

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – NOVEMBER 3, 2008

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on November 3, 2008. Chairman Malinowski called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman
 Paul Bamburak, Vice Chairman
 Gregory J. Smith, Secretary
 Jerry Gruen, Member
 Keith DosSantos, Alternate Member

Others: Robert Habgood, Code Enforcement Officer
 John Donaghy, Township Solicitor
 James Majewski, Township Engineer
 Allen Toadvine, Township Zoning Hearing Board Solicitor
 Matt Maloney, Supervisor Liaison

Absent: Anthony Zamparelli, Zoning Hearing Board Member

APPEAL #06-1372 – PETER ORLOFF AND JOY GRACE

Mr. Peter Orloff and Ms. Joy Grace were present. Mr. Majewski stated he has not heard from the Bucks County Conservation District on the status of the Plan they were assisting the Applicants with preparing. The Applicants indicated they have not heard anything either. Mr. Majewski stated he will follow up with them on the status. He stated as of two months ago, they indicated they would have a Plan in the next month or so.

Mr. Toadvine stated this Plan is necessary in order for the Board to proceed. He asked Mr. Majewski what would be an appropriate time to continue this matter. Mr. Majewski stated he felt it would be appropriate to continue the matter until January.

Mr. Orloff and Ms. Grace stated they would be agreeable to continuing the matter to 1/20/09 and waive the time limits pending the continuance. Ms. Grace asked if they should contact the representative at Bucks County Conservation District; and Mr. Majewski stated they could contact her, and he will contact her as well. Ms. Grace asked if they can find out anything about the storm drains, and Mr. Majewski stated this is not before the Zoning Hearing Board, but they could contact him.

Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried to continue the matter to 1/20/09.

Mr. Gruen asked if the new members could be provided with the original Application so they can be prepared when this is before the Board in January, and Mr. Habgood agreed to have these sent to the new Board members.

APPEAL #07-1434 – DAN MARRAZZO

Mr. Toadvine stated this matter was continued in order to provide time for the Parties to complete an appropriate Stipulation. He stated the proposed Stipulation has been reviewed by the Township, and he has reviewed it as well.

Mr. Smith, attorney for the Applicant, provided copies of the Stipulation this evening. Mr. Toadvine stated this is the proposed Order that all Parties have agreed to enter into and it incorporates various Stipulations entered into between the different Parties. Mr. Kundra was present and stated he is in agreement with the Order being entered as the Board's Order. Mr. Klimpl stated they are in agreement with it as well. He stated the non-opposition to the Variance request has always been based on the Stipulation being part of the Order. Mr. Smith stated his client is in favor of this as well. Mr. Donaghy stated the Township is not opposed to the Order.

The Board was provided an opportunity to review the Order. Mr. Toadvine stated he feels the appropriate Motion would be to approve the Order as submitted, and this was acceptable to all Parties. The Order was marked as Exhibit B-10.

Mr. Gruen stated the Township agrees to enforce this Agreement and asked if this includes only the Variances or all the other Stipulations such as taking the tent down, etc. and Mr. Toadvine stated it includes everything in the Order. He stated when the Order was last submitted, it was three to four pages long; and they were asked to simplify the Order for the Board's purposes; but it still incorporates all of the documents. Mr. Donaghy stated the proposed Stipulations are like other Conditions for a grant of a Variance, and if they are not met, the Variance itself is no longer effective and that is what the Township can enforce. Mr. Gruen asked if the Township has a problem enforcing this, and Mr. Donaghy stated the Township would enforce it as they would other Conditions; and if the Conditions are not met, the Variance would no longer be in effect. He stated these Conditions are acceptable to the Township.

Mr. Smith moved and Mr. Bamburak seconded that the Order marked as Exhibit B-10 be entered into the record as the Board's Decision in this matter. Motion carried with Mr. Malinowski opposed.

APPEAL #08-1490 – WILLIAM AND SUSAN HOLLIS

Mr. William Hollis, Ms. Susan Hollis, and Mr. Peter Hill were sworn in.

The Application submitted was marked as Exhibit A-1. Attached to the Application is a one-page Site Plan entitled Plan for Lot #3 showing house location in Buck Creek Estates III, Plan dated 10/9/85, with the foundation location dated 4/5/86. It is also time-stamped by Lower Makefield 4/17/86. This was marked as Exhibit A-2.

Mr. Hill stated they are seeking a Variance for an 8' by 10' portico to protect the entry way of the houses that faces due east and gets a lot of weather which has destroyed the front-entry door. They need this to protect them from the elements. He stated it has also destroyed the foyer floor.

Photos were presented this evening which were marked as follows: Exhibit A-3 an 8 1/2" by 11" photo of the front of the house, Exhibit A-4 an 8 1/2" by 11" photo of the front entry, Exhibit A-5, an 8 1/2" by 11" photo of the front entry, Exhibit A-6 an 8 1/2" by 11" photo of the front entry, and Exhibit A-7 an 8 1/2" by 11" photo of the foyer floor on the inside of the home.

Mr. Smith asked Mr. Hill's relationship to the Applicants, and Mr. Hill stated he is the contractor.

Mr. Gruen asked if the portico will be open, and Mr. Hill stated it will be open on three sides with just a roof and two support columns. Mr. Malinowski asked if the house encroaches currently, and Mr. Hill stated it does not and it is about 1' setback from the 75' setback. They are asking for a 7' by 10' Variance.

Mr. Donaghy stated the Township is not participating in this matter.

There was no one present to speak in favor of opposition of the Appeal.

Mr. Toadvine asked Mr. and Mrs. Hollis if they are in agreement with the Application, and they indicated they are.

The testimony was closed.

Mr. Bamburak moved and Mr. Smith seconded that the Appeal be granted to allow a 7' encroachment into the front yard setback.

Mr. Gruen stated he would like to make it a Condition that they do not enclose this in the future as they could then create an additional room.

Mr. Gruen moved to amend the Motion that the portico will have to stay open on three Sides; and if they put in flowerboxes in, they could be no higher than 4'. The Amendment died for lack of a Second.

Motion as originally stated carried unanimously.

APPEAL #08-1491 – KAREN LAARKAMP AND STACY FRANKIL

Ms. Karen Laarkamp and Ms. Stacy Frankil were sworn in. The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-page Plan prepared by Gilmore Associates for the owner, Pennsbury School District time-stamped by the Township 9/17/08, and this was marked as Exhibit A-2. Also attached is an 9 ½” by 11” rendering of the proposed sign, and this was marked as Exhibit A-3.

Mr. Toadvine asked those present their relationship with the Pennsbury School District, the owner of the property; and Ms. Laarkamp stated she is the Principal of the Quarry Hill Elementary School, and stated she has the authority to bring the Application on behalf of the Pennsbury School District.

Ms. Laarkamp stated they are requesting approval for a new sign in the front of the building to replace the old sign which is made of wood and is rotting away.

Photos were presented these evening. These were marked as Exhibits A-4 through A-10 and are all pictures of the existing sign.

Ms. Frankil stated the current sign is 3' high and 10' long, and the new sign will be 4'6: high and 8' long. It will have the ability to have interchangeable announcements.

Ms. Laarkamp stated the new sign will be metal anchored to brick columns so they will not have the same problems in the future that they do now.

Mr. DosSantos asked if there is a Variance in place for the existing sign, and Mr. Habgood stated he does not believe so and does not know when it was constructed. He stated the reason they need the Variance is because they are only permitted 24 square feet for the Zoning District in which they are in, and they are requesting a sign of 36 square feet. Mr. Habgood stated the area of the sign only includes the area of the sign and does not include the supporting columns. It does include the top part.

Mr. Donaghy stated the Township is not participating.

Mr. Toadvine asked if there are any issues involving the brick columns, and Mr. Habgood stated there are not. Mr. Toadvine asked if the sign will be affixed to the brick columns, and Ms. Laarkamp stated it will. She noted this is a partnership between the School District and the PTO. Ms. Frankel stated she has specs for the sign, and it will

be anchored into the brick columns. Exhibit A-11 was marked which is an 8 ½” by 11” drawing of the proposed sign with specs attached.

Mr. Gruen asked if there are any problems with setbacks, and Mr. Habgood stated there are not.

Mr. Toadvine asked about illumination, and Ms. Laarkamp stated they will not have illumination. Mr. Habgood stated indirect illumination would be permitted if they wish.

There was no one present to speak in favor or against this Application, and the Public Hearing portion was closed.

Mr. Bamburak moved, Mr. Gruen seconded and it was unanimously carried to grant the Variance to allow a sign of 36 square feet.

APPEAL #08-1492 – DENNIS C. EARLE

Mr. Dennis Earle was sworn in and stated he lives at 1416 Ridgewood Lane. The Application submitted was marked as Exhibit A-1. Attached to the Application was a one-page Plan entitled Zoning Permit Plan dated 9/19/08, and this was marked as Exhibit A-2.

Mr. Earle stated he would like to install a pool and he is required to have a fence 10’ back from an easement. He is requesting a Variance to allow him to extend it 10’ back into the easement because he understands it is his responsibly to maintain that easement; and if he does not extend the fence back, he would have to cross his neighbors’ property to get to the area to mow it. Mr. Smith stated he could put in a gate in the back of the fence.

Mr. Donaghy stated the Township is participating; and if the Variance is granted, they would request that the Zoning Hearing Board impose Conditions that in the event it is ever necessary to remove all or a portion of the fence, that it be done at the expense of the Applicant, and also that they maintain an area of at least 2” below to permit the flow of water. Mr.. Earle stated he would agree to these Conditions.

Mr. Gruen asked the type of fence proposed, and Mr. Earle stated it is not a privacy fence, and you can see through it. Mr. Habgood stated for a Pool it needs to be a minimum of 5’ high, and Mr. Earle stated he will not go any higher.

Mr. Malinowski asked about the type of easement, and Mr. Majewski stated it is a storm sewer easement. There is an inlet on the southeast corner of the property, and a pipe underneath. Mr. Toadvine asked if it is also a swale, and Mr. Majewski stated it is.

Mr. Gruen asked if the storm sewer would need cleaning, and Mr. Majewski stated this is typically needed for any kind of storm sewer facility; and it needs to be cleaned by the homeowner. Mr. Gruen asked if they would object to putting in a three foot gate near the opening so that the Township employees would have access; and it was reiterated that the Township employees do not clean it as this is the responsibility of the homeowner.

There was no one present to speak in favor or against this matter, and the Public Hearing portion was closed.

Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried that the relief requested be granted with the Condition that if the easement holder requires access to the easement, that the fence will be removed at the property owner's expense and that the property owner maintain at least a 2" spacing at the bottom of the fence to allow water flow under the fence.

APPEAL #08-1493 - JOHN AND LISA SCARLATA

Mr. John Scarlata and Ms. Lisa Scarlata, 1030 Darby Drive, were sworn in. The Application submitted was marked as Exhibit A-1. Attached to the Application was 1 ½ page Plan of Lot #77 showing the house location time-stamped by the Township 10/6/08, and this was marked as Exhibit A-2.

Mr. Scarlata stated they are requesting a Variance to allow a block patio that was previously installed to remain. The patio results in greater than the permitted impervious surface and also encroaches into the side yard.

Mr. Malinowski asked if they got a Permit when they installed this, and Mr. Scarlata stated the contractor was from New Jersey and he had indicated that he had not experienced needing Permits in the past, and Mr. Scarlata stated he does realize that he should have checked with the Township. Mr. DosSantos asked if the installation has been completed, and Mr. Scarlata stated it is about 95% complete. They started the job in early June. He stated they received a Notice from the Township on 6/25/08. Mr. Smith asked how much work was completed after 6/25/08, and Mr. Scarlata stated none.

Mr. Donaghy stated the Township would like to participate and would ask that if a Variance is granted, that it be subject to some requirement for surface water relief which Mr. Majewski can describe. Mr. Donaghy asked the Applicant about the area shown on the Plan as the pergola and asked if it is a cedar pergola. Mr. Scarlata stated it will be cedar, but it is not constructed yet. Mr. Donaghy asked if they intend to have a hard surface beneath it, and Mr. Scarlata stated the pergola as constructed will be over the block portion of the patio. Mr. Donaghy stated the area for which they are requesting relief would be the area shown on the Plan as the patio plus the area shown as seated

pergola, and Mr. Scarlata stated the area that is shown as patio is the area marked patio as well as the area that is under the pergola.

Mr. Smith asked if the patio is elevated, and Mr. Scarlata stated it is slightly above grade. Mr. Smith stated it shows 1.6', and Mrs. Scarlata stated this is the sitting wall. She stated there is also a portion where the hot tub is located and this is elevated and is the portion that encroaches into the side yard.

Mr. Toadvine asked if there are calculations on the existing impervious, and Mr. Donaghy stated this is the reason he was asking questions and asked if they have done calculations to reach the number shown of 25% impervious surface that they are requesting. Mr. Scarlata stated he did the calculations. Mr. Donaghy asked if he is satisfied that 25% will be sufficient including the area of pergola, and Mr. Scarlata stated he is. Mr. Toadvine asked if the Township has calculations, and Mr. Habgood stated the site Plan was not to scale, but Mr. Majewski did work on this and felt it was 21.2% existing and it will be 27.1% including the patio assuming there is no patio in the rear of the house, and Mr. Scarlata agreed there is not. Permitted impervious surface is 18%.

Mr. Toadvine asked if the hot tub was part of the new construction, and Mr. Scarlata stated it was.

Mr. DosSantos asked if it is all one contiguous patio with the pergola sitting above, and Mr. Scarlata stated it is.

Mr. Smith noted the plant beds shown and asked what is underneath the plant beds, and Mr. Scarlata stated the plant beds are plantings with dirt and mulch so this is a pervious surface. He added that all of their downspouts have been designed to run through an underground PVC system that takes it out to the curb and this was installed by the previous owners.

Mr. Gruen asked if there is any drainage on the patio or PVC under the patio to take the water off the surface, and Mrs. Scarlata stated here is a 6" gravel base.

Mr. Toadvine asked if the patio area consists of pavers as opposed to concrete, and Mr. Scarlata agreed. He stated it is a base with a filler in between that is an aggregate material, although it is not sand.

Mr. Malinowski asked how the property slopes, and Mr. Scarlata stated it slopes toward the street, and they are elevated from the street with the driveway pitching down. The back yard of the property slopes to the rear. Mr. Malinowski asked about the open space behind the property, and Mr. Scarlata stated behind the patio are plantings with shrubbery and mulch. There is a house behind them and on both sides.

Mr. DosSantos asked when they purchased the property, and Mr. Scarlata stated they purchased it one year ago. Mr. DosSantos asked if they have added any other impervious surface to the property other than this project, and Mr. Scarlata stated they have not.

Mr. Gruen asked Mr. Majewski if they are willing to take the roof water and put it in an underground dry well, how much mitigation could be done. Mr. Majewski stated it was noted that they have indicated that they have a drainage system that takes the roof leaders and pipes it directly out to the street, and this could be retro-fitted to take those roof leaders and tie them into a dry well and have the overflow still get piped out to the street which would mitigate the impact from the additional impervious surface. Mr. Bamburak asked if adding a dry well would be better than just piping it out to the street, and Mr. Majewski agreed.

Mr. Smith asked if there is a way to collect the run off from the patio in such a way that it would not impact the surface run off so much, and Mr. Majewski stated it could be possible to install an infiltration trench around the exterior of part of the patio and this could be covered with river jack stone and this would allow some of the water that goes from the patio to go into the ground rather than running off over the surface of the ground.

Mr. Scarlata stated the area around the patio is currently mulched and since it was installed, there have been no water issues. Mr. Malinowski asked if they have a dry basement, and Mr. Scarlata stated they do.

Mr. Bamburak asked if there are any sections of the patio that could be removed. He noted the 12 ½' square section to the right and also the part which is encroaching into the side yard setback. He stated if some of this were removed, it would still leave a generous size patio. Mr. Scarlata stated they have not looked into this.

Mr. DosSantos asked if the hot tub is a surface hot tub or was it installed into the patio, and Mr. Scarlata stated it sits on a block on the surface. The raised part of the patio is to allow them to get into the hot tub easier.

Mr. Smith asked the required setback, and it was noted it is 15'.

Mr. Gruen asked if the hot tub is currently operational, and Mr. Scarlata stated it is.

Mr. Malinowski asked if they would be agreeable to continuing this matter so that they can meet with the Township engineer to discuss stormwater solutions, and Mr. Scarlata agreed to do so. Mr. Smith stated he would also suggest that he discuss this with the contractor to see if there is a way to re-design some of this so that they can meet the 15' setback.

Mr. DosSantos stated he indicated that the project is approximately 95% complete and asked what portion is not complete. Mr. Scarlata stated only the pergola has not been completed. The surface itself is complete.

Mr. Gruen stated they show 5' on the point, and asked the setback as you go away from the point by the hot tub; and Mr. Scarlata stated he believes it is close to 15' as it falls off. Mr. Gruen asked the setback at the location of the steps, and Mr. Scarlata stated he feels it is 7' to 8'.

Mr. Scarlata stated the neighbor on the side of the encroachment was unable to attend but he provided a letter of support for the installation. This was marked as Exhibit #A-3 and is dated 10/20/08 from Gilbert and Elizabeth Hamberg. Mr. Smith stated he would like to have live testimony, and Mr. Scarlata stated he is out of the country at this time, but may be able to attend the next meeting.

It was agreed to continue the matter until December 2, 2008.

Mr. Gruen asked if they would be agreeable to working with Mr. Majewski on a bog garden that could hold water on the right side of the pergola, and Mr. Scarlata stated he would be willing to consider this. He stated if done properly with the proper plants it will hold the water and release it slowly, and it could be part of the mitigation.

Mr. Donaghy stated he would be in favor of the continuance to consider ways to deal with the impervious surface.

Mr. Malinowski asked if there was anyone present to speak in favor of the Application. Mr. Christopher Curran, 1024 Darby Drive was sworn in and stated he has no objection to anything that was done, and he feels what they have done will increase the property value.

Mr. Ron Keddick, 1023 Darby Drive, was sworn in and stated he lives across the street and feels it will improve the property value.

There was no one present to speak in opposition.

Mr. Smith moved, Mr. DosSantos seconded and it was unanimously carried to continue the matter to 12/2/08 at 7:00 p.m.

November 3, 2008

Zoning Hearing Board – page 10 of 10

OTHER BUSINESS

Appeal #08-1476 – Pennsbury School District Extension

Mr. Smith moved, Mr. Bamburak seconded and it was agreed to grant an Extension to 6/17/09.

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

Respectfully Submitted,

Gregory J. Smith, Secretary