

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
JUNE 4, 2019

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on June 4, 2019. Mr. Zamparelli called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Jerry Gruen, Chair  
Anthony Zamparelli, Vice Chair  
Keith DosSantos, Secretary  
James McCartney, Member  
Matthew Connors, Alternate Member (joined meeting in progress)

Others: James Majewski, Director Planning & Zoning  
Barbara Kirk, Township Solicitor  
Adam Flager, Zoning Hearing Board Solicitor  
Frederic K. Weiss, Supervisor Liaison

Absent: Pamela Lee, Zoning Hearing Board Member

APPEAL #19-1824 – RYAN & SAMANTHA O'MARA

Mr. Zamparelli stated they have asked for a Continuance. There was no one present in the audience wishing to speak on this Application. Mr. Zamparelli asked Mr. Majewski how long of a Continuance they want, and Mr. Majewski stated they were talking about having it in August. Mr. Majewski stated he did meet with the O'Maras at their property as had been discussed at the Zoning Hearing Board meeting, and they reviewed some alternatives. Mr. Majewski stated one of the things they are going to do is have someone draw a better drawing and take more accurate measurements. Mr. Majewski stated it looks like they will be able to reduce their amount of Variance down by a couple of percent and satisfy all of the stormwater management.

Mr. McCartney moved, Mr. DosSantos seconded, and it was unanimously carried to Continue the Appeal until August 6, 2019.

APPEAL #19-1835 – DHAVAL JAGIRDAR

Mr. Dhaval Jagirdar 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 e-mail from the Applicant stating the reasons for the Variance was marked as Exhibit A-3. 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. Jagirdar stated they have been in the home for four years, and he has been maintaining the easement but he is not able to use it. He stated he would like to use it, and will do whatever the Board proposes. He stated he knows that it is a Variance, and he knows that he cannot put anything permanent there; but he wants to put in his fence so that his children can play in that area. Mr. Zamparelli asked if he is requesting to move the fence over to include the area, and Mr. Jagirdar. Mr. Zamparelli asked what is the area, and Mr. Jagirdar stated it is a drainage easement. He stated he would be willing to provide access whenever it is needed. He stated he knows that if the fence has to be taken down, he would have to do so at his own expense and then put it back. He stated he wants to be able to use it since for four years he has been cleaning and maintaining it. Mr. Jagirdar stated he currently has a fence, but he did not cover the easement, although he is maintaining the easement. Mr. Zamparelli stated he wants to have the easement within his fenced area, and Mr. Jagirdar agreed.

Mr. Majewski stated their fence is on the side of their house, and they want to move the fence over about 30' to encompass the drainage easement that is there.

Mr. Majewski stated there are no pipes or inlets in the easement, and it is just a swale that was built.

Mr. Majewski asked Mr. Jagirdar if he has removed all of the bamboo; and Mr. Jagirdar stated he did that, but there is a little back now, and he will take care of that also.

Mr. Majewski stated it is difficult to eradicate bamboo, and he will have to keep at it and do it several times.

Mr. Majewski asked Mr. Jagirdar if he planning to remove any trees in the easement, and Mr. Jagirdar stated he is not. Mr. Majewski asked if he will be doing any grading work, and Mr. Jagirdar stated once all the bamboo is gone, he will put in some topsoil to make it a good grade. Mr. Zamparelli asked Mr. Majewski if he is permitted to

change the grade. Mr. Majewski stated he will need a Permit so that the Township can evaluate it to make sure they will not have an impact. Mr. Jagirdar stated he is not going to put in too much soil, and he will just put in topsoil to have a good surface in order to use that area. Mr. DosSantos asked if he is going put in topsoil where the bamboo was, and Mr. Jagirdar agreed. Mr. Majewski stated they want to make that if that is done, he still maintains the integrity of the area so that the water does not go to the south onto the adjoining property, and just goes through toward the road. Mr. Jagirdar stated he will maintain the same grade. Mr. Zamparelli stated he feels the Township will still want to look at it, and Mr. Majewski stated he will need to get a Permit for that so that the Township can look at it.

Ms. Kirk stated she is present on behalf of the Township to participate. Ms. Kirk asked Mr. Jagirdar if he bought the property in 2015, and Mr. Jagirdar stated he did. Ms. Kirk asked if at the time of the purchase, was there a fence already around the property; and Mr. Jagirdar agreed. Ms. Kirk stated he was aware that there was an existing drainage easement behind the fence, and Mr. Jagirdar agreed. Ms. Kirk asked at this point how high does the fence sit above the ground, and he stated currently there is no space between the ground and the existing wooden fence. Ms. Kirk asked Mr. Jagirdar if he were to relocate the fence into the easement area, would he agree to a Condition that the bottom of the fence will be at least 2" above the ground; and Mr. Jagirdar agreed that was mentioned to him, and he will do that. He stated he will put 2" all the way so that water should flow on its own. Ms. Kirk stated if anyone needs to access to easement Mr. Jagirdar will have to remove the fence; and Mr. Jagirdar stated he knows that, and he will keep a gate also on that fence. He stated if it has to be removed, he will remove it and put it back at his own cost. Ms. Kirk stated currently it is just a swale; however, if something happens and they need to make the swale deeper or put in drainage pipe, they need access. Mr. Jagirdar stated he is aware of that, and he will provide access whenever needed. He stated he knows that he will not construct anything other than the fence which would be permanent there. He stated he will just use the area as open ground.

Ms. Kirk asked if the easement area runs along the neighbor's property as well; and Mr. Jagirdar stated it does, and his neighbor already has the easement covered on his property. Ms. Kirk asked Mr. Jagirdar spoke to his neighbors about his plans, and asked if he knows if anyone has any issues with what he is doing. Mr. Jagirdar stated one of his neighbors came to him because he got the Notice from the Township about this, and he asked what he was doing; and he told him he was using the easement and making the fence 30' on the easement side, and his neighbor did not have any problem with that.

Ms. Kirk asked if there is a Homeowners' Association where he lives, and Mr. Jagirdar stated there is not. Ms. Kirk asked who owns the easement, and Mr. Majewski stated the easement is for the benefit of the Township for drainage.

Mr. DosSantos asked if the Township has any liability concerns with regard to the swale; and Ms. Kirk stated she does not believe so since the property owner is aware that it exists and is aware of the depth, but she asked the Board to impose the necessary Condition that the fence be at least 2" above the ground and that if there is any need for the fence to be removed for access to the easement area, it is done so at the homeowner's sole cost and expense.

Mr. Jagirdar stated he is going to put a big gate there; however, if that is not enough for them, and it needs to be removed, he will remove it. Mr. DosSantos asked if the gate is for access, and Mr. Jagirdar agreed. Mr. Zamparelli asked the height of the fence, and Mr. Jagirdar stated it is 6' high, and it will be vinyl.

Mr. McCartney stated Mr. Jagirdar noted that there was an existing fence on a neighbor's property that appears to be on the Easement; and he asked Mr. Majewski if there was a Variance issued for that. Mr. Jagirdar noted the location of that property on the slide. Mr. Gruen stated that would have no bearing on this Decision tonight. Mr. Majewski checked the Record Plan and stated it does appear that the 30' drainage easement does go past the neighbor, but he is not sure whether or not they received a Variance.

Mr. David Dellagrotte, 1137 Kenneth Lane, was sworn in. Mr. Dellagrotte asked if there is a Sketch of where he wants to do the fence, and Mr. Gruen stated a Sketch was provided. This was shown on the screen; however, Mr. Majewski stated the Sketch does not show exactly where the new fence will go. Mr. Gruen stated that shows the old fence and not the new fence. Mr. Jagirdar stated if he gets the Variance, he will make his Permits for the fence. Mr. Majewski stated he would just be moving the fence due south in line with where it is now.

Mr. Dellagrotte stated there are a number of large trees there and he is concerned about the environmental impact for the birds, deer, and for privacy. Mr. Jagirdar stated he is not cutting down any trees. Mr. Dellagrotte stated it will be "tricky" to get the fence all around these big trees.

Mr. Zamparelli asked Mr. Dellagrotte to identify his property on the photo, which he did. Mr. Dellagrotte noted the location of the trees he was referring to on the photo. Mr. Jagirdar stated he will probably not get up to 30', and he would be happy to get 25'; and he agreed he will not cut down any trees. Mr. Zamparelli asked

Mr. Dellagrotte if he would be okay with a fence that does not require any trees to be cut down, and Mr. Dellagrotte stated he would be in favor of that. Mr. Jagirdar stated once he gets the Variance, he will contact the contractor and see how much he can get; and when he submits his Permit, he will put in that number. He stated the Permit will show exactly where he is putting the fence. Mr. Zamparelli asked Mr. Jagirdar to work with his neighbor as well to make sure that he understands it.

Mr. Dellagrotte stated he assumes that the easement was called an easement for a purpose originally when the housing plans were done, and he asked what it was for. He asked if any kind of structure is put in there, does a civil engineer have to review it. Mr. Zamparelli stated it is a swale, and Mr. Jagirdar will have to submit a Permit which Mr. Majewski will review to make sure the swale still maintains its original purpose. Mr. Zamparelli stated a structure could not be put in there other than the fence which will be off the ground by a couple of inches and will not impede water flow.

Mr. Connors joined the meeting at this time.

Mr. Dellagrotte stated a technical review will happen, and Mr. Zamparelli agreed. Mr. Jagirdar stated once he has the Variance, he will submit everything required. Mr. DosSantos asked Mr. Jagirdar if he understands that he will not be able to put any structure in that area other than the fence such as a shed or swings, etc.; and Mr. Jagirdar stated he will not put any permanent structure there other than the fence.

Mr. Flager asked Mr. Dellagrotte if he is requesting Party Status, and he explained what Party Status means. Mr. Flager also asked if he is opposed, in support or is neutral to the Variance; and Mr. Dellagrotte stated he would like Party Status, but he is remaining neutral at this time and will look at the Plans when available.

Mr. DosSantos moved, Mr. McCartney seconded and it was unanimously carried to grant the 30/ Variance as requested with the following caveats:

- 1) The homeowner realizes that for the fence there must be at least a 2" ground clearance so as not to impede the flow of water
- 2) That the construction of the fence will not involve any taking down of trees, shrubs, or anything else in the greenbelt there
- 3) That no permanent structures be put within the easement area

- 4) Any grading changes must be approved by the Township
- 5) Any access to the easement area be provided at the Applicant's sole cost and expense.

APPEAL #19-1833 – DANIEL SWANTKO

Mr. Daniel Swantko and Ms. Danna Swantko were present and were 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 impervious surface breakdown was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-2. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Swantko stated the yard has had serious drainage problems. He stated he takes access from Robinson Place which is the back street which is a single-lane road; and if someone is coming to make a delivery like Amazon or FedEx, or the garbage, or the oil, or landscapers, it is difficult to get through that situation as the road is constantly being blocked. He stated he wanted to solve the drainage problem and make access from River Road to his property since the property is 1413 N. River Road and not Robinson Place.

Mr. Swantko stated he put fabric down and then  $\frac{3}{4}$  "crushed gravel." Mr. Zamparelli asked if is using it for a driveway, and Mr. Swantko stated he is. Mr. Zamparelli asked how that is helping the drainage. Mr. Zamparelli asked if that was installed under a Permit, and Mr. Swantko stated he did not because he did not realize you needed a Permit. He stated the fabric he put down is engineered to allow liquids to flow through it, and  $\frac{3}{4}$  "clean gravel" will not stop water from flowing through it, and it is actually used in highway projects. Mr. Zamparelli asked what kind of stone he used, and Mr. Swantko stated it was  $\frac{3}{4}$  clean gravel. Mr. Zamparelli stated it will get crushed and become solid. Mr. Swantko stated it will not, and the fabric holds it up; and that is what is used to solve drainage problems. Mr. Gruen asked how many inches of gravel he put down, and Mr. Swantko stated 4" or less.

Mr. Gruen asked what is the hardship since he has another entrance to the property. Mr. Swantko stated while they do off Robinson Place, it is just one lane. Mr. DosSantos stated Mr. Swantko had indicated that Robinson Place is constantly blocked by delivery truck, trash trucks, etc.; and he is looking to have an entrance to his property from River Road.

Mr. Zamparelli asked Mr. Majewski if the stone Mr. Swantko is talking about falls under the category of pervious stone; and Mr. Majewski stated while he has not seen the driveway and will have to check that out to verify, if it is clean stone that means it does not have the fines mixed in with the stone which tends to bind it together. Mr. DosSantos asked if clean stone would not compact, and Mr. Majewski agreed adding it would be primarily porous. Mr. DosSantos asked about the fabric, and Mr. Swantko stated it is engineered to allow flow through it. Mr. Majewski stated he is familiar with the fabrics they have for driveways do allow water to percolate through.

Mr. Majewski stated this area is poorly drained; and when the house was built in 2005, one of the things they had done was to do some underground seepage beds to control the run off, and it was a “soupy mess” when they put those in. Mr. Majewski stated the water does not drain through, and it just sits there. Mr. DosSantos asked if what the Applicant did will help with that situation or exacerbate it, and Mr. Majewski stated he did not have that information about what the driveway was made of.

Mr. Zamparelli asked Mr. Swantko if he has a drawing of the driveway from an engineer’s perspective to prove to the Board what he did. Mr. Swantko stated he did submit a drawing with the Application and he also submitted the receipts for the stone and the fabric to show what was used.

Mr. DosSantos asked Mr. Majewski if he would like to inspect this visually before the Board makes a decision, and Mr. Majewski agreed. Mr. DosSantos stated it would be good to request a Continuance to allow the Township to come out and look at the property, and he will then come back to report to the Board what he saw. Mr. Swantko stated he would agree to that.

Mr. McCartney asked Mr. Majewski if Mr. Swantko will need a Variance for the existing driveway that he did not get a Permit for, and Mr. Majewski stated there were Variances that were obtained on the property when they built the house around 2005. He stated the Variances obtained were to construct a house that was elevated above the floodplain; and at that time certain Conditions were put on it, and he believes they may have exceeded the impervious surface or were right at the limit when they had done the house and the driveway in 2005.

Mr. McCartney asked with regard to the setbacks, if the front of the house considered to be facing River Road, and Mr. Majewski stated the front of the house would be considering facing Robinson Place. Mr. McCartney asked if they got a Variance for the existing fence since it seems to go all the way down to the front of Robinson Place along the left hand side where the new proposed driveway is as it looks like there is

an existing fence. Mr. Majewski stated there is a fence on the north side of the property which is to the top of the page, and that was for the next-door neighbor's swimming pool; and he believes they came in to get a Variance to construct the swimming pool and the fence within the floodplain. Mr. McCartney asked if the front of the house faces west, would Mr. Swantko need a Variance for the requested fence as well. Mr. Majewski stated he believes that Mr. McCartney is correct. He stated the neighbor to the north that has the existing fence, their house faces River Road so their rear yard fence is actually in Mr. Swantko's front yard.

Mr. Swantko stated if you look at the house driving by on River Road, the front of the house is actually facing River Road. He stated the front door does face River Road; however, the way the builder did it, he only made access through Robinson Place. Mr. McCartney stated if the front of the house is facing due east, the proposed fence would be "way outside" what the requirements would be for a fence. Mr. McCartney stated if the front of the house faces due west, the fence being requested, at the end of the proposed driveway, it is also past so it is either going to be one or the other, and they will have to consider what they consider the front of the house. Mr. Majewski stated they have requested a Variance, and he will look at it again to see what was considered the front and the rear in 2005 when they obtained the Variances.

Mr. Zamparelli stated he is requesting a 4' fence instead of a 3' fence, and Mr. Swantko agreed. Mr. Zamparelli asked if there is any possibility of removing any of the existing driveway to lessen the impervious surface; and he stated they could remove it since it is only gravel. Mr. Majewski stated Mr. Zamparelli is asking about the existing paved driveway, and Mr. Swantko stated they could remove any of it, if they wanted to "scrape it up." Mr. Zamparelli stated he is trying to get the numbers down. It was noted the driveway is asphalt, and he showed the location of the existing driveway.

Mr. DosSantos stated he questions if any of the discussion is relevant now since Mr. Majewski is going to go out to the property to inspect it.

Mr. Swantko showed areas on the property where "when it rained, it would fill up like a bathtub." He stated he would have standing water for months in areas he showed on the slide. He stated in the winter, he would have standing water which would freeze; and when the mailman had to make a delivery, he fell. Mr. Swantko stated he saw that happen, and he apologized to him and advised him that he would do something to rectify the situation so that would not happen again.

Mr. McCartney stated it seems that an on-site visit is appropriate based on the existing condition of water on the site, and the Plan from 2005 does not seem like it is very effective. Mr. Swantko showed the areas where it is no longer a problem because of the work he did. He showed one area which still takes a week or two to dry after heavy rains.

Mr. McCartney asked how much of the project is done already, and Mr. Swantko stated it is all done. He stated he hired someone to come in with a bobcat who scraped a small portion of it to make it level, and he put down the fabric. Mr. McCartney asked if he did the fence as well already, and Mr. Swantko stated the fence is not done. He stated his main concern was to solve the drainage problem first.

Mr. Gruen asked if Mr. Swantko will need a County Permit to get access from River Road, and Mr. Majewski stated he needs a PennDOT Highway Occupancy Permit.

Ms. Kirk asked Mr. Swantko the length of the proposed stone driveway, and Mr. Swantko stated it is 222'. Mr. Gruen stated he believes it is longer than that, and Mr. Majewski stated it is a total of 287'. Ms. Kirk asked the width, and Mr. Swantko stated it is a little wider in the back. Ms. Kirk asked the average width, and Mr. Swantko stated it is the width of a car. Mr. Majewski stated it is 10' up to the front/rear of the house depending on how you look at it, and it is approximately 24' where the existing driveway is. Ms. Kirk asked Mr. Swantko if he uses that for vehicles, and Mr. Swantko stated he does. Ms. Kirk asked if he feels that after vehicles are driving on the stone long enough, it will become compacted; however, Mr. Swantko stated it will not. He stated it has rained heavily since they put it in during the spring, and he has done a "fabulous" job of solving the pre-existing drainage problem, and it no longer exists. Ms. Kirk asked over the course of time with vehicles driving on the stone driveway, will the stone not become compacted; and Mr. Swantko stated it will not. Ms. Kirk asked Mr. Swantko what expertise he has to make that determination. Mr. Majewski stated this is one of the reasons why he will go out to the property to verify it. Mr. Majewski stated if it is in fact the 34/" clean stone without the fines that bind the stone together, water will go through and not be compacted.

Ms. Kirk asked with the installation of the proposed driveway, do the property owners have to make the necessary submissions and compliance with the Floodplain Ordinance, and Mr. Majewski stated that is why they are here to get the Variance.

Ms. Kirk stated she was asking about the submissions as to adequate drainage, the base elevation, the Certification of the base elevation; and she asked if that is not all applicable. Mr. Majewski stated he does not believe they have changed the grade, and they just dug out the 4" and put it back in place; but he will verify that. He stated there has been an inordinate amount of rain so he will be able to ascertain if this has made the problem there worse or has it improved the drainage out there. Mr. Majewski stated he is familiar with this property from a decade ago.

Ms. Kirk stated if the matter is Continued, she would like Mr. Swantko to take some photographs of the proposed driveway and the positioning of the house so that there is a better visual for everyone; and Mr. Swantko agreed to do so.

Mr. Gruen asked if there is any vegetation along the driveway, and Mr. Swantko stated there is just grass. Mr. Gruen asked if he would consider putting in water-loving plants along the driveway, and Mr. Swantko stated he would.

Mr. Gruen stated in the front it looks like he added a "huge" parking area in addition to the driveway, and he asked why he needed that. Mr. Swantko stated he has two boats because he lives on the River and he likes to fish. He stated when the boats were sitting on the grass in the area where it was grass and mud, the boats would sink in the mud; and he would have to wait for it to dry up to move them. Mr. Gruen stated he believes that there is an Ordinance that requires that vehicles be parked on impervious surface. He stated if it is determined that the gravel that has been installed is pervious, he would not be able to park the boats there. Mr. Flager stated they should concentrate on the Variance request first. Mr. Majewski read from the Ordinance which relates to this as follows: "All parking areas including driveways shall be graded, surface with asphalt or other suitable hard surface material, and drain to the satisfaction of the Township." Mr. Majewski stated as far as parking other vehicles, he believes that it is the same requirement. Mr. Gruen stated his point is that in the front where he enlarged the driveway, if it is pervious surface he does not feel he can park the vehicles and boats there. Mr. DosSantos stated while he does not necessarily disagree, he does not feel that is an issue for right now especially if Mr. Majewski is going to go out to the site; and he feels all of this discussion is moot until the Township looks at the property. Mr. Zamparelli stated he agrees.

Mr. Majewski stated he does feel that Mr. Gruen has brought up a good point that they will have to look at other ramifications with regard to the parking. Mr. DosSantos stated he assumes that Mr. Majewski will discuss this with the Applicant, and he could modify his Application at the appropriate time.

Mr. Majewski stated he is a little concerned about the solid wood fence and the fact that it may impede the flow of water, but they can discuss that on site.

Mr. Swantko stated it will be a combination.

Mr. DosSantos moved, Mr. McCartney seconded and it was unanimously carried to Continue the matter to July 16, 2019.

#### APPEAL #19-1834 – JOHN REEVES

Mr. John Reeves was sworn in and stated he would like to put in a back yard shed in a flood zone.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. Mr. Flager stated even though there is not an impervious surface issue, an Impervious Surface Breakdown was provided, and this was marked as Exhibit A-3. A photograph of the proposed shed was marked as Exhibit A-4. The estimate for the shed was marked as Exhibit A-5. 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. Reeves stated he is a thirty-seven year resident of the property. He stated he has recently retired, and he would like to engage in hobbies including woodworking; and he would like to use his garage for that. He stated he could enlarge the garage, but that would be a substantially higher cost than putting in a shed; and he could also run into issues with setbacks and the neighbor's property. He stated he would like to put a shed in his yard that would allow him to get the lawn equipment and other things out of the garage and into the shed which will allow him use of the garage for his hobbies. He stated he has provided a Site Plan, and the proposed location of the shed is the small square that is to the right at the back of the yard. He stated the color picture that he provided is a picture of a salt box style shed manufactured by a company in Pennsylvania. He stated he would have the shed sided to match his house, and the shutters would also match his house in terms of color and style. He stated the roof would have architectural shingles to match his house. Mr. Reeves stated the shed will match his house and fit the neighborhood.

Mr. Gruen asked the size of the shed, and Mr. Reeves stated it is 10' by 14'.

Mr. DosSantos stated apparently there was an impervious surface issues with the original Application, but he understands that has been addressed; and Mr. Reeves stated he has mitigated that by removing paver block. Mr. DosSantos asked Mr. Majewski if the proposal now is under 18%, and Mr. Majewski agreed. Mr. DosSantos stated the only issue is the floodplain, and Mr. Majewski agreed.

Mr. Gruen asked Mr. Majewski if Mr. Reeves were to elevate the shed 12" above grade so water could flow underneath would that be acceptable. Mr. Gruen added the shed would have to be anchored. Mr. Reeves stated the plan would not be to raise the shed so that you could crawl underneath of it. He stated the way these sheds are put down is that you box out an area using 6 by 6 treated lumber, and that area is then filled in with crushed gravel, and the shed is laid on top of that. Mr. Reeves stated part of the process is anchors on all four corners that are cabled to each corner and driven into the ground to withstand winds and any possibility of floating away. He stated in the thirty-seven years he has lived at the property, he has never seen the water get to the area where the proposed shed will go. Mr. Reeves stated he has a creek in the back yard; and even with this most recent heavy rain, he did not have an issue.

Mr. Majewski stated the issue with a shed in the floodplain is the concern that it will obstruct the flow of water. Mr. Majewski stated as Mr. Reeves has stated, he has not flooded; however, that does not mean that it could not flood in the future. Mr. Majewski stated the depth of the water in this area to the base flood elevation is about one foot to a foot and a half that this potentially would be under water in the 100 year storm which is about eight and a half inches of rain over twenty-four hours. Mr. Majewski stated they have had that happen a few times in the last decade. Mr. Majewski stated due the depth of the water, there is not a danger that it would be swept away provided that they properly anchor it to the ground. Mr. Majewski stated to Mr. Gruen's point, there are two ways to set a shed down. Mr. Majewski stated one is as Mr. Reeves has stated which is to outline it with 6 by 6s, and put a stone platform, and place the shed down; and another method is to just place it on small piers, and then put the shed up so that water can pass underneath. Mr. Zamparelli asked how high would it have to be with the piers, and Mr. Majewski stated typically it is 4" to 6". Mr. Gruen stated the way the sheds are built, they are built on pressure-treated beams, and you can set the height any way you want. He stated if they were to put it 12" high, he might need a little ramp if he wanted to drive a tractor in. He stated there is no hardship in setting it as it is the same process; but instead of one 2 by 6 beam, you will have to use two - one on top of the other so that the shed is elevated a little bit, and the water can flow under the shed in case of a flood.

Mr. Reeves stated he is not familiar with how piers are done. Mr. Gruen stated he is not talking about piers; and he is saying that he would do the same process that he is proposing, but instead of one beam there would be double the number of beams so that it could be elevated a little bit. Mr. Reeves stated what they would do is create a box and fill that in so that the shed sits on the stone. Mr. Gruen stated it sits on the 6 by 6s not the stone; however, Mr. Reeves stated the instructions he has been given by the manufacturer of the shed is that you need one foot of stone area around the perimeter that helps with any drainage and reduces the puddling and damage to the surrounding yard. Mr. Gruen stated they want him to build a pad and place the shed on the pad. Mr. Gruen stated he is still suggesting what he has described. Mr. Reeves stated 12" would be pretty steep.

Mr. Majewski stated the primary concern with any structure in a floodplain is that you are impeding the flow of water. He stated a shed is a smaller structure so it has less overall impact. He stated if it could be elevated to be above the flood plain, that would be preferred. He stated in this instance, he believes that it would have to go up a foot and a half. Mr. Majewski stated if he were to elevate it on the 6 by 6s, he would still have something underneath it, and they would then just essentially be blocking the flow of water so the only thing they would get is that the shed would be less likely to experience flood damage. Mr. Gruen stated if they elevate but not put in crosspieces, the water would flow underneath. He stated they would not need the crosspieces, and they would just put in three rails, and place the shed on top of it. He stated they could still put the gravel around the perimeter. He stated it is just a different method of installation. Mr. Gruen what Mr. Reeves' contractor has said is one way of doing it; however, in this particular case, he would recommend that the shed be elevated, and it is proper to install it with gravel underneath and leave room for the water to pass through. Mr. Gruen stated they may not need 16" as there is a "real slim chance of 16" flow there;" but if he would raise it only 12", it would not be that "terrible."

Mr. McCartney asked if do what Mr. Gruen is suggesting and do it only on two sides would they not have to dictate that the water will move in the direction you want it to move underneath. Mr. Gruen stated you just leave an opening. Mr. McCartney stated if the direction of the water is meeting the 6 by 6, will the water "work around, work through, and underneath." Mr. Majewski stated flood water spread out in two ways – one is going downstream and the water can over top the bank and then flow downstream, and the direction could matter in that instance. He stated other times it just over tops the bank and slowly spreads out perpendicular to the stream. He stated it could come from one way or another depending on how it is flowing water or just slowly rising water that

inundates an area. Mr. McCartney asked if Mr. Gruen's proposal take care of both of those instances or just one, and Mr. Majewski stated it would take care of just one out of two.

Mr. DosSantos stated he feels piers would take care of everything; and Mr. Majewski stated that is a common way that some people do it, and they just put the piers in, and you can put the stone around on the outside. He stated the shed would be a little elevated, but you would need a little bit of a ramp up. Mr. DosSantos stated because it is a floodplain, the concern is that if the shed is installed, it will impede the flow of water which is detrimental. Mr. Reeves stated he understands this, adding that everyone in his neighborhood has a shed.

Mr. Reeves stated these are built on 4" pressure treated beams so that when you set it down on the stone, there is actually 4" before you get to the floor of the inside. Mr. DosSantos stated it is a solid frame; however, Mr. Reeves stated to his understanding it is not. Mr. McCartney stated there must be something that is getting between the base of the shed and the stone, and Mr. Reeves stated it is the "stringers." Mr. McCartney stated they would block water, and Mr. Majewski stated typically it is built like a box. Mr. McCartney stated it will block water even if it has stone underneath it. Mr. McCartney stated the only thing that is being prevented is the bottom of the shed floor getting wet if there is more than 4" of water. He stated they are concerned that if a water event comes, it does not push the shed into the creek or somewhere else. Mr. Reeves stated they are nailed down in such a way that they are guaranteed to withstand a 90 mile hour wind which is a Township requirement. He stated it will not float a way when it is installed with steel cable. Mr. McCartney stated they are saying that they are guaranteeing against a 90 mile an hour wind, but they are not guaranteeing against a water event. Mr. Zamparelli stated they also do not want him to impede the water flow either.

Ms. Kirk stated the property is located near St. John the Evangelist Church off of Big Oak Road, and Mr. Reeves agreed. Ms. Kirk asked where the creek is located; and Mr. Reeves stated it splits the neighborhood between Valley and Jay so it is basically his rear property line, and it goes straight down the property line. He showed his property and the Rock Run tributary on the slide being shown. Ms. Kirk asked if there is a different in the elevation between the creek and his property, and Mr. Reeves stated he would have to step down from his property into the creek. Ms. Kirk asked how far down it is, and Mr. Reeves stated it is 8" to 10" in some parts of his yard to as much as one foot in other parts of his yard. Ms. Kirk stated there would therefore be anywhere from 8" to 12"

difference in grade between Mr. Reeves' yard and the creek; and Mr. Reeves stated that would be to the top of the normal water level, and to step into the bottom of the creek would be further, and he might be up to his knees.

Ms. Kirk asked Mr. Reeves how long he has lived at his property, and Mr. Reeves stated he has lived there thirty-seven years. Ms. Kirk asked how frequently in the last ten years has that creek overflowed into his yard; and Mr. Reeves stated a couple times a summer by a few feet, but not anywhere near the distance away from the creek where he would be putting the shed. Ms. Kirk asked how far will the shed be from the rear property line, and Mr. Reeves stated he would estimate it would be 20' to the back wall of the proposed shed. Mr. DosSantos stated the scale is 1" equals 20', so it would seem to be more than 20'. Mr. Reeves stated he had a site elevation done several years ago, and all he did was hand draw the shed on that plan.

Ms. Kirk asked if there is any way that the proposed shed could be moved closer to the house so that there would be greater distance between the shed and the creek; and Mr. Reeves stated it could, but he was under the impression that there were certain regulations in terms of what part of the back yard it could be located. Ms. Kirk asked Mr. Reeves if he knows the distance between the house to the rear property line, and Mr. Majewski stated by scale based on the engineered drawing the approximate distance from the rear of the house to the property line in the rear is about 84'. Mr. Majewski stated Mr. Reeves was referring to the requirement that an accessory structure be located in the fourth of the lot furthest removed from the road; and based on the Sketch, it is possible to move the shed another 10' closer to the house. He stated by scale on the Plan he has shown, it is approximately 28' from the property line and approximately 25' from the creek.

Ms. Kirk asked Mr. Reeves if he would agree if the Board were inclined to grant the request that the shed be located at least 25' from the rear property line, and Mr. Reeves stated he would adding that might even be better for him.

Mr. DosSantos stated that he is concerned that this was not advertised in this way; and if he is asking for something different, the neighbors would not have an opportunity to know what this is or discuss it. Mr. Flager asked Mr. Majewski if it would not still be in the permitted area, and Mr. Majewski stated it would still be in the permitted area. Mr. McCartney stated he could go up to 38' off the rear property line, and Mr. Majewski agreed. Mr. Reeves stated he would have no problem with that. Mr. McCartney stated based on Mr. Majewski's calculations, it is currently proposed on the diagram provided to be at 28'; and they are requesting that it be an extra 10' toward the house to make it 38', and Mr. Reeves stated he would be fine with that.

Mr. Majewski stated if the Zoning Hearing Board were inclined to approve this they could make it a Condition that the shed be moved as far away from the creek as possible while still maintaining the Ordinance requirement of being in the fourth of the lot furthest removed from the road.

Mr. DosSantos asked if the Board is suggesting that it be elevated, and Ms. Kirk stated she felt that if it the shed were moved further toward the house, they would not need to worry about the flow of water or the possibility of the shed being carried by flood waters because it would be that much further up. Mr. Zamparelli stated he still feels it should be anchored down, and Mr. Majewski stated it is required by the Building Codes to anchor all sheds. He stated in the case of a shed in the floodplain, it says it has to be able to withstand floor waters; but in general a shed needs to be anchored to comply with the hurricane requirements.

Mr. Zamparelli stated if the Board makes a Motion that he move it at least 38' from the property line and then start the shed, he could put it on regular four by fours as long as he anchors it down according to our Ordinance. Mr. Majewski stated he would not state a specific number on the distance. Ms. Kirk stated she would recommend that they state that the shed be located as close to the house within the rear quarter portion of the yard, and M. Reeves stated he would be in favor of that. Mr. Zamparelli stated he could then put it on the four by fours, and Mr. Majewski stated he would have no issue with that. Ms. Kirk stated she has no issue with that. Mr. Gruen stated he feels it would be to Mr. Reeves' advantage to leave a little air space between the bottom of the shed and the gravel otherwise he will have moisture in the shed. Mr. Gruen stated if it is raised, even 6", with piers or something else, it will be to Mr. Reeves' benefit. Mr. Reeves stated when he gets to that point, he will discuss this with the builder.

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

Mr. McCartney moved, Mr. Connors seconded and it was unanimously carried to grant the Variance for the shed to be placed closest to the house within staying of the Ordinance of shed locations.

#### APPEAL #19-1836 – LOWER MAKEFIELD CORPORATE CENTER-SOUTH CAMPUS CONDOMINIUM ASSOCIATION

Mr. Edward Murphy, attorney, was present, with Lou Merlini representing the Applicant. He stated the Applicant is the HOA that owns the area which is the subject of the Application. Mr. Murphy stated the Lower Makefield Corporate Center both North Campus and South Campus is along Stony Hill Road.

Mr. Murphy stated Mr. Merlini's firm, Rubinstein Partners, purchased the entirety of the North and South Campus with the exception of one building in the South Campus about nine months ago. He stated Rubinstein is in the process of investing multi-millions of dollars to renovate both the exterior including the site itself as well as the interior of the buildings on both the North and South Campus in an effort to try to rejuvenate those buildings which have been under occupied for quite some time. He stated currently the occupancy in those buildings ranges from 40% to 60%, and the intention is for Rubinstein to refresh the public space both inside and outside of the buildings and create new opportunities inside for cafes, work stations, work out areas; and ultimately reduce the amount of leasable square footage overall in an effort to try to attract a higher quality and better tenant.

Mr. Murphy stated one of the amenities that they are proposing is to try to maximize the value of the 110,000 square foot lake that is in front of the South Campus complex of buildings. He stated they want to construct a deck, the support for which would be behind the retaining wall that provides the separation between the lake and the parking area and buildings that surround it. He stated the deck will be cantilevered so there will be a portion of it that extends over the body of water.

Mr. Murphy stated he and Mr. Majewski had discussed whether or not they would even need relief for this because the structural component of the deck is located behind the retaining wall further away from the pond and retaining wall; however, because Mr. Majewski felt that the portion of the deck that cantilevered over was within 50', he felt that relief would be required. He stated they are seeking approval to permit the deck to be cantilevered over the pond even though the structural support for the deck is located behind the retaining wall.

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 outline of relief requested was marked as Exhibit A-3. 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. Louis Merlini, was sworn in, and stated he is employed by Rubinstein Partners; and he is the Vice President of Asset Management for the Mid-Atlantic Region. Mr. Murphy stated Mr. Merlini was active in the preparation of the Plans and the Application which is the subject of this evening's meeting, and Mr. Merlini agreed. Mr. Murphy stated Mr. Merlini heard him provide a summary of the background of the efforts to rejuvenate both the North and South Campus and the reason for the deck and the nature of the relief sought, and Mr. Merlini agreed. Mr. Murphy asked if he would agree with his comments, and Mr. Merlini agreed.

Mr. Gruen asked what will happen on the deck, and Mr. Merlini stated it is designed to be a gathering space for tenants. He showed where they will be adding a tenant lounge, café, and fitness center space; and the idea is that this will “spill its way down to the water” so that people can get lunch or coffee and come outside on a nice day or gather at a later time. Mr. DosSantos asked if they propose tables, umbrellas, etc. and Mr. Merlini agreed.

Mr. Gruen asked if they need a Permit to sell food, and Mr. Majewski stated they already have a Special Exception for a restaurant use.

Mr. McCartney asked how far over the pond will the deck extend, and Mr. Merlini stated the latest designed cantilever is about 12’.

Ms. Kirk stated the Township wanted to participated, but have no opposition to the Application.

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

There being no further business, Mr. McCartney moved, Mr. DosSantos seconded and it was unanimously carried to adjourn the meeting at 9:05 p.m.

Respectfully Submitted,

Keith DosSantos, Secretary