

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – NOVEMBER 17, 2009

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on November 17, 2009. Chairman Malinowski called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman
 Paul Bamburak, Vice Chairman
 Gregory J. Smith, Secretary
 Jerry Gruen, Member
 Anthony Zamparelli, Member

Others: Robert Habgood, Code Enforcement Officer
 John Donaghy, Township Solicitor (left meeting in
 progress)
 Allen Toadvine, Zoning Hearing Board Solicitor
 Matt Maloney, Supervisor Liaison

Absent: James Majewski, Township Engineer

APPEAL #08-1483, 83(A), 83 (B) – T-MOBILE NORTHEAST LLC

Mr. Toadvine stated he received a letter today from the Applicant's attorney, Eric Goldberg, dated 11/6/09. The letter indicates that the Applicant is requesting that the matter be continued, and they are waiving the time limits pursuant to the Municipalities Planning Code. They are asking that the matter be listed for the second meeting in January which is January 19, 2010. This letter was marked as Exhibit B-4.

Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried to continue the matter to 1/19/10.

APPEAL #09-1525 – MATRIX LOWER MAKEFIELD LAND II, LP

Mr. Toadvine stated he received a letter late this afternoon from the Applicant's attorney, Greg Duffy. The letter is dated 11/17/09. He stated they are requesting a Continuance to December 1, 2009. Mr. Toadvine stated the request is based upon the fact that they have revised their signage proposal, and they would like the Board of Supervisors to review it prior to the Zoning Hearing Board meeting. He stated they are waiving the time limits pursuant to the Municipalities Planning Code. The letter was marked as Exhibit B-3.

Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried to continue the matter to 12/1/09.

Mr. Donaghy stated the Township is not taking a position on the following two matters, and he left the meeting at this time.

APPEAL #09-1530 – EILEEN AND JAMES MAHONEY

Mr. Scott Fegley, attorney, was present with Ms. Eileen Mahoney who was sworn in. Mr. Fegley stated they are requesting some minor Variances. He stated one is for impervious surface, and they are requesting a Variance of 2%. He stated for this property they are permitted 24% impervious surface. He stated the Plan which was originally submitted requested a Variance up to 28%, but they have since gone back and Plans that were submitted this evening show they have worked that down to 26%.

Mr. Fegley stated his client did have some work done a number of years ago and were not aware that Permits or Waivers were required so that they were over the permitted impervious surface ratio. He stated they have agreed to take out a part of the driveway to reduce the impervious surface to 26%.

Mr. Fegley stated the other Variances requested have to do with the sheds. He noted the diagram of the property showing the sheds. One is 8' by 15' on the right hand side of the property, and there is a smaller 10' by 8' shed on the left hand side of the property. He stated the larger shed was existing when they bought the property. He stated his clients are senior citizens, and they installed walkways to make access to and from the sheds easier.

Mr. Fegley provided this evening a letter from Mr. Mahoney who was ill and unable to attend this evening.

Mr. Fegley stated Mr. and Mrs. Mahoney would like to put a new addition on the right hand side of the house. It is a 13' by 10' addition. He stated they will remove the shaded area of driveway shown on the plan to reduce the impervious surface to 26%.

The Application submitted was marked as Exhibit A-1. The revised Plan submitted by Mr. Fegley this evening dated 8/21/09, last revised 9/24/09 was marked as Exhibit A-2. The impervious surface break down calculation was marked as Exhibit A-3.

Mr. Toadvine stated the Township had a different calculation on the impervious surface.

Mr. Habgood stated from the Plan submitted with the Application he calculated 29.3%, and they showed 28%. He stated he is not sure what area of the driveway they are removing with the Revised Plan. Mr. Fegley stated a 17' by 19' area of the driveway will be removed. Mr. Habgood was given the opportunity to review the new Plan submitted this evening by the Applicant, and Mr. Habgood stated his calculation result in 27.1%. Mr. Fegley agreed to amend the Application to request 27.1% impervious surface.

The statement submitted by Mr. James Mahoney, a two-page document dated 11/17/09, was marked as Exhibit A-4.

Mrs. Mahoney stated they moved into the house approximately eight years ago, and they were both retired. She stated she has osteoarthritis. She stated there are wooden steps from the garage into the family room; and it is difficult for her to access the house in this way when she has gone shopping. She stated when it is raining and snowing it has become increasingly more difficult. Mrs. Mahoney stated the addition proposed will provide access right beside the house, and she can go right into her kitchen and be protected from rain, snow, and ice. Mrs. Mahoney stated what is proposed is similar to a vestibule. It will not be heated. She stated it will provide her much easier access to the house.

Mrs. Mahoney stated the large shed was existing when they moved in. She stated the driveway was in very poor condition and the area was overgrown. She stated they had someone come in and redo the driveway. She stated where they previously resided, they did not need Permits; and they did not know that they needed one at this house. She stated they have now agreed to take out some of the asphalt.

Mr. Fegley stated none of the neighbors have any objection to this, and there are no water run off problems in the area. He stated the driveway is on the property line currently, and this was pre-existing. Mr. Fegley stated there will be no significant impact on the surrounding area, and it is a safety concern for his clients.

Mr. Zamparelli asked what is in the 8' by 10' shed, and Mrs. Mahoney stated it has lawn equipment. Mr. Zamparelli asked if there is any way this equipment could be put in the other shed, and Mrs. Mahoney stated there is not as her husband has a tractor. She stated they also have a snow blower. Mr. Zamparelli asked if they have a single or double garage, and Mrs. Mahoney stated it is slightly larger than a one-car garage, but they can only park one car in it.

Mr. Gruen asked if they are seeking three Variances, and Mr. Toadvine stated they are actually seeking four – one for impervious surface, a side yard setback for the new addition, and setbacks for both sheds. Mr. Gruen asked if they installed the sidewalks, and Mrs. Mahoney stated they did have someone install them so they could get to the sheds in the winter time. Mr. Gruen stated if they removed some of the sidewalk, they could eliminate a lot of impervious surface. He stated they would not be using the lawn

mower in the winter, and the snow blower could be kept in the garage. He stated there is 237 square feet of sidewalks. Mr. Bamburak stated they have agreed to take some impervious surface out.

Mr. Fegley stated Mrs. Mahoney does sometimes have to get to the sheds from time to time, and this provides a level surface to walk on both in the winter and the summer. Mrs. Mahoney stated she does hang out laundry on the clothesline, and this is near the shed in the back yard.

Mr. Toadvine stated there is a net reduction of almost 200 square feet impervious surface.

Mr. Smith stated while he is pleased they have come before the Board now for the Variance, it concerns the Board when there have been past violations of the Zoning regulations. Mr. Fegley stated the original Plan that was submitted was for 28% to 29% impervious surface; and when he met with his clients, he discussed this with them and encouraged them to remove as much impervious surface as they could. Mr. Smith asked what the patio is made of, and Mrs. Mahoney stated it is brick, and is at ground level. Mrs. Mahoney stated they had a contractor do the work, and they did not know they needed a Permit.

Mr. Zamparelli noted the letter from Mr. Mahoney indicated that the water drains on the property itself; and Mrs. Mahoney stated there is a slant downward from the driveway, and the shed is in the front and they had them put in three drains under the shed. She stated in a heavy rain, there is water in the rear yard; but it does not extend to the neighbors' yards, and it then dries up.

Mr. Fegley stated they are agreeing to reducing the impervious surface from what is there now.

There was no one present to speak on this matter, and the Public Hearing portion was closed.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to grant the Variance to allow impervious surface of 27.1%, 2' side yard setback for the new addition, encroachment of 6' for one shed, and encroachment of 2' for the other shed.

APPEAL #09-1532 – MICHAEL AND ANDREA DOLUISIO

Mr. Michael Doluisio and Ms. Andrea Doluisio were sworn in. The Application submitted was marked as Exhibit A-1. Accompanying the Application was an 11" by 17" drawing, time-stamped by the Township 10/14/09 showing the proposed fence highlighted in yellow; and this was marked as Exhibit A-2.

Mr. Doluisio submitted a letter to the Board this evening and stated this is from a representative of the engineering firm that did their survey a number of years ago; and they asked them whether they felt the proposed fence would have any interference with any drainage issues. Mr. Doluisio stated while the individual did not come out to the property, he was familiar with their property; and based on the type of fence they were proposing, he did not feel that there would be any drainage issues.

Mr. Doluisio stated they would like to install a fence along the back and side of their property line. He stated they have a 50' setback on the back and a 20' setback on the side. He stated they would like to run the fence along the property line. He stated they have a pool which has a fence around it, and they are building a patio behind the home. He stated they would like to enclose both the patio and the pool within one common fence; but because they have a 50' setback, the only way they could do this without a Variance would be to run the fence along the middle of their back yard. He stated they would like to run the fence along the property line so that they can use their rear yard as one common contiguous area. Mr. Doluisio stated they do not feel this will affect the drainage or the detention basin. He stated the water that leads into the detention basin goes through an underground pipe, and the fence that they are proposing is an open rail fence. He stated they do not have any drainage issues on their property.

Mr. Doluisio stated their neighbors have been informed about their proposal, and they did not indicate that they had any objections.

Mr. Malinowski asked if they would agree that should any work need to be done in the easement, that they would remove and replace the fence at their own expense; and Mr. Doluisio stated they would agree to this.

Mr. Bamburak stated typically they also request that they keep the fence 2" above grade level, and Mr. Doluisio agreed. Mr. Habgood stated this fence would also be a pool enclosure fence so there cannot be any spacing greater than 2". Mr. Doluisio stated they will remove the existing pool fence, if this is approved.

Mr. Gruen asked how high the fence will be, and Mrs. Doluisio stated it would be 5'2" high; and Mr. Habgood stated to meet the pool requirement, the fence would have to be a minimum of 5' high.

There was no one present to speak on this matter, and the Public Hearing portion of the meeting was closed.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to grant the Variance to allow the fence to be built in the easement with the Condition that if the fence ever has to be removed for access to the easement, that it will be done at the cost of the homeowner for replacement of the fence; and that the bottom of the fence have a gap of between 1 ½" to 2".

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There being no further business, Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to adjourn the meeting at 8:15 p.m.

Respectfully Submitted,

Gregory J. Smith, Secretary