

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – MARCH 1, 2016

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on March 1, 2016. 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  
   Keith DosSantos, Member

Others:                                Richard O'Brien, Keystone Municipal Services  
   Maryellen Saylor, Township Engineer  
   Randall Flager, Zoning Hearing Board Solicitor  
   Jeff Benedetto, Supervisor Liaison

Absent:                                James McCartney, Zoning Hearing Board Member

APPEAL #15-1750 – DAN AND JENNIFER JONES

The Application was marked as Exhibit A-1. Plans were marked as Exhibit A-2. The advertisement in the newspaper was marked as Exhibit B-1. The Notice sent to the neighbors was marked as Exhibit B-2. The Posting of the property was marked as Exhibit B-3.

Ms. Tracy Miller, architect, and Mr. Dan Jones were sworn in. Ms. Miller stated the Jones family have an existing shed at the end of their driveway which they would like to demolish and put up a garage to house their two cars and have a third bay as a workshop. She stated on the back of the garage they would like to put up a small porch. She stated one of the Variances requested is for the height of the structure, and they would like to have some storage space upstairs because they will be parking downstairs in both bays and also have the workshop area so the storage area of the garage will be upstairs. Ms. Miller stated the garage would sit close to the edge of the existing driveway, and they will be eliminating a little bit of the driveway.

Mr. Zamparelli stated the Variance request is to go to 10' from the property line and expand the size of the garage. Ms. Miller stated her understanding is that for a detached structure the setback is 10'. Mr. Zamparelli stated he felt it was 15'. Mr. Flager stated there are two provisions; and one provision reads, "Residential accessory structure shall be located in the fourth of the lot furthest from abutting streets but in no case less than 10' from any side." He stated there is also another provision that states the existing shed is non-conforming, and there is a Note about Section 200-22 which sets the side yard setbacks at 15' so they seem to be in conflict.

Mr. Zamparelli stated he felt Section 269 indicates it should be 15', and Mr. Flager stated Section 200-22 is 15' and 269A14A is 10'. Mr. Zamparelli asked which one they fall under. Mr. Zamparelli stated he understands that it is an accessory structure, and it is three quarters of the size of the house.

Mr. O'Brien stated by definition this would be classified as an accessory structure to the single-family detached dwelling; and as such, he believes it should be 15' from the property line.

Mr. Zamparelli stated it also stated that the accessory structure should only be 15' high, and Mr. O'Brien agreed that is another Variance that the Applicant has identified. Mr. Zamparelli stated impervious surface is not a problem. Mr. DosSantos stated the impervious surface will be a half point over what is permitted.

Mr. DosSantos asked if there is a way to move it back to the existing line where the existing shed is so that they would not need the side yard setback, and Ms. Miller stated they could do that. Mr. DosSantos stated the impervious is almost negligible so they would really be talking about the height. Ms. Miller stated she feels that if they move it they would probably be even closer to the impervious surface because they will be eliminating some of the driveway.

Mr. Zamparelli stated he feels 10' is too close for that size structure.

Ms. Miller stated they would still need the Variance for the back quarter of the lot.

Mr. O'Brien asked if the rear quarter of the lot is the rear corner of the building envelope versus the rear quarter of the entire property. Mr. Zamparelli stated he feels it is the lot which right now is at 88' and it should be 100'. Mr. Bamburak stated from what he recalls with regard to accessory structures, it was always the quarter of the lot. Mr. Zamparelli stated he understands why they would want it closer to the front so that the driveway would be more accessible to the door, and Ms. Miller agreed.

Mr. Bamburak stated he understands that for the garage the setback should be 15'. He noted that the drawing shows 10', and Ms. Miller stated they would agree to move it to 15'.

Mr. Gruen asked if they looked into the possibility of attaching the garage to the back of the house with a roof adding they would not then need a Variance for the second floor. He stated it is only detached buildings that are limited to 15'.

Mr. Gruen stated he is not in favor of building such a large garage because it lends itself to an apartment in the future especially if they are adding a porch.

Mr. Bamburak stated they always make a Condition that it could not be an apartment. Mr. Jones stated they have no intention of having it be an apartment. Mr. Bamburak stated they would make it a Condition of any Variance that the second story of the garage would never be converted to living space.

Mr. Bamburak asked if they intend to have running water in the garage, and Mr. Jones stated he did not think so. Mr. Bamburak stated the concern would be that there would be a bathroom on the second floor.

Mr. Gruen asked about his question regarding attaching the garage to the house, and Ms. Miller stated this would be up to her client whether they wanted it attached to the house or not. Mr. Jones stated he is not sure they could do it given the configuration.

Mr. Zamparelli asked Mr. Jones if they have discussed this with their neighbors, and Mr. Jones stated he has. Mr. Zamparelli stated he is in agreement with the proposal if they go to 15' instead of the 10' and he is also in agreement with the height if the neighbors are okay.

It was noted that there was no one present in the audience to speak in favor or against this Application.

Mr. Jones stated his wife did speak to the neighbor adding they only have one neighbor. Mr. Zamparelli asked Mr. Jones what is the lot behind them, and Mr. Jones stated there is a Lot on Derbyshire that has been for sale for twenty years, and part of that Lot goes behind them. He stated he also feels part of the land behind them is wetlands.

Mr. Gruen asked the ceiling height on the second floor, and Ms. Miller stated it will be just shy of 8'. Mr. Gruen asked if it is for storage, and they do not want it to be an apartment, he does not understand why it has to have 8' ceilings. Mr. Bamburak stated that would only be under the ridge beam, and Ms. Miller agreed.

Mr. Zamparelli asked again about the running water, and Mr. Jones stated they did discuss that it would be nice to have a sink downstairs because the shop is there. He stated he is a woodworker. Mr. Zamparelli stated if there is no running water, it would make it easier for the Zoning Hearing Board that there will not be the future possibility of them renting this out. Mr. Bamburak stated they would attach a Condition that the upper part of the garage would not be converted to living space, and he would not have a problem with running water so that Mr. Jones could wash his hands. Mr. DosSantos agreed he would not have an issue with that either.

Mr. Bamburak stated the key is “living space,” and it was agreed that there would be no water upstairs.

Ms. Saylor noted it appears that one of the garage doors will be opening to grass; and Ms. Miller stated that is correct, and that is the workshop. Ms. Miller stated the cars will be parked in the two that are toward the front of the property, and the third one is the workshop; and that will open onto the grass.

Ms. Saylor asked if they propose to do any stormwater management since they are increasing impervious surface, and Ms. Miller stated they will do what is required. Mr. Bamburak stated if they move the garage so that it is 15' which they have agreed to, it will probably bring down the impervious, and Ms. Miller agreed.

Mr. O'Brien stated this property is located in the R-2 District, and he noted Section #200-69-14A which states, “A Residential accessory building incidental to the uses permitted including the R-2 District shall be located only in the fourth of the Lot furthest removed from the abutting street, and in no case shall they be located less than 10' from any side or rear Lot line.” Mr. O'Brien stated therefore the setback for an accessory structure within the R-2 District in association with Section 200-69 is 10' and not 15'. He stated the Board may consider is weighing the height Variance versus that setback. Mr. Zamparelli stated he agreed with that since because it is so tall 15' would look less to the neighbors than so close to the neighbors. Mr. Bamburak stated the 15' would make it more palatable because it would have less of an effect.

Ms. Saylor stated she believes that moving it to 15' would bring the impervious to 18.1%; and while what is permitted is 18%, they are still increasing the impervious surface by 570 square feet from 4,100 square feet to 4,700 square feet.

Mr. Gruen stated they could move the garage a little closer to the house which would result in a little less impervious surface. Ms. Tracey stated they would be willing to revise the driveway to get to the 18%. Mr. Bamburak stated they would therefore not need a Variance for the impervious surface.

Mr. Bamburak stated he feels the Applicant has worked with them as much as they can getting the impervious to what is allowed, and will move it 5' in from the property line; and the only issue now is the height of the structure and the setback from the one fourth of the Lot which the Board does not have a problem with. Mr. Bamburak stated there will also be a Stipulation that the second story would never be converted to living space with running water.

Mr. O'Brien stated they may want to consider phrasing the Stipulation that they do not establish an additional dwelling unit at the property associated with the accessory structure.

Mr. Gruen asked if they have counted the proposed porch as part of the impervious surface, and Ms. Miller stated she did.

Mr. Bamburak stated because there are only four Board members present, in the case of a tie vote, the Appeal would lose; and they do have the choice to come back to have their Appeal heard when there is a full Board.

Testimony was closed.

Mr. DosSantos moved, Mr. Zamparelli seconded and it was unanimously carried that the Variances requested be granted for height and the front setback subject to the Applicant agreeing not to exceed the allowable 18% impervious surface, that there be no establishment of an additional dwelling unit in the accessory structure, and that the Lot lines be moved from the proposed 10' side yard to 15'.

#### OTHER BUSINESS

With regard to the Pennsbury School District Appeal, Mr. Flager stated one of the Variances they requested was mistakenly listed as a Waiver request, and it should have been a Variance. Mr. Bamburak stated the text in the advertisement was wrong, and Mr. Flager agreed. Mr. Bamburak stated if the Board wanted to, they could make them re-advertise, but he does not feel that is important. He stated he does not feel the word "Waiver" versus "Variance" would make much of a difference to a non-legal mind. Mr. DosSantos stated as long as they point this out at the next meeting, it should be fine. Mr. Bamburak stated they will need to remember to mention this at the beginning of the meeting when the Pennsbury Appeal is heard.

Mr. Gruen asked if anyone could challenge this later on because of this; and while Mr. Flager stated anyone can challenge anything, he feels it is so deminimus he does not feel anyone will be confused, and at the beginning of the meeting they will announce it.

Mr. Bamburak stated he feels the Board has agreed that they will not require them to re-advertise.

Mr. O'Brien stated normally with something as small as a verbiage change in the Application, they just ask the Applicant to Amend their Application at the Hearing; and he feels they should ask them up front at the Hearing to Amend their Application verbally. Mr. Gruen stated they have done that in the past.

Mr. Flager stated with regard to the Larionov Appeal, it was scheduled to be heard March 15; however, they have a Revised Application which has not yet been received according to Mr. Ware. Mr. Flager stated he has called their attorney, Mr. Murphy, a number of times; but he has not heard back from him yet. Mr. Flager stated they would need to agree to a Continuance until at least the second meeting in April so that the Township has the time to receive and review the Application. Ms. Saylor stated they have reviewed it and made comments so they have comments to address. Mr. Bamburak stated that was the original Plan, and this is a new Plan so she will have to do the review again.

There being no further business, Mr. DosSantos moved, Mr. Gruen seconded and it was unanimously carried to adjourn the meeting at 8:00 p.m.

Respectfully Submitted,

Anthony Zamparelli, Secretary