

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – APRIL 18, 2017

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on April 18, 2017. Mr. Gruen called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Jerry Gruen, Chairman
 Anthony Zamparelli, Vice Chairman
 Keith DosSantos, Secretary
 Pamela Lee, Member
 James McCartney, Member

Others: Jim Majewski, Director Planning and Zoning
 Randall Flager, Zoning Hearing Board Solicitor
 John B. Lewis, Supervisor Liaison

APPEAL #17-1774 – STEVEN R. AND ELIZABETH A. HILDEBRAND

Mr. Steven Hildebrand was sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Proof of Publication was marked as Exhibit B-1 The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Hildebrand stated he lives on the corner of Clinton Drive and Revere Road in Yardley Hunt; and because it is a corner lot the Code considers his side yard on Clinton as a front yard. He stated the height of a fence a front yard is limited to three and half feet, and he is requesting a Variance to go to six feet. He stated the side yard is the largest area of his lot, and the rear yard is not very wide. He stated the neighbor behind his house has a swimming pool, and he would like to use the fence to create a privacy area on the property. He stated when he moved into the house in 2000 his children were in late teens and early twenties, and they did not spend much time in the rear yard; however, now his grandchildren are at the house all the time, and he would like to have a secure yard where they can go play.

Mr. Zamparelli stated it seems that he is very close to Clinton Road.

Mr. Hildebrand provided additional pictures, and these were marked as Exhibit A-3. Mr. Hildebrand stated what he attempted to do with this Exhibit is to take a Google Earth shot and put a dotted line on the left hand side an existing fence which he would tie into. He stated he has a concrete patio at the back of his property that goes out approximately twelve to thirteen feet which impedes upon the grass area for play, and the Clinton side yard is where his grandchildren play since it is the biggest area.

Mr. Zamparelli asked how far would the Clinton side of the fence be from the sidewalk, and Mr. Hildebrand stated he is proposing that it would be eighteen to twenty inches from the sidewalk, and it is almost eleven feet from the curb of the road. He stated he has three mature trees along that side that he would like to keep inside the fence; and if he were to have the trees on the other side of the fence, it would cut down on the size of the yard. Mr. DosSantos asked if the trees are abutting the sidewalk, and Mr. Hildebrand stated they are approximately twenty-four to thirty inches off the sidewalk. He stated he is proposing that the fence be between the trees and the sidewalk. He stated he would leave a grass strip along the sidewalk so that there is some width to the sidewalk. Mr. Zamparelli asked if there would be approximately two feet from the fence to the sidewalk, and Mr. Hildebrand stated it would be a little less than that. Mr. Zamparelli asked if he would maintain that area, and Mr. Hildebrand stated he would as well as the other swath of grass between the sidewalk and the street which he maintains currently. He stated he has a lot of sidewalk because he is on a corner lot.

Mr. Majewski stated typically in this type of neighborhood you have a curb, a grass strip, a sidewalk, and then another grass strip and the trees which are typically three to four feet behind the sidewalk. Mr. DosSantos asked if this is consistent with what Mr. Hildebrand testified, and Mr. Majewski agreed.

Mr. Gruen asked Mr. Hildebrand if any of his neighbors have a fence like that on corner lots, and Mr. Hildebrand stated he knows of two up the road. He stated he does not know if they came to the Zoning Hearing Board to get a Variance. Mr. Gruen stated the only one he knows of has a metal fence and not a solid white fence. Mr. Hildebrand noted on the Plan another property where there is a vinyl fence on the corner, and he feels they are approximately six inches from the sidewalk. He also stated the property across the street on the other corner has a metal picket fence, and Mr. Gruen stated that is the one he is referring to.

Mr. Zamparelli stated he feels six feet is high, and Mr. Hildebrand stated most standard fences for privacy are six feet high. He stated people who are walking or driving can see right through to his yard, and they are exposed.

Mr. Gruen stated he is familiar with Mr. Hildebrand's property; and he stated if they put a fence off the patio, they would have privacy. Mr. Hildebrand stated there is no size there. Mr. Gruen stated he does not feel what Mr. Hildebrand has described is a hardship. He stated he knows the neighborhood, and he has not seen one solid fence like what Mr. Hildebrand is proposing, and it will be a major change to the whole character of the neighborhood if they start allowing that even though each Variance stands on its own merit. He stated if Mr. Hildebrand had a real hardship such as a special needs child, and they needed a fence to keep the child from going into the road, that would be a hardship. Mr. Gruen stated the job of the Zoning Hearing Board is to give the minimum amount of relief. He stated he feels Mr. Hildebrand could create the same thing with a "green fence," which would be live trees or some panels closer to the patio; however he feels having a big white solid fence right on the sidewalk would be a big change to the neighborhood.

Mr. Zamparelli agreed, and he stated he feels it would be a non-conformity to have the fence Mr. Hildebrand is proposing in that neighborhood. Mr. Hildebrand stated the fences he described right up the road are corner side yard fences. Mr. Gruen stated they may have put them in illegally.

Mr. McCartney stated the lot line extends 150' across, and he is asking for 149' of fence. Mr. McCartney asked if he needs a Variance for that as well, and does he need to be a certain distance from the lot line; and Mr. Majewski stated he does not need a Variance, and he can be right up against it. Mr. Majewski stated he has two front yards unlike most properties, and he needs a Variance for the front yard on Clinton and the area that would be in violation would be about one third of his back yard so it is a significant area. Mr. Majewski stated he had thought that if there was an objection to the view along the sidewalk, possibly he could put the fence on the other side of the trees; and he would then be back approximately six feet off the sidewalk. Mr. Majewski stated that would provide him the privacy he wants but it would not impact the view of the neighborhood the Board is concerned about.

Mr. Hildebrand stated he knows that there are sight triangle restrictions, and what he was proposing was compliant with the sight triangle requirements.

Mr. DosSantos asked Mr. Hildebrand if he would be willing to put the Clinton Drive side of the fence on the interior of the trees; and while Mr. Hildebrand stated he would prefer to go to the other side, he still wants to put up a fence for privacy and security, and if this is what he is required he would do it.

Mr. Gruen stated he would still want there to be additional greenery on the street side of the fence since the whole neighborhood does not have a fence like that. Mr. DosSantos stated the trees would be on the other side of the fence.

Mr. DosSantos stated he does feel that there is some hardship in the sense the he does have two front yards. Mr. Gruen stated that hardship was there when he bought the property.

Mr. Gruen stated the forty-three foot section of the fence would have to be even with the back of the house; however, Mr. Majewski disagreed and stated it needs to be even with the front of the house because the front of the house is beyond the front yard so that is compliant. Mr. Hildebrand stated he is actually five foot back from the corner. He stated at the end of the driveway, there is an inset of the house, and that is where he is picking it up to hide the trash cans.

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

Mr. McCartney moved, and Mr. DosSantos seconded to grant the Variance for a fence under Section 200-69 A (14)(c) allowing the fence no greater than 140' in the rear yard and a side yard no greater than 34' from the house toward Clinton Drive. There is to be a 2" gap at the bottom of the fence to allow for water flow. Motion carried with Mr. Gruen opposed.

There being no further business, Mr. DosSantos moved, Mr. McCartney seconded and it was unanimously carried to adjourn the meeting at 7:55 p.m.

Respectfully Submitted,

Keith DosSantos, Secretary