

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JANUARY 19, 2010

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on January 19, 2010. Mr. Malinowski called the meeting to order at 7:05 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman
Gregory J. Smith, Secretary
Jerry Gruen, Member
Keith DosSantos, Member

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

Absent: Paul Bamburak, Zoning Hearing Board Vice Chairman
Anthony Zamparelli, Zoning Hearing Board Member
Matt Maloney, Supervisor Liaison

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

Mr. Toadvine stated T-Mobile has requested a continuance until April 20, 2010. Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to continue the matter to April 20, 2010.

APPEAL #06-1372 – PETER ORLOFF AND JOY GRACE

Mr. Peter Orloff and Ms. Joy Grace were present and were sworn in.

Mr. Majewski stated last month a representative from the Bucks County Conservation District met with the Applicants and reviewed the Plan developed for helping restore the stream and provided a cost estimate which was a significant amount of money. He stated he feels they will need additional time to consider what they should do next.

Ms. Grace stated she saw one of the Township televised meetings when Mr. Majewski indicated that the Township had applied for funds for elevation of properties, and she asked if this included her property. Mr. Majewski stated it did not, but he could meet with them to go over the possibility of having FEMA provide funds to either elevate the home or have it bought out. Mr. Orloff and Ms. Grace stated they would be interested in meeting with Mr. Majewski about this.

Ms. Grace stated on the streambed restoration plan, part of the work that would have to be done is on land that is Township open space. Mr. Majewski stated the Heritage Conservancy did transfer title for this land to the Township several years ago. Ms. Grace stated if they were to proceed with the plan, they would have to get permission to go on Township land; and Mr. Toadvine stated if it involves work on Township land, they would need to get permission from the Township. Ms. Grace asked if the plan would still be good if she and Mr. Orloff no longer owned the property and a subsequent owner wanted to do something with the property, and Mr. Majewski stated he does not believe the time is unlimited; however, if they chose to sell the house in the near future, the new owner could work with the Township, the Bucks County Conservation District, and the DEP to move the plan forward.

Mr. Toadvine stated they need to know when they would like the matter to be re-listed again. Ms. Grace stated she is ready to consider starting to accomplish something. She stated she feels six months would be sufficient to get more information. Mr. Toadvine suggested the matter be continued until August, and Ms. Grace asked that they continue it to May. Mr. Malinowski stated this would not be six months. Mr. Toadvine stated May would only be three months, and this may not be enough time. Mr. Toadvine stated if they decide they do not want to proceed with this, they can notify the Board in writing.

Mr. Orloff and Ms. Grace agreed to a continuance to August 3, 2010 and agreed to waive the time limits pursuant to the Municipalities Planning Code.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to continue the matter to August 3, 2010.

APPEAL #09-1536 – CHRISTOPHER HEULITT

Mr. Christopher Heulitt was sworn in. Mr. Malinowski stated there are only four members present which could result in a tie which would be a loss. He stated the Applicants have the option to move forward tonight or could request a continuance to the next Board meeting when they should have five members present. Mr. Heulitt stated he does not feel he has anything else he can say or do to bring this to a conclusion and would like to proceed.

Mr. Toadvine stated Mr. Heulitt submitted some additional documentation. Exhibit A-5 was marked which is a one-page sheet which is a hand drawn site Plan dated 1/19/10 with an “I” in the upper right hand corner. Exhibit A-6 was marked which is the same description as A-5 except in the upper right hand corner there is an “II.” Exhibit A-7 was marked which is a one-sheet document which depicts environmental paving systems and was time-stamped by the Township 1/19/10. Exhibit A-8 was marked which is a one-page document entitled “Permeable Interlocking Concrete Pavement Municipal Officials Fact Sheet.”

Mr. Malinowski asked Mr. Habgood if he was able to calculate the impervious surface, and Mr. Habgood stated from the new Site Plan he was provided he calculated 24.9% existing impervious surface. He stated he does not know if Mr. Majewski has had an opportunity to review this, and Mr. Majewski stated he did check this and came up with a number very similar. Mr. Habgood stated he calculated the proposed impervious surface from Exhibit A-6 to be 29.8%.

Mr. Malinowski stated Exhibit A-8 describes the permeable interlocking pavement and he asked Mr. Majewski if the Township gives any credit for this. Mr. Majewski stated while they do not for the purpose of impervious surface calculations, from the standpoint of stormwater management, it does react more favorably than standard concrete.

Mr. Toadvine asked Mr. Heulitt if he agrees with the calculations noted for existing and proposed impervious surface, and Mr. Heulitt stated he does.

Mr. Gruen asked Mr. Heulitt’s contractor to explain the system they are proposing. He asked if they propose to install any water tanks under the pavers or are just going to let it flow through the pavers into gravel.

Mr. Bryan Ruckel was sworn in and stated with these permeable paver systems, you dig approximately three times deeper than you do with a traditional patio so you have a drainage bed. He stated Exhibit A-7 shows this. He stated there are two types of aggregate - one is a thicker aggregate minimum number six crushed stone and there is a smaller aggregate so you have 12” of crushed stone on which the pavers sit.

Mr. Gruen asked if there are any holding tanks, and Mr. Ruckel stated there is no need for a holding tank unless the soil conditions dictate that if you are on top of rock. Mr. Gruen asked what happens if the ground is clay, and Mr. Ruckel stated the engineering studies that have been done on the eco-pavers show that there is no need because the stones displace the water as it falls. Mr. Gruen asked if they did a perc test on the site adding if they are sitting on total clay, it will not seep through under the ground. Mr. Ruckel stated if this were to be the case a drainage tube would be put in place. Mr. Gruen asked if he will be putting a drainage tube in place, and Mr. Ruckel stated he has not yet broken ground. Mr. DosSantos asked if this determination will be made when he breaks ground,

and Mr. Ruckel agreed. He stated the other systems he has installed have not required any drainage, and the foot of crushed stone itself was sufficient to accommodate even very heavy rainfalls. Mr. DosSantos stated Mr. Ruckel has indicated this will go on 12” of crushed stone and asked how much is usually used on a normal paver system, and Mr. Ruckel stated it would go on 4” of crushed stone. Mr. Gruen asked if he puts anything in between the pavers, and Mr. Ruckel stated you do put an aggregate between the pavers. He stated there is a 1” joint as opposed to traditional patios where there is 1/8” so there is 1” on all four sides and the aggregate is in between. Mr. DosSantos asked if the purpose of the 1” aggregate joint is to also facilitate drainage, and Mr. Ruckel agreed adding that the water will run off all four sides. He stated the EP Henry representative described it as basically the same as sodding your lawn as far as rainfall and run off. Mr. Gruen asked where the drainage would go if it were to be installed, and Mr. Ruckel stated he would have to check the site, but it would go to the street and not to a neighbor.

Mr. Smith asked Mr. Habgood the permitted impervious surface for this property, Mr. Habgood stated the property had a Variance granted at a prior Zoning Hearing Board meeting to allow it to go to 20.97%. The permitted amount without the Variance is 18%. Mr. Habgood stated this is resource protected area, but these lots were existing prior to the RFP Zoning District being created so they fall back to the R-2 requirements for impervious surface that are in effect now. He stated because of their lot size, they are allowed 18%. Mr. Toadvine asked if they went back to the R-2 impervious surface requirements in effect when the lot was re-zoned, the R-2 at that time was 24% to 28%; and Mr. Habgood stated before the impervious surface requirements were established, it went by building coverage, and most lots were allowed 15% building coverage.

Mr. DosSantos stated Mr. Majewski indicated there is no credit given for use of the pervious pavers, but he asked if a calculation could be done assuming that the eco system was pervious surface. Mr. Smith asked if Mr. Majewski has an opinion as to whether the property could be designed with the proposed changes to have an effective impervious surface of 20.97%. Mr. Majewski stated it could be, and this could be through a combination of the stone bed beneath the porous pavers and between the stones if a soils test had been done to determine whether or not water actually drains through it. He stated if the water drains through in this case, they could take a credit for how quickly the water drains through and calculate that; and to the extent that they could not get down to the suggested effective impervious surface ratio, they could install a dry well or seepage bed somewhere else on the property to balance that number out.

Mr. Smith stated perhaps they could have Mr. Majewski work with the Applicants’ contractor to manage the stormwater run off in such a way that they would meet the effective percentage which they are at currently which is 20.97%. Mr. Habgood stated 20.97% is what they were granted under Appeal #04-1244 in March, 2004. He stated he does have a copy of that Decision. Mr. Habgood stated this was given to the present

Appellants. Mr. Malinowski asked how they got to 24.9% existing today if they were only granted 20.97%, and Mr. Majewski stated the Site Plan submitted by the Heulitts shows two sheds on the property, and these were not shown in the previous map submitted for the Appeal in 2004. He stated there is also the pool equipment area which is impervious and an additional piece of brick next to the octagonal shaped deck which is approximately 500 square feet. He stated the old survey also did not show the driveway turnaround area that is 18' by 10'6". Mr. Smith asked Mr. Heulitt when these were added, and Mr. Heulitt stated the turn around area in the driveway was added about three years ago when they had the driveway redone. He stated the brick near to the octagonal deck has been there for approximately twenty years when the wood was put in around the pool. Mr. Toadvine asked if they are counting the wood decking as impervious, and Mr. Habgood stated he did not.

Mr. Smith asked Mr. Heulitt if he would be willing to go forward with the stipulation that whatever system is installed that it would have to be an effective impervious surface of 21% as determined by the Township engineer, and Mr. Heulitt stated he would agree to this.

Mr. Esposito stated the Township is participating but would not be opposed provided the Applicant agrees to enter into a Stormwater Controls and Best Management Practices Operations and Maintenance Agreement with the Township to make sure that the proposed surface added remains as permeable surface, that there is a 5' rear yard setback from where the pavers will end, and that they make sure that the effective rate goes back down to 21%. Mr. Heulitt stated he would agree to these conditions.

Mr. Majewski suggested that since they have stated that the brick area behind the octagonal wood deck has been there for over twenty years, this adds another 1%; and he would suggest that they make it that the effective impervious surface could be 22%. Mr. Esposito stated the Township would be willing to agree with the Township engineer's recommendation.

Mr. Gruen asked if they have looked at other systems such as Aquascape where they store the water in liners and then use the water to water the lawn or hold it and discharge it slowly on the property. Mr. Ruckel stated he is not familiar with this system. He stated he does work a lot with EP Henry. Mr. Gruen stated they also use an EP Henry type paver and leave a gap, and the water goes through and flows into a underground pond where they use a fountain.

There was no public comment.

Mr. Malinowski stated the Board did receive a letter from a neighbor at 56 Black Rock Road, and they have no objection to the Application. Mr. Heulitt state that property is on the River side, and if there were run off, it would be in that direction.

The Public Hearing portion was closed.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to grant the relief requested with the following stipulations:

- 1) That the changes to the property as depicted on Exhibit A-6 maintain a 5' setback from the property line as shown on that Plan;
- 2) That the effective impervious surface as determined by the Township Engineer be maintained at 22% or less;
- 3) That the Applicant enter into a Stormwater Controls and Best Management Practices Operations and Maintenance Agreement with the Township to insure that the surface continues to operate as designed;
- 4) To insure that the 22% effective impervious surface is not exceeded, that it will be subject to the Township engineer's review and approval of any such Plan.

There being no further business, Mr. Smith moved, Mr. DosSantos seconded and it was unanimously carried to adjourn the meeting at 7:45 p.m.

Respectfully Submitted,

Gregory J. Smith, Secretary