the number they were at was close to 30%.

Ms. VanBlunk asked if 30% is permitted in this area. Mr. Majewski stated this development was built at a time when 30% was the allowed amount for the property.

Mr. Zamparelli stated he would be in agreement if they took out the two patios and the shed, and to install the stormwater system where the shed is currently located. Ms. VanBlunk stated she would be in favor of this.

Mr. Connors asked if there was any follow-up with regard to the addition that was built within the setback. He stated it appears that they are requesting approval for a 6.8' setback according to the survey provided. Mr. Majewski stated when they looked at the Plans that should have been submitted for a Building Permit for the addition, the Plans have sufficient information to allow the Township to review them. He stated there may be some items that need to be corrected and/or added during the review process and the inspection which would have to be taken care of. He stated there is nothing at this point that indicates that the house is not structurally-sound.

Mr. Connors stated on the other side of the yard, there is an encroachment into that setback of well of 12.7", and he asked if that was previously approved. Mr. Majewski stated that was when the house was originally built.

Mr. Zamparelli asked if the Applicant is willing to do what has been suggested by the Board and Ms. Kirk, and Ms. Escobar agreed. Ms. Escobar asked how long they have to make the changes. Mr. Majewski stated typically they want the work done within six months; and that should be sufficient time to submit the Building Permits for the addition, have them reviewed and inspected, have Mr. Rose provide the Stormwater Management Plan for what is being removed, have that reviewed and approved, and for the Applicant to get the work done. He stated if circumstances require an Extension, as long as

it is reasonable, the Township would not necessarily have an objection; although it would have to be on a “real-need basis.” Mr. Zamparelli asked Mr. Rose if he could do that, and Mr. Rose agreed.

Ms. Kirk stated what is being proposed would be sufficient.

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

Mr. Solor asked if they need to include something about the Building Permit in their Motion. Mr. Flager stated the Building Permit issue is really required as a matter of course, and the Motion would just be for the stormwater and the setback encroachment.

Mr. Zamparelli moved and Ms. VanBlunk seconded to approve the Application as submitted with the following modifications: That the three patio areas that surround the existing bar and the shed are all removed and that stormwater management be provided subject to review and approval by the Township engineer to bring the effective impervious surface to no greater than 30% and to approve the 6.8’ setback.

Mr. Flager marked the new Plan submitted as Exhibit A-5. Ms. Kirk stated she believes that the Tax Plan was marked as Exhibit A-5 at the last Hearing. Mr. Flager stated he will check into that, and the Plan was marked as Exhibit A-6 to be safe.

Motion carried unanimously.

Ms. Kirk left the meeting at this time as nothing else on the Agenda was being opposed by the Township.

APPEAL #20-1869 – SANDY & RICK SPEICHER
Tax Parcel #20-043-023-039 – 40 SUTPHIN ROAD, YARDLEY, PA 19067

Ms. Sandy Speicher was sworn in.

Mr. Flager marked the Exhibits as followed: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. 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. Rob McCubbin, Anthony Sylvan Pools, was sworn in and stated they are looking to install a small swimming pool and spa with no patio. He stated it will just be pool coping and an equipment pad. He stated it will be a paver coping around the pool and then just grass to give it a natural look along the pool.

Mr. McCubbin stated this is an older home, and they are over the permitted impervious of 18%. He stated currently they are at 34.3%, and they are looking to add 132 square feet with the pool coping and pool equipment pad. He stated there will be 108 feet of pool coping and 24 square feet for the equipment pad.

Mr. Zamparelli asked how they go to 34% from the permitted 18%.

Mr. Majewski stated this again is another one of the houses that was built prior to the institution of the impervious surface allotment. He stated it is a rather large house, and he believes an addition was put on at one time. He stated all of that predated the Zoning. He stated they may have added one walkway over the years. Mr. Zamparelli stated 30% is the maximum impervious surface permitted for this Lot; and Mr. Majewski stated based on the year that this house was built, he believes that it was 30%.

Mr. Zamparelli asked if they are not going to put a sidewalk around the pool, and Mr. McCubbin stated they are going to keep it a very “Hampton’s style” swimming pool so it will just be grass up to the edge of the pool. He stated there will be coping around the pool and then green grass up to the edge of the pool. He stated they were sensitive to the amount of impervious surface on the property.

Mr. Zamparelli asked their plan to reduce it back to 30%. Mr. McCubbin stated the surveyor proposed two non-structural BMP trees although that would not take it back to 30%. Mr. McCubbin stated they could go back and consider how they could reduce it back to 30%, and they could do an infiltration and reduce it to 30%. Mr. Zamparelli stated he feels this is quite a bit to just use trees. Mr. McCubbin stated the surveyor was just proposing to mitigate the new proposed area and not anything back to 30%, and Mr. Zamparelli stated they would like to get it back to 30%. Mr. McCubbin stated getting it back to 30% would require too many trees for this size property so infiltration would probably be the best way to proceed to reduce the impervious surface. Ms. VanBlunk stated the Board tends to like that over trees anyway. Mr. Zamparelli asked Mr. Majewski

if they would be able to put that in and reduce it back to 30% from the 35.1% where they are. Mr. Majewski stated he feels there would be enough room to do that.

Ms. VanBlunk stated she feels the Board could make a Motion requiring them to install an infiltration system subject to the Township's approval to get the impervious surface back to 30%. Ms. Speicher stated she would agree to that.

Mr. Solor stated there is a proposed fence shown, and he asked Mr. Majewski if are any Easements or obstructions that would impact the fence; and Mr. McCubbin stated there are not. He added that this is some existing fence, but the fence will have to come back to the house. He stated the Township engineer likes to see on the Plans what style fence they are proposing. Mr. Majewski stated that the survey of the property that they have on file does not show any Easements on the property.

Mr. Connors moved and Mr. Tritt seconded to approve the Variance subject to installation of an infiltration system to reduce the effective impervious surface to 30% subject to review and approval by the Township engineer.

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

Motion carried unanimously.

APPEAL #20-1870 – ADRIAN BISCOVEANU

Tax Parcel #20-058-186 – 761 SUMTER 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 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. Adrian Biscoveanu and Ms. Michelle Biscoveanu were sworn in.

Mr. Biscoveanu stated they want to build a pool. He stated they are currently at 18.4% impervious surface; and with the pool decking of 3', it will bring them to 19.9% impervious surface. He stated since they are marginally over the impervious surface allotment, the pool builder has suggested that they be allowed to just plant trees. He stated they have a picket fence, and they would like to plant approximately twenty-three evergreens for privacy

which would cover the entire fence. He stated if the Board will not allow this, the more expensive proposal is a seepage pit that he the pool builder has shown on the Plan.

Mr. Zamparelli asked Mr. Majewski if their numbers are correct, and Mr. Majewski agreed that they are.

Mr. Zamparelli stated the increase is minimal, and he asked the Board if they felt the trees would be acceptable. Ms. VanBlunk stated they are only 1 ½% additional. Ms. VanBlunk asked the number of trees proposed, and Ms. Biscoveanu stated it will depend on the size of the trees. She stated they want to provide privacy and coverage. She stated they are not set on a specific number of trees, and they will have a landscaper provide a better estimate. She stated the engineer indicated that for privacy they would need around twenty trees, but they also want to meet the requirements to mitigate impervious surface. Ms. VanBlunk asked how much approximately twenty trees would mitigate the increased impervious, and Ms. Biscoveanu stated there were told that would mitigate “way over” the 2% that they would exceed what is allowed. Mr. Majewski stated if they were to just meet the requirements to mitigate the increase in impervious surface, they would be required to plant seven evergreen trees. He stated planting twenty is almost three times as many as are needed.

Mr. Zamparelli noted the seepage bed shown on the Plan. Mr. Biscoveanu stated the pool builder told them that if the Township would not grant the Variance with just planting trees, then they would have to put in a seepage pit. He stated that would be expensive and would be in addition to putting in the trees that they want to put in for privacy. He stated the seepage pit being shown is just if the Board would not allow them to just have the trees.

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

The Board members were in favor of allowing them to plant the trees.

Ms. VanBlunk moved, Mr. Connors seconded and it was unanimously carried to grant the Variance as requested subject to the installation of trees to bring the effective impervious surface down to 18% and subject to acceptance by the Township engineer.

APPEAL #20-1872 – BARBARA CURTIS

Tax Parcel #20-017-121 – 1540 OLD FARM COURT, 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. A depiction of the proposed fence was marked as Exhibit A-3. A survey report was marked as Exhibit A-4. 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. Barbara Curtis was sworn in and stated that she would like to build a fence in the back yard as they back up to Woodside Road. She stated there is a Sewer Easement in the back, and they would like to install a split rail fence to go over the Easement as shown in the red line on the Plan. She stated they chose the split rail fence because it would maximize any drainage needed into the Sewer easement, and it would also be easier for her to take down at her cost if the Township needed access at any time.

Mr. Majewski stated it is a storm sewer Easement and not a Sewage Easement.

Mr. Zamparelli asked the height of the fence, and Ms. Curtis stated it would be 5'. Mr. Zamparelli stated it has to be a couple of inches of the ground so that water can go through, and Ms. Curtis agreed. Mr. Zamparelli asked Mr. Majewski if 5' is an issue in that area for the height, and Mr. Majewski stated it is not.

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

Mr. Tritt moved and Mr. Connors seconded to approve as submitted subject to the caveat that if the fence needs to be removed it will be done at the owner's expense.

Ms. Curtin thanked the Board for their time, and she also thanked Katie McVan from the Township who had been very helpful with this process.

Motion carried unanimously.

OTHER BUSINESS

Mr. Flager stated the next meeting will be on October 6, and Mr. Majewski stated they will have the Timko Subdivision that evening.

There being no further business, Mr. Zamparelli moved, Ms. VanBlunk seconded and it was unanimously carried to adjourn the meeting at 8:20 p.m.

Respectfully Submitted,

Anthony Zamparelli, Chair/Temporary Secretary