

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – APRIL 15, 2025

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on April 15, 2025. Mr. Dougherty called the meeting to order at 7:43 p.m. He stated since there are only four members present, it will require three members to vote in favor of a Variance request, and a tie would be considered a loss. He stated Applicants have the option of asking for a Continuance until there is a full Board. Mr. Dougherty noted that they are going to move Appeal #Z-25-13 Umansky, 136 Old Oxford Valley Road to the end of the Agenda as the other Appeals should not take too longer to render Decisions on, and it is felt that the Umansky matter will probably take some time giving the amount of public comment expected.

Those present:

Zoning Hearing Board:      James Dougherty, Chair  
   Christian Schwartz, Secretary  
   Mike McVan, Member  
   Judi Reiss, Member

Others:                              Dan McLoone, Planner  
   Maureen Carlton, Township Solicitor  
   Adam Flager, Zoning Hearing Board Solicitor  
   Suzanne Blundi, Supervisor Liaison

Absent:                              Peter Solor, Zoning Hearing Board Vice Chair

APPEAL #Z-25-11 MATHEW  
Tax Parcel #20-042-365  
648 TEICH DRIVE, YARDLEY, PA 19067

Mr. Justin Mathew was sworn in.

Mr. Mathew stated he is seeking a Variance to do an outdoor patio project. He stated currently his impervious is 17.5%, and he would like to do an 820 square foot hardscaping patio in his back yard that would increase the impervious space to 19.3%. He stated in the initial Plans he put in he

indicated he would like to put in trees to offset what was seen in the Excel file, but he is open to feedback on what can be done to help with the Variance.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plans were marked as Exhibit A-2. The Construction Plans were marked as Exhibit A-3. The Impervious Surface Breakdown along with the Small Project Volume Control was collectively 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. Schwartz stated he understands the Ordinance permits 18% impervious on the property, and Mr. Mathew agreed. Mr. Schwartz stated he understands that he is relying on existing trees and some more plantings to cover the difference, and Mr. Mathew agreed. Mr. Schwartz asked Mr. Mathew if he is open to putting in a drainage trench instead, and Mr. Mathew stated he is. Mr. Schwartz stated they have been trying to move away from plantings because they do not last or that the next homebuyer may take the trees out, and the neighbors would have to deal with the overflow of water. Mr. Schwartz stated he can work with the Township engineer on the trench. Mr. McLoone stated the trench could be roughly 2 by 4 by 20 to cover the 62 cubic feet.

Mr. McVan stated he has no issue provided that installs the trench.

Mr. Sol Bress, 49 Teich Drive, was sworn in.

Mr. Bress stated he is in support of the requested Variance. He stated he feels that what Mr. Mathew is planning to do will enhance the property and the neighborhood, and he asked that the Board grant the Variance.

Mr. Robert Abrams, 652 Teich Drive, was sworn in.

Mr. Abrams stated he is the adjacent property to Mr. Mathew's west at Parcel #20-042-364. Mr. Abrams stated at the northwest corner of Mr. Mathew's property (northeast corner of Mr. Abrams' property) which abuts the back sides of the houses on Friar Drive, there is the drainage/sewer grating and all the water flows into that and goes down into the drainage basin. He stated he is not sure that digging a trench is going to do much because the property already has drainage, and it is pitched toward the grate. He stated there is a lot of grass, trees, and leaves so the amount he is going to be over is immaterial. He stated the Mathews are great neighbors, and there is no reason not to grant not to grant them what they need.

Mr. Schwartz moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal in which the impervious surface would increase to 191.3% but it would be alleviated by a trench as approved by the Township engineer and be mitigated back to an effective 18%.

APPEAL #Z-25-13 – UMANSKY

Tax Parcel #20-032-001

136 OLD OXFORD VALLEY ROAD, LANGHORNE, PA 19047

Mr. Jeffrey Garton, attorney, stated he represents the Umansky matter; and they would prefer to have a full Board, and are requesting a Continuance. After discussion it was agreed to Continue the matter to June 17.

Ms. Reiss moved, Mr. Schwartz seconded and it was unanimously carried to Continue the Appeal to June 17.

APPEAL #Z-25-12 – CONLOW

Tax Parcel #20-059-239

1463 CLINTON 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 Renderings and Construction Plans were marked as Exhibit A-3. The Impervious Surface and Small Project Volume Control was collectively 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. Brandon Conlow was sworn in.

Mr. Conlow stated he is looking to add a shed to the back yard. He stated he is looking for a Variance for the impervious surface which would increase from 21% to 23%. He stated he is also looking for a Variance for moving the shed a little bit closer to the fence going from 10' to 5'. He stated he was looking to install trees, but he is open to other suggestions for water management.

Ms. Reiss asked the allowable impervious surface, and it was noted it is 18%. Mr. Dougherty asked if the Board wants to go back to what is allowable; and Ms. Reiss stated she feels it would be better to do that now as opposed

to when the new Ordinance comes in. Mr. Dougherty stated they are currently at 21.9%, and the Applicant is proposing going to 23.5% where 18% is allowed. He stated the Board often asks that it be remediated back to 18%.

Mr. McLoone was asked what would it mean going back to 21.9% and to 18%; and Mr. McLoone stated it would be 1' deeper, 1' wider, and 10' longer and would be a bigger trench. He stated he feels the 45 cubic feet to bring it back to 21.9% would be about 2 by 4 by 15 so he assumes going to 18% would be 3 by 6 by 20 to 25. He stated they can work with Mr. Conlow with the parameters for the infiltration trench.

Ms. Reiss stated she is concerned because of the water issues, and she does not know how the slope goes on the property. Mr. McLoone showed an aerial. Mr. Schwartz stated there are elevations on the drawing that at the house they are at 152.6 and it drops down to 151.5, but it is 152 on the shed side so there is a very slight drop. Ms. Reiss stated if there is a trench, it could be behind or alongside the shed and plants could be put over it. Mr. McLoone stated he does not feel that would be an issue.

Mr. Schwartz stated Mr. Conlow wants the shed at 5' from the property line, and he asked if there is a fence there; and Mr. Conlow stated there is. Mr. Schwartz asked if there is a fence there now, and Mr. Conlow stated there is. Mr. Schwartz asked if the fence is inside the property line on Mr. Conlow's property or on the neighbor's property, and Mr. Conlow stated it is on the neighbor's property. Mr. Schwartz asked who owns the fence on the side; and Mr. Conlow stated the side fence is the neighbor's fence, and the back fence is his own fence. Mr. Schwartz stated he wants to make sure that a lawn mower can get in between the shed and the fence, and Mr. Conlow stated his plan was to have the shed 5' from the fence.

Ms. Blundi asked about the shed wanting to make sure that it is not a shipping container. Mr. McLoone stated it is not adding that renderings were provided.

Mr. Dougherty asked why he is asking for the 5' relief for the shed on each side when it seems there is room to have the shed 10' off. Mr. Conlow stated while they have the room, they do not have a very large back yard as it is one of the smaller lots in Yardley Hunt; and they were trying to save some yard space. He stated the space behind the shed becomes unusable space, and they were trying to limit the amount of yard space being lost.

Mr. Dougherty stated the shed height is 13'10", and he asked the maximum allowed; and Mr. McLoone stated the maximum allowed is 15'.

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

Mr. Schwartz moved and Ms. Reiss seconded and it was unanimously carried to approve the Appeal to allow the shed to be placed 5' from the rear and side property lines and for the impervious surface to be remediated back to 18% using a trench with the dimensions approved by the Township engineer.

Mr. Dougherty asked if we need to have him remediate all the way back to 18% or remediate back to 21.9%. Ms. Reiss stated it is not a large lot and 21.% is "pushing it." She stated water moves, and she has been made very aware of water lately. Mr. McVan stated if they are digging a trench, he feels they should go back to 18% which would be better for everyone.

Motion carried unanimously.

APPEAL #Z-25-14 – MUNZ/BRONSON  
TAX PARCEL #20-055-196  
915 PIPER LANE, YARDLEY, PA 19067

Mr. Steve McGill, Munz Construction, and Mr. William Bronson were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plans were marked as Exhibit A-2. The Impervious Surface and Small Project Volume Control were collectively 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. McGill stated they are proposing to build a 725 square foot addition for Mr. and Mrs. Bronson. He stated they are currently at the allowable impervious surface and with the addition they will be over, and they are looking for relief on that impervious surface at 3.7%. He stated they are prepared to do a seepage pit to accommodate that square footage.

Mr. McVan asked if they are going back to the existing impervious surface or the allowable level. Mr. McLoone stated the existing and the allowable are 18% so it will be going back to 18%.

Ms. Jennifer Ellis was sworn in.

Ms. Ellis stated she lives next door, and she supports “their ask.”

Ms. Valerie Bronson was sworn in.

Ms. Bronson stated thanked the Board for hearing their Appeal. She stated she spoke to all of the neighbors and everyone was excited about it. She stated they will do whatever they need to do to make it right.

Ms. Reiss moved and Mr. Schwartz seconded and it was unanimously carried to approve the Appeal with the Condition that the impervious surface be fixed so that it goes back to the 18% subject to the Township engineer’s approval. The impervious will go from 18.1% to a proposed 21.8% back to an effective 18% subject to the Township engineer approving the remediation trench.

APPEAL #Z-25-7 – MOSENDZ

Tax Parcel #20-046-145

56 BLACK ROCK ROAD, YARDLEY, PA 19067

Mr. Aleksandr Mosendz was sworn in.

Mr. Flager stated Exhibit B-4 is the Re-Advertisement. The Revised Posting was marked as Exhibit B-5. The Revised Notice to the neighbors was marked as Exhibit B-6. All other Exhibits were marked previously.

Mr. Mosendz stated he is seeking a Variance for the right hand side to keep it at 6’ and to cut down the front to 4’ high as was discussed previously.

Mr. Schwartz stated he still has a problem with doubling the size of the 3’ fence to 6’ on the side which is a drastic Variance. He stated he would be okay with going 4’ all around the front and front side.

Mr. Dougherty asked Mr. Mosendz if he had an opportunity to talk to his neighbor, and Mr. Mosendz stated he did; and he is present this evening.

Mr. Schwartz stated a bad precedent would be set even if the neighbor there now approves, and he feels everyone in the Township will want a 6’ fence; and the neighbor is not always going to be there, and a new neighbor could do 6’ on the other side as well and it raises other issues in the future. He stated he feels there will be a problem going from 3’ to 6’.

Mr. Mosendz stated he has a 6' fence on the left hand side matching his neighbor's fence. He stated the neighbor on the left also has a 6' fence adjacent to the road. Mr. Schwartz stated that is their back yard fence which is allowed. Mr. Dougherty stated he felt the Board had reached a consensus that they did not have a problem with the 6' fence there because it abutted a 6' fence. Ms. Reiss stated she felt that they discussed it would be 4' to the corner of the house which is above what is normally allowed. She stated she agrees with Mr. Schwartz.

Ms. Reiss stated the fence was put up without a Permit and the Applicant did not follow "any of our Codes." She stated the Board is willing to go to 4'. She stated the neighbor on the side may not always be the neighbor. She stated she feels we are telling people in the Township "to do what they want, come say you're sorry, and come back three or four times like a child and try to wear the parent down, and they will capitulate;" and she is not willing to. She stated it is either the 4' or he can put 3' like it should be all the way around. She stated she does not know what the neighbor did, when they did it, or if they had a Permit or a Variance.

Mr. Flager stated that 6' fence is in the neighbor's rear yard so it is permitted; although it is a 6' fence. Ms. Reiss stated she feels the fence should be 4' as was discussed at the previously meetings.

Mr. Mosendz stated he recalls that at the last meeting, it was agreed that it would be 4' in the front; and if the neighbor was okay with the side since he has bushes covering that area and it is not blocking his driveway or impeding traffic, he felt they could have it. Mr. Dougherty stated they would not have been able to approve the Variance at the last meeting because it was not advertised appropriately, and only the front yard setback was advertised, not the side yard setbacks. He stated it had to be re-advertised so the Board could render a decision. He stated the consensus of the Board was that they were not happy with the 6' coming down the sides, and that was why a Continuance was needed so that it could be re-advertised. Mr. Dougherty stated it was also suggested by the Board that Mr. Mosendz have discussions with his neighbor to the right, and the Board will hear from him this evening.

Mr. Flager stated it is technically not a side fence and it is considered a front fence although it is along the side. Ms. Reiss stated it is a front fence until the far corner of the house. She added that the Board discussed the front corner of the house being the end of the front yard.

Mr. Dougherty stated he felt that the Board was okay with the front yard on the left side remaining at 6'.

Mr. Flager stated it is already next to a 6' fence. Ms. Reiss stated that fence does not go all the way up to the street; however, Mr. Mosendz stated it does.

Mr. McLoone stated it was his understanding that the left side of the house was not an issue. He stated the neighbor's fence is permitted to be there because it is in their rear. Mr. McLoone stated it was also his understanding that the Board was fine with 4' in the front. He stated he understood that the main issue and point of contention was the right side where it is 6' which is technically the front yard. Mr. Schwartz agreed.

Mr. Mosendz stated it would then be 6' on the left side dipping down to 4' going across the front, and then on the right hand side 20' at 4' and then going up with a step from the side of the house and goes up.

Mr. Dougherty stated it is considered a front fence although it is on the side property line which abuts the neighbor who is present this evening. He stated they are trying to decide how high they are willing to grant a Variance for that.

Mr. Kyle Sharpe was sworn in.

Mr. Sharpe stated prior to Mr. Mosendz buying the property it was all overgrown, and he used to cut the grass since his own property is well maintained; but once he stopped cutting it, it was a "nightmare." He stated he has no problems with the house or the fence that Mr. Mosendz put up. Mr. Sharpe stated his hedges are higher than the fence that Mr. Mosendz installed. He stated anytime Mr. Mosendz wants to do something he discusses it with Mr. Sharpe. He stated before Mr. Mosendz put up the new fence, there was a 6' fence behind Mr. Sharpe's property that ran along the back yard of his house; and that fence fell down so he put up his own fence so that he would not have to look at that overgrown property before Mr. Mosendz bought the property. Mr. Mosendz advised that he was going to put up his fence in that area and showed Mr. Sharpe the pictures, and Mr. Sharpe agreed to have his own fence taken down that he had spent hundreds of dollars on. Mr. Sharpe stated Mr. Mosendz also asked about taking down shrubs that were over 7' high; and while it was a great buffer before Mr. Mosendz bought the property, he told him they could take them down and put up something else, and Mr. Mosendz stated he was going to extend the fence, and Mr. Sharpe was in favor of that as well. Mr. Sharpe stated previously when the shrubs were



there, they went around the front of his property, and he would have to cut them back so that he could see down the road coming out of the driveway. Mr. Sharpe stated he has no problem with the fence, and it does not intrude his vision coming around the corner. He stated Mr. Mosendz has been a great neighbor. He stated he has no problem with the 6' fence, and he feels he has done a great job with the property.

Ms. Maureen Carlton, Township solicitor, stated she is present speaking on behalf of the Township at the request of the Board of Supervisors who oppose granting this Variance. She stated the Board does not want to set a precedent along Black Rock Road or any Township road with a 4' fence installed in the front yard. She stated it seems that the Board is inclined to grant a 4' fence, but the Ordinance does state 3' in the front yard, and Ordinances are there for a reason. She stated the Township's desire is to keep it at 3'.

Ms. Carlton stated there has not been any hardship shown by the Applicant. She noted that she did review the Minutes. Mr. Dougherty stated there is definitely a hardship since the fence is there and he did not understand that he needed to pull a Permit for it. Ms. Carlton stated the hardship is self-imposed. She stated there is nothing unusual about the property or yard that would necessitate a 4' fence especially along the front yard. She stated the Ordinance would allow for a 7' fence on the side yard. She stated they have no objection to 6' on the side and the back; but the front yard is a problem for the Supervisors.

Mr. Dougherty stated the Zoning Hearing Board had discussed 4' being a compromise. Mr. Schwartz stated he was happy with suggesting 4' across the front and the front right side; however, now that we have heard that the Township Supervisors are opposed to that, he feels we should stick with the Ordinance.

Mr. McVan stated he was trying to find a way to resolve this; but between the last meeting and now, he has been approached by multiple Township residents who all agreed that they did not agree with it.

Ms. Reiss stated she has also been approached by residents since she has family members in the area and heard about the fence before it came before the Zoning Hearing Board. She stated she has also been approached by residents who live in the area. She stated she was willing to compromise at 4'; but if the Township Supervisors say 3', she does not feel it is the Zoning Hearing Board's duty to go against the Ordinances. She stated she agrees with the Township Supervisors and would put it at 3' in the front and front side.

Mr. Mosendz stated he felt that it was indicated that they would be willing to go to 6' on the side. Ms. Carlton stated that would not be on the front side. She stated they would be permitted to have a 7' fence on the true side and the true back. She stated since the 6' is below that, the Township has no objection to that fence. Mr. McVan asked if that is not just to the front corner of the house, and Ms. Carlton agreed. Mr. Dougherty asked what is considered the front corner of the house, and he asked if it the furthest point forward which would be the carport end; and Mr. Mr. McLoone agreed.

Mr. Sharpe stated the 6' fence that was there before came down the side yard quite a bit and then the hedges started. Mr. Schwartz stated when you pull a Permit you are responsible to bring everything to Code no matter what was there before. He stated if it had been approved by a Variance before there would be a record of it, and it could stay. Ms. Reiss stated it could also have been pre-Ordinance. Ms. Carlton stated it could have been pre-Ordinance or non-conforming but "as soon as they came down, everything has to start over."

Mr. Dougherty stated for the front fence on the left side, he would like to see that stay at 6' because it abuts a 6' fence. He stated we also need to identify the front of the house as being the furthest forward part of the carport when a Motion is made so that we can give clear direction to the Applicant. Mr. McLoone stated they could state 4' along Black Rock Road; however, Mr. Dougherty stated he does not feel a majority of the Board is now in favor of 4'. Mr. Schwartz stated the left side fence was not advertised as part of the Variance request, and Mr. McLoone stated it says "6' in the front yard along the side property line so it applies to the left and the right."

Mr. Dougherty stated he loves the house and the fence as he has noted previously.

Mr. Mosendz stated the rule is just an aesthetic rule. Mr. Dougherty stated the biggest problem is that it is a Connector Road, and the Ordinance requires 3'. He stated the Board is hesitant to break the precedent, and the Supervisors have also weighed in.

Mr. Mosendz stated he understands there is an Ordinance for the fence, but if he were to plant 20' hedges along the front that would be legal in the Ordinance. Mr. McLoone stated he does not believe that is called out in Residential although it may be in Commercial. Mr. Flager stated he believes there could be hedges much higher than any fence. Mr. Dougherty stated he feels the argument for

that would be that it is natural. Mr. Mosendz stated he felt they were okay with the 4' fence in the front. He stated with regard to the fence on the side, there are hedges that are 6' on the right-hand side that are trimmed down. He stated the hedges in the front are gone, but the bushes that are 6' on the right-hand side are still there.

Ms. Reiss stated there could be a tree there; and unless it causes a problem with power lines or a road, you do not remove a tree. She stated a fence that is put up is not the same. She stated the only time she has seen higher front fences are at homes that were built pre-Ordinance some of which were pre-1940 on Yardley-Morrisville Road since some of those were put up in the 1920's and 1930's. She stated nothing that was put up in recent memory has a fence that is more than 3'.

Mr. Mosendz stated this is really just a discussion about aesthetics; however Board members stated they did not feel it was that simple. Mr. Mosendz asked if there is a reason behind the Law; however, Mr. Dougherty stated the Zoning Hearing Board did not write the Code. Mr. Dougherty stated others have come before the Board who were denied for fence size; however, he is the first person since he has been on the Board who put the fence up and now has to remediate the situation.

Ms. Carlton stated this is really not just for aesthetics; and while it may not appear that way for the way this house is situated, a lot of it is for the safety and welfare of residents for "sight views, people coming and going, and the Applicant coming out of the driveway." She stated she knows that is not this particular situation, but that is generally why fences in the front yard are limited to 3'. Mr. Mosendz stated there is a setback on every single property, and Ms. Carlton agreed where there is, but it is not on every single property in the Township, although on Mr. Mosendz' there is. She stated it does not seem really appropriate or indicative as far as health and safety and welfare of other residents with Mr. Mosendz' property, but that is why the Ordinance is written the way it is; and they are enforcing it the way it is written.

Mr. Schwartz moved and Ms. Reiss seconded to grant relief for the left front fence that abuts the neighbor's 6' fence and deny the request for a Variance for the front and right side yard pertaining to the 3' fence Ordinance. The left side front fence is 6' and the front fence along Black Rock and the right front side starting at the end of the house which is the carport is according to the Ordinance. Motion carried with Mr. Dougherty opposed.

OTHER BUSINESS/CANCEL MAY 6 MEETING

There was discussion with regard to the number of Appeals on future Agendas.

Mr. Schwartz moved, Ms. Reiss seconded and it was unanimously carried to cancel the May 6, 2025 meeting.

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

Respectfully Submitted,

Christian Schwartz, Secretary