

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
REORGANIZATION MEETING
MINUTES – JANUARY 5, 2010

The reorganization meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on January 5, 2010. Mr. 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
 Jim Esposito, Township Solicitor
 James Majewski, Township Engineer
 Allen Toadvine, Zoning Hearing Board Solicitor
 Matt Maloney, Supervisor Liaison

REORGANIZATION OF THE BOARD

The meeting was turned over to Mr. Toadvine who called for nominations for Chairman of the Board for 2010. Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to elect David Malinowski as Chairman for 2010.

The meeting was turned over to Mr. Malinowski who called for nominations for Vice Chairman of the Board for 2010. Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to elect Paul Bamburak as Vice Chairman for 2010.

Mr. Malinowski called for nominations for Secretary of the Board for 2010. Mr. Bamburak moved, Mr. Zamparelli seconded and it was unanimously carried to elect Gregory J. Smith as Secretary for 2010.

APPOINTMENT OF SOLICITOR

Mr. Malinowski stated he is in receipt of a letter from the firm of Marte & Toadvine indicating that Mr. Toadvine is interested in continuing as Solicitor at his current hourly rate.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to appoint the Marte & Toadvine as the Zoning Hearing Board Solicitor.

APPOINTMENT OF COURT REPORTER

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to appoint Donna D'Angelis-Lehman as Court Reporter.

MOTION ON CHANGE OF TIME FOR MEETINGS FOR 2010

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried that the meeting times for 2010 will be changed from 7:30 p.m. to 7:00 p.m.

APPEAL #09-1536 – CHRISTOPHER HEULITT

The Application submitted was marked as Exhibit A-1. Attached to the Application was a one-sheet plan entitled “Site Plan for Christopher Heulitt” dated 7/6/90, time-stamped by the Township 11/9/09; and this was marked as Exhibit A-2. Also attached was a one-sheet Plan which has elevation indications for the property, time-stamped by the Township 11/9/09; and this was marked as Exhibit A-3. Mr. Heulitt provided this evening an additional document which was a one-page summary, and this was marked as Exhibit A-4.

Mr. Christopher Heulitt was sworn in and stated the reason he submitted Exhibit A-4 this evening is because if the Board accepts the efficacy of permeable pavers in land management, it is his intention to actually decrease the amount of impervious surface on his property by removing 66 square feet of solid concrete which is impervious, remove 553 square feet of brick patio which is deemed impervious, and remove 844 square feet of wood decks which is permeable. In place of this he intends to install 1,462 square feet of permeable pavers over an infiltration system as recommended by the EPA which manages the stormwater run off through a number of agencies. Mr. Heulitt stated he feels his proposal will actually reduce the amount of impervious surface on his property by 1,619 square feet or 3.2%.

Mr. Malinowski asked his current impervious surface ratio, and Mr. Heulitt stated he feels Mr. Habgood can answer this. Mr. Habgood stated he cannot calculate the amount of impervious surface on the property because the Site Plan submitted is inconsistent with what is existing on the property. He stated he visited the property today and observed that the driveway is not shown on the Site Plan as it exists as it is a “T” rather than an “L”

as shown on the Site Plan. He stated the Site Plan also does not depict the front walkway as it exists, and there is also a second accessory structure on the property as opposed to the one shown on the Site Plan.

Mr. Toadvine advised Mr. Heulitt that Mr. Habgood has indicated that the document marked as Exhibit A-2 shows a driveway this is an “L” shape when in fact it is a “T” shape, and even though one shed is shown on the Site Plan, there are actually two sheds. Mr. Toadvine stated Mr. Habgood has also indicated that even though the walkway is depicted on the Site Plan, it is not shown as it exists. Mr. Toadvine asked if the Plan marked as Exhibit A-2 depicts all the impervious surfaces on the property as it now exists, and Mr. Heulitt stated the only thing that would be added would be 90 to 100 square feet of driveway. Mr. Toadvine asked about the additional shed, and Mr. Heulitt stated it has been there for twenty years and it is a removable shed that was put on the spot when they put the pool in seventeen years ago. Mr. Toadvine stated even though it may not be permanently affixed to the land, it is still impervious since it is a structure.

Mr. Esposito stated the Township is participating in this matter and they would like to see a plan submitted that accurately shows the condition of the property as it currently exists.

Mr. Smith stated the Board cannot make any kind of determination without an accurate representation of the current impervious surface, and he suggested that Mr. Heulitt provide the Township a Plan that accurately depicts the property as it exists with a calculation of the total impervious surface. He stated Mr. Heulitt could request a continuance so that he has the time to provide this to the Township.

Mr. Gruen stated he would also like to have information on how he plans to install the permeable blocks he is proposing and would also like to have information on the maintenance required.

Ms. Bernadette Heulitt was sworn in and stated they provided a packet of information to the Township. Mr. Maloney stated that was at a Board of Supervisors meeting. Mr. Majewski stated he does have this information. Ms. Heulitt stated when they purchased the house, they had a solid cement walkway that went from the front porch all the way around. She stated they took the cement out and they have bricks there. She stated there was also other cement. She stated she is upset because she is tired of “jumping all over for everybody,” and paying for permission to get her house fixed up the way she wants to get it. She stated they have tried to do everything they were supposed to. She stated the Township is supposed to work for them, and not against them.

Mr. Smith stated they have never been before the Zoning Hearing Board. Ms. Heulitt stated they should know everything because they brought all the information here. Ms. Heulitt stated they gave it to the people who are in charge of them being before the Zoning Hearing Board. Mr. Heulitt stated he prepared eleven packages for the Board. Mr. Smith stated the Plan they submitted is not accurate. Mr. Bamburak stated the Township cannot calculate the impervious unless they have accurate measurements. He advised Mr. Heulitt he would not have to hire a land surveyor, but the Board needs to have them submit a Sketch with accurate measurements that the Board can read. Mr. Heulitt stated he can measure it and give it to the Board, but he does not know how to determine impervious surface and feels Mr. Habgood could do this once he has the measurements. Mr. Heulitt stated when they put the swimming pool in, they did have a survey done; and that is where the Plan submitted came from, and they had an estimate of impervious surface. He stated he has no idea what the impervious surface is now.

Ms. Heulitt stated they took out the original sidewalk and put in brick. Mr. Smith stated brick is impervious surface. Ms. Heulitt stated when they put it in, it was not considered impervious. Mr. Smith stated it is considered impervious now, and they will need to measure all of this. He stated even the pervious pavers they are considering installing are still considered under the Zoning to be impervious surface, and Mr. Habgood agreed. Mr. Heulitt stated Mr. Maloney did explain this to them. Mr. Smith stated they will need to put measurements for everything that is existing on the Plan so they can determine the existing impervious surface before they can make a decision about their proposal.

Mr. Malinowski asked Mr. Heulitt how long he needs to provide this information noting that the next meeting of the Zoning Hearing Board is January 19. Mr. Heulitt stated he could provide them to Mr. Habgood prior to that time.

Ms. Heulitt stated they are not in a floodplain and their property is elevated. She stated they do not have a sump pump, and they do not have flood insurance because the water goes right through their property; and water has never been an issue to them. Mr. Smith stated this is actually part of the problem since when your property is at a higher level than those around you, if you have impervious surface on your property, the water as opposed to seeping into the ground, runs off onto other peoples' property; and this is why they look at impervious surface even more closely. He stated they want to make sure they have enough pervious surface as possible to absorb the rain water.

Mr. Heulitt agreed to provide a new Plan to Mr. Habgood and agreed to come back to the Board on January 19.

Mr. Bamburak asked that they make sure that what they put on the Plan is legible.

Mr. Heulitt stated what he intends to do will actually decrease the impervious surface since he is removing brick and concrete. Mr. Smith stated the Zoning Hearing Board cannot change the Zoning regulations; and if the regulations state that the pavers he is proposing are impervious, the Board has to look at them as impervious; but he added they have granted Variances in the past for those wishing to install impervious surface that had a net result of being pervious.

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

APPEAL #09-1537 – DANIEL P. MC DONNELL

The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet Plan dated 9/19/09, last revised 9/29/09, and this was marked as Exhibit A-2.

Mr. Daniel McDonnell and Ms. Julie O'Donnell were sworn in. Mr. McDonnell stated he and Ms. O'Donnell are business partners. He stated they made an application to repair and update the sidewalks and patio surface areas as well as landscaping and a retaining wall. He stated they purchased the property approximately two years ago, and the property is in need of repair. He stated the main issue is safety as they are concerned that people are going to get hurt as the surfaces are uneven. He stated they also need to remove an underground oil storage tank which is fifty years old and is located underneath the walkway.

Mr. Toadvine asked if the property is occupied, and Mr. McDonnell stated it is not a permanent residence and it is primarily used on the weekends.

Mr. Toadvine stated even though they are increasing the impervious surface, they are still under the permitted amount. He stated the reason they are before the Zoning Hearing Board is because they are proposing construction in the floodplain.

Mr. Esposito stated the Township is not participating in this matter. Mr. Majewski stated there are no engineering issues with this Application.

Mr. Malinowski stated they are repairing what is there; and because the property is in the floodplain, they were required to come before the Zoning Hearing Board.

There was no public comment, and the Public Hearing portion was closed.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to grant the relief as requested.

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CANCEL 2/2/10 MEETING

Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried to cancel the 2/2/10 Meeting due to lack of Agenda items.

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

Respectfully Submitted,

Gregory J. Smith, Secretary