

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – NOVEMBER 1, 2022

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on November 1, 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
Dan McLoone, Planner
Barbara Kirk, Township Solicitor (left meeting in progress)
Adam Flager, Zoning Hearing Board Solicitor
Fredric K. Weiss, Supervisor Liaison

APPEAL #22-1975 – ZUBAIDA FOUNDATION
Tax Parcel #20-041-002
855 BIG OAK ROAD, YARDLEY, PA 19067

Mr. Solor stated a Continuance has been requested to November 15. Mr. Flager stated this matter was previously Continued. He stated there is a tentative Agreement between the Parties, and they need some additional time to finalize the details.

Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to Continue the Appeal to November 15, 2022.

APPEAL #22-1978 – DILLON & REBECCA TUNG
Tax Parcel #20-041-129
243 VALLEY DRIVE, YARDLEY, PA 19067

Mr. Dillon Tung was 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. Renderings of the garage were 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. Tung stated they are requesting an extension for an attached garage onto their home as well as running the driveway to said attached garage as well as continuing the use of an existing shed that was on the property from the original homeowner. He stated he is the third homeowner and would like to continue use of the shed especially since it has electrical running to it already and removing or moving that shed would be a “very large feat to do.”

Mr. McVan asked if their address is Valley Drive or Valley Road. Mr. Tung stated “certain addresses they get it is Valley Drive and certain addresses say Valley Road.” He stated the street sign by Big Oak Road by their house says “Valley Drive,” but at the other end of the street which is by Stevens it says “Valley Road.” Mr. Majewski stated the dividing line between Road and Drive is the boundary line between Falls and Lower Makefield. He added the Lower Makefield addresses are Valley Drive, and the Falls Township addresses are Valley Road.

Mr. Solor asked Mr. Tung his plans to mitigate for the increase in impervious. Mr. Tung stated they are planning on installing a rain garden. He stated their architect, Peter Wasem, is present to go over the details. Mr. Tung stated the location of the rain garden will be determined based off of the survey.

Mr. Peter Wasem was sworn in. Mr. Wasem stated in the latest plan they added the stormwater information. He stated while they were hoping for a rain garden, when he looked at the survey that was recently done, he noticed the surveyor indicated a 100-year flood delineation. Mr. Wasem stated in the Best Practice Manual which is referenced in the Ordinance, you need to stay a foot above that elevation at the bottom of any seepage infiltration trench or the bottom of a rain garden depression, so he opted to show a gravel-filled pit. He stated the calculations show a twenty-five year, twenty-four hour storm collecting stormwater off of the west-facing roofs. He stated they have to “stay up high” with the seepage pit which would be on the west side toward where the driveway is. He stated the exact configuration of the seepage pit as to the length, width, and depth will be a field decision once they figure out the exact grading. He stated he put in

the Plans a Stipulation that the Township engineer or his/her representative would witness the pit being filled with water and then time how long it takes for it to drain to corroborate that soil type that he indicated based on the on-line survey, that in fact it does drain at a rate that is acceptable.

Mr. Wasem stated in his drawings you can see a diagram of a seepage pit with a surge tank, clean-out, etc. “straight out of” the Best Practices Manual. He stated they need to make sure the numbers match and the actual field conditions will allow for it to be installed as designed and that it will work.

Mr. Dougherty stated 18% is allowable and currently they are at 17.8%. He asked what is the proposed impervious. Mr. Wasem stated the proposed impervious is 18% and they are maxing that out and taking advantage of the 18% max, and the rest they will mitigate “for at least that.” He stated looking at the existing roof of the house of 1,172 square feet, over half of that can be used to mitigate the “west-facing through the gutters” and that in itself would be enough to mitigate 539 plus square feet. He stated the proposed additional impervious would be the driveway of 182 square feet plus the garage at 500 square feet minus a credit of taking out part of the sidewalk with a net of 638 square feet; and minus .2% of the allowable between 17.8% and 18%. He stated they therefore have 590 square feet that they need to mitigate off of the roofs.

Mr. Majewski stated he believes the question was what is the overall impervious surface when they are done, and the Application/calculations show to be 20.5%. Mr. Wasem agreed. He added that they are 2.5% over so that is what they are mitigating.

Mr. Connors stated he understands that if the Board approves this, they are willing to work with the Township engineer to get this back to 18%; and Mr. Wasem agreed. He added that was the Stipulation he noted which is that they would satisfy any concerns that the Township engineer may have when they get down to the details such as the way in which it will drain to make sure they stay above the high flood elevation by 1'. He stated they are limited there, and if you look at the contours, they may end up raising the garage enough so that they can slope the new driveway up enough so that they can tuck the drainage seepage pit underneath the driveway which is one solution so that they can easily get to it by gravity off the leaders and the surge tank. Mr. Wasem stated they will not know exactly how that will work until he details the addition and figures out the elevations; but he feels confident that they can make it work.

Mr. Majewski stated the Township can work with that. He added the 20.5% will be mitigated back to what is existing is what our engineer will be looking at. Mr. Solor stated the Township will be looking to mitigate it back to 17.8%.

Mr. Majewski stated that is what is required by our Stormwater Management Ordinance for all of the increase in the impervious surface. Mr. Wasem stated he will note that on his Revised Plans.

Mr. Connors asked if the shed had been previously approved. Mr. Majewski stated he found no Permit on Record for the shed, and he is not sure when it was built although it has been there for quite some time. He stated it is out of the floodplain, and it is half a foot higher than the floodplain. He stated while it is within the Easement, it does not necessarily impede the Easement. He stated they did get a Permit for the fence, but the Township Office issued that in error. He stated the Township had an old Plan that did not show the Easement on it, and they just showed the fence on the Plan. He stated when they came in for this work, he noticed that there is an Easement, and he told them that they needed a Variance for that fence.

Mr. Connors asked if the Easement is for Rock Run, and Mr. Majewski stated it is an unnamed tributary to Rock Run. It is not piped.

Ms. Kirk noted the Existing Features Plan provided with the Application, and she stated it does not show the proposed addition. Mr. Tung stated he does not believe it shows the proposed addition, but the architect's drawings that he submitted do show the addition. Mr. Wasem stated it is customary for the architect to reference the survey done by a licensed surveyor and then "superimposing that the architectural features if that is acceptable." Ms. Kirk stated the Existing Features Plan shows an asphalt driveway close to Big Oak Road, and she asked if that will remain there. Mr. Tung agreed adding that it will be extended so that the driveway would have access to the garage. Ms. Kirk stated that according to the Plan, the extension to the driveway is going to be 182 square feet, and Mr. Wasem agreed. Ms. Kirk stated the garage will be 500 square feet, and Mr. Wasem agreed. He added they get a credit for taking out part of the sidewalk so there is a net between the three numbers. Ms. Kirk asked if the existing sidewalk being referenced is the little section that is coming off of the first concrete walkway/stub leading to what is on the Existing Features Plan that says "wood steps," and Mr. Wasem agreed. Ms. Kirk asked if those wood steps will be totally removed, and Mr. Tung agreed those will be absorbed into the garage. Ms. Kirk asked how much

room will there be between the garage addition and the second set of wood steps that leads to the elevated wood deck, and Mr. Wasem stated it would be about 10'.

Ms. Kirk asked if the proposed garage will consist of one or two garage bays, and Mr. Tung stated it is just one. Ms. Kirk stated it will be used to get one vehicle into the garage so it is parked out of the elements, and Mr. Tung agreed. It is for one and a half cars so they will be able to store a riding lawn mower and some lawn equipment in there as well. Ms. Kirk stated she assumes there is no garage structure on the property at this point, and Mr. Tung agreed.

Ms. Kirk stated that other than the portion of sidewalk being removed, the increase in impervious surface is to be offset by rain garden or a seepage pit. Mr. Wasem stated he had originally suggested a rain garden would be a nice feature to have; but when he did the calculations he realized that because of the extent of the 100-year flood delineation, a rain garden would be harder since they only have a limited amount of space on the northwestern corner of the property. Ms. Kirk asked if he intends to put the stormwater drainage facility in the northwest corner of the property. Mr. Wasem agreed adding that they may be able to “sneak” it underneath the new portion of the driveway if they can grade properly and raise the garage elevation so that the bottom of the seepage pit can stay 1' above the flood elevation. Mr. Wasem stated they will work that out with the Township engineer if that is agreeable. Ms. Kirk stated it will be at the northwest corner area, and Mr. Wasem agreed based on the existing elevations.

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

Mr. Dougherty asked about the rear setback for the existing shed as it looks like it could possibly be too close to the rear property line so that may need a Variance as well. Mr. Majewski stated it is technically impossible to put it in the fourth of the lot furthest removed from the road. He added he did not interpret that as needing a Variance, but he asked that Mr. Flager comment on this as it may be good to put that in for the sake of clarity. Mr. Connors stated it is a triple-frontage road. Mr. Connors asked if the fact that they are requesting a Variance for the shed and the fence enough or do we need to clarify that it is also needed for setback because it has frontage on three roads so that the rear quarter where it should be placed does not even exist. Mr. Dougherty asked if there should be language in the Variance about setback. Mr. Flager

stated while there are two potential Sections that it could be put in, but he does not know that it is necessary because they are addressing the same issue; and he feels it is okay the way it is.

Mr. Dougherty asked if language is needed about if the Easement needs to be accessed, that the owners would be responsible for removing and reinstalling the fence and the shed; and it was agreed this should be included.

Mr. Connors moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal as submitted subject to the owner recognizes that he or she is responsible for removal and replacement of the shed and wood fence within the Drainage Easements if the Township needs access and the owner mitigates the 20.5% impervious back to 17.8% subject to review and approval by the Township engineer.

Ms. Kirk left the meeting at this time.

APPEAL #22-1980 – HYDROSCAPE/WALDMAN
Tax Parcel #20-039-218
848 DUCHESS DRIVE, YARDLEY, PA 19067

The Applicants were not present at this time.

APPEAL #22-1981 – FRANK METTEE
Tax Parcel #20-004-165
1279 FOUNTAIN ROAD, NEWTOWN, PA 18940

Mr. Frank Mettee was 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. Mettee stated they moved to the Township two months ago, and they are looking to have a fence put in the back yard. They found out that there is a 100-year floodplain Easement that runs diagonally through their yard so they

applied to a Variance to see if they could put a post-and-rail fence on the Floodplain Easement to square off the back yard. He stated they have a dog and two small children and want to be able to keep them contained.

Mr. Connors asked if Mr. Mettee is proposing a split rail fence, and Mr. Mettee agreed. He added that it would be either PVC or wood, but feels that if approved, they will go with a wood split rail with mesh wiring on it. Mr. Connors asked Mr. Majewski if the Township would have any concerns with a split-rail fence. Mr. Majewski stated they would not. He added he is not exactly sure how the Floodplain Easement got on the Plans thirty years ago, but the area is not necessarily within a floodplain; and it is about 90' away from the stream and the floodplain waters do not go that far. He stated he believes it was just an old study where they drew the line on a map, and put an Easement around it so the Township has no concerns about the flow of water going through there.

Ms. Hazel Smith was sworn in and stated she lives next door. Ms. Smith stated they are requesting to have on their side a solid fence. She stated her husband is "petrified of dogs." She stated they want to be good neighbors and do not want to go outside and have the dog see them and start barking. She stated the neighbor on the other side has a white solid fence, and Mr. Mettee could still do the "barn-yard fence in the back and it would still look pretty.

Mr. Connors asked Mr. Mettee if he had an objection to that. Mr. Mettee stated they went the split rail option because the issue with the Floodplain Easement is not to restrict the flow of water. He stated if they were to have a full privacy fence, that would restrict the flow of water. He stated their neighbors to the right have that kind of fence, but the floodplain runs behind their yard. He added that he did not necessarily want a privacy fence as the intention was just to contain the dog. He stated he feels it would look "super awkward" having the left side a privacy fence and then the back of the yard being a split rail. He stated he would not go that route unless it was PVC on the left and PVC in the back. He stated he did not feel they would get approval for a full privacy fence because it would restrict the flow of water.

Mr. Majewski stated typically we like to have the fences open, but when they looked at this closer and looked at elevations, he does not believe that a solid fence along the side would restrict the flow of water. He stated it is about 90' from the stream up to the fence. He stated it would be up to the Applicant if he was okay with a solid fence, and the Township would have no objection to that.

Mr. Connors stated he does not feel we can mandate that he put a solid fence in. Mr. Mettee stated the solid fence would probably double or triple their costs, but he has no objection to the solid fence and he understands where Ms. Smith's husband is coming from. Ms. Smith stated they would appreciate that since they are very quiet, private people. She stated if her husband did not have a problem with dogs, it would not be a problem. She stated her neighbors on the other side have a big German Shepherd, and they have the white fence. She stated it is a "nightmare for her husband getting in and out of the car." Mr. Solor as part of the Motion they can allow for the privacy fence given what has been shown with regard to the Floodplain Easement.

Ms. Smith stated her husband asked how far the fence was going to go, and she asked if it will line up with the other fences in the back yard. She stated if he does do the split rail in the back, he would still have the view going straight back. Ms. Smith stated she would appreciate anything that can be done to help.

Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal as presented with the caveat that the owner can install any style fence to his choosing and still meet the height requirements.

APPEAL #22-1980 – HYDROSCAPE/WALDMAN
Tax Parcel #20-039-218
848 DUCHSS DRIVE, YARDLEY, PA 19067

Applicants were still not present for this Appeal.

Mr. Connors moved, Ms. Reiss seconded and it was unanimously carried to Continue the Appeal to November 15, 2022.

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

Respectfully Submitted,

Judi Reiss, Secretary

