

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – OCTOBER 1, 2019

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on October 1, 2019. Mr. Zamparelli called the meeting to order at 7:40 p.m.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Vice Chair
 Keith DosSantos, Secretary
 Pamela Lee, Member
 James McCartney, Member
 Peter Solor, Member

Others: James Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor (left meeting in progress)
 Adam Flager, Zoning Hearing Board Solicitor
 Suzanne Blundi, Supervisor Liaison

APPEAL #19-1826 – SHADY BROOK INVESTORS, L.P.
TAX PARCEL #20-016-039, 20-012-001-003, 20-012-002-002
INTERSECTION OF STONY HILL ROAD AND TOWNSHIP LINE ROAD

Mr. Zamparelli stated Shady Brook Investors, the warehouse project, has asked for a Continuance. Mr. DosSantos stated he understands the Township is joining in the Continuance request. Ms. Kirk stated the paperwork received was not able to be reviewed by the Township's traffic engineer, so they need additional time due to the late receipt. November 19 was suggested as the date for the matter to be Continued.

Mr. Flager stated PennDOT reviewed the most recent submission from the developer's engineer, and the developer's engineer and the Township's traffic engineer both want to review what PennDOT has submitted.

Ms. Lee stated she felt that PennDOT indicated that they had no further comment. Mr. Zamparelli stated there were some additional items; however, Ms. Lee stated she believes that PennDOT indicated they had no other comments other than that they should fill out the Application.

Ms. Lee asked why they are Continuing this until November 19. She stated here issue is that the Hearing already started. She stated she knows that it is common to have Continuances, but the Zoning Ordinance requires that Hearings be completed within 100 days of the “first start.” Ms. Lee asked Mr. Flager the first day of the Hearing. Mr. Flager stated it is potentially beyond that; however, all of the Parties are on board with this and waiving the deadlines. Mr. DosSantos stated Ms. Kirk has already indicated that the Township wants to review it as well. Ms. Lee while she understands that, the Zoning Hearing Board is independent from the Township. Ms. Lee stated her concern is that they are putting this off for another six weeks. She asked why we do not require the Township to get back within the next four weeks since the Hearing has already started.

Mr. DosSantos stated he understands it is due to scheduling. He stated November 19 was suggested because he meeting before that is immediately before the Election, and there is nothing else on the Agenda so they were going to push this matter to the next available meeting which would be November 19. Ms. Lee asked why it would not be on November 5, and Mr. DosSantos stated as he just noted the Zoning Hearing Board’s regularly-scheduled meeting would have been immediately before the Election, and there is nothing else on the Agenda; and that would give them the opportunity not to have a meeting on that date. Mr. DosSantos stated the Election day is November 5, and the Zoning Hearing Board meeting would have been November 4.

Ms. Lee asked what the Board has to do with Election Day. Mr. Majewski stated the meeting room is used on Election Day, November 5; and so they advertise that meeting to be on November 4, but the room is not available that night either.

Mr. DosSantos moved, Mr. Solor seconded and it was unanimously carried to grant the Applicant’s request for Continuance and the Hearing be held on November 19, 2019.

APPEAL #19-1846 – MARIA JIMINEZ GALVIS c/o JOHN CARMONA
TAX PARCEL #20-033-001
26 OXFORD VALLEY ROAD

Mr. Flager stated his office received an e-mail from the Applicant’s attorney. He stated this was a situation where work was done; and after the fact they realized Zoning relief and Permits were not obtained prior to the work being done. He stated upon review, it was realized that in addition to the one Variance they had sought, there was additional relief needed. He stated he understands the Applicant will be submitting an Amended Application seeking additional Variances, and it will need to be re-advertised, and then it will come before the Board.

Mr. Flager suggested this matter be Continued to November 19, and he asked Mr. Majewski if that is sufficient time; and Mr. Majewski stated it would be provided the Township gets the Application in a timely fashion. Mr. DosSantos suggested not Continuing it to a specific date; and they could grant the Continuance and allow the Township to schedule it as Mr. Majewski sees fit depending upon when the Application comes in.

Ms. Kirk stated this was originally scheduled for August 20, and the Applicant's attorney at that time requested a Continuance with a notation that there may be a need for an Amended Application. She stated since August 20 to October 1 nothing has been filed so she is hesitant to have it rescheduled in November, and then run into another problem where the Amended Application again has not been filed. Mr. Flager stated they could Continue it to December since this Hearing has not been started.

Ms. Lee asked if the Board could not make the Motion for Continuance contingent upon filing an Amended Application. Mr. Zamparelli stated he would prefer having a date. Mr. Flager stated there could still be a date, and he felt that November 19 would be the earliest they could have it. Mr. DosSantos suggested that they Continue the matter to December 17, and Mr. Flager could contact them.

Mr. McCartney moved, Mr. DosSantos seconded and it was unanimously carried to grant the Continuance to December 17.

APPEAL #19-1839 – KEVIN & BARBARA FISCHER
TAX PARCEL #20-030-073
1385 N. RIVER ROAD

Mr. Zamparelli stated when they last discussed this Application, there was a question about the height.

Mr. Fischer was present, and he stated he measured it at 18'1".

Mr. Flager asked Mr. Majewski if just the Amended Application is new, and Mr. Majewski stated the Amended Application has the Variance request for height. Mr. Flager asked if it was re-advertised for that, and Mr. Majewski agreed.

Mr. DosSantos stated he understands that there were five outbuildings that were in disrepair; and those were knocked down, and one building was built. Mr. DosSantos stated a neighbor testified previously that he was in favor of the Application, and there was no one opposed. Mr. Fischer agreed. Mr. DosSantos stated the Amended Application is requesting a Variance to permit 18' 1" where 15' is permitted.

Mr. Flager marked the Amended Application as Exhibit A-4. The Proof of Publication was marked as Exhibit B-4. The Proof of Posting was marked as Exhibit B-5. The Notice to the neighbors was marked as Exhibit B-6.

Ms. Kirk stated when they last met, there were issues as to whether or not the buildings were within the floodplain; and she asked Mr. Fischer if he has been able to determine if the new building is in the floodplain. Mr. Fischer stated it is. Ms. Kirk stated at the prior meeting, Mr. Fischer agreed to install flood vents, and Mr. Fischer stated he agreed to do whatever was required by the Township. Mr. Kirk stated Mr. Fischer had also indicated that there were no wetlands in the area of the new building, and Mr. Fischer agreed. Ms. Kirk asked that the Board consider those two Conditions if they are inclined to grant the Variance relief.

Mr. Majewski stated he visited the site today and verified the height as represented by the Applicant. Mr. Majewski stated he walked the site, and there are no wetlands in the vicinity of the area, although it is in the floodplain. Mr. Majewski stated with regard to the flood vents, the Condition should just be that they comply with all the floodplain regulations for the building. Mr. Fischer stated that would be acceptable. Ms. Kirk agreed that would be acceptable as well.

Mr. Solor asked if all the foundations from the other buildings are gone, and Mr. Fischer stated some of them are still buried. Mr. Solor asked if there is vegetation there now, and Mr. Fischer agreed there is "pretty much." Mr. Zamparelli asked Mr. Majewski if the existing foundations are something that the Board should be concerned about, and he asked if they should be removed; and Mr. Majewski stated they do not need to be removed.

Mr. McCartney asked if they are well under the impervious surface, and Mr. Majewski agreed.

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

Mr. McCartney moved, Ms. Lee seconded, and it was unanimously carried to approve the Variance as requested with the building to comply with the regulations for building in a flood zone.

Ms. Kirk left the meeting at this time.

APPEAL #19-1850 – ROB STEIN
TAX PARCEL #20-013-005
FLORAL VALE BOULEVARD

Mr. Robert Stein, Compass Sign Company, and Mr. Peter Jaggard, B. C. Property Management, were sworn in. Mr. Jaggard stated they represent Floral Vale.

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. Stein stated Floral Vale has three entrances at this time, but only two of them have signs. Mr. Steil stated the signs have been there for twenty-five years. Mr. Stein stated they propose to put two new signs one at the entrance at Township Line and the other at Langhorne-Yardley. He stated there is also a third entrance where they would like to put a third, smaller sign; and currently there is only a small wooden, double-sided sign which will be taken out.

Mr. Stein they need a Variance because they want to install internally-illuminated signs. He stated the two large existing signs have two fixtures on each side. He stated the new signs will be illuminated with LEDs, and they will be more subtle than the old signs, and the electric cost will be less.

Mr. Zamparelli asked them to identify on the Plan which signs will be at locations A, B, and C. Mr. Jaggard stated Sign C is the small sign which is located near Golden China, and A and B are the two large signs.

Mr. Zamparelli asked if the signs fall within the permitted maximum square footage, and Mr. Stein stated they do.

Mr. Stein stated they plan to take one of the old signs down, put in a new one; and then go to the other entrance on another day and do the same thing. He stated there is a large space for signage, and they would probably move the sign a little closer to the road. He stated there is night time traffic since there are doctor's offices. Mr. Zamparelli asked if they move them closer to the road will that infringe on any Ordinances, and Mr. Majewski stated the locations as presented are acceptable.

Mr. Jaggard stated currently if there is bad weather, the flood lights can fall back or they can get covered in snow in the winter; and it creates a problem, and those in Floral Vale complain that people cannot see the signs.

Mr. Zamparelli asked if the signs are lit all night or is there a timer. Mr. Stein stated he would assume they would be on a timer since he does not feel people would be going to a doctor's office at 9 p.m. or 10 p.m. Mr. McCartney asked if the current signs are on a timer, and Mr. Jaggard stated they are not. Mr. Stein stated sometimes the signs are linked up with the parking lot lights. Mr. Jaggard stated the parking lot lights are on sensors so they are on all night. Mr. Stein stated he feels the signs could be put on a timer. Mr. Zamparelli asked if that is really necessary. Mr. McCartney asked if it is part of the Ordinance that the signs have to be turned off. Mr. Flager stated if the Board grants a Variance, they can put Conditions on it; and in this case, it could be that the signs be put on a timer.

Mr. McCartney asked the earliest and latest office hours. Mr. Jaggard stated around 7:30 a.m. some of the doctors come in and clients would come in at 8:00 a.m. Mr. Jaggard stated those using the dance studio are there as late as 8:00 p.m.; and he noted that Golden China is sometimes open until 10:00 p.m. to 11:00 p.m.

Mr. DosSantos stated he does not feel it is a problem to have the sign lights on all night.

Mr. McCartney asked if there is more light pollution from a floodlight than in internally-illuminated sign, and it was noted that there is. Mr. McCartney stated this will therefore have less light. Mr. Stein stated they can "dial back" the LEDs. He stated they are aware that Polo Run is in the area as well as a few homes near the other main entrance. He stated the lights will not go toward those residences, and they will be within the Park, and they are more subtle.

Mr. DosSantos stated these will be static signs and will not be scrolling or messaging, and Mr. Stein agreed.

Mr. McCartney asked who would control when the lights can be dialed back; and Mr. Stein stated if they get feedback about the brightness of the lights, they have the ability to dial it down from within the sign. He stated once they see the signs, he feels they will see that they are subtle. Mr. Stein stated they want to have a more modern sign, and they know that new signs have been put in the area.

Ms. Lee stated she feels these lights are altering the essential character, and she feels there are Zoning regulations for a reason; and she is against these lights. She stated the Board has approved these lights for others. Ms. Lee stated she would recommend that if the Board is inclined to grant the Variance, that they consider a limit on how bright it can be. She stated there is nothing to stop someone in the future to put in something bigger and brighter.

Mr. Stein stated he understands Ms. Lee's concerns; however, the lights have been there for many years. He stated the existing lights are "ugly, bright, and they blast light."

Mr. DosSantos asked if there is a lumens rating for the proposed signs, and Mr. Stein stated he could provide that. Mr. DosSantos stated that may address Ms. Lee's concern.

Mr. Zamparelli asked Mr. Majewski if there is a restriction on lumen output for signs, and Mr. Majewski stated the Township does not have. He stated the only restriction the Township has is for glare, and they have enforced that against both residences and businesses who have erected lights. Mr. Zamparelli stated they would not have to include the fact that they could not have glare since it is already in the Ordinance. Mr. Majewski agreed and added they could make it a Condition that they provide lumen information subject to the satisfaction of the Township.

Mr. Stein stated they want to put in a beautiful sign that everyone is happy with. Mr. Stein stated they have been working on this for a year dealing with the development's Board members.

Mr. Jaggard stated he believes the complex next to Floral Vale, 777 Township Line, already has the type of sign they are requesting; and those in Floral Vale were asking why they could not have that type of sign as well.

Mr. DosSantos moved to grant the Variance subject to the provision that the Applicant provide specific lumen information for all three signs to the Township and subject to the approval of the Township.

There was further discussion about the need to include time limits, but it was agreed that would not be necessary. Mr. Jaggard stated there is a day care and a bank in the area that have signs on all night long.

Mr. Solor stated they are including a Condition that they need to provide information on the lumens, and he asked how they would guarantee the limit on the lumens; and Mr. DosSantos stated it would be subject to the Township's approval. Mr. Majewski stated they will review it.

Mr. McCartney seconded the Motion.

Mr. Solor stated he feels it will help with light pollution since there will be less light with what is proposed compared to what is there currently.

Motion carried with Ms. Lee opposed.

CANCEL 10/15/19 AND 11/4/19 MEETINGS

Due to lack of Agenda items, Mr. DosSantos moved, Mr. McCartney seconded and it was unanimously carried to cancel the October 15, 2019 and November 4, 2019 meeting.

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