

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JULY 19, 2022

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on July 19, 2022. Mr. Solor called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Peter Solor, Chair
Matthew Connors, Vice Chair
Judi Reiss, Secretary
James Dougherty, Member
Mike McVan, Member

Others: James Majewski, Community Development Director
Barbara Kirk, Township Solicitor (left meeting in progress)
Randall Flager, Zoning Hearing Board Solicitor
Fredric K. Weiss, Supervisor Liaison

APPEAL #22-1971 – EMANUEL BUTERA
Tax Parcel #20-047-008
15 KENMORE ROAD, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plans were marked as Exhibit A-2. The Impervious Surface Breakdown Chart 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. Emanuel Butera was sworn in and stated he has a one-car garage which is cluttered with a snow blower, lawn equipment, etc.; and his wife would like to get the car in the garage in the winter. He stated in order to do that he needs a shed. He showed a picture of the pre-fab shed that is similar to what he is looking into getting which is built by the Amish. He stated it is heavy duty, pressure-treated four by fours on the base and two by fours internal. He stated the size is 10' by 14'.

Mr. Solor asked about the Variances being requested. Mr. Butera stated because he is in a floodplain, he needs to be able to secure the shed; and in talking with the people who provide the shed, he asked them about securing it with pilings, but they stated because of the size and weight of it, they would have to put quite a few pilings in to give it complete support or over time it would sag. Mr. Butera stated the structure is made with four by fours across the bottom and there are five that run the full length of the shed. He stated with the slab, they would be able to provide the proper anchoring. He stated there is clearance of about 4" from the bottom of the shed so it would not be sitting on the concrete slab.

Mr. McVan asked if the Variance for impervious surface or flood restrictions, and Mr. Majewski stated it is for both. Mr. Majewski stated the impervious surface allowed in the RRP – Residential Resource Protection Zoning District is 13%. He stated the house itself is already over that along with the driveway, and they are requesting to go to 17.51%. He stated this was previously the R-2 Zoning District, and 18% was what would have been allowed. Mr. Solor stated the existing is 16.9% according to the calculations.

Mr. Solor asked Mr. Majewski the elevation this is at compared to the 100-year flood elevation, and Mr. Majewski stated it looks like it is only about 1' into the floodplain or less so it is a very small encroachment into the 100-year floodplain. He showed the aerial photo of where the property sat in the 1955 flood, and it is on the edge. He stated the house was built in 1956 the year after the flood. He showed the lightly colored area which is the water, and the water came just onto the road so it barely touched this area in the 1955 flood which was approximately the 100-year flood. Mr. McVan stated in the 100-year flood most likely this shed would not have moved on its own, and Mr. Majewski stated the water would just touch it by less than 1' of water.

Ms. Reiss stated in 1955 most of Lower Makefield was not developed, and she asked Mr. Majewski if he feels that with all of the development, that flood area would have been greater because of the run-off going down toward the River. Mr. Majewski stated in 2012 FEMA did an updated Flood Study of the entire Delaware River; and at that point they re-mapped the floodplain using more updated hydrology and more updated contours so that the flood lines were more accurate. He stated in Lower Makefield the change was pretty drastic in spots compared to what it was in the prior mapping in 1999. He stated in the northern part of the Township the flood elevation actually dropped by up to 2' and as you go down into Yardley and Black Rock Road, it was virtually the

same right at Black Rock. Going further south, the flood elevation went up a little bit. He stated this area under discussion is slightly higher than what it was on the prior mapping based on updated Flood Study information.

Mr. Connors asked if he is going to put flood vents in the structure so that they do not end up with any issues with flooding in that area. Mr. Majewski stated that has not been proposed by the Applicant. Mr. Butera asked for an explanation of flood vents, and Mr. Majewski stated a flood vent is where they put an opening in the shed and that would water to pass through in the event of a flood. He stated there is a float-type system so that when the water rises up, it opens up the opening and water can pass through. Mr. Butera stated he was not asking to do that. Mr. Solor stated that is something that is done with buildings to make them more compliant in the floodplain.

Mr. Butera stated he might be able to raise the floor even a little higher if the installer were to sister up another 4 by 4 for each one of those so then it would be 8" above the cement floor, and that could all be anchored together. Mr. Connors stated there are 4 by 4s for the deck, and Mr. Butera stated that is the structure, and there are five of them. Mr. Connors asked if they are 2' on center; and Mr. Butera stated there are five of them so there is one going down the center and then they are spaced a couple feet apart from the end, so there are five across full length of the 14'. Mr. Connors stated that supports the deck of the shed, and Mr. Butera agreed. Mr. Connors stated he would not need any other support other than that, and Mr. Butera agreed. Mr. Connors asked why they would not just put sonotubes at either end of the 4 by 4s which would save money by not putting in a slab. He stated the sonotubes could be put in at a 3' depth because of the frost line. He stated he could put in 8" to 12" sonotubes and save money in concrete. He stated he would then not have to worry about impervious as much. Mr. Connors asked Mr. Majewski about the flood elevation, and Mr. Majewski stated it is approximately 1' above grade. Mr. Connors stated he could keep the shed 1' above the flood with sonotubes installed so that it is supported and a ramp into it could be provided.

Mr. Butera asked if these would be pilings, and Mr. Connors stated they are 12" diameter 3' tall concrete tubes that go down to the frost line. Mr. Majewski stated it is like a concrete piling. Mr. Butera stated he approached that with the manufacturer who stated that they would have to put quite a few in because this is not a light shed, and it is quite a bit of a structure; and over time it is going to sag, so they would have to put in probably twelve of them in place.

Mr. Connors stated he did not feel they would need that many because it is a small structure, and they could have the contractor rent an auger and put everything in in less than a day. Mr. Butera stated he is not worried about the cost, and he is worried about the support. He stated if the manufacturer is telling him that it could sag, he would have to put in about twelve of these supports.

Mr. Solor stated if he was to do what Mr. Connors has suggested and set them so that the top of the posts was 1' above grade, he believes that would eliminate the need for any Variances because the impervious area would not change, and he would not be obstructing the flow of water. Mr. Butera stated it would have to be 12" above the ground level, and Mr. Solor agreed.

Ms. Kirk stated she is participating on behalf of the Township; and if this is something that the Board is considering, she feels it might be best for Mr. Butera to investigate further the possibility of doing the installation of the concrete pilings; and while he is doing this have the Appeal Continued. She stated if it turns out that he can do the concrete pilings and keep it raised 1' above grade, he could withdraw the Petition and not need to come back. She stated if he cannot do the concrete pilings, he could come back to the Board at the next Hearing and Continue with the request for Variances.

Mr. Butera asked about the flood vents, and asked if they would have to be on one end to the other or would it be on all four sides. Mr. Connors stated it would be on two sides. Mr. Solor stated it would be on the upstream and downstream side, but that would not be necessary if the shed were elevated. Mr. Solor stated that would alleviate the flood concern. Mr. Connors stated if he were to put in sonotube supports, he would use less than a yard of concrete; but if he were to put in the slab, it would be about four yards of concrete so it would be less expensive for the material although the contractor may have to do a little bit more work using an auger, and it would be the same or less expensive. He stated this would also eliminate the need for the Variances.

Mr. Butera stated he would agree to put in the pilings. Mr. Solor stated the Township solicitor has suggested that this matter be Continued so that he could look into this and make a decision. Mr. Butera stated he will just put in the pilings. He asked the number he would have to put in. Ms. Kirk stated rather than make a decision tonight about doing this and then find that there is a problem and having to come back to the Board for relief, she would suggest that he ask for a Continuance so that he can talk to the manufacturer to see if this can realistically be done. She stated if it can be done, Mr. Butera could

notify Mr. Majewski that he is withdrawing the Application and proceeding with the concrete pilings. Mr. Connors agreed he feels a Continuance would give him the time to look into this. Mr. Butera agreed to request a Continuance.

Mr. Majewski stated given the projected schedule there may not be a second meeting in August as there is nothing on the Agenda at this point. Mr. Solor asked Mr. Butera if he would agree to a Continuance to the first meeting in September. Mr. Majewski stated there will hold the first meeting in August. Mr. Butera stated he should know something within the next two weeks.

Mr. Majewski stated that he believes that he would still need the Variance for the impervious surface. Mr. Solor stated with the sonotubes, it would be like a deck at that point. Mr. Majewski stated it is not looked at that way, because while water can pass underneath it, it does still cover the ground. Mr. Solor stated Mr. Butera will still therefore need a Variance for that. Mr. Connors asked if the Board could make a Decision now on that part of the Appeal.

Ms. Kirk asked if the calculations would change based upon the area covered by the pilings versus the entirety of the shed, and Mr. Majewski stated the shed is still covering the ground so water has to go off the shed and migrate underneath the shed to get into the ground. He stated they are losing the area where water can fall to the ground and pass through. He stated from a stormwater management perspective it is better to have it elevated because water does have a little bit of a capability to be absorbed.

Mr. Connors asked if they could bifurcate the Variance request and rule on the impervious surface and hold off on the flood portion, and Mr. Flager stated they could do that.

Ms. Kirk asked if the entire property sits within the floodplain; and Mr. Butera stated he assumes so, although a neighbor who was there during the flood stated that the water never came up to the house. Ms. Kirk stated looking at the Plan it shows the shed being in the upper right corner of the property, and she asked if the back portion of the property in the flood plain since if he were to move the shed to a different location, it might be outside of the floodplain. Mr. Majewski showed the floodplain mapping with the darker purple being the limit of the 100-year floodplain. He showed the location of the property, and the property is entirely in the floodplain. He added that the location that Mr. Butera has selected for the shed is probably the only location where it could be put without requiring other Variances.

Ms. Kirk stated the Township's only concern was with the shed being in the flood plain and the free movement of water.

Mr. Flager advised Mr. Butera that the granting of the Variance may result in increased premiums for flood insurance, and Mr. Butera stated he understands.

Mr. Connors moved to bifurcate the Board's rule on the Appeal and address the impervious surface coverage at this Hearing and Continue the floodplain Variance to the next meeting.

Mr. Solor asked if there is any concern about the impervious surface increase by the Board. Mr. Connors stated it is less than 1%, but he would like to see a couple of trees planted although he does not think a large-scale system is warranted for such a small amount.

Mr. Dougherty asked if the Motion is to grant this if he plants a couple of trees, and Mr. Connors agreed.

Mr. Connors stated the Motion is to grant the Variance for impervious surface subject to trees being planted subject to review and approval by the Township engineer.

Mr. Butera stated he currently has a row of arborvitae on that borderline. Mr. Connors stated he is adding impervious surface so he would be taking credit for something he already has, and the Board would like to see something added to mitigate what is being added. Mr. Butera agreed to add trees.

Mr. Solor stated the Township can provide more clarity on what would be required to be planted. He added that for something larger than a 1% increase, they would ask for a more permanent solution; but because this is a relatively small amount, they are willing to look at trees as a solution for the extra run-off. Mr. Butera stated he was planning on putting in another tree once the shed was installed.

Mr. McVan seconded, and the Motion carried unanimously.

Mr. Majewski stated with regard to the floodplain Variance, it may not be necessary after further discussion. He stated if Mr. Butera has to come back for the Variance for the floodplain, he would come back in two weeks.

Mr. Butera stated if he finds that he can do the pilings, that would “take care of that,” and Mr. Solor agreed.

Mr. Connors moved, Mr. Dougherty seconded and it was unanimously carried to Continue to August 2 the Variance for the floodplain Variance.

Mr. Solor stated for the size of sonotubes Mr. Butera would be looking at, he could get them at Home Depot.

Mr. Butera stated the Township staff was very supportive to him, and Mr. Majewski stated he will relay that to his staff adding they enjoyed working with Mr. Butera.

Ms. Kirk left the meeting at this time.

APPEAL #22-1972 – STEPHEN MCGERTY
Tax Parcel #20-016-032-013
1009 UNIVERSITY DRIVE, YARDLEY, PA 19067

Mr. Majewski stated he spoke to the Applicant who is overseas so he is having a representative speaking on his behalf.

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 Chart was marked as Exhibit A-3. The Stormwater Management Small Project Volume Control Sheet 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.

Mr. David Lisanti, 2768 Old Cedar Grove Road, Broomall, PA representing the Applicant was sworn in. He stated he prepared the Site Improvement Plan. He stated Mr. McGerty had a work meeting out of the Country and was unable to join even by video so he is representing him. Mr. Lisanti stated a new pool is being proposed with a paver patio, a deck, and a little pavilion area. They are removing a significant amount of impervious in the amount of about 1,100 square feet, and are proposing about 1,500 square feet which is an increase of about 400 square feet. He stated in the middle upper right area of the Site Plan there is a

demolition detail. Mr. Lisanti stated they are in a newer neighborhood built within the last ten years which has communal stormwater management for the neighborhood. He stated as far as they know there is no on-site stormwater management so they are proposing to meet the Township's Code requirements by using an underground seepage bed on the back side of the pool.

Mr. Lisanti stated they are requesting a Variance for impervious cover. He stated they are currently at 20.6%, and the maximum permitted is 21% for this neighborhood. He stated because they were so close to the maximum, adding any cover put them over, and they will be at 21.9% based on the proposed conditions. He stated the project itself meets all other requirements of the Zoning Ordinance as far as they know and no other Variances are being requested.

Mr. Solor asked if the proposed infiltration mitigate it back to the 20.6%, and Mr. Majewski agreed.

Mr. Connors thanked them for removing existing impervious to make up some of this as very rarely does that happen.

Ms. Christine Tentilucci, 1014 Lafayette Drive, was sworn in. She stated she lives in the property behind the subject property and she asked if it will encroach at all on the buffer that is supposed to remain between the properties. Mr. Majewski showed the Plan, and Mr. Lisanti stated there is a vegetative buffer, and it is a variable width on the McGerty property. He noted the dashed line being noted on the Plan by Mr. Majewski labeled "25' wide vegetation buffer," and he also noted the 50' vegetation buffer. Mr. Lisanti stated the project will not be encroaching on it, and it is staying within the existing fence work that is serving as a perimeter to the buffer so the buffer will remain intact.

Mr. Dougherty moved, Mr. McVan seconded and it was unanimously carried to approve the Appeal as presented tonight contingent upon the stormwater management being approved by the Township engineer.

There being no further business, Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to adjourn the meeting at 8:15 p.m.

Respectfully Submitted,

Judi Reiss, Secretary

