

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JANUARY 7, 2014

The Reorganization Meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on January 7, 2014. Vice Chairman Gruen called the meeting to order at 7:35 p.m. noting that since there are only four Board members present this evening a two to two vote would result in a Denial so that any Applicant may choose to have their matter continued until there is a full Board present.

Those present:

Zoning Hearing Board: Jerry Gruen, Vice Chairman
 Keith DosSantos, Member
 Mark Moffa, Member
 James McCartney, Alternate Member

Others: Robert Habgood, Code Enforcement Officer
 Mark Eisold, Township Engineer
 Barbara Kirk, Zoning Hearing Board Solicitor

Absent: Paul Bamburak, Zoning Hearing Board Chairman
 Anthony Zamparelli, Zoning Hearing Board Secretary

REORGANIZATION OF THE BOARD FOR 2014

Mr. DosSantos moved, Mr. Moffa seconded and it was unanimously carried to re-appoint Paul Bamburak, Chairman, Jerry Gruen, Vice Chairman, and Anthony Zamparelli, Secretary for 2014.

APPOINTMENT OF SOLICITOR

Mr. DosSantos moved, Mr. Moffa seconded and it was unanimously carried to appoint Barbara Kirk as Zoning Hearing Board Solicitor.

APPOINTMENT OF COURT REPORTER

Mr. Gruen moved, Mr. Moffa seconded and it was unanimously carried to appoint Donna D'Angelis-Lehmann as Court Reporter.

APPEAL #13-1682 – MANDY AND BRIAN BOZARTH

The Application submitted was marked as Exhibit A-1. A letter issued by the Township entitled, "Notice of Disapproval," was marked as Exhibit A-2. The Site Plan was marked as Exhibit A-3. A letter from the Applicant asking that the matter be scheduled in January rather than December was marked as Exhibit A-4. A letter of support signed by various neighbors was marked as Exhibit A-5. Notice of the Hearing was published in the Bucks County Advance, and Proof of Publication was marked as Exhibit B-1. The property was posted with Notice of the Hearing, and a copy of that Posting was marked as Exhibit B-2. Notices were mailed to residents as required by the Ordinance, and a copy of the letter along with the listing of addressees was marked as Exhibit B-3.

Mr. Brian Bozarth and Ms. Mandy Bozarth were sworn in and agreed to proceed at this time.

Mr. Bozarth stated they have been in their home since August, 1996. He stated they love the area and their neighbors and would like to expand their home and build a three-season room onto the back of the house to add living space to their home. He stated they submitted the letter to the Township indicating that their neighbors have no issue with them adding this room. He stated they are required to be a certain number of feet away from Oxford Valley Road which is a collector road.

Mr. Moffa asked about the deck and the sheds as there is a letter indicating that there are no Permits on file for these. Mr. Bozarth stated when they moved into the house there was a patio where the one deck is, and the patio was sinking. He stated it was a hazard and they had a deck built, and he did not realize he needed a Permit to go over the existing patio. He stated the other deck is over a step that was out the back door which had also sunk into the ground so the step coming out was hazardous. He stated he bought the sheds from a shed dealer, and he did not realize that they needed permits as he felt the dealer had taken care of it. He stated they were brought in probably by 1998.

Mr. Moffa stated it appears that the wood deck already encroaches into the 100' setback, and Mr. Habgood agreed. Mr. Bozarth stated the house is also within 85' of the road.

Mr. Gruen asked about impervious surface, and Mr. Habgood stated they are not asking for a Variance for impervious surface; but when he checked the Building Permit he found they are only at 12.5% including the sheds and decks, and they are permitted 18%. Mr. Gruen asked if they will have to come for permission to have the sheds at these locations, and Mr. Habgood stated he could amend his Application now to include the sheds as well. Ms. Kirk stated the Applicants could do this if they wish. Mr. DosSantos stated the two sheds are non-conforming now, and they could

amend their Application so the Board could act on those as well as opposed to the Applicant having to come back for the sheds at a later date. Mr. Bozarth agreed to amend the Application.

Mr. Gruen asked if they would be willing to move the smaller shed away from Oxford Valley Road, and Mr. Bozarth agreed that they would. Mr. McCartney asked what would be the requirement if it were not for the special setback, and Mr. Habgood stated it would be 10'. Mr. Bozarth stated he could pull the shed forward to get it away from the fence, but there are some larger trees in the further corner. Currently they are 6.5' from and road, and he agreed to move it back to 10' from the road.

Mr. DosSantos asked if there are two separate decks currently, and Mr. Bozarth stated there are two separate decks with a step down for the larger one. He will be keeping the deck to the left.

Mr. Gruen asked the height of the proposed new structure.

Mr. Elwood Wolfe was sworn in. He stated the deck where the addition will go is out 12 ½' from the house now, and he was going to add 2 ½' to it to make it 15' which would even it out with the lower deck. He stated it would make it 75' from the property line, and the house is 90' from the property line. He stated the ground slopes down, and off the ground the deck at the low end is 3' off the ground and they have will have 8' for the room plus approximately another 3 ½' for the angle of the roof. He stated it is a one-story a-frame back against the house. Mr. Gruen asked if the height of the roof will exceed 15', and Mr. Wolfe stated it will not.

Mr. Gruen stated according to the drawing it shows that the deck now is 68 ½' away from Oxford Valley Road. Mr. Wolfe stated the back of the house is 90' from the property line on the Plan. He stated the deck that is there now is 12 ½' out, and he will add 2 ½' to make it 15' to even it with the other deck. Mr. Moffa asked how Mr. Wolfe determined it was 90', and Mr. Wolfe stated he measured it himself back to the fence and also checked it with the Plan. He stated he measured the house to be 90' from the property line as shown on the Plot Plan. He stated he feels the fence is 6" in from the property line. Mr. Habgood stated when he scaled it on the Site Plan that was submitted as Exhibit A-3, he got 71' to the rear property line from the closest corner of the deck. He stated for the house he got 87'. Mr. Wolfe stated the house and the back of the property line is on an angle, so if you go from the corner it is probably a little closer; but where the addition is going because of the angle it is closer to 90'.

Mr. Gruen stated he feels any Variance granted should be for the size of the room which is 15' by 20' wide.

There was no one present in the audience wishing to speak on this matter.

Mr. DosSantos moved, Mr. McCartney seconded and it was unanimously carried to grant the Variance as requested with the Stipulation that the three-season room be limited to the size of 15' out from the house with a 20' width, and the shed in the upper right corner of the property looking out toward Oxford Valley Road from the house be moved 3 ½' in further toward the house from the property line to give a 10' setback from the property line.

APPEAL #13-1683 – RAY SHAFFER

Mr. Ray Shaffer was sworn in and agreed to proceed at this time.

The Application submitted was marked as Exhibit A-1. A two-page Plan of the property showing the proposed features was marked as Exhibit A-2. A set of impervious surface calculations submitted was marked as Exhibit A-3. Notice of tonight's Hearing was published in the Bucks County Advance, and a copy of that Publication was marked as Exhibit B-1. The property was also posted with Notice of the Hearing, and the Posting was marked as Exhibit B-2. Notices were mailed to residents as required by the Ordinance, and a copy of the Notice letter with the addressees listed was collectively marked as Exhibit B-3.

Ms. Kirk stated Mr. Shaffer is asking for a Variance from Section 200-23B as the property was constructed before 1987. Under that Section of the Code the maximum impervious surface coverage is 29%; but based on the documents provided it appears that there is actually 31.77% impervious surface, and he is looking to increase it to 36%. Mr. Moffa stated Mr. Shaffer has indicated that when he purchased the property it was at 31.77%, there is now existing 34.58%, and he is seeking to bring the new total to 35.65% but he felt he would request 36%. Ms. Kirk stated looking at the impervious surface calculations it shows a total of 31.77% with another 2.81% added by the current owner; and he is asking for an increase of 1.07%. She stated what was on the calculations is not matching what was in the Application. Mr. Moffa stated where it shows impervious surface added by current owner this has been done already, and they need to take the 31.77 and add the 2.81.

Mr. Shaffer stated the 31.77 was the existing impervious surface when they purchased the house in 1986. He stated between then and now, when they had the back side walkways replaced with pavers, they had the contractor install a 20' by 14' paver patio on the back of the house. He stated this accounts for another 260 square feet. He stated there was a pool walkway he installed himself when they replaced the aging deck to the above-ground pool. He stated the original pool deck had worn

out, and they were not using the deck as much so he put in a new ladder system that was removable for safety; but he felt they needed a little walkway so they did not get grass in the pool so he installed this. He stated as owners of the house between 1986 and today, they added a total of 305 square feet to the impervious surface bringing it up another 2.81%.

Mr. Shaffer stated with this request, they are asking for another slightly above 1% to widen the sidewalk in the front yard and extend it over to the second driveway. He stated during times of weather like they have had recently with the snow and ice not having a walkway to the second driveway is not the safest to walk on.

Mr. DosSantos asked if there is anything now existing that they are walking on to get from this driveway to the current landing; and Mr. Shaffer stated only to the larger, double driveway off to the left, and there is nothing to the right currently other than grass.

Mr. Moffa asked why there are two driveways, and Mr. Shaffer stated the house came with the two driveways. Mr. Moffa asked how they utilize them, and Mr. Shaffer stated he and his wife use the double driveway on the left most of the time; however, in hazardous conditions like they have had with the snow and ice, they park the cars behind each other on the other driveway because the grade is much lower. He stated they would have a problem if they parked on the double side because the grade is extremely steep, and there is the potential for the cars to slide off onto Big Oak Road. He stated other than that, the only other time it is used is when they have visitors.

Mr. Gruen noted the shed on the left which states “ not impervious.” Mr. Shaffer stated his understanding was that since it is not on concrete and is just a “drop-down” shed, it is not impervious. He stated he had it delivered in 1990/91. He stated it is 8’ by 12’. Mr. Gruen stated it still counts as impervious surface. It was noted that this would account for another 96 square feet. Mr. Shaffer he should therefore request to extend his request more to cover this.

Ms. Kirk stated his request would be to add impervious surface by 212 square feet if they add the 96’ for the shed.

Mr. McCartney asked the setback for the shed, and Mr. Shaffer stated the back of the shed to the property line in the back is approximately 3’ and from the side property line to the shed it is approximately 6’ to 8’.

Mr. Gruen stated the job of the Zoning Hearing Board is to give the minimum amount of relief if a hardship is involved. Mr. Gruen stated Mr. Shaffer is requesting about 200' additional square feet. Mr. Gruen stated there is an 83' driveway of which only about half is used for two car lengths. He stated one of the solutions may be to remove 15' to 18' of the blacktop. Mr. Shaffer stated it is concrete, not blacktop. Mr. Gruen stated if he removed 15' to 18' of the concrete, the Board might be able to approve the request. Mr. Shaffer stated there may be a problem with this since his neighbor's home is a bi-level, and he is not sure how the grading would work as his neighbor already has flooding which has occurred in his home from the excess rain from his own yard – not Mr. Shaffer's yard. Mr. Shaffer stated there may be a problem for his neighbor as he does not know much about grading and whether this may cause future problems for his neighbor.

Mr. Eisold stated if you remove concrete and put in grass, it would result in less run off. He stated they would have to re-grade it to be exactly at the elevation that the driveway was before. He stated overall there should be less of an impact than before.

Mr. Shaffer stated the Plans show the 3' section of grass between the house and the driveway which is graded from the level up about 3' toward the house, and he asked if this would make any difference. The slope is coming from the house down to the driveway. Mr. Eisold stated he does not feel this would be a problem provided the grading is put back in the driveway where the driveway was, and it would only decrease because the run off from the driveway will be less if they plant grass there which allows the water to soak into the ground and decrease the flow to the neighbor's property.

Mr. Gruen stated if he cut the driveway even with the front of the house, he would not need a Variance. Mr. Shaffer stated they did discuss this; but they did not get an engineer involved in this, and they were concerned for the neighbors. Mr. Moffa stated if they remove impervious surface it should help. Mr. Shaffer stated his neighbor is another 3' below their driveway. Mr. Gruen stated if Mr. Shaffer removes impervious surface, it should help. Mr. Shaffer stated currently the slope is down toward the road, so the rain goes down to the road, and not to his neighbor.

Ms. Kirk stated if they made driveway two the same length as driveway one and removed the excess to the back, based on her calculations this would be 320 square feet removed. She stated this would keep driveway two even with driveway one. She stated he would therefore not need to have a Variance since it would reduce the impervious by 320 square feet. Mr. Habgood stated he would still need a Variance since there was work done without benefit of a Permit. Mr. Gruen stated it would be easier for the Zoning Hearing Board to grant the Variance if this were done.

Ms. Kirk showed Mr. Shaffer on the Plan where the driveway could be removed.

Mr. McCartney stated he should also move the shed so that he has 10' setback from the rear and side of the property. Mr. DosSantos stated this would put the shed in the line of the pool; however, Mr. Shaffer stated he did not have a problem moving the shed.

Mr. Gruen stated he feels if Mr. Shaffer is willing to remove the concrete, he feels he could leave the shed where it is and give him the Variance; however Mr. Habgood stated this would have to be re-advertised. Mr. Moffa stated Mr. Shaffer has indicated that he would be willing to move the shed to meet the 10' requirement.

Mr. Shaffer stated he would also agree to cut the driveway as suggested.

There was no one present in the audience to speak on this matter.

Mr. DosSantos moved, Mr. Moffa seconded and it was unanimously carried to approve the Application for increased impervious surface as currently existing and with the proposed construction with the following Conditions:

- 1) 320 square feet of concrete will be removed from the back end of driveway 2;
- 2) The rear shed be re-located to allow for a 10' rear and side yard setback.

APPEAL #13-1684 – PHYLLIS PATTERSON

Ms. Phyllis Patterson and Mr. Steven Miller, builder, were sworn in.

The Application submitted was marked as Exhibit A-1. A Plot Plan was marked as Exhibit A-2. A three-page Plan showing the proposed enclosure was marked as Exhibit A-3. Notice of the Hearing was published in the Bucks County Advance, and a copy of the publication was marked as Exhibit B-1. Notice was posted at the property, and a copy of the Posting was marked as Exhibit B-2. Notices were mailed to property owners as required by Ordinance, and a copy of the Notice Letter with the list of addressees was collectively marked as Exhibit B-3. Ms. Patterson stated she also has a letter from her neighbors, and this was marked as Exhibit A-4.

Ms. Patterson stated that she would like to proceed with the Hearing tonight.

Ms. Kirk stated Ms. Patterson lives in a home with a rear yard deck, and she would like to enclose the deck portion to construct a three-season room. The deck itself already encroaches by 5' into the required 45' rear yard setback, and because of the enclosure she is asking for a Variance to encroach 5' into the rear yard setback.

Mr. Gruen asked if they are changing the footprint, and Mr. Miller stated they are not. He stated they did get a Permit for the deck, and the intention was always to enclose it as a three-season room. Mr. Gruen asked why the deck was approved by the Township if they did not have the right setback, and Mr. Habgood stated an open deck or patio can encroach into the rear yard setback for the Zoning District it is in.

Mr. Gruen asked about the height of the room, and Mr. Miller stated it will be lower than the existing roof. He stated there was previously a pool with an enclosure with a roof which was 25' by 12' , and they removed this two years ago.

Mr. Gruen stated he assumes there are no impervious surface issues, and MR. Habgood agreed.

There was no one present to speak on this matter.

Mr. Moffa moved, Mr. McCartney seconded and it was unanimously carried to approve the Variance as requested.

OTHER BUSINESS

There was some discussion by the Board about visiting the Applicant's property. Ms. Kirk stated the Board could not go out and inspect the property as a group. She stated while individual Board members could drive by the property, they could not go onto the property unless the property were to agree to it; and if the property owner would not agree to it, it could be difficult if they voted against the Application. Mr. Gruen stated he feels he would have voted differently on some recent Applications if he had seen the property first. Mr. Moffa stated he understood that the Board could meet at the property under certain circumstances; and Ms. Kirk stated a specific site visit would have to be requested, advertised, and announced and include the Applicant, Applicant's counsel, and any interested Parties. Mr. Moffa stated while his could be cumbersome, he feels this would only be reserved with specific cases.

January 7, 2014

Zoning Hearing Board – page 9 of 9

There being no further business, Mr. Moffa moved, Mr. DosSantos seconded and it was unanimously carried to adjourn the meeting at 8:30 p.m.

Respectfully Submitted,

Jerry Gruen, Vice Chairman