

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – APRIL 17, 2018

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on April 17, 2018. Mr. Gruen called the meeting to order at 7:35 p.m. He noted that there are only four Board members present, and if there is a tie vote that would be considered a denial. He stated the Applicants have the option to wait until there is a full Board; however, the Applicants agreed to proceed.

Those present:

Zoning Hearing Board:

Jerry Gruen, Chairman
Anthony Zamparelli, Vice Chairman
Keith DosSantos, Secretary
Pamela Lee, Member

Others:

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

Absent:

James McCartney, ZHB Member

APPEAL #18-1796 – JAMES AND KIMBERLY CALLAHAN

Mr. James Callahan, Ms. Kimberly Callahan, and Mr. Charles Sudhop, contractor, were present and were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan, which includes a one-page sketch, 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. Gruen stated they want to put in a swimming pool, and they will have some mitigation for the impervious surface. Mr. Callahan stated they are already over the permitted 18% impervious surface and all they have is the house, the driveway, and a deck. He stated whatever they go over with the project, they would be willing to take it back to what the impervious surface is that is existing. Mr. Callahan stated the Site Plan was done, and they came up with a plan to offset the stormwater. Mr. Gruen stated they would have 28%, and Mr. Callahan agreed. He stated they are requesting a 10% Variance over what is permitted.

Mr. Majewski stated this property is in the Yardley Hunt Development where almost every Lot in the developer is over the allotted 18%. He stated the development predated the existence of the lot-wide calculations for impervious surface; and at the time they just had a 15% building coverage. Mr. Majewski stated on this Lot, they have a paver patio that they are going to be reconfiguring to accommodate the pool. He stated they are proposing stormwater management to offset completely the increase in impervious surface. He stated their effective impervious surface after they plant the trees will be the 23.8% that is existing now.

Mr. DosSantos stated they are not proposing to remediate to 18%, rather to where they are existing now, and it was noted that this is correct.

Mr. Gruen asked how long they have owned the property, and Mr. Callahan stated they bought it January 31.

Mr. Gruen asked what they are proposing for stormwater management. Mr. Callahan stated they understand that trees have a value, so they will plant enough trees that will offset the increase and take it back to where they were. Mr. Gruen stated he does not personally “buy that.” He stated while you can do it in some places, the trees do not suck the water that quick. He noted if there is a rain like they had the other day, it will still flood. He stated the trees might reduce the water table, but it is not going to take care of the rain. Mr. Gruen stated it was indicated they are removing one of the patios; however, the blueprint shows that they are putting in a new patio in its place so they are exchanging and not really removing anything. Mr. Sudhop agreed they are reconfiguring it.

Mr. DosSantos stated in place of the brick paver patio, they will put it in contiguous from where the brick is around the pool, and Ms. Callahan agreed.

Mr. Gruen asked if they have considering putting in a wooden deck for part of it to cut back on the impervious surface as there are new materials that last a long time, and they could then keep their impervious surface at the lower level. Mr. Sudhop stated the problem with installing a wooden deck in that area is that it is a relatively flat area; and in order to support a wooden deck you would need piers and cross members, and that would create a pit underneath whatever wood structure they would build there because it would have to be sub surface. He stated with a concrete deck, they would have a crushed stone base underneath. He stated they would have to excavate considerably if they had to install a wooden deck. Mr. Gruen explained a way to construct the deck that would only involve about ten inches above grade. Mr. Gruen asked where they come out from the house. Mr. Sudhop stated the house is a split level; and where you would step out from the section of the house where there is now a brick patio it would be at ground level. He stated if there were to put a deck onto that, it would not work; and Mr. Gruen agreed.

Mr. Zamparelli stated he believes that they are allowed to use trees to make this correction despite Mr. Gruen's preference. Mr. Majewski stated they are allowed to use the trees. Mr. DosSantos noted Mr. Majewski has experience in this, and he asked him about the use of trees as proposed by the Applicant for an effective stormwater management. Mr. Majewski stated trees do absorb water. He added that when they wrote the Ordinances years ago on a watershed wide basis, they looked at the entire area from Bristol up to Solebury (Delaware River South Watershed) to see the cumulative impact of stormwater and how to control it on a subdivision basis and on an individual lot basis such as this. He stated they determined that for smaller sites and smaller incremental increases in impervious surface, there are a variety of methods to use both structural and non-structural which includes preserving and planting trees which will absorb the first two inches of rainfall. Mr. Majewski stated with a storm of the intensity we had recently, the trees would not absorb all of that nor would a dry well. Mr. Zamparelli stated what they are proposing falls within the stormwater management requirements, and Mr. Majewski agreed it is an accepted method according to the Ordinance.

Mr. Gruen asked what size trees they would have to plant to absorb that amount of water. Mr. Majewski stated a 2" caliper tree gets credit for 10 cubic feet of water; and they are proposing thirteen trees which is 130 cubic feet of water.

Mr. Gruen stated the Township engineer used to attend the Zoning Hearing Board meetings; and she had explained that with the new Ordinances if there is an increase in the impervious surface in the Township, the Township would get a different rating with regard to Flood Insurance rates. Mr. Gruen stated they wanted the impervious surface as little as possible. He stated he would like to have the Township engineer present at the Zoning Hearing Board meetings to give explanations and opinions. Mr. Majewski stated the increase in impervious surface does not jeopardize the Community Rating System. He stated what they are doing as part of any project is mandating that they mitigate the effect of the stormwater which mitigates the effect of flooding. He stated this is why when they did the Act 167 Plans, the Stormwater Management Plans on a watershed-wide basis, they looked at it and specifically came up with this type of criteria of ways of handling incremental impacts. He stated if this development, which does have stormwater management basins, had been approved just eight years later, the Applicant would have been allowed the 28%.

Mr. Gruen asked what type of trees they will be planting since some trees do "not like a lot of water." Mr. Callahan stated his friend runs a landscaping company so he gave him some suggestions which included river birch, which Mr. Gruen said was good. Some of the others Mr. Callahan discussed, Mr. Gruen indicated were shrubs. Ms. Callahan stated what is on the Plan is thirteen

evergreens. Ms. Lee stated thirteen trees on less than half an acre seems like a lot of trees. Ms. Callahan stated they already have ten “giant” pines across the back of the Lot.

Mr. DosSantos asked if they have reviewed it with a landscaper, stated the individual who did the survey called the Township as they did not know if they should put in stormwater management or trees, and trees were suggested. Mr. DosSantos asked if they type of tree and amount of tree it accumulates gets approved through the Township, and Mr. Majewski agreed.

Mr. Gruen stated in the past the Zoning Hearing Board did not accept trees, and they accepted groundwater management with some type of rain garden or something to hold the water. Mr. Gruen stated he has fifty trees in his yard, and the water still sits there the next day after a rainstorm. He stated they will suck up groundwater but there is still run off and floods; and this is why the Zoning Hearing Board always requested some sort of stormwater management that included a pit, French drains, a rain garden, or something that will hold the water for a certain amount of time and then penetrate the ground.

Mr. DosSantos stated they are putting in a pool; and while that cannot be counted, from a pragmatic standpoint, the pool will accept some of the water. Mr. Gruen stated there is an overflow; and when the pool gets full, it flows right into the yard. Mr. DosSantos stated it would take a lot to do that. Mr. Gruen stated 10% is a lot to request; however, other Board members stated they are not requesting 10% because 18% is what is allowed. Mr. Gruen stated the increase is way over what they usually accept, and there is no hardship involved. He stated they can have the pool, and it is the deck that is the problem. Mr. DosSantos stated they need to have something around the pool, and a wooden deck would not work.

Mr. Gruen stated he agrees what they are proposing looks nice. Mr. DosSantos asked if there are flooding issues in the rear yard or have the neighbors have complained about run off from his yard, and Mr. Callahan stated they have not

It was noted there was no one present in the audience.

Mr. Callahan stated they would like to get this approved. He stated they have a 10' by 12' shed at the driveway, and they were planning on moving that to the back of the yard; but they would leave it at the driveway if that would help. Mr. Gruen stated he does not believe the shed in the driveway is legal but he recognizes that was there before they purchased the property.

Mr. DosSantos asked if the Applicants would consider a combination of trees and another type of stormwater management such as a dry well, seepage pit, or rain garden. Mr. Campbell stated the important part for them and their children is to get a pool so they will do what they have to do to get the pool. Mr. Gruen stated if their friend is a landscape architect, he could design a rain garden that will help and it will cut back on the number of trees needed. Mr. Gruen described how to do a rain garden which could have plants on top of it which are water-loving plants.

Mr. DosSantos asked Mr. Sudhop if that would be a problem from a pool building standpoint. Mr. Sudhop stated it would not from a construction standpoint, but he feels a seepage pit would be better for the play area for the children than would be a rain garden. Mr. Gruen stated he would have no problem with that as you would just cover the seepage pit with topsoil and put grass on top. Mr. DosSantos asked Mr. Majewski if they did half trees and half seepage pit would that be doable; and Mr. Majewski stated that would be possible. Mr. Majewski stated if they reduced it slightly below the 23.8% from an effective impervious surface perspective, they could put in a seepage bed system that would not need to be too large or too expensive.

Ms. Lee stated she would be satisfied with them getting the effective rate down to what it is now as there are no flooding issues. Mr. Callahan stated that is what they were proposing to do. Mr. Zamparelli stated he would be in favor of that as well. Mr. Gruen stated he would agree to that if they are willing to put in a seepage pit. He stated he does not feel they would need it to be more than 10 by 3 by 3. Mr. DosSantos asked if that would be onerous to the Applicant, and Mr. Majewski stated it is not. Mr. Gruen stated the trees would cost them more than that. He stated they could put in additional trees as well. Mr. Gruen stated the seepage pit will cost approximately \$350. Mr. Zamparelli stated they were probably looking for a certain look by using trees. Mr. Gruen stated they could put in trees as well but the seepage pit would be a \$350 expense, and they could keep the yard for their children to play in.

Mr. Zamparelli stated he does not understand why they are making them do something that they are not required to do. Mr. Gruen stated they would have to do one or the other, and he would prefer the seepage pit, but each member can vote how they want.

Mr. DosSantos asked Mr. Majewski if the seepage pit is more effective than trees even though he recognizes that just the trees are allowed. Mr. Majewski stated he does feel a seepage pit is usually more effective. Mr. Gruen stated it will also stay longer than if the trees were to die, and they may not put new trees in.

Mr. DosSantos asked if there would be a big difference in the size of the pit needed if they went from 23.8% to 22%. Mr. Gruen stated he believes the size he suggested would bring them there. Mr. Majewski estimated that the pit would have to be 40% longer to get them to 22% not including any trees. He stated they could do a combination of the two. Mr. Gruen asked what percentage it would be if they did the 15', and Mr. Majewski stated that would be 23.8%. Ms. Lee stated that is what it is now. Mr. Gruen stated they will probably add a few trees anyway which will be a "bonus."

Mr. DosSantos moved and Mr. Gruen seconded that the Variance be granted provided stormwater management in the form of a seepage pit or drainage pit be utilized to bring the effective impervious surface to the existing 23.8%.

Mr. DosSantos stated any additional stormwater management they decide to use would be appreciated. Mr. Gruen stated they could put in as few or as many trees as they want.

Ms. Lee asked the Applicants if they are willing to do this. Ms. Callahan asked for a further explanation of what is being required, and Mr. DosSantos stated they are being asked to bring the effective impervious surface down to the existing 23.8%; and in order to that, they are being required to use a seepage pit to bring it to 23.8%. Mr. Gruen stated they would not need permission if they wanted to put in trees.

Ms. Lee stated she would be in favor of the effective impervious surface being brought down to the rate it is now whether that is by using trees or a seepage pit. Ms. Lee stated if the Applicant is willing to do the seepage, she would vote in favor of the Motion. Ms. Lee stated if the Applicant would rather have trees and not the seepage, she is not sure they could convince a third Board member to vote for that.

Ms. Callahan stated she would agree to the seepage pit, but she stated she still does not understand what it is or what it would look like. Mr. Gruen explained the work that is done to create a seepage pit and what it will look like.

Mr. Zamparelli stated there are certain restrictions on where it can go on the property. Mr. Zamparelli stated he is in agreement with Ms. Lee and would do whatever the Applicants want. Mr. DosSantos stated Mr. Majewski has indicated a seepage pit is a more effective tool.

Mr. Gruen asked Mr. Sudhop if there is a good spot where this could be located; and Mr. Sudhop stated in this case, he feels the trees would be more effective because it is relatively flat. He stated to find something downstream of the installation would be difficult. Mr. Gruen asked if they could hook up one of the roof gutters, and Mr. Sudhop stated they may be able to do that. Mr. Gruen stated it could also be near the deck. Ms. Lee asked Mr. Majewski if the property is flat, would trees be more effective than a seepage pit; and Mr. Majewski stated he would have to see the site.

Mr. Gruen stated the deck would have somewhat of a slope, and the water could drain off; and at the edge of the deck, they could put the seepage pit and all the water that goes on the deck would go into the seepage pit and dissipate. He stated they can make it as a garden with some plants or they could make it so it is just grass.

Mr. Callahan stated they would agree to this.

Motion carried unanimously.

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

Respectfully Submitted,

Keith DosSantos, Secretary