

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – MARCH 3, 2026

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on March 3, 2026. Mr. Dougherty called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: James Dougherty, Chair  
Christian Schwartz, Vice Chair  
Mike McVan, Secretary  
Larry Borda, Member  
Robert Heinz, Alternate Member

Others: Dan McLoone, Planner  
Adam Flager, Zoning Hearing Board Solicitor

Absent: James McCartney, Zoning Hearing Board Member

APPEAL #Z-25-51 – MURPHY/DELUCA  
Tax Parcel #20-046-095  
71 MANOR LANE SOUTH, YARDLEY, PA 19067  
(Continuance Requested to 3/17/26)

Mr. Schwartz moved, Mr. Borda seconded and it was unanimously carried to grant the Continuance to March 17, 2026.

APPEAL #Z-26-4 – MCCUBBIN/FLECK  
Tax Parcel #20-065-065  
443 LENAPE LANE, YARDLEY, PA 19067

Mr. Greg Fleck and Mr. Rob McCubbin 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. McCubbin stated this is an R-3 property, and the lot size is 20,794 square feet. The max impervious surface on the lot is 18% or 3,753 square feet, and currently they are at 24.4%. He stated that consists of the house, a lead walkway, driveway, paver patio, paver walls around the property, an additional paver pad, and some steps out of the side of the house. He stated they are looking to ask for relief to build an in-ground pool and some additional patio space.

Mr. McCubbin stated the original request was for 30.2%. He stated they were going to remove the existing patio, add some additional retaining walls because the property slopes some, re-lay additional patio down which was about 1,910 square feet, add 88 square feet of pool coping, and 21 square feet for the equipment pad which would bring them to 6,282 square feet or 30.2%. He stated they were proposing stormwater management for 2,539 square feet which was all of the square footage over the 18%.

Mr. McCubbin stated he and Mr. Fleck had discussions, and last week they landed on a new plan which reduces the request. He stated he did not have time to re-do the plans in the topographical format, although he does have construction drawings to show it. He stated instead of 30.2%, they are reducing that to 28.4% which is an overall reduction of 360 square feet. He stated they propose to take the width of the patio and reduce it to the footprint of the house, and it will not stick out beyond the house; and then add another planter bed closer to the house to help with the drainage.

Mr. McCubbin stated they would not change the stormwater design, and they would keep it at the original stormwater design which would mitigate them back down below the 18%. Mr. Flager stated this would bring them to 16.2%.

Mr. McLoone stated this will be reviewed by an engineer when they apply for a Building Permit. Mr. McLoone stated the Brock Creek floodway has a floodway elevation of 115', and the proposed infiltration trench has a top elevation of 117' to 118'. He stated the construction detail of the trench shows the trench as 3' deep so that the base of the trench would be at or below the floodway elevation. Mr. McCubbin stated he sees that the top of the grate at the top of the infiltration trench at 124 and the sump at 120.

Mr. McLoone asked if they could move back the stockpile, and Mr. McCubbin stated they could probably remove it all together because they are building the pool in the existing patio so they will not generate any topsoil. He stated

there could be spoils from the pool, but they will be hauled off. Mr. McLoone stated there was concern that the stockpile might be able to enter the creek.

Mr. McLoone asked Mr. McCubbin if he has any concerns that there could be erosion of the retaining wall based on the elevation of the floodplain, and Mr. McCubbin stated he does not as the base of the wall will be at 120. Mr. McCubbin stated it is a paver wall. Mr. Borda asked if there will be a geo-tech fabric holding it back, and Mr. McCubbin stated there will not on either the top or lower walls as they are both at 30' and do not require that.

Mr. Schwartz asked what will be the paver material around the pool, and Mr. McCubbin stated it is impervious concrete. Mr. Schwartz stated it appears that it is a flat elevation all the way across, and it is not pitched in any direction; but Mr. McCubbin stated there will be pitch. He stated typically it is a  $\frac{1}{4}$ " per foot. Mr. Schwartz asked which way the water will be directed, and Mr. McCubbin stated it will all be pushed away from the pool. He stated on the side it will pitch toward the walls on the sides, and with the house, it will be pitched away from the house and away from the pool and be channeled out toward the sides. Mr. Schwartz stated he will be channeling water toward the sides; but the trench is behind the pool wall, and not in the path of the water. Mr. McCubbin stated that could be modified because they have planters on either side of the pool so they could probably capture that water and send it through the wall to the infiltration trench.

Mr. Schwartz asked where the downspouts off the house are being directed, and he asked if they are counting on gravity to take the water down on the surface. Mr. McCubbin stated the downspouts are buried, but he did not know to where they were going. Mr. Schwartz stated there is a steep slope on the property with 134 at the highest elevation in the front down to 120 on the sides in the back and 112 in the center in the back. He stated he is looking for ways to capture and direct water toward the infiltration trench.

Mr. Fleck stated currently all of the water is captured, and all of the flower beds currently drain into a gravel pit to mitigate the water. Mr. Schwartz asked if it is draining now into an existing infiltration trench, and Mr. Fleck agreed. Mr. McCubbin stated there is an existing one, but it is not engineered; and there is no plan for it. Mr. Dougherty asked if the plan is to take the underground rain leaders and re-engineer them into the infiltration bed, and Mr. McCubbin stated he could do that. He stated they are going to get hit when they do their construction. He stated they know that there is a pit

there but they do not know its exact location, how big it is, and what it is designed for. He stated he can run the roof drains into the new infiltration trench. Mr. McCubbin stated he could get deck drains into the trench as well.

Mr. Borda stated he understands that the proposed trench will still be where it is shown on the drawing, but will be re-engineered to accommodate the leaders that are being discussed; and Mr. McCubbin stated they will be off-setting the same impervious surface.

Mr. Heinz asked if the planters will be above the deck height, and Mr. McCubbin stated they are at grade with the deck. Mr. Heinz asked if that will be retaining water on its own, and Mr. McCubbin stated it will be a planted bed to break up the amount of patio. He stated there will be a fence run through it as well. Mr. Dougherty stated it will be a mulch bed with plantings, and Mr. McCubbin agreed adding it is not a raised planter.

There was no one wishing to make public comment on this matter.

Mr. Dougherty stated what was initially proposed was a very large patio, and he appreciates that they have reduced that. He stated what is proposed is a significant increase over the maximum of 18%. He stated they are already 6.4% over, and they want to go to 10.4% over although they have proposed to mitigate it back to an effective of 16.2%. He stated he sees the value of what is proposed.

Mr. Dougherty asked what is the effective currently. Mr. McLoone stated they did not find a Permit for the patio although they did find a Permit for the deck/shed from 2020 which removed/replaced the existing footprint. Mr. Dougherty stated while there is an infiltration trench on the property at this time, it was not engineered or Permitted so they do not know what the effective impervious is at this time.

Mr. Fleck asked if 18% was the percentage at the time the house was built in 1981, since it was his understanding that it was 22%. Mr. McLoone stated if it was built before 1987 for a lot this size it would not be 22% - it would be 18%.

Mr. Borda asked if they would not have to go through a re-submission process to get the details of what is now being proposed. Mr. Dougherty stated that could be a part of the Decision, and the Code Enforcement/Township engineer would make sure that it adheres to the Zoning Hearing Board decision when they apply for the Permits; and Mr. Flager agreed.

Mr. Schwartz moved, Mr. Borda seconded and it was unanimously carried to approve the Appeal as presented with a change in the Plan that reduces the patio square footage by 360 square feet, reducing the proposed impervious surface to 28.4% with the infiltration trench being kept as designed to reduce the effective impervious surface down to 16.2%, with the re-location of the temporary topsoil stockpile 40' away from the floodway, replacing the roof drains to direct rainwater to the trench, and adding deck drains to also direct water to the trench.

#### OTHER BUSINESS

Agenda items for March 17 were noted including a Remand Hearing for the Age-Restricted homes on Old Oxford Valley Road. Mr. Flager stated he will send a re-cap to the Board and will try to re-construct the Board as close as possible recognizing that Ms. Reiss was part of that Appeal, and she cannot be part of this. It was noted that while he did not participate, Mr. Heinz did hear that Appeal, but Mr. Borda did not. It was agreed that Mr. Heinz would be present for that matter in place of Ms. Reiss. Mr. Solor will be present as well. Mr. Flager asked that all those who will be hearing the Remand review the meeting Minutes from the original meeting.

Mr. Flager stated it will not be a full Hearing, and it is limited in scope per the Order from the Judge. Mr. Flager stated Mr. Bob Nemiroff, one of the neighbors who is also an attorney, will be cross-examining the witnesses for the Applicant; and Mr. Nemiroff and Mr. Jeff Garton will be able to make some brief Argument to the Board following that.

Mr. Dougherty asked if they will recall public comment, and Mr. Flager stated they will not. He stated the Order is limited, and he will read the Order into the Record since there may be people who may want to present more evidence or have more comment, and the Order is very specific. Mr. Dougherty asked that Mr. Flager facilitate providing the Board with the Order, the written Decision, and the Minutes; and Mr. Flager agreed to send out the Minutes, the Findings of Fact, and the Order.

Mr. McLoone stated the other matters to be heard that night are the Murphy/DeLuca Appeal at 71 Manor Lane which was previously before the Board and was Continued and the proposed Car Wash. Mr. Borda will be participating in these two Appeals.

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

Respectfully Submitted,

Mike McVan, Secretary