

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – DECEMBER 7, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on December 7, 2021. Mr. Zamparelli called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Chair
 Matthew Connors, Secretary
 James Dougherty, Member

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

Absent: Pamela VanBlunk, Zoning Hearing Board Vice Chair
 Peter Solor, Zoning Hearing Board Member

APPEAL #21-1941 – CAMERON & OLGA JEAN TROILO
Tax Parcel #20-021-003
1674 Edgewood Road, Yardley, PA 19067

Mr. Zamparelli stated they have requested a Continuance to February 15, 2022.

Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to approve a Continuance until February 15, 2022.

Mr. Edward Murphy, attorney, was present and stated that he waives the time restriction for the Continuance, and could send a written confirmation tomorrow.

APPEAL #21-1937 – CAMERON & OLGA JEAN TROILO
Tax Parcel #20-014-007 and #20-012-005
1742 & 1790 Langhorne-Yardley Road, Yardley, PA 19067

Mr. Edward Murphy, attorney, asked the Board if they would allow him to summarize the Application, and he would then ask the two potential Witnesses to confirm the accuracy of his summary; and this was acceptable to the Board.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan, consisting of two sheets, was marked as Exhibit A-2. The Outline of Requested Relief prepared by Mr. Murphy was marked as Exhibit A-3. The two Deeds were collectively 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. Kirk stated she is participating on behalf of the Township.

Mr. Murphy stated Mr. C. T. Troilo is present with Mr. John Richardson, the engineer.

Mr. Murphy stated this is a very small request to increase the percentage of apartment units located at Flowers Field. He stated this project was approved ten years ago; and when it was approved, it was approved pursuant to the Historic/Commercial Zoning District Traditional Neighborhood Development Overlay. He stated for properties of a certain size, which this is one, they had to provide a Mixed-Use Development; and you would have a range of Mixed Uses and certain minimum and maximum percentages were assigned to those different Mixed Uses.

Mr. Murphy stated in the case of Flowers Field, which was approved in 2011, originally there was 51,000 square feet of Office space, 6,500 square feet of Restaurant, and twelve apartment units all of which were located along the Langhorne-Yardley Road frontage of the site.

Mr. Murphy stated the largest Residential portion of the project in the center of the site has been constructed by DeLuca and is largely completed. Mr. Murphy stated what has not been built at all in the intervening ten years is the perimeter development that contemplated both apartments on Langhorne-Yardley and Office/Retail on Stony Hill Road. Mr. Murphy stated over the years everyone has commented that it would be nice to get the project finished, but it has languished for ten years. He stated both before and after COVID the Office market has greatly diminished; and despite everyone's best efforts to market the available perimeter square footage, there have been "no serious takers." He stated a few banks expressed interest at one time as did a couple of smaller local Retailers, but nothing has every come to fruition.

Mr. Murphy stated in an effort to finish the project, what is before the Zoning Hearing Board is a request to make a re-allocation of the various Mixed-Uses. He stated the Office space would be reduced from 51,000 to 31,000, and the Restaurant square footage would be increased from 6,500 to 10,000 square feet in an effort to hopefully identify a second potential Restaurant Use. He stated the number of apartments is proposed to be increased from twelve to thirty, and those would be located along the property frontage on Stony Hill Road. He stated to do that would trigger an increase beyond the 35% maximum allowance for apartments that the Ordinance would otherwise allow. He stated under the formula, 35% would get to twenty-six apartments; and they are asking to go to thirty apartments. He stated they are not proposing to change the footprint of any of the buildings that are approved on the Plan from 2011, and all they would be doing would be swapping out Residential units within those same footprints where either Office or Retail space would have otherwise been allocated.

Mr. Murphy stated the total request is to go from twenty-six allowable apartments to thirty. He stated when they were before the Board of Supervisors last week, it was indicated that they were only going up one apartment; however, the math is a little bit different, and it would take them from twenty-six to thirty. He stated everything else remains the same.

Mr. C. T. Troilo and Mr. John Richardson were sworn in.

Mr. Murphy asked Mr. Troilo if he heard his Summary of the background and nature of the Application, and Mr. Troilo stated he did. Mr. Murphy asked if there was anything that was inaccurately stated or anything he would like to supplement. Mr. Troilo stated Mr. Murphy summarized it correctly.

Mr. Murphy asked Mr. Richardson if he agrees that he had accurately summarized the mathematical calculations in terms of what is allowable up to the 35% apartments and what the overage represents in terms of actual units, and Mr. Richardson agreed he did.

Mr. Dougherty asked if the Flowers Field Homeowners Association weighed in on this proposal, and he asked if anyone is present from there to comment on this. Mr. Murphy stated while they have not heard from them, he believes a resident called in during the Board of Supervisors meeting when this was discussed. Mr. Murphy added that the Flowers Field Homeowners Association is not part of the Office/Commercial/Restaurant Use. Mr. Troilo stated one of the Board members called him with some questions, and he clarified to him what was going on.

Ms. Kirk asked the maximum calculation so far for the townhouses. Mr. Murphy stated the original approval was for forty-eight units – singles, townhouses, and twins, and twelve apartments for a total of sixty. Mr. Richardson agreed, and he added that both the original approval and the current proposal both have twenty-seven townhomes. Ms. Kirk asked instead of exceeding the apartment maximum of 35%, if they have not yet reached the maximum of 50% for the townhouse dwellings, could they not “flip” a couple of the apartment units to townhouse dwellings which would keep them within the ratios of the Zoning regulations. Mr. Murphy stated the reason he believes is the effort is being made to not change the footprint of the Retail space along Stony Hill Road, and those footprints are not conducive to either single or townhouse living; and they are more conducive to the apartments. Mr. Troilo agreed that they were trying to change as little as possible, and they were just looking to re-allocate some existing spaces.

Ms. Kirk stated twenty-six apartments would hit the 35% maximum, and she asked if the four additional apartments that are being proposed could not be allocated to something else that would keep everything within the ratios under the Zoning regulations. Mr. Murphy stated they could not without changing the footprint of some of the buildings that front on Stony Hill Road because the apartments are much smaller than a townhouse would be.

Mr. Richardson stated he believes that putting in townhouses, singles, or twins along either Stony Hill or Langhorne-Yardley could potentially be a violation of the Zoning Ordinance itself. He stated when the development was done, the Ordinance required Residential on internal streets of the development and Commercial spaces with apartments on the second floor of the Commercial spaces to be along the perimeter streets/existing streets.

Ms. Kirk stated to keep the building footprint, they are proposing to eliminate Retail and Office space on the first floor and convert that to apartments. Mr. Richardson stated the apartments would still be on the second floors. Mr. Murphy stated they are reducing the Office space from 51,000 to 31,000; and there will still be a significant amount of Office on the first floors, and it is just the upper floors that they are trying to address.

Mr. Connors asked if they have confirmed the Restaurant size of 10,000 square feet with any restaurateurs they are looking at. Mr. Troilo stated the corner building is approved for a restaurant which they are looking to develop themselves in partnership with some other people, and they are looking for the potential to add another restaurant in some of the Retail space which is why

they are asking for the increase in Restaurant space. Mr. Murphy stated it is not all allocable to a single Restaurant, and the current thinking is it would probably be two. Mr. Troilo agreed although he added he believes that 500' of that space is also approved for a coffee shop or something similar.

Mr. Dougherty asked if any parking impact studies been completed since they are going from twelve Residential units to thirty. Mr. Murphy stated they have, and they are on the Plan. He stated the re-allocation, if approved, would create a surplus of parking spaces beyond what the Ordinance requires; however, they are not proposing to eliminate any of them so it actually turns into a more positive situation of providing excess parking that would be available. Mr. Majewski agreed, and he added that the Office Use has a higher intensity for parking than an Apartment Use.

Mr. Gary Smotrich, 1823 Windflower Lane, Flowers Field, was sworn in. He stated he feels that debating a 35% or 38.5% apartment dwelling ratio should not be the major issue to be discussed this evening. He asked how much time the Board has spent at the intersection of Stony Hill and Yardley-Langhorne Roads. He stated they want to add hundreds of additional cars to the roads and an intersection that are already too narrow and lack appropriate turning lanes. He stated the curb radii are much too small to handle the anticipated traffic from this future development. He stated he cannot imagine that safe ingress and egress on Yardley-Langhorne Road is going to be possible with a heavily-trafficked Retail area. Mr. Smotrich stated the Plan was approved ten years ago which was a different era in terms of the traffic. He stated he feels that the Plan needs to be completely re-evaluated. He stated when they first contemplated buying in Flowers Field the signs showed "a very pretty depiction of a Main Street, USA-looking town." He stated he feels that if any of the potential buyers seen this current Site Plan, they may "have thought twice." He stated the Site Plan that just recently came on-line shows a completely-congested space, complete absence of adequate green space, and Retail parking lots backing right up to homes. He stated he feels this Plan "demonstrates urban planning at its worst." He stated it is "tilted completely to maximize the developer's return on investment." He stated he has no problem with a developer trying to capitalize on an investment, but it will negatively impact his way of life. He stated maybe the expectation was that the noise from all of this Retail would cancel the traffic noise from I-295. He stated he feels that it is "almost laughable" that the restaurant is now going to 10,000 square feet with outdoor music. He stated

he assumes the expectation is that a lot of people will walk to the restaurant because he does not know where they are going to park. He stated he does not feel a 10,000 square foot restaurant will be able to handle all the cars.

Mr. Smotrich stated it is “very convenient that the only mention of Cameron Troilo was buried deep in the Public Offering Statement along with the mention of apartments, and he feels that was very deceptive marketing.” He stated “little did they know that Joe DeLuca was simply the builder, and Mr. Troilo was the developer; and two years into this they are seeing their quality of life and property values potentially decline by someone they have never met.” He stated he is meeting Mr. Troilo for the first time on-line tonight. Mr. Smotrich stated it was also “very convenient that both the builder and the developer waited until all forty-eight homes were sold before the Retail and Apartment components were begun.” He stated “it is no wonder that Joe DeLuca moved out of Flowers Field once the last townhouse was sold, since living here temporarily was a great marketing pitch.” Mr. Smotrich stated he feels “the entire development has been smoke and mirrors from the start,” and this Board needs to seriously re-evaluate the entire scope of the project before one shovel is put in the ground.

Mr. Murphy stated those comments are not accurate. He stated there were detailed studies, and it took years to get the Plan approved. He stated there is less traffic being generated by what they are proposing tonight than had the Offices been moved forward. He stated PennDOT and the Township spent years looking all the various movements at the intersection, not just at Langhorne-Yardley and Stony Hill, but other surrounding movements as well.

Mr. Bryan McNamara, Heather Circle, called in. He questioned the need to be sworn in as he was not going to offer Testimony, and was only going to ask questions and offer Public Comment. Mr. Zamparelli stated Public Comment is Testimony. Mr. McNamara stated he did not need to be sworn in at the Supervisors meeting. Mr. McNamara was sworn in.

Mr. McNamara asked when a developer has a Plan set in place for over ten years, “can they just come in and re-allocate spaces like this and go over what the Zoning allows as this has never been done before without coming in with new Plans.” He asked what will happen if the Restaurant “does not sell and the other Office space does not sell, can they come in and just make all of those spaces apartments.” He asked if this is something that is typically done;

and once a Plan is put in place and voted and approved, can they just adjust the allocations. He stated there are “other Plans coming along that this could be happening to as well.”

Mr. Murphy stated Mr. McNamara knows that “no one can do anything in a vacuum,” and that is why there is a Zoning Hearing Board; and if they want to make changes to an approved Plan, they have to go through the process that they are in the middle of doing right now which is to seek an adjustment to the Plans. Mr. Murphy stated this is nothing new, and it happens every month, and that is why there is a Zoning Hearing Board to consider modifications.

Mr. McNamara stated it does not happen every month. Mr. Zamparelli stated it does happen. Mr. McNamara stated he is asking if once a Plan is approved can they “come back in and re-adjust the usages and allocations in a Plan.” He added “there is a big one coming down the road, and he is wondering if that is something that can be done.” Mr. Zamparelli stated this Plan originated ten years ago, and things have changed, and they are looking for a little adjustment. He stated this does happen, and that is why there is a Zoning Hearing Board to see if there is something that can be reasonably changed to adapt to the current issues. Mr. Zamparelli stated it seems that Mr. McNamara is indicating that he does not want to see any change, even though the Applicant would not feel that would be viable.

Mr. McNamara stated they are doubling the apartments here, and they “want to add apartments down the road from this as well.” He stated there are a lot of changes and additions and going over what the Zoning calls for, and he asked “why have Zoning if we are just going to ignore it.”

Mr. McNamara asked if the Board of Supervisors voted to oppose this Plan. Mr. Murphy stated the Board voted to participate in this Appeal, and the other Application that Mr. McNamara was opposed to is the one that the Board of Supervisors voted to actively oppose.

Mr. McNamara stated when they double the number of apartments that were approved, he feels it is “worth going back and looking over the Plans altogether.”

Mr. Zamparelli asked the number of townhouses and apartments that the new Plan is showing. Mr. Richardson stated the only units they are proposing to change are the apartments. He stated the approved Plans and the current proposal had three singles, eighteen twins/two family, and twenty-seven townhomes. He stated those numbers have not changed. He stated the only number they are proposing to change is the apartments would go from twelve apartments to thirty apartments. Mr. Zamparelli asked if they are reducing the number of townhouses, and Mr. Richardson stated all other units stay the same. Mr. Murphy stated where they are picking up the apartments is by reducing the amount of Office from 51,000 square to 31,000 square feet.

Mr. Murphy Offered his Exhibits.

Mr. Connors moved and Mr. Dougherty seconded to approve the Appeal as submitted.

Mr. Dougherty stated he does not see how this change adversely impacts the surrounding neighborhood or traffic patterns. He stated the footprints are the same, and they are taking second-floor Office spaces and converting them into apartments.

Motion carried unanimously.

Ms. Kirk left the meeting at this time.

APPEAL #21-1938 – DOUGLAS & SARAH LEWING

Tax Parcel #20-072-038

1500 Brookfield Road, Yardley, PA, 19067

The Applicants were not present at this time, and the Board decided to proceed with the next Appeal and see if they are present later in the evening.

APPEAL #21-1939 – SUSAN WAGNER

Tax Parcel #20-039-096

10 S. Homestead Drive, Yardley, PA 19067

Ms. Susan Wagner, and Mr. Chris Evans, contractor, 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 Breakdown Calculation and Stormwater Management 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.

Ms. Wagner stated she wants to put a patio in her back yard and what she asked for was a little more “than what the permeable ground was, but they did remediation work in the Plan.”

Mr. Zamparelli stated they are increasing the impervious surface to 23.1%. Mr. Majewski stated there was a slight error in the existing impervious surface which also impacts the proposed. He stated the existing impervious surface is 20%, and that makes the proposed 25.1%. Mr. Majewski stated he believes that they miscalculated dwelling this was off by several hundred square feet. He added that the stormwater management calculations are still valid, and they are proposing to handle all of the run-off that is generated by the proposed impervious surface. He added that it is a little bit larger than necessary, and it actually picks up 125 square feet of the existing impervious surface on the lot. Mr. Zamparelli asked what type of mitigation are they using. Mr. Evans stated it is a stormwater management pit which is shown on the Plan. He stated he believes that it is 3' to 3 ½' deep by 10' by 12'. Mr. Majewski stated as he noted previously that will handle all of the increase in the impervious surface plus a little bit of extra impervious surface.

Mr. Zamparelli stated the patio looks like it is very close to the property line, and he asked if that is an issue. Mr. Majewski agreed. Mr. Majewski stated that would be required to be 5' from the property line. He stated that is in another Section of the Township Code. Mr. Evans stated he felt that part of the reason they were at this meeting was for that issue; however, Mr. Zamparelli stated that was not on the Application. Mr. Zamparelli stated they would not get approval for a 1' setback, and it would have to be 5'. Mr. Zamparelli asked if they could make the patio shorter. Mr. Flager stated it could be 20', and they have to be 5' from the property line. Mr. Evans stated he felt that one of the reasons they were here was so she could have the patio at that location, and Mr. Zamparelli stated they are here for the impervious surface.

Mr. Dougherty asked if the Board could consider this tonight and have them re-submit the Plans to the Township. Mr. Zamparelli stated they can agree that they would go to 20'. Ms. Wagner asked if she asked for a Continuance

is it possible she could get 5' because the back yard is small given how the house is situated, even though she has almost a half acre of ground. Mr. Zamparelli stated they could make the patio smaller and then the impervious surface coverage would be less. Mr. Dougherty stated they would be 20' deep as opposed to 24' deep so it is still a substantial patio. Mr. Majewski stated it would be 4' less since they are showing 1' off the property line so it would be a 20' by 32' patio.

Ms. Wagner asked if she could increase it in the other direction if she wanted to stay with the original calculation and "push the square footage somewhere else." Mr. Zamparelli stated if that is the case, they would need to keep the same mitigation. He stated if they wanted to go wider and still within the impervious surface for the mitigation proposed, that would be acceptable. Mr. Dougherty stated they could make the patio 38.4' wide, and it would be the same amount of impervious surface.

Ms. Wagner stated she will agree to the 5' and keep the square footage that was originally calculated since she has already purchased the pavers, and she will probably push the square footage into the width instead of the depth to the back fence.

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

Mr. Evans asked about the front walkway on the Plan, and Mr. Zamparelli stated that was figured in.

Mr. Connors. moved, Mr. Dougherty seconded and it was unanimously carried to approve the Appeal subject to an impervious surface of 25.1% with mitigation back to 20%.

APPEAL #21-1940 – WILLIAM SCHETLER
Tax Parcel #20-058-142
1339 Lexington Drive, Yardley, PA 19067

Mr. William Schetler was sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan consisting of two sheets was collectively 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. Schetler stated in 1988 they added the sunroom, and around 1990 he added a sand and brick patio with a walkway around the sunroom to join to the driveway. He noted that is highlighted in yellow on the Plan. Mr. Schetler stated he did not know at that point that he needed a Permit to do that because he thought it was pervious because the water goes right through it. Mr. Zamparelli stated in Lower Makefield the pavers are considered impervious. Mr. Schetler stated what he is now asking is to replace that exact same footprint with cement which will make it impervious, and that will increase the impervious surface from 18.5% to 21.5%.

Mr. Zamparelli asked the plan for mitigating the excess water. Mr. Schetler stated that he felt that the trees and plantings would cover that, but he now understands that it would not, so he would need to know what to do.

Mr. Zamparelli asked if he has a contractor working on this, and Mr. Schetler stated he has a contractor lined up to do the patio. Mr. Zamparelli stated for anything over 1%, the Board wants something more permanent since plantings could die and not be replaced. He stated they could install a seepage pit/dry well, and Mr. Majewski could provide a minimum size. Mr. Majewski stated one option would be 3' deep by 6' wide by 13', and it would be a pit that is lined with a filter fabric so that dirt does not migrate in, and clean coarse stone is put in; and when water goes in, it fills up the area and the slowly seeps into the ground. Mr. Majewski stated it could be any configuration that fits within the specific landscape. He stated it could be 3' deep by 8' by 10', or there could be other configurations.

Mr. Schetler stated the way that the flower beds are currently configured a trench between the flower beds would probably be the best way to do this, and he would be willing to do that. Mr. Zamparelli stated this would have to be reviewed by the Township when the Permits are submitted. Mr. Schetler stated there are significant planting beds in the back, and in the middle there is a path about 10' to 12' wide right into the back yard. Mr. Schetler stated he would agree to this being part of the approval.

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

Mr. Flager stated there are additional Exhibits, and he marked the Impervious Surface Calculations and Stormwater Controls, two sheets collectively, as Exhibit A-3; and a List of Trees on the Property related to the storm water as Exhibit A-4.

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Mr. Connors moved, Mr. Dougherty seconded and it was unanimously carried approve the Appeal subject to proposed impervious surface of 21.5% with mitigation back to 18.5% with review and approval by the Township engineer.

APPEAL #21-1938 – DOUGLAS & SARAH LEWING

Tax Parcel #20-072-038

1500 Brookfield Road, Yardley, PA 19067

It was noted that the Applicants were still not present. Mr. Connors moved, Mr. Dougherty seconded and it was unanimously carried to Continue to January 4.

There being no further business, Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to adjourn the meeting at 8:30 p.m.

Respectfully Submitted,

Matthew Connors, Secretary