

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – MAY 18, 2009

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on May 18, 2009. Vice Chairman Bamburak called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: Paul Bamburak, Vice Chairman  
Jerry Gruen, Member  
Keith DosSantos, Alternate Member  
Paul Kim, Alternate Member (joined meeting in progress)

Others: Robert Habgood, Code Enforcement Officer  
John Donaghy, Township Solicitor  
James Majewski, Township Engineer  
Allen Toadvine, Zoning Hearing Board Solicitor

Absent: David Malinowski, Zoning Hearing Board Chairman  
Gregory J. Smith, Zoning Hearing Board Secretary  
Anthony Zamparelli, Zoning Hearing Board Member  
Matt Maloney, Supervisor Liaison

APPEAL #08-1483, #08-1483(A), #08-1483 (B) – T-MOBILE NORTHEAST LLC

Mr. Toadvine stated he was contacted by the Applicant's attorney, Mr. Goldberg, requesting that the matter be continued. He stated it is his understanding that they are looking for an alternate site, and Mr. Donaghy agreed. Mr. Toadvine stated the Township had no objection to the matter being continued and it was agreed to continue the matter to July 7. The Applicant has agreed to waive all applicable time limits pursuant to the Municipalities Planning Code through July 31, 2009.

Mr. Gruen moved, Mr. DosSantos seconded and it was unanimously carried to continue the matter to July 7, 2009.

Mr. Kim joined the meeting at this time.

APPEAL #08-1473(A) – DAVID AND JANET GOODWIN, JR. – REMAND

Mr. Lee Rockafellar, attorney, was present with Mr. David Goodwin Sr. and Mr. David Goodwin, Jr.

Mr. Toadvine stated this matter was previously heard by the Board and a decision was rendered. An Appeal was taken to the Court of Common Pleas, and the matter has now been referred back to the Board by the Judge.

Mr. Rockafellar stated they provided a new Plan. Mr. Toadvine stated the Application for Appeal #08-1473(A) was marked as Exhibit A-1. Attached was a one-page Plan for Tax Map Parcel #20-50-159-1 dated 9/12/07, last revised 4/13/09 which was marked as Exhibit A-2.

Mr. Rockafellar stated they had previously discussed putting the house at a location that would meet the newly-enacted setback from any wetlands and move it forward. The drawing being shown was proposed by Mr. James Majewski, the Township engineer. Mr. Rockafellar stated when Mr. Pelke, their engineer, did the lines for the setback he had left the 25' that was on the original Plan. The dwelling should be moved forward to Pine Grove Road 20' to 25' and Mr. Majewski had suggested that they request moving it forward 25' which would give more than substantial room for the setback which is 50' and would satisfy all the other requirements. Mr. Rockafellar stated there are very little Variances being requested other than the main one being the 100' setback from Pine Grove Road which would still leave 60' back in front of the house and would still be set back more than the existing house next door. He stated the main thing is to satisfy the requirements for the setbacks from the wetlands.

Mr. Toadvine stated they will have to amend the Application since they are changing the front yard setback to 55'. The rear yard setback will be 36' from the 50' buffer, and the only other Variance necessary was the minimum lot width. Mr. Rockafellar agreed. Mr. Toadvine stated this would change to 79' instead of the required 85'.

Mr. Toadvine asked Mr. Rockafellar if he is going to move to amend the Application to conform with this, and Mr. Rockafellar stated if this is acceptable, they would be agreeable to moving it forward. The Applicant was agreeable to making these changes as well.

Mr. Toadvine stated they have the testimony from the previous meeting which is still part of the Record.

Mr. Donaghy stated the Township had opposed the earlier Application, but they will not oppose it as amended provided that the changes are made as suggested by Mr. Majewski. If they changes are made, the Township would withdraw its objection.

Mr. Gruen asked about the side yard setbacks since what they have before them is not where the house will be as it will be moved forward 25'. Mr. Toadvine stated the side yards will get larger. Mr. Majewski stated they could put the house within the building envelope and meet the 15' side yard setback and will not need a side yard Variance.

Mr. Bamburak asked about the Variance from the setback from resource protection land, and Mr. Majewski stated the Ordinance requires that the minimum building setback line be measured from the edge of resource protected lands. In this case there is a 50' buffer required beyond where the wetlands are located and from that line a 40' setback from the building is required. They are requesting to cut that down by 4' which the Township has no objection to since the house would still be 86' from the wetlands which would be enough room for them to have a usable rear yard and still provide the protection necessary for the wetlands.

Mr. Donaghy stated the Application submitted showed the incorrect buffer width, and even with the house located where it is shown on the Plans, they would still need the 4' Variance for the rear yard. He stated if they do it correctly by showing it at 36' from the 50' setback it is the exact same requested relief, but it is being requested from the correct location.

Mr. Toadvine stated they are really not asking for a Variance from the Ordinance requirement that mandates measurements be made from the edge, and Mr. Donaghy agreed.

Mr. Bamburak asked if there was anyone present to speak against the Application.

Ms. Anna Latzko, 1214 Pine Grove Road, was sworn in. Ms. Latzko stated the Plans she reviewed before the meeting which had been submitted are now not the true Plans. Mr. Donaghy stated the house would be 25' closer to the road than shown on the Plans. Ms. Latzko stated she was prepared to talk about the Plans that she was shown and she does not feel they should continue this until she can see the new Plans. Mr. Toadvine stated the Plans that she was given are the same Plans that they will submit with the exception that the building itself will be moved 25' closer to Pine Grove Road. Ms. Latzko stated this will change all the setbacks. Mr. Kim stated it only changes the front and rear setbacks. Ms. Latzko stated it also changes the side yard setbacks, and Mr. Toadvine stated it makes the side yards wider, and there is no Variance from the side yards requested.

Ms. Latzko stated the Zoning Hearing Board is going on the Applicant's word that they will do this. Mr. Toadvine stated if the Board approves this, it will be with a 55' front yard setback and a 36' rear yard setback and that rear yard setback is measured from the edge of the buffer around the wetlands which is a 50' buffer. He stated there are no side yard Variances being requested.

Ms. Latzko stated she feels she is at a disadvantage because she will not be able to see the Plans before they are approved. She also stated Mr. Rockafellar had talked about the land being subdivided in 1986 and the Subdivision he is talking about is not the Goodwin property, he is talking about the property that the Church is on now.

Mr. Bamburak stated the Board would like to hear comment about the issues for these particular setbacks and not what occurred in 1986. Ms. Latzko stated she still has the issue with regard to the wetlands and preserving what they have. She stated the buffers are set and they are allowing them to go to 36' rather than 40'. She stated the Board is allowing them to squeeze a house onto a smaller property when there are 238 houses for sale in Lower Makefield and they are taking away property that the Township could preserve rather than being destroyed by putting another home on this small lot.

Mr. Samuel Johnson, 1210 Pine Grove Road, was sworn in. Mr. Johnson stated they have a water problem every time it rains where they want to put the house, and he is concerned about water coming onto his property. He asked who would take care of this. Mr. Majewski stated the Township Ordinances require that when they submit for a Building Permit, they have to submit a Plan for dealing with the stormwater on their site. He stated conceptually they have shown some areas for stormwater management on the property on the Variance Plan, but this will have to be finalized when they move the house forward toward the road and they adjust the grading and clearing that they have proposed on the Plan. Mr. Johnson asked about the perc tests which were done and asked if they will have to do this for the new location. Mr. Majewski stated he is not aware that they have done tests, but if they did they could possibly use that.

The Public Hearing portion was closed.

Mr. Gruen asked the required front yard setback, and Mr. Habgood stated it is 100', and this is one of the Variances they are requesting. Mr. Gruen asked why they do not move the house 4' forward so that they do not need a Variance for the rear yard setback. Mr. Majewski stated they could do this, and he would not have a problem with this. Mr. Gruen stated if they move the house four more feet, this would keep them further away from the wetlands and a rear yard setback Variance would not be required. This would then result in a 51' setback from Pine Grove Road as opposed to 55'. This would also result in a greater side yard setback. This was acceptable to the Applicants.

Mr. Rockafellar agreed to amend his Application to withdraw the request for a rear yard setback.

Mr. Majewski stated this will also provide even more of a usable rear yard for the homeowners.

A short recess was taken at this time.

When the meeting was reconvened, Mr. DosSantos moved, Mr. Kim seconded and it was unanimously carried to approve the Application with amendments discussed and grant a Variance for a front yard of 51' and a lot width of 80'.

#### APPEAL #09-1510 – JEFFREY DAYTON

Mr. Jeffrey Dayton was sworn in. The Application submitted was marked as Exhibit A-1. Attached to the Application is a one-page Plan dated 3/19/03, time stamped by the Township 4/8/09 which was marked as Exhibit A-2.

Mr. Dayton stated he would like to build a 6' by 8' garden shed at the edge of his property near Yardley-Langhorne Road. He stated two Variances are required. He stated as proposed, the shed would not be on the quarter of the property furthest from the street. He also needs a Variance because it is within the 80' setback of Yardley-Langhorne Road. Mr. Dayton stated his property is bounded on three sides by streets so he has three front yards. He stated this pushes the house fairly far back to the rear property line and the space back there is heavily planted which screens his property from his neighbors. He stated he has a garden in the upper corner of the property and the shed would support this. He stated there is no place on the property to put the shed which would put it in conformance. He stated he does have pictures of the property.

Mr. Gruen stated he did look at the property and there is no place else where the shed could be placed.

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

There was no one present in the audience to speak to this matter, and the Public Hearing portion was closed.

Mr. Gruen moved, Mr. DosSantos seconded and it was unanimously carried to grant the Variances as requested.

APPEAL #09-1511 – JACOB GUBLO

Mr. Jacob Gublo and Ms. Cheryl Gublo were present and were sworn in. The Application submitted was marked as Exhibit A-1. Attached to the Application was a one-sheet Plan dated 4/6/09, and this was marked as Exhibit A-2.

Mr. Gublo stated he has an existing deck he would like to replace with a larger paver deck which qualifies as impervious surface.

Mr. Bamburak asked if they have done any other work on the property which increased the impervious surface, and Mr. Gublo stated he has not. Mr. Bamburak asked Mr. Majewski if he agrees with the calculations presented, and Mr. Majewski stated he does. The existing impervious surface is 19.2%, and they would like to go to 19.4% Mr. Gublo stated they did calculate the existing deck as impervious surface.

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

There was no one present in the audience to speak to this matter, and the Public Hearing portion was closed.

Mr. Kim moved, Mr. Gruen seconded and it was unanimously carried to grant the Variance as requested for impervious surface of 19.4%

There being no further business, Mr. Gruen moved, Mr. Kim seconded and it was unanimously carried to adjourn the meeting at 8:10 p.m.

Respectfully Submitted,

Paul Bamburak, Vice Chairman

