

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – OCTOBER 21, 2014

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on October 21, 2014. Chairman Bamburak called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: Paul Bamburak, Chairman
Jerry Gruen, Vice Chairman
Anthony Zamparelli, Secretary
Mark Moffa, Member

Others: Robert Habgood, Code Enforcement Officer
Maryellen Saylor, Township Engineer
Barbara Kirk, Zoning Hearing Board Solicitor
Kristin Tyler, Supervisor Liaison (joined meeting in progress)

Absent: Keith DosSantos, Zoning Hearing Board Member

APPEAL #14-1706 – FIELDSTONE LANDSCAPES

The Application submitted was marked as Exhibit A-1. An impervious surface break-down chart provided was marked as Exhibit A-2. A two-page letter from the property owners in support of the Application was marked as Exhibit A-3. A copy of a Site Plan provided was marked as Exhibit A-4. Specifications for the proposed rain garden were provided, and this was marked as Exhibit A-5. Notice of tonight's Hearing was published in the Bucks County Advance, and a copy of that publication was marked as Exhibit B-1. Notice was also posted at the property of tonight's Hearing, and a copy of that posting was marked as Exhibit B-2. Notices were mailed to property owners as required by the Ordinance, and a copy of the letter with the list of addressees was marked as Exhibit B-3.

Mr. Eric Korn, representing Fieldstone Landscapes, was present with property owners, Frank and Marcella Rozwadowski; and they were sworn in.

Mr. Korn stated they wanted to have a patio, and it came back that they were over the impervious surface so in order to proceed, he felt the Township would want to have a rain garden to mitigate the impervious surface. He stated what has been submitted is to mitigate not only the patio but anything else that puts them over the impervious surface, and to bring them back down to under 18%. He stated the

rain garden has already been installed including all the plants. He stated in addition to the rain garden, they also put in a bio swale that will collect all the water from the proposed patio once installed down to the rain garden.

Ms. Tyler joined the meeting at this time.

Mr. Bamburak noted that there are only four Board members present this evening; and in the case of a tie, the Appeal would be denied. He stated the Applicants could continue with the request or request a Continuance to another time when there would be an odd number of Board members.

Mr. Bamburak stated he is in favor of the rain garden, and this is one of the things that the Board typically likes to see.

Mr. Bamburak asked Ms. Saylor if she had an opportunity to review the calculations to see if they are appropriate; and Ms. Saylor stated she did, and she was also in favor of the rain garden being included. Ms. Saylor stated that generally they do not like to see any more than 6" of ponding in a rain garden, and they have 12". Mr. Korn stated in reality, it is wider and longer. He stated he feels it is 28' long and 14' wide. Ms. Saylor stated since they have the bio swale, this will also help with infiltration.

Mr. Zamparelli asked if this has to be maintained, and Ms. Saylor stated it should take very little maintenance once the plants are established.

Mr. Gruen asked the type of plants installed; and Mr. Korn stated they are all native plants, and it is a combination of shrubs and perennials. He reviewed the specific plants that were installed.

Mr. Korn stated currently when you walk out the back yard you walk right onto the grass.

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

Mr. Korn stated the size of the patio is 281 square feet, and it will be matched field stone. He stated there will also be a walkway, and this is included in the 281 square feet.

Mr. Habgood stated he agrees with the calculations provided.

Mr. Gruen stated he would like to the Township engineer to inspect the rain garden.

Testimony was closed.

Mr. Gruen moved, Mr. Moffa seconded and it was unanimously carried to approve the Variance as requested subject to the maintenance of the rain garden and the bio swale as inspected by the Township engineer.

APPEAL #14-1707 – MICHAEL AND MARIA CORNWALL

The Application submitted was marked as Exhibit A-1. A Site Plan provided was marked as Exhibit A-2. Notice of tonight's Hearing was published in the Bucks County Advance, and this was marked as Exhibit B-1. Notice was also 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 the Ordinance, and a copy of the letter along with the list of the addressees was marked as Exhibit B-3.

Mr. Michael Cornwall and Ms. Maria Cornwall were sworn in.

Mr. Bamburak stated they are requesting a Variance in order to install a fence in an easement. Ms. Cornwall stated there is currently a fence that runs along the rear property line which belongs to the rear neighbor. She stated that fence is old and dilapidated and is an eyesore from where they view it. She stated they would like to run their own fence in front of that existing fence which would be a fence of their choosing. It will be 6' high.

Mr. Bamburak stated typically the Board attaches a Condition to Variances like this that would require that if the easement holder needs access to the easement area, the homeowner would have to remove and reinstall the fence at their own cost. Ms. Cornwall stated they would agree to this Condition.

Mr. Bamburak asked Mr. Habgood if this is a drainage easement, and Mr. Habgood stated it does appear that it is a drainage easement. Mr. Bamburak stated typically another Condition is that they would be required to keep a 2" gap at the bottom of the fence so as not to impede water flow. This was acceptable to the Applicants.

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

Mr. Moffa moved, Mr. Gruen seconded and it was unanimously carried to approve the Variance as requested subject to the condition that there be a 2" gap at the bottom of the fence so as not to impede the water flow and that if the easement holder needs access the fence would be removed and replaced at the homeowners' expense.

APPEAL #14-1708 – EMANUEL C. BUTERA

The Application submitted was marked as Exhibit A-1. A copy of a three-page Elevation Certificate was marked as Exhibit A-2. A Site Plan provided 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. Notice was also posted at the property of tonight's Hearing, and a copy of that posting was marked as Exhibit B-2. Notices were mailed to property owners as required by the Ordinance, and a copy of the letter with the list of addressees was marked as Exhibit B-3.

Mr. Emanuel Butera was sworn in.

Mr. Butera stated they moved into the house about a year and four months ago, and they would like to add some living space; and they are looking to have a screened-in porch. He stated it will be a deck built on footers, and it will have Anderson screens but no windows. He stated the decking will be outside-type decking. He stated the skirting and outside will be similar to the siding on the house so it will blend in.

Ms. Kirk stated they are requesting relief for the rear yard setback where 40' is required, and it appears they are proposing 28' from one of the corners to the rear yard. She stated they are also requesting relief for encroachment and construction within a floodplain that is otherwise 100% resource protected, and there is an expansion of an existing non-conforming structure.

Ms. Saylor stated the house is currently inside the floodplain. Mr. Habgood added that the existing house already encroaches into the rear yard setback.

Mr. Bamburak noted that if there is a vote of two to two, the request would be Denied; and he advised Mr. Butera that he could request a Continuance until a future meeting when they would have a full Board.

Ms. Kirk asked the size of the proposed rear screened porch and why they want to add it to the existing house. Mr. Butera stated it will be 15' by 16' and this will give them additional living space. He stated the house is a small single-story ranch. He stated they do have a basement. He stated he did discuss this proposal with his neighbors, and he particularly noted the neighbor to the rear who indicated he did not have a problem with what was proposed.

Mr. Moffa stated Mr. Butera described the addition as a "deck-like" structure, and he asked what would be underneath. Mr. Butera stated there will be skirting all the way around. Mr. Moffa asked if it is raised so water can pass underneath, and

Mr. Butera agreed. Mr. Butera added the main level of the house is approximately 2' above the ground level, and they will walk right onto the addition from that. There will therefore be a gap of approximately 2' underneath. He noted the skirting will not block the flow of the water.

Mr. Bamburak asked about the Elevation Certificate, and Ms. Saylor stated she did not receive this in her packet. She stated generally this will give information about the elevations of the floors of the house and the location of the 100 year flood elevation so you can compare.

Ms. Tyler stated the reason Mr. Butera has the Elevation Certificate is because it was a requirement when he purchased that home that there had to be an Elevation Certificate so that the various insurers would be able to rate the property. Ms. Kirk stated this was the basis of the new Ordinance that the Township recently adopted.

Ms. Saylor was provided a copy of the Elevation Certificate this evening. There was discussion whether or not a short recess should be taken at this time to give Ms. Saylor the ability to review the Elevation Certificate; however, Ms. Saylor indicated she felt she needed additional time to review this.

Ms. Tyler stated they need to make sure that this Application is in accordance with the new Floodplain Ordinance. Ms. Saylor noted she "tabbed" a lot of Sections out of the new Floodplain Ordinance with respect to this Application that she feels need to be addressed. She stated some of those issues may be addressed in the Elevation Certificate, but not all of them.

Ms. Tyler stated FEMA has changed requirements with regard to residences and businesses within the floodplain. She stated part of those changes included the need for the Township to pass a new Ordinance which they did several months ago regarding anything that happens in the floodplain including changes to an existing home. She stated the Township has to be stringent when it comes to the floodplain and what they will and will not allow because there are getting a rating for the entire community, the Community Rating System; and the Township is in the process of that Application right now. She stated the number that is obtained will allow the residents within the floodplain to obtain some percentage discount on their flood insurance. She stated FEMA is looking to the Township to make sure that they manage the floodplain properly; and as a reward, the residents will be allowed a reduced flood insurance rate. Ms. Tyler stated a lot of this is new, and Ms. Saylor is the expert and needs more time to look at this including the property and the Elevation Certificate and compare that data to the new Ordinance so they can see whether or not there is a problem with the Application. Ms. Tyler stated she feels

they should Continue this so that Ms. Saylor has ample time to review this. Ms. Tyler stated Ms. Saylor may also need to contact Mr. Butera to get additional information, and they can then bring the matter back before the Zoning Hearing Board.

Ms. Kirk stated in light of the fact that there is a new Floodplain Ordinance that requires the Zoning Hearing Board to make certain Findings, it would be best if Mr. Butera would ask for the Continuance so that the Township engineer can review the paperwork and compare it to the Ordinance to make sure it is meeting all the requirements.

Mr. Butera asked for a Continuance, and it was agreed to Continue the meeting to Monday, November 3, 2014.

Ms. Saylor asked if there are structural drawings, and Mr. Butera stated he felt they were submitted with the Application. Ms. Saylor asked if he is proposing electrical service; and Mr. Butera stated they are, and this was supplied with the Application. Ms. Saylor stated she will also want to see the materials to be used below the flood elevation which should be marine grade, water and flood resistant. She stated the structure itself should also be anchored firmly to resist flotation or lateral motion. She stated all sockets should be above the base foot elevation. Mr. Butera stated an engineer did look into this.

Ms. Kirk stated what Ms. Saylor is asking for would be applicable to construction and building Permits but not necessarily conducive to what the Zoning Hearing Board needs in order to grant a Variance. Ms. Saylor stated it is in the new Floodplain Ordinance which is part of the Zoning Ordinance. Ms. Kirk stated she is not sure that the Zoning Hearing Board necessarily needs all the information Ms. Saylor is discussing in terms of electrical, etc. in order to determine whether the Variance should be granted. Mr. Moffa stated perhaps they do now when it involves the floodplain. Mr. Bamburak stated he feels they would assume that they would build to the Building Code. Ms. Saylor stated she feels the requirements from the Ordinance should be enumerated if the Zoning Hearing Board grants Approval.

Mr. Gruen stated he feels it is now part of the Ordinance that the Zoning Hearing Board has to look at how he is building it or at least list all the requirements in the Variance itself.

Mr. Butera stated he provided all of the information with the Application, and Mr. Habgood stated it is the Building Permit Application that Mr. Butera is talking about. He stated this was returned to him, and Mr. Butera stated he does have this information, and he agreed to provide it to Ms. Saylor.

Mr. Moffa moved, Mr. Gruen seconded and it was unanimously carried to Continue this matter to November 3, 2014.

Ms. Tyler stated she is going to request that the Township solicitor appear at the next meeting when this is discussed to make sure that this Application is in compliance with the new Ordinance so that there is not a problem with the pending Application for the rating.

There being no further business, Mr. Gruen moved, Mr. Moffa seconded and it was unanimously carried to adjourn the meeting at 8:05 p.m.

Respectfully Submitted,

Anthony Zamparelli, Secretary