

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – JUNE 1, 2010

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on June 1, 2010. Chairman Malinowski called the meeting to order at 7:10 p.m.

Those present:

Zoning Hearing Board:       David Malinowski, Chairman  
                                      Jerry Gruen, Member  
                                      Anthony Zamparelli, Member  
                                      Paul Kim, Alternate Member

Others:                         Robert Habgood, Code Enforcement Officer  
                                      James Esposito, Township Solicitor  
                                      James Majewski, Township Engineer  
                                      Allen Toadvine, Zoning Hearing Board Solicitor  
                                      Matt Maloney, Supervisor Liaison

Absent:                         Paul Bamburak, Zoning Hearing Board Vice Chairman  
                                      Gregory J. Smith, Zoning Hearing Board Secretary

APPEAL #10-1553 – ARON GALONSKY

Mr. Aron Galonsky and Ms. Ella Galonsky were sworn in. The Application submitted was marked as Exhibit A-1. Attached to the Application was a one-sheet 8 ½” by 11” Plan depicting the subject property with the proposed fence highlighted in yellow, time-stamped by Lower Makefield on 5/3/10; and this was marked as Exhibit A-2.

Mr. Galonsky stated they would like to install a privacy fence around their property. He stated they moved into the home in April of last year, and the fence that exists will not accommodate their two children; and they need a full fence put in that will entirely enclose their back yard for their safety. He stated they found out that there was an easement that substantially cuts into part of the back yard, and they would like to build in the easement area in order to expand the usable back yard area.

Mr. Malinowski asked who owns the easement, and Mr. Habgood stated he believes the Township owns this drainage easement. Mr. Majewski agreed. He stated there is an underground pipe that goes from Waterwheel Drive out to Knoll Road. He does not believe there are any inlets in the easement area.

Mr. Malinowski asked the type of fence, and Ms. Galonsky stated it will be a solid privacy fence.

Mr. Malinowski asked if the Board were to grant the Variance would they agree to leave space at the bottom so that the water can flow through and also if the Township were to have to do any work in the easement area, that they would remove the fence and replace it at their expense, and the Applicants agreed.

Mr. Malinowski noted there are only four Board members present this evening; and if there were a tie, the Applicants would lose. He stated they have the option to continue this matter to a future Board meeting. The Applicants asked to proceed with the matter this evening.

Mr. Esposito stated that the Township is participating and would only ask that the Conditions already mentioned be part of any approval.

Mr. Gruen asked the height of the fence, and Mr. Galonsky stated it will be 6' high.

Mr. Toadvine stated Exhibit A-2 shows in yellow where the fence will be located, and the Applicants agreed.

There was no public comment, and the Public Hearing was closed.

Mr. Gruen moved, Mr. Zamparelli seconded and it was unanimously carried to grant the relief with the Condition that the Applicant, at their own expense, remove the fence if the Township needs to do work on the drainage ditch, and that the Applicant leave a 2" gap at the bottom of the fence.

#### APPEAL #10-1554 – JOHN SHERRARD

Mr. John Sherrard was sworn in. The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet 8 1/2" by 11" drawing entitled "Plan of Survey" for the property dated 7/2/64, and this was marked as Exhibit A-2.

Mr. Sherrard stated they would like to build a family room and wheel-chair accessible bathroom. He stated the family room and breezeway attachment to the house where the bathroom will be, will be on piers with drainage underneath. He stated there will be a step off the family room. The family room will be 18' by 22' and the breezeway attachment is approximately 8' by 10'. He stated this attaches to what will be their dining room at the floor level so that the bathroom will be on the center level of the split level home.

Mr. Sherrard stated in 1980 he put in a gravel patio with no plastic underneath and a 6' by 6' pressure-treated lumber surround. Mr. Zamparelli asked if he included the gravel patio in the impervious surface, and Mr. Sherrard stated he did. Mr. Zamparelli asked if it would be considered pervious because of the size of the rock. Mr. Gruen stated the Township considers gravel impervious. Mr. Majewski stated it would depend on the type of gravel that was put in; and if it is the pea gravel that cannot compact, it would be considered pervious, but if it is a kind of stone that interlocks, it would be considered a hard surface and would be considered impervious. Mr. Sherrard stated the patio is  $\frac{3}{4}$ " and slightly smaller pea gravel on grade. Mr. Majewski stated while it sounds like it would be pervious, he would have to see it to make a determination. Mr. Sherrard stated he did not put any plastic down so that it would drain. He stated it drains better than his lawn.

Mr. Toadvine asked Mr. Habgood if he agrees with the calculations of the existing impervious with the exception of the gravel patio, and Mr. Habgood stated he did. Mr. Toadvine stated if the gravel patio is pervious, the new impervious surface would be 19.3% with the addition. Mr. Majewski agreed. Mr. Toadvine stated the maximum permitted is 18%. Mr. Malinowski stated if they grant the Variance for 19.3%; and the Township goes out and determines that the patio is impervious, the Applicant would have to come back. Mr. Toadvine stated they could indicate in the decision that the gravel patio would not be considered for calculating the impervious surface ratio and then allow 19.3% or 19.4% with that proviso. Mr. Majewski stated as described it sounds like the gravel patio is not impervious, but he feels it should be verified.

Mr. Gruen stated they could make the decision subject to Mr. Majewski's inspection and that the Applicant agree that he would not ever cover the patio with EP Henry or any other hard surface. Mr. Kim stated he feels they should just clearly state the impervious surface allowed. Mr. Gruen stated he is concerned because there is an existing patio and he feels someone could indicate that since there was already stone, they were allowed to put EP Henry on top of it, and he feels they should specifically state in the decision that it cannot be covered. Mr. Sherrard stated that he will not install EP Henry on top of this since he put the gravel down because he likes the aesthetics and drainage of it.

Mr. Esposito stated the Township is not participating in this matter.

There was no public comment, and the testimony was closed.

Mr. Gruen moved and Mr. Zamparelli seconded to approve the addition with a 19.3% impervious surface upon approval by the Township engineer that the patio is not impervious surface and conditioned that the patio never be converted to an impervious surface.

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Mr. Malinowski asked Mr. Sherrard if he would like to continue the matter since there could be a tie, and he could continue the matter until there was a five member Board. Mr. Sherrard agreed to proceed at this time.

Motion carried with Mr. Malinowski opposed.

Mr. Habgood stated once the Building Permit is submitted for review, Mr. Majewski will be notified and he will go out and check on the patio. Mr. Majewski stated he will try to go out sooner than that.

Mr. Malinowski stated the reason he voted in opposition was because he felt the Conditions were too restrictive.

#### CANCEL JULY 6, 2010 MEETING

Mr. Kim moved, Mr. Gruen seconded and it was unanimously carried to cancel the July 6, 2010 meeting.

There being no further business, Mr. Gruen moved, Mr. Kim seconded and it was unanimously carried to adjourn the meeting at 7:30 p.m.

Respectfully Submitted,

David Malinowski, Chairman