TOWNSHIP OF LOWER MAKEFIELD

ZONING HEARING BOARD

MINUTES – OCTOBER 3, 2023

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was

held in the Municipal Building on October 3, 2023. Mr. Solor called the meeting to order

at 7:30 p.m. He stated that since only four members are present this evening, a tie vote

would result in a denial; and those wishing a Continuance should advise the Board.

Those present:

Zoning Hearing Board: Peter Solor, Chair

Judi Reiss, Secretary

Matthew Connors, Member

Mike McVan, Member

Others: James Majewski, Community Development Director

Barbara Kirk, Township Solicitor (left meeting in progress)

Michael Levine, Zoning Hearing Board Solicitor

James McCartney, Supervisor Liaison

Absent: James Dougherty, Zoning Hearing Board Vice Chair

APPEAL #Z-23-2019 – HENDRIXSON

Tax Parcel #20-042-278

800 ROELOFS ROAD, YARDLEY, PA 19067

(Continued from 9/5/23)

Mr. Levine marked the Amended Plan as Exhibit A-5.

Ms. Judy Hendrixson and Mr. Kevin Plews were sworn in.

Ms. Hendrixson stated they are seeking relief from Section #200-23B to increase

the impervious coverage. She stated 18% is the maximum allowed; and after a

careful survey of the existing footprint, the house, and the addition, they were

able to determine that the total increase in impervious coverage has gone from

4,225 square feet which is 17.7%, the existing, to 4,583 square feet, which is

19.2%. She stated they have tightened up everything a little bit, but it requires

358 square feet of area to be controlled and mitigated or 60 cubic feet.

She stated they have not reduced the proposed rain garden design of 96 cubic

feet to mitigate this so they do not need to take into account the credit for

existing trees as they already have where they need to be with the existing

rain garden design as submitted.

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Ms. Hendrixson stated the second area of relief was from Section #200-22

to decrease the side yard setback from the required 15’ to 10’. She stated

after examining the exact footprint of the existing house, the setback

request remains the same. She stated in order to accommodate the new

garage, they need the clearance of the 24’6” from the corner of the house

to the outside of the new garage. She stated what has changed is a slight

decrease in the overall dimensions of the interior of the garage to take into

account the setbacks and protrusions of the existing walls and chimney; but

it does not change the request for the 10’ setback. Ms. Hendrixson stated as

stated at the last meeting, the homeowners have met with their neighbors,

and have their support for this project. She stated the Board should have

a letter on file.

Ms. Reiss stated Ms. Hendrixson had indicated that the rain garden is 95’, but

on the Plan it says 80. Ms. Hendrixson stated the rain garden is 96 cubic feet,

which is basically 8 by 10.

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

Ms. Reiss moved to approve the Amended Plan for a Variance to reduce the

side yard setback from 15’ to 10’ and increase the impervious surface to

20.25% to be mitigated back to 17.8% with the design to the satisfaction of

the Township engineer.

Mr. Connors stated he is “not thrilled” about going into the setback. He stated

there is plenty of space on the lot to do an addition, and he asked why they

have to go into the setback. Ms. Hendrixson stated it is the width of the garage

that requires it. She stated there is an existing driveway coming off of the

street. She stated we need the 24’6” to be able to fit in, and that is where

they are tight on the site. She stated it is well-buffered with the neighbors;

and her clients have met with the neighbors and got a letter of support from

them. She added it backs up to their back yard, and there is a well-established

evergreen buffer between the two. Mr. Connors as the reason why they

could not stay out of the setback and push it further into the back yard.

Ms. Hendrixson stated they are putting the garage on the existing driveway,

and they are trying to reduce the impervious. She stated if it were to be

pushed back, they would be increasing the impervious coverage.

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The Amended Plan was shown as well as an aerial map. Ms. Hendrixson stated

she has a number of photographs on a flash drive if that would help.

Mr. Solor stated the calculations show that a large amount of the pavement is

being removed for the garage, and it is being done on the existing driveway for

the most part.

Ms. Hendrixson noted the adjacent house which is the rear of that property,

and across the street is the School so no one else is affected.

Mr. Solor seconded the Motion. He stated they are trying to mitigate the

impervious coverage; and from the neighbor’s perspective, it is in-line with

the house so it should be pretty-much invisible even if there was not the

tree coverage line. Mr. McVan stated it also lines up with the house to the

left as that is basically the same with what they are trying to do here.

Ms. Hendrixson stated this is not quite as big as that one. Mr. McVan stated

he is referring to how close the garage is to the side yard. He stated there is

also a nice tree buffer that is not as obtrusive as the neighbor’s house.

He stated he would be in favor of this.

Motion carried with Mr. Connors opposed.

APPEAL #Z-23-2027 – RICHARD BROGNA

Tax Parcel #20-037-115

901 SENSOR ROAD, YARDLEY, PA 19067

(Continued from 9/5/23)

Mr. Levine stated the Exhibits that have been marked are Exhibit A-1 the

Application, A-2 the Site Plans, A-3 the Impervious Surface Breakdown

Stormwater Management Small Project Volume Control, A-4 photos of a

shed and a brochure, B-1 Proof of Publication, B-2 Proof of Posting, and B-3

Notice to the neighbors.

Mr. Richard Brogna was sworn in.

Ms. Kirk stated her notes from the last Hearing indicate that this matter was

Continued so that the Applicant could discuss with the Township the installa-

tion of a stormwater management facility that would handle up to 280 square

feet of impervious surface coverage.

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Mr. Brogna stated he believes it was 140 square feet that they had to do.

He stated the shed is 140 square feet. He stated he spoke to Mr. McLoone

at the Township Office, and he told him to dig a trench 2’ deep, 2’ wide,

and 4’ or 8’ long. He told him to put stone in it with a pipe, and on each end

have an inlet; and he advised Mr. McLoone that he would do that. Ms. Kirk

stated she wrote 280 square feet of impervious which would be 46 cubic feet.

Mr. Brogna stated it is 140 square feet. Mr. Solor stated that while that is what

is being added, the Board may have requested that he mitigate more since it

was already over. Mr. Connors stated his notes indicate that they wanted to

take it back to the original or move the shed away from the edge. He stated

there was discussion about the one side being a little close for maintenance

to occur.

Mr. Brogna stated Mr. McLoone had proposed the size of the drainage system

although he is not sure whether it was to be 4’ long or 8’ lone.

Mr. Majewski stated the system to control 280 square feet is 2’ by 2’ by 8’.

Mr. Brogna stated he would agree to do that if that is what needs to be done.

Ms. Reiss stated she assumes Mr. Brogna spoke to his neighbors about it

being that close; and Mr. Brogna stated he talked to them when he put it in,

and they were fine with where he put it.

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

Mr. McVan stated it was too close to the fence and there was the need to

mitigate the impervious. Mr. Solor stated they are going to mitigate more

as they will mitigate 280 square feet rather than 140 since it was already over.

An aerial of the property was shown.

Mr. Connors moved, Mr. McVan seconded and it was unanimously carried to

approve the Appeal subject to mitigation of 280 square feet of impervious and

the shed can stay where it is.

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APPEAL #Z-23-2028 – RICHARD TURCHI

Tax Parcel #20-032-023-002

0 BIG OAK ROAD, YARDLEY, PA 19067

Ms. Kirk stated she informed the Applicant’s counsel, Mr. McGuigan, that the

Township is in opposition. There was some discussion, and they are going to

try to meet so she understands that there is a request for a Continuance.

Mr. McGuigan, attorney from Begley Carlin, stated he is present on behalf

of Richard Turchi. He stated there was discussion with Ms. Kirk just prior to

tonight’s meeting, and he learned that the Township is in opposition to the

project. He stated in light of that he feels it would be in the best interest of

all Parties to have a Continuance tonight so that there can be discussion with

Ms. Kirk and the Township to see if any changes can be made to the scope of

the project that may alleviate some concerns that the Township has.

He requested a Continuance to a November Board meeting.

Mr. Majewski stated November 21 would be the best date. He stated he

understands that there are a number of people present this evening, and

a Notice could be sent out as a reminder prior to that meeting. He stated if

new Plans are received, the neighbors will be updated on any discussions and

any change in the Variance that may be requested. Mr. McGuigan stated he

will be available in the hall if any of the neighbors want to provide their e-mails

so that he can keep them apprised of scheduling and send PDF copies of any

Plans and documents submitted to the Township as well.

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to

Continue the matter to November 21, 2023.

Ms. Kirk left the meeting at this time.

APPEAL #Z-23-2032 – MURPHY/PEMBROKE

Tax Parcel #20-012-006-005

ROAD, YARDLEY, PA 19067

Mr. Levine marked the Exhibits as follows: Exhibit A-1 is the Application. Exhibit

A-2 is the Site Plan consisting of two sheets. Exhibit A-3 is the April, 6, 2010 Zoning

Hearing Board Decision for Appeal #10-1547. Exhibit A-4 is the January 3, 2007

FOF Appeal #06-1405. Exhibit A-5 is the January 3, 2007 Zoning Hearing Board

Decision for Appeal #06-1405. Exhibit A-6 is the Building Permit. Exhibit A-7 is

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a compilation of e-mails regarding the Parking Study. Exhibit A-8 is the Parking

Study itself. Exhibit A-9 are e-mails regarding the Planning Commission Approval.

Exhibit A-10 is the Planning Commission Approval note from Mr. Majewski.

Exhibit B-1 is the Proof of Publication. Exhibit B-2 is the Proof of Posting. Exhibit

B-3 is the Notice to the neighbors.

Mr. Edward Murphy, attorney, was present with Mr. Tom Weitzel, Managing

Director of Jones Lang LaSalle, the Leasing Agent on behalf of the owner of

the building at 777 Township Line Road. Mr. Murphy stated with the Board’s

permission he would like to provide an Executive Summary, and Mr. Weitzel

could verify the accuracy of the Executive Summary. This was acceptable to

the Board.

Mr. Murphy stated the property was previously the home of office of the

Township’s solicitor until earlier this summer when that space was vacated

by the law firm which moved to a different location. He stated it is the home

of the University of Pennsylvania Medical Center where there is at present

35,000 square feet of leased space in that building occupied by Penn doctors.

He stated the total building size is 110,000 square feet.

Mr. Murphy stated over the years the property has been the subject of multiple

Special Exceptions because under the Township’s Ordinance a Special Exception

is required when you allocate space in a Mixed-Use building to a Medical Use.

He stated there were two prior Zoning Hearing Board Applications which

granted Special Exceptions to increase the allowable Medical space in the

building to what it presently is today. He stated the nature of this Application

is to seek a further increase in the allowable Medical Use by an additional

21,000 square feet which would bring the total in the building up to 56,200

square feet so about half of the building would then be devoted to Medical

Use, principally Penn doctors.

Mr. Murphy stated his client and Mr. Majewski have undertaken various

evaluations of the adequacy of the parking on site. Mr. Murphy stated today,

as it was originally approved, the building is supported by 550 parking spaces

which were built all at once at the time the building was constructed.

He stated over the winter and again this summer his client prepared some

parking counts identifying throughout the course of the week in both

February, March, and again in August the number of available parking spaces

that were located on the 550 parking space field. It was noted that this was

provided to the Board, and had been marked as Exhibit A-8.

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Mr. Murphy stated the Parking Study that was done in the winter and in the

summer confirms that the parking spaces were about 45% occupied. He stated

as the Application indicated post-COVID with the opportunities for remote work,

tele-health meetings, and the like, the demand for parking spaces within a Mixed-

Use building such as this has dramatically decreased. He stated the parking

counts which were undertook are representative of the situation that exists now.

Mr. Murphy stated last Monday, the Township’s Planning Commission

considered the merit of the Special Exception which is being requested this

evening, and they supported the request to re-allocate the 21,000 square

feet of space for Medical Use. He stated as part of their recommendation,

they asked that Mr. Majewski look at what the current Institute of Transpor-

tation Engineers Manual would otherwise require for parking spaces today

given the mix of uses between 50% General Office and 50% Medical Use.

Mr. Murphy stated Mr. Majewski shared with him today, which he believes

he also shared with the Board, the results of that analysis which indicates

that if everyone had to live by the standard in the current Ordinance for

parking ratios for Medical Use and for General Office, the 550 spaces that

exist today would be 40 spaces short because under the Ordinance, which

is approximately 25 to 30 years old Medical Uses require one parking space

for every 150 square feet of floor area. He stated that is almost 7 spaces

per 1,000 which is “high and unrealistic.” He stated the ITE Trip Generation

Manual that Mr. Majewski cites in his comparison shows that under today’s

standards the number of available space, even after the re-allocation, would

be in excess of 180 spaces out of the 550.

Mr. Murphy stated Mr. Majewski’s memo had attached to it three aerial

photographs taken in 2020, 2022, and 2023; and all of them show what the

parking counts indicate which is that not many of the 550 spaces are being

devoted to any use be it Office or Medical. The aerial photographs were

shown.

Mr. Murphy stated for all of these reasons, they feel the request to re-allocate

the mix of uses in the building between General Office and Medical makes

sense. He stated there is also the convenience of having medical doctors more

available nearby as opposed to having to go into the city to see them.

Mr. Murphy stated it is known that the office space for General Office Use has

been in great decline, but the demand for Medical space remains good. He stated

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no one wants to see unoccupied buildings especially when there is more than

sufficient parking. Mr. Murphy stated even with the re-allocation of space, they

feel that there is more than enough parking for everyone to feel comfortable.

Mr. Tom Weitzel was sworn in.

Mr. Weitzel stated he heard Mr. Murphy’s Executive Summary, and he agrees

that it was summarized accurately. Mr. Weitzel added that he has been leasing

this building on behalf of the owners since 2009, and he has seen different

markets; and they have taken this building to being leased 100%, lost some

tenants at one point, and then re-leased it back up to 100%. He stated at no

point have they every come close to the parking lot being full. He stated the

owners take parking very seriously as they cannot have their tenants looking

for parking spaces.

Mr. Murphy asked Mr. Weitzel to identify his business and how it has come to

pass that he is the representative of the owner of the building. Mr. Murphy

stated he believes Mr. Weitzel was also the representative of the prior owner

of the building as well, and Mr. Weitzel agreed. Mr. Weitzel stated Jones

Lang LaSalle is a Commercial Real Estate Services firm, and primarily they

represent either the landlord side or the tenant side of the Real Estate

transaction. He stated he has been leasing this building on behalf of the

prior owner and now the current owners since 2009.

Mr. Murphy stated Mr. Majewski’s memorandum highlights the provision

that allows a reduction in the strict application of the parking ratios when

you have a joint use of a building, which we do in this case. Mr. Murphy

stated as antiquated as the Ordinance standards may be, there is reference

to a joint use and the ability to modify the requirement based on that joint

use when you do not necessarily have people coming and going at the same

tIme. He stated he feels that is even more true today when “normal office

hours are anything but normal in the post-COVID world.” He stated you

rarely see people all coming to work at 9 and all leaving at 5, and there are

all manner of hours. He stated, as Mr. Weitzel indicated, he does not feel

that there is going to be over-demand for the available 550 parking spaces.

Mr. Murphy stated he feels that there is a tremendous number of unused,

unnecessary spaces there.

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Mr. Connors asked what type of Medical space they are looking to convert to.

He asked if it would be rooms for patients, lobby space, lab space, etc.

Mr. Murphy stated they did submit Tenant Fit-Out Plans identifying what

the mix of those types of uses would be. Mr. Weitzel stated it is all clinical

space. He stated they want to add some exams rooms. He stated they are

trying to get the non-clinical functions out of the current space so that the

patients have a better flow. He stated there will be no experimental/R & D,

etc.; and it is all standard clinical space. Mr. Connors asked about how many

exams rooms they are adding, and Mr. Weitzel stated they are adding six.

He stated the Plans submitted show the other functions, and 88% of the

space they are adding is standard Office Space. He stated this includes a

staff lounge, accounting, etc.

Mr. McVan stated it is still Penn Medicine so it is the same tenant. He stated

if Penn had concerns about the parking, he does not feel that they would

look to get additional space. He stated he feels they would be the best judge

of what is needed since they see it every day; and if there were concerns,

he feels they would look at some other facility. Mr. Weitzel stated Penn has

a sixteen-year experience in the building, and they have not had a concern.

Mr. Connors asked if there is any need for additional ADA spaces with the

changes, and Mr. Weitzel stated there is not. He added that the entire

building is ADA-compliant including all of the access points and restrooms.

Mr. Majewski noted the aerial photograph from 2020, and it can be seen

prior to COVID when the parking was less than half full, there are a whole

bank of ADA spaces in the rear of the building that are unused in addition

to a number of ADA spaces in the front of the building that were also under-

utilized. He stated there is plenty of capacity for Americans with Disabilities

Act handicap-accessible spaces.

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

Mr. Connors moved, Ms. Reiss seconded an it was unanimously carried to

approve as submitted.

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APPEAL #Z-23-2016 – MEGINNISS/HARRIS

Tax Parcel #20-034-130

0 EDGEWOOD ROAD, YARDLEY, PA 19067

Mr. Levine stated Mr. Flager advised that he spoke to Mr. Meginniss, who

indicated that they are going to meet with the Township so this matter

should be Continued.

Ms. Reiss moved, Mr. Connors seconded and it was unanimously carried to

postpone the Appeal to November 21, 2023.

OTHER BUSINESS

Mr. Solor stated CellCo is currently scheduled to be heard at the next meeting,

but it is unclear whether that is actually going to happen. He stated he under-

stands what is on that Agenda impacts who can participate. He stated the

Alternates need to plan to be here on October 17. Mr. Majewski stated hope-

fully we will hear shortly from the Appellant’s attorney if they are ready to

proceed on October 17. Mr. Majewski also reminded the Board that the

first Zoning Hearing Board meeting in November will be held the first Monday

of the month, November 6, since the Election falls on the first Tuesday.

There being no further business, Mr. Solor moved, Ms. Reiss seconded and it

was unanimously carried to adjourn the meeting at 8:20 p.m.

Respectfully Submitted,

Judi Reiss, Secretary