

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – OCTOBER 5, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on October 5, 2021. Mr. Zamparelli called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Chair
 Matthew Connors, Secretary (joined meeting in progress)
 James Dougherty, Member
 Peter Solor, Member

Others: James Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor
 Adam Flager, Zoning Hearing Board Solicitor
 Frederic K. Weiss, Supervisor Liaison

Absent: Pamela VanBlunk, Zoning Hearing Board Vice Chair

APPEAL #21-1930 – ANDREW EVANS
Tax Parcel #20-039-062
28 S. HOMESTEAD DRIVE, YARDLEY, PA 19067

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 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. Andrew Evans and Mr. Anthony Ross were sworn in.

Mr. Evans stated they are requesting a Variance to build a sunroom in the back of his house. He stated the impervious surface limit is 18%, and they are looking to go to slightly over 20%. Mr. Zamparelli stated the Applicant understands that there is a mitigation issue; and while it was not indicated on the drawing, they indicated that they would do whatever is necessary.

Mr. Solor stated the Board would be looking for an infiltration system as opposed to using trees since trees may not be maintained, and the next homeowner may take them down.

Mr. Rossi stated what they were proposing was a seepage bed that will handle the water off the new structure as well as some rain barrels, which will just be supplementary as the homeowners like to do gardening. The rain barrels will help slightly, but it is the seepage pit that will take care of the run-off. The seepage pit will probably be 3' wide, 3' deep, and about 12' long in order to handle the run-off they will have. He stated they will provide whatever the Township requires in their drawings.

Ms. Kirk stated the Township is not participating in this matter.

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

Mr. Solor moved, Mr. Dougherty seconded and it was unanimously carried to approve the Variance subject to mitigation of stormwater back to 18% effective impervious area utilizing infiltration methods subject to approval by the Township.

APPEAL #21-1931 – SEAN RAMDSEN & MONICA BUONINCONTRI
Tax Parcel #20-047-049
6 ARDSLEY ROAD, YARDLEY, PA 19067

Mr. Sean Ramsden and Mr. Matt Piotrowski, architect, 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 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. Piotrowski stated they are requesting two dimensional Variances, one for the front yard setback to be reduced from 50' to 45' and the other is the rear yard setback to be reduced from 50' to 45'. He stated they would like to construct a foyer on the front of the house as currently when you open the door you come right into the house. They feel that the request is de minimous in nature in that any pedestrians or drivers will not realize that a Variance was needed to construct the foyer. He stated even though the setback is 50', from the front of the proposed foyer to the line where the macadam starts, it is actually 60'. He stated the street also has a slight curve to it so that the houses next to this house actually look like they are closer to the street than this house.

Mr. Piotrowski stated with regard to the rear yard setback, they are proposing a deck which is 15' by 15'. He stated they looked into a patio; however, if they were to put in a patio, they would need an impervious Variance, and they felt that a dimensional Variance would be less relief than an impervious Variance. He stated if they made the deck 10' versus 15', they would not be able to fit a table and chairs. He stated the deck will only be about 14" above grade. He stated they feel that the rear yard setback Variance is minimal in nature.

Mr. Zamparelli asked if the soil underneath the deck will remain pervious, and Mr. Piotrowski agreed.

Ms. Kirk stated the Township is not participating in this matter.

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

Mr. Solor moved, Mr. Dougherty seconded and it was unanimously carried to approve the Variance as submitted.

APPEAL #21-1932- LUCI & ALBERT GIAGNACOVA
Tax Parcel #20-042-109
1704 MAKEFIELD ROAD, YARDLEY, PA 190667

Mr. Joe Blackburn, attorney was present with Mr. John Genovesi, project engineer.

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 reasons for the requested relief was marked as Exhibit A-3. The Property Deed 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. John Genovesi was sworn in.

Mr. Blackburn stated the property is located at 1 Sutphin Road. He stated the property consists of 2.1 acres and is presently improved with two single-family detached dwellings both of which are shown on the Plan. The Applicants proposes to subdivide an approximately 18,000 square foot lot from that existing property which would necessitate the need for two items of relief.

Mr. Blackburn stated Mr. Genovesi is a licensed, professional engineer employed by Tri-State Engineers, and Mr. Genovesi agreed. Mr. Genovesi stated he was responsible for the preparation of the Plan which is before the Board and was submitted with the Application. This is an Existing Features Plan which depicts the current state of the property with two single-family detached dwellings and various accessory out-buildings. The property maintains frontage on Makefield Road, Sutphin Road, and Fayette Drive so it is a tri-frontage property.

Mr. Blackburn stated the property that is subject of tonight's Application was created via a 1951 Subdivision, and Mr. Genovesi agreed. This Plan of Subdivision for Green Acres was marked as Exhibit A-5. This Plan depicts an approximately 29-unit Subdivision, and was Recorded in 1951. Mr. Blackburn stated the large parcel at the lower left-hand corner of the Plan is the subject property, and Mr. Genovesi agreed.

Mr. Blackburn stated the dimensions on the Plan for the various Lots depict Lot widths ranging from 90' up to 102' with the majority being 90' width, and Mr. Genovesi agreed. Mr. Blackburn stated the Variance Plan submitted and marked as Exhibit A-2 shows the proposed Subdivision of an approximately 18,000 area depicted as Lot #2. That Lot would have a 95.5' lot width, and Mr. Genovesi agreed. Mr. Blackburn asked Mr. Genovesi the minimum Lot width in the R-2 Zoning District presently, and Mr. Genovesi stated it is 110'. Mr. Blackburn stated the 95.5', despite being less than 110', is larger than the 90' Lot width which was seen for every other Lot on Makefield Road, and Mr. Genovesi agreed. Mr. Blackburn stated the proposed Lot would, in fact, have a greater Lot width than those on Makefield Road; and Mr. Genovesi agreed.

Mr. Blackburn stated the second item of relief for which they are requesting relief has to do with the 7' setback for the proposed accessory garage, which is shown as Existing Structure 1 on the Plan. Mr. Blackburn stated the proposal is to incorporate that as the detached garage for the proposed dwelling on Lot 2, and Mr. Genovesi agreed. Mr. Blackburn stated the existing nature of the garage prevents them from moving it such that is affixed to its current location, and Mr. Genovesi agreed. Mr. Blackburn stated there is also a 15' minimum side yard setback for the existing dwelling on Lot 1. Mr. Genovesi stated they set the boundary between Lot 1 and Lot 2 with the 15' side yard as required by the Ordinance; and when you set that boundary at that point, you have 6.99' to the existing garage. Mr. Blackburn stated in order to have a compliant side yard for Lot 1, they are left with a resulting 7' setback for the existing structure which is the detached garage; and Mr. Genovesi agreed.

Mr. Blackburn asked Mr. Genovesi if he is familiar with the general nature of the properties within the vicinity of the subject property, and Mr. Genovesi stated he is.

A Plan prepared by Mr. Genovesi was marked as Exhibit A-6, which is an aerial with the proposed Zoning Plan overlaid on top of it. The gray lines are the Lot lines as created by the 1951 Subdivision. They are all of a similar width to the 95' Lot width for the proposed Lot 2. Each of those Lots is presently improved with a single-family detached dwelling as can be seen on the aerial.

Mr. Blackburn asked Mr. Genovesi if it is fair to say that the proposed Lot 2 would be very much in keeping with the character and nature of the Lots in the vicinity, and Mr. Genovesi agreed. Mr. Blackburn asked Mr. Genovesi if he believes there is any reason that there would be a detrimental impact to the neighborhood as a result of the creation of Lot 2, and Mr. Genovesi stated he does not believe there would be any. Mr. Blackburn stated this is the minimum relief needed to afford a reasonable use of the Lot, and Mr. Genovesi agreed.

Mr. Connors joined the meeting at this time.

Mr. Zamparelli stated they want to put a house on the Lot and instead of it being a 110' width, they are asking for 96', and on Lot 1 they went to a 15' setback which is de minimous and that lessened their setback for the garage to 7'; and Mr. Blackburn agreed. Mr. Zamparelli asked if there are any impervious surface issues; and Mr. Blackburn stated there are not, and they are entirely compliant with all building coverage and impervious requirements. Mr. Blackburn stated that this will be the subject of a Subdivision; and as a result over 600 linear feet of sidewalk will be installed along both Makefield and Sutphin Roads as well as stormwater management facilities which were not contemplated with the 1951 Subdivision so these are added benefits.

Mr. Blackburn moved his Exhibits into the Record.

Ms. Kirk stated the Township is participating in this matter. Ms. Kirk stated the property is still presently one Tax Parcel number, and Mr. Blackburn agreed. Ms. Kirk stated they are carving out a piece to put a new dwelling on proposed Lot 2, and Mr. Genovesi agreed. Ms. Kirk stated because of the location of the existing house on Lot 1, the Subdivision cannot make the two proposed Lots equal in width, and Mr. Genovesi agreed. He added that they set the boundary between Lot 1 and Lot 2 so that they would comply with the side yard setback

for the existing dwelling. Ms. Kirk stated the 15' side yard setback is more applicable to the house on the new Lot 1 which created the issue for the other Lot, and Mr. Genovesi agreed.

Ms. Kirk stated Mr. Blackburn had indicated that there were two existing Residential dwellings, and she asked if both of those will continue to be located on Lot 1; and Mr. Genovesi agreed. Ms. Kirk asked if there are two separate families living in those properties, and Mr. Genovesi stated he did not know. Ms. Kirk asked if the new Lot 1 will still be treated as one Residential property, and Mr. Genovesi agreed. Ms. Kirk asked if there will be use of the second Residential dwelling for someone other than family that would be living there; however, Mr. Genovesi stated he did not know.

Ms. Kirk stated the reason she is bringing up these questions is because she does not feel that the Township would be in agreement that the second dwelling on Lot 1 be used as a rental property for some third, independent party; and she would like to know what assurances could be given to the Township that that will not occur. Mr. Blackburn stated Mr. or Mrs. Giagnacova could be called to discuss this.

Ms. Lucille Giagnacova was sworn in, and she stated she and her husband are the owners of the subject property.

Mr. Blackburn asked Ms. Giagnacova to discuss how the two existing dwellings are currently occupied and used today. Ms. Giagnacova stated they have relatives living in both of those dwellings.

Ms. Kirk asked if the Board were to approve the Variance requests, would the Applicant agree to a Condition that the property would be Deed restricted to preclude each of the two homes from being rented individual to two non-related families. Ms. Giagnacova asked if it was legal to have a Deed restriction like that. Mr. Blackburn stated it would be that a relation needs to exist between the occupants of both homes. Mr. Blackburn stated neither of those are for a transient rental, and they are not running an Airbnb; and Ms. Giagnacova stated she is not running a boarding house.

Mr. Blackburn stated he feels they could probably fashion some language that would address the Township's concerns although he would be hesitant to agree to an omnibus requirement for a familial relation based on the brevity he has had to discuss this with his clients. He asked if there could

be a Condition that they would discuss some kind of use restriction that would be acceptable to his office and Ms. Kirk's office so that they can explore that as opposed to making a decision on that at this time.

Ms. Kirk stated she does not feel the Township would have an opposition to a Condition of that nature that some sort of restriction be placed on Lot 1 to limit the use that would be acceptable to both the property owners and the Township to prohibit a use in the future for a boarding house or some similar nature, and Mr. Blackburn stated that they could commit to that.

Mr. James Scammell and Ms. Janet Scammell, 1705 Makefield Road, were sworn in.

Mr. Scammell stated he wants to know that the neighbors on either side and across from these properties, were alarmed when they received the notification. He stated some of the statements that have been made are surprising. He stated the existing garage is a shell with a collapsed roof, and it is unusable. He stated there was a statement made that these places were rented for relatives/family. He stated there are two existing buildings, and one of them has two different renters in it in the building across from the Lutheran Church on Sutphin. He stated the house directly across from his home has an African-American, non-family, with a number of elderly and younger people. He stated every day there are multiple cars arriving, and he is not sure what the use is; and it does not seem to be a domicile. He stated this is the house that fronts on Makefield Road. Mr. Scammell stated previously to this, there was a family in there he believed from Virginia.

Mr. Blackburn Objected adding he is not sure what any of this has to do with the relief that is being requested which is limited to lot width and the setback of an accessory structure.

Mr. Scammell stated he objects to the statement about the existing garage and the statement about the usage. He stated their concern is that it was going to be another rental property which has changed the nature of their neighborhood. Mr. Scammell stated there were "some pretty bad renters" for approximately ten years. He stated they had set up a gym in the garage, and put the garage door up with giant speakers and they "blasted music out" during the day. He stated the husband had a very loud car that he would start up at 5:20 a.m. every morning and let idle, and their bedroom is directly across from that garage. He stated everyone in the neighborhood heard it. Mr. Scammell stated these rental units have them very concerned.

Mr. Zamparelli stated Mr. Scammell is stating that the houses on Lot 1 do not have relatives living in them. Mr. Scammell stated the Applicant was asked if they were building a house to be used as a rental property, which is a concern. Mr. Zamparelli stated the Applicant stated it would not, and the Board could put that in as a Condition.

Mr. Scammell stated he is concerned that Ms. Giagnacova has indicated that she is renting to family, but he has seen no evidence of that. He stated he also spoke to Ms. Giagnacova when the previous renters left, and they told her that they “were living a nightmare for the period of time that they were in there,” and Ms. Giagnacova indicated that her husband “had lost control of it and just let people in to rent and did not really examine who was renting.”

Mr. Dougherty stated that Ms. Kirk had stated that as a Condition of approval, there may be a Deed Restriction on Lot 1 that it would have to be familial members who occupied those homes which would be favorable to Mr. Scammell and his quality of life if they are indeed familial members who would be in there per a Deed Restriction. Mr. Scammell stated he would have no objection if that is the case and a single family is moving in there, and this would be their home. He stated his concern was that they would now have three buildings that are rental properties across the street, and they would have no vested interest in the property. Mr. Dougherty stated he was just noting that Ms. Kirk had suggested that there would be some land use controls over the existing two houses that might be beneficial to the neighborhood.

Mr. Dougherty stated Mr. Scammell had indicated that the existing garage was a “shell;” and he asked if that is on Lot 2 as shown on the Plan. Mr. Blackburn stated the garage is the one that will be repurposed for use for Lot 2. Mr. Scammell asked Mr. Blackburn if he has seen the condition of that garage. Mr. Dougherty asked Ms. Giagnacova if the condition of the garage on proposed Lot 2 in what might be considered “shell condition.” Ms. Giagnacova stated it has a hole in the roof; and they are planning to keep the foundation and relocate the garage door to the opposite side and they would put on a new roof. She stated they did not want to do anything until they got their approval. Mr. Blackburn stated the proposal is to ameliorate the concern expressed by Mr. Scammell which was the condition of the garage. Ms. Giagnacova stated they will totally rebuild the garage, but they did not want to do anything until they got an approval.

Mr. Scammell stated his concern is more with what they are doing with the property. He stated he knows that this acreage is an investment for them, but the neighbors are bearing the brunt “of some of that stuff.” Mr. Zamparelli stated loud neighbors is not a Zoning issue, and that is a Township issue. He asked if Mr. Scammell if he called the Township about that; and Mr. Scammell stated while they thought about calling the Police on several occasions, they “did not want to start something with the neighbors.”

Mr. Zamparelli stated they need to give the property owners use of their land. He added that they are requesting minor Variances, and Ms. Kirk would be insisting on a clause about those renting Lot 1.

Mr. Scammell stated they are requesting Variances, and in order to have that they need to examine what the use of the building is going to be. He stated if they were going to sell the house once built, he would have no problem with that; and it is the rental aspect of all of these houses that he is concerned with.

Ms. Kirk stated the Township is concerned that the two existing houses on what will be the new Lot 1 could be used for more than just Residential purposes, which is why they want to make sure that there is some sort of restriction in place so that it does not become a large Commercial unit, an Airbnb, or something like that. Ms. Kirk stated the fact that these two properties are going to be created does not prevent the property owners from renting the property, and there is no requirement that the owner has to live in the house, and it can be rented to other people. She stated the problem Mr. Scammell is facing is not so much with the property owners, but with the occupants of the home. She stated that is something that he would need to speak to in greater detail with the Township because there may be mechanisms the Township can use to get the occupants to “calm down.” She stated if there are issues with the occupants, Mr. Scammell should contact the Township. She stated the Code Enforcement Officer could go out to the property to check on the property; and if there is a problem, the Code Enforcement Officer could issue Notices of Violation.

Ms. Giagnacova stated they had tenants that they asked to move in 2018, and that was the man with the loud car. She stated they were there seven years, and they moved in 2018. She stated the house has been very quiet since then. She stated currently she has a cousin with special needs living in that house, and there are two special needs persons. She stated the

African Americans are the CNAs that rotate to take care of them; and it is very quiet. She stated she is not averse to selling the property someday. She stated her son was looking for a place to live, and she wanted to put a house there. She stated when they bought the property, the Realtor told them they could put six Lots there; but she is not asking for six Lots.

Ms. Cheryl Varga, 1703 Makefield Road, was sworn in. She stated her concerns are the same as the Scammells. She stated she is concerned about the dwelling being built and how it would go to be rented. Mr. Zamparelli stated they have cleared that up with Ms. Kirk's suggestion.

Mr. Eric DiBraccio, 1707 Makefield Road, was sworn in. He stated he also was initially told when they moved in across the street, that it was going to be family living there; and that was pre-dating turning it into a rental property. He stated since then he has not seen the family there except for improvements. He asked what kind of checks and balances are there that the additional property will not be a rental property after potentially being approved and built. Mr. Zamparelli stated they cannot prevent a property owner from putting a house up and renting it.

Mr. DiBraccio asked when you move into a neighborhood and pay for a residence where you want to raise your family, and you have a "complete, unknown, variable across the street from you consistently," is that something that creates a positive environment in your neighborhood or the exact opposite. He stated they had to live with loud cars up and down the road. He stated they believed when they first moved in that this would be a home for their family, but it was not. He stated they stated initially that it was going to be a residence for family, and "they lied." He asked why they would believe something they are saying now. He stated he would also like to know how many rental properties they have, and why they would believe that this is not intended to be another.

Mr. Zamparelli stated they can place a Deed Restriction on Lot 1 in order for them to get the Variances they want. He stated there is also a mechanism within the Township if there are loud noise. Mr. Zamparelli stated there is nothing to restrict the house on Lot 2 from being rented.

Mr. DiBraccio stated he is asking what assurances they have if they do not use Lot 1 as a rental property, and Mr. Zamparelli stated it will be in Motion as to how they can use the property. Mr. Zamparelli stated with regard to Lot 2 they would only be granting the Variances for the reduction

of the setbacks which are not major changes to the setbacks. He stated the Zoning Hearing Board cannot address the noise, and the neighbors should call the Township if that is an issue.

Mr. DiBraccio asked if the additional property is built will it be with the understanding that it will not be a rental property, and Mr. Zamparelli stated they cannot tell them they cannot rent it. He added they would be placing the restriction on Lot 1 where there are two separate houses as there could be a concern that they could start using it as an Airbnb or some other use. He stated on Lot 2, it is just a single-family home on a Lot, and that could be rented.

Mr. Solor stated as was brought up previously, the neighbors could contact the Township about Code enforcement or contact the Police about noise. He stated there are other existing single-family homes in that neighborhood which are rentals. He stated if it is noticed that there are “extra, unrelated people being packed in” the home, that is what Code Enforcement is for.

Mr. John Galloway, 1714 Makefield Road, was sworn in. He stated he has lived there since 1990. He stated some most of his questions have been answered, and he is primarily concerned about the additional of water usage, sewage, and electrical; and he would like to know that all of these elements will be considered with any new construction that will take place on Lot 2. He stated he would also like to know if there is a possibility that because of the new construction on Lot 2 and whatever adjustment has to be made between Lots 1 and 2, that it will not negatively impact the property taxes that he now pays.

Ms. Kirk stated with regard to the taxes, once the property is developed notice is sent to the Board of Assessors’ office; and they will make a determination as to the value of the land and the house, and whoever owns Lot 2 will be assessed to pay their respective share of local, County, and School Districts taxes. She stated with regard to water and sewage issues, etc. they still need to go through the Subdivision approval process, and they will have to submit for various Permits and provide proof that there is sufficient public sewer and water available as well as contacting the electric company. That will happen in the future, not as it relates to this evening’s proceedings.

Mr. Galloway stated they see that this property is in less than desirable upkeep, and the fear is that there are people there who are not capable of managing the property. He stated while he would not go to the Police about it, when you look at all of the other properties in Green Acres, they question why nothing has been done since Mr. Neely passed. He stated the property is “trashy.” Ms. Kirk stated if there is an issue, he should contact the Township as there are Code in effect that have mandatory minimum requirements as to how to maintain property. Ms. Kirk stated while there are standards, the Township cannot be expected to enforce aesthetics of this property compared to other properties in the neighborhood.

Mr. Galloway stated another concern is that all of the workers will be properly bonded and certified, and Ms. Kirk stated that would be through the Township and does not have anything to do with the Zoning Hearing Board.

Ms. Giagnacova stated when they bought the property twelve years ago it was a “disaster,” and house that has stone on the front had not been lived in for years, and nothing had been done to it for years. She stated this is the same with the other property on Sutphin Road. She stated she feels that the “upkeep is fabulous,” and there is nothing anyone can complain about; and if they do have a complaint, they should call her. She stated as she noted earlier the only reason they left the garage the way it was, was they wanted to get “this through first and see which direction they were going,” but that will be taken care of.

Mr. Zamparelli moved and Mr. Solor seconded to approve the Variances with Lot #2 to have a 96’ width which would be roughly a 14’ setback and the garage would continue to have a 7’ setback but would be repaired to get it to pass inspection as far as structural integrity. Language to be acceptable to both the Township and property owners so as to preserve the Residential character of the property. Motion carried with Mr. Dougherty, Mr. Solor, and Mr. Zamparelli voting in favor. Mr. Connors abstained.

APPEAL #21-1933 – DR. DAVID FAUST C/O BUCKS COUNTY SMILES
Tax Parcels #20-032-011 & 20-032-013-001
1648 DOBRY ROAD, YARDLEY, PA 19067

Mr. Edward Murphy, attorney, was present. Mr. Zamparelli stated he understands that they are requesting a Continuance. Mr. Murphy stated he and Dr. Faust would like to make an effort to address the Township concerns

about the Application, and he and Ms. Kirk agreed that they would Continue tonight's Hearing to give both the Township and Dr. Faust an opportunity to consult further to see if they can present a Plan that satisfies everyone.

After discussion it was agreed to Continue the matter until November 16, 2021. Mr. Solor moved, Mr. Dougherty seconded and it was unanimously carried to Continue the matter to November 16, 2021.

OTHER BUSINESS

There was discussion about the dates of future meetings. It was noted that Mr. Zamparelli and Ms. VanBlunk are not available for the meeting scheduled for Monday, November 1 which was to consider the Deck matter. Mr. Flager stated they may have to set up another Special Meeting that everyone can attend to consider that matter. Mr. Flager stated they will circulate some dates to find out when everyone would be available to hear the Deck matter and whether that can be done at a regular meeting or if a Special Meeting needs to be scheduled. If the date is known by the next regularly-scheduled meeting to be held on October 19, the date can be announced at that time.

There being no further business, Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to adjourn the meeting at 8:40 p.m.

Respectfully Submitted,

Matthew Connors, Secretary