

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – FEBRUARY 16, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on February 16, 2021. Mr. Zamparelli called the meeting to order at 7:33 p.m.

Those present:

Zoning Hearing Board:                   Anthony Zamparelli, Chair  
  Matthew Connors, Secretary  
  Peter Solor, Member

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

Absent:                                     Pamela VanBlunk, ZHB Vice Chair  
  Michael Tritt, ZHB Member

APPEAL #21-1895 – KS POOLS & PATIOS (MICHAEL HULSA)  
Tax Parcel #20-021-079 – 1573 CLARK DRIVE, YARDLEY, PA 19067

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 Calculations were 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. Michael Hulsa and Mr. Eric Konyves, KS Pools & Patios, was sworn in.

Mr. Konyves stated they are requesting relief of 5.4% to put in an in-ground swimming pool in Mr. Hulsa's back yard. They are proposing an infiltration trench that is already existing to control the volume and run-off. It is a 2' wide by 2' deep by 100' long existing infiltration trench with a yard drain on either end currently existing at the back of the property.

Mr. Zamparelli asked Mr. Majewski if the numbers are correct with regard to the existing infiltration and getting it back to the 18% before the proposal for the pool. Mr. Majewski stated there are a few minor errors. He stated the Plans show existing impervious surface of 4,081 square feet; however, the

number is actually 4,018 square feet. The impervious surface ratio of 18.4% is still accurate; however, when you calculate that out, the total impervious surface drops down to 23.0% as opposed to the 23.4% listed on the Plans.

Mr. Zamparelli asked how the existing infiltration trench will factor into the reduction of the impervious surface. Mr. Majewski stated it is acceptable to utilize that; however, there is a minor error in that. He stated they are required to retain 170 cubic feet of volume for the run-off generated by the new impervious surface. The existing trench accounts for 160 cubic feet so they are 10 cubic feet short of the number needed.

Mr. Konyves asked if it would be acceptable to widen the trench. Mr. Majewski stated if it were elongated by 4' it would meet the requirements. Mr. Konyves stated they may have room in the corner to elongate it, but it is very close to the property line as is. Mr. Konyves asked if they could widen out a section or just widen it entirely and make it 3' wide rather than 2' wide. Mr. Connors stated they could add a 4' long spur to it, and Mr. Majewski stated that would be acceptable. Mr. Konyves stated they could make it an "L" and bring it back toward the house for the 4'.

Mr. Solor asked why the trench was installed in the first place. Mr. Konyves stated it was put in by the previous homeowner, and they are not sure what the reasoning behind it was. Mr. Majewski was asked if any Permits were taken out for the infiltration pit which could explain why it was put in, and he stated there is no record of it being put in or why it was put in. He stated his assumption is that since there is a low area in the back, they may have wanted to have the water below ground rather than above. Mr. Zamparelli asked if that would have required a Permit to be put in, and Mr. Majewski agreed it would because of the size.

Mr. Zamparelli noted the shed, and it appears that they will be removing part of the patio. Mr. Zamparelli asked if they put in the shed, and Mr. Konyves stated it was there "prior to the start of work." Mr. Zamparelli stated it appears that due to its location, they probably did not secure a Permit for the shed. Mr. Konyves stated there should be a Permit for the roofs that are being put on now, but that does not involve the shed or the infiltration trench.

Mr. Solor stated it seems that there is a steep cross drain in the back, and he asked if there are drainage problems in the neighborhood. Mr. Konyves stated he is not aware of any. Mr. Hulsa stated he has not heard of any concerns about water issues since he has lived on the property over the last two years.

Mr. Connors stated it appears that water from the property goes to the rear yard, and the water from the property behind them also goes into that spot, so he assumes that is why there is an infiltration trench there.

Mr. Hulsa stated with regard to the shed, that was existing when he moved into the property. He stated it will be removed as part of the clean-up of the property as it is run down and rusted. Mr. Solor asked if removal of the shed would impact the impervious calculations and eliminate the need for the additional 10 cubic feet. Mr. Majewski stated removal of the shed will reduce the impervious surface down to 22.6%. Mr. Solor asked if that would mitigate out the need to go to 170, and Mr. Majewski stated it would.

The Township is not participating in this matter.

There was no one from the public wishing to speak on this matter.

Mr. Solor moved and Mr. Connors seconded to approve the Variance contingent on removal of the shed.

Mr. Hulsa asked how long he has to remove the shed. Mr. Zamparelli stated it would have to be removed when the pool goes in. This was acceptable to Mr. Hulsa.

Mr. Zamparelli asked Mr. Hulsa if he plans to put in a new shed; and Mr. Hulsa stated if he decides to do that, he will file the necessary paperwork to insure that they comply with all rules and regulations.

Motion carried unanimously.

APPEAL #21-1896 – ANTHONY ANELA & AMY LAMOREAU  
Tax Parcel #20-042-312 – 349 SHERWOOD DRIVE, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked at Exhibit A-2. The Impervious Surface

Calculation 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. Anthony Anela and Ms. Amy Lamoreau were sworn in.

Mr. Anela stated they are proposing to install some patios on both sides of the pool area, a storage shed, and an area for a firepit. He stated they moved in two and a half years ago and they were already over the permitted impervious but were unaware of that. He stated they are looking to upgrade their back yard. He stated what they are asking for is only 3.2% over the existing impervious.

Mr. Zamparelli stated while that is true, they are significantly over the maximum permitted which is 18%. Mr. Anela stated everything including the pool was existing when they moved in. He stated there is also a water retention basin in the back yard, and they are only looking for 3.2% added onto what they have. Mr. Zamparelli stated while he understands that, they are significantly over what is permitted.

Mr. Solor stated the Board does not typically feel that 3.2% is de minimus.

Mr. Anela stated when they bought the house it was already at 30% impervious. He stated the prior property owner did not keep up with the property, and they are looking to improve it. They are looking to add patios, a shed, and a fire pit. He stated there was a shed on the property but it was taken down so they could replace it with a new shed.

Mr. Zamparelli stated he is uncomfortable with the amount of the impervious surface.

Mr. Connors asked if there is a way they could pull back the driveway to compensate for the patios. He stated at the end of the driveway, it is fairly wide. Mr. Anela stated there is a little space at the top of the driveway that is a “bump out” that they are removing. Mr. Zamparelli stated that was not indicated on the drawing. Mr. Anela stated they are going to remove that because they had new fencing put in, and that overlays into the back yard so they will remove that part of the driveway.

Mr. Zamparelli asked about the location of the fire pit near the edge of the property. Mr. Anela stated there is nothing behind them other than the water retention basin which is Township property.

Mr. Majewski showed a 2020 aerial photograph that shows the pool. He added the pool was constructed in 1982 and it was permitted at that time. There were no impervious surface requirements at that time.

Mr. Zamparelli again noted the area of the driveway to be removed. He asked if they will also remove the piece that is close to the property line where it angles out to go back; and Mr. Anela stated there were not, and they were just going to remove the driveway that is in the back yard.

Mr. Zamparelli noted the notation on the Plan “future hardscape patio, and he asked if that was part of the calculations. Mr. Anela stated it was.

Mr. Solor asked Mr. Majewski what would be required for an infiltration bed to mitigate back to the 31.2%. Mr. Majewski stated taking out the driveway bump out which is approximately 100 square feet, that would make the proposed impervious surface 33.8%. He stated in order to mitigate the run-off from that to get back to where it is now including the removal would be a 2’ by 4’ by 25’ long trench which would handle the run-off back to what is existing with the removal of the small pump out in the back of the driveway. It would involve taking out the bump out area which is approximately 10’ by 10’.

Mr. Connors stated they are well above 30% which is a concern.

Mr. Solor stated the detention basins are designed assuming a certain amount of run-off from the neighborhood, and the more impervious area that is added pushes the run-off totals in the basin to more than it was designed for. He stated there is a reason to infiltrate on the property.

Mr. Zamparelli stated he feels they should be able to remove more of the driveway.

Mr. Anela asked what he is “supposed to do” since he bought the property with a beautiful pool, and “he cannot do anything.”

Mr. Connors stated they are asking for two patios, a shed, and a fire pit on a site that is already over the permitted impervious. He suggested that they look into this further to see if they can consolidate it and remove more of the existing driveway.

Mr. Anela asked what could he do. Mr. Anela stated he is already at over 31.2% and he asked what he would be allowed to do. Mr. Zamparelli stated he would be allowed to have 31.2%. Mr. Solor stated he could also mitigate which is what they were discussing with the trench.

Mr. Majewski suggested that he and Mr. Anela discuss this prior to the next meeting and go over some alternatives which could be presented to the Zoning Hearing Board. The Board was in favor of this, and asked Mr. Anela if he would request a Continuance; and Mr. Anela agreed.

There was no one from the public wishing to speak on this matter.

Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to grant a Continuance to March 16, 2021.

APPEAL #21-1897 – LORI KATZ & PHIL SUTTON

Tax Parcel #20-047-114-011 – 315 SALY ROAD, YARDLEY, PA 19067

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 Calculation 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.

Ms. Lori Katz, Mr. Phil Sutton, and Mr. Robert McCubbin, Anthony & Sylvan Pools, were sworn in.

Mr. McCubbin stated the property is in the R-RP Zoning District which carries a maximum impervious of 13%. He stated they are currently at 20.1%. He stated that consists of the dwelling, the driveway, front walkway, rear paver patio, a rear paver pad, and an egress window. He stated he actually believes it is 21%; however, it does not effect the overall impervious number they are looking for. Mr. McCubbin stated they are looking to increase it to 24.2% which will consist of 120 linear feet of pool coping, 24 square foot equipment pad, 1,220 square feet of patio; and with the removal of 423 square feet of the existing paver patio in the rear that will bring them to 941 square feet which is a total of 5,503 square feet on the property of impervious area or 24.2%. Mr. McCubbin stated the maximum allowed on the property in terms of square footage is 2,951 square feet so they are currently 2,552 square feet over the allowable in terms of square footage.

Mr. McCubbin stated they have a Stormwater Management Plan which will mitigate all 2,552 square feet which will mitigate them back down to the 13%. Mr. Majewski stated he agrees with the calculations.

Mr. Solor asked how this interacts with the floodplain elevations in the area. Mr. Majewski stated this property is not in the Regulated Floodplain from FEMA – the 100 year floodplain or the special flood hazard area. It is located within the 500 year floodplain with a 0.2% chance of annual flooding. He stated it is primarily at ground. It is not in the Regulated Floodplain and would have marginal impact on anything at a much higher flood.

Mr. Connors stated this is the area that is a little bit higher along the River. Mr. Majewski stated the ground actually goes up from the Canal toward the River so the further you are away from the Canal, the better you are for the floodplain typically in this area.

The Township is not participating in this matter.

Mr. Nick Hogan was sworn in. He stated he owns the property next to the subject property on Michael Road. He stated his only concern was the mitigation, and he now understands that it will be mitigated down to 13%. Mr. Hogan asked how the mitigation is handled. Mr. Connors stated there is an infiltration pit where the excess run-off created will be collected and infiltrated back into the ground. A slide of the Plan was shown of where the pit will be located. Mr. Majewski stated the Plan shows a cut-view into the ground, and it can be seen that below ground there will be a bed that will have pipe and stone. Water will go into this and be stored underground and percolate. It will be located toward Michael Road on that side of the road. Mr. Majewski stated it will be collected through a series of yard drains in the property and put underground on the left side of the property.

Mr. Solor stated there will actually be less run-off than there is now.

Mr. Zamparelli asked Mr. Hogan if he has water on his property now, and Mr. Hogan stated when it is a bad storm there is some standing water all the way back in the northeast corner. Mr. Majewski stated what they are proposing is that the water will be captured by storm drains and piped underground. Mr. Majewski stated they will make sure that when they install the pool that the water gets into the storm drains.

Mr. McCubbin stated he believes that part of the problem was that there was a little stone wall that was built along the back side of the property which probably caused some issues there, and that wall be removed as part of the project. Mr. Hogan stated that wall was put in years ago. Mr. McCubbin stated when they put that stone wall in, the water had nowhere to go so it sat in that back corner. Mr. Hogan stated a prior owner had a fish pond back in that area, and the wall may have been part of that.

Mr. Hogan stated he does not have a problem with what the new property owners want to do. He stated the property owner on the other side of his property have standing water when there are really bad storms, and he was concerned about encroachment on both sides of his property. He stated it is encouraging to hear that it will go down to 13%.

Mr. Hogan asked if there are any future problems what would be the solution. Mr. Majewski stated when they are doing the construction, the Township engineer will check on it to make sure everything looks okay. Mr. Majewski advised Mr. Hogan if he does see a problem during construction, prior to them completing the project, if he sees water coming over to his property, he should contact the Township; and the Township will work with the pool installer to see what can be done to make the situation better so that it does not impact Mr. Hogan's property.

Mr. Hogan stated he is asking about what could be done if there is a problem years in the future, and what would be the redress if Variances are approved which turn out to be "bad approvals." Mr. Majewski stated that would be difficult if a problem arose several years later which is why he suggested when they were finishing up the pool that Mr. Hogan let the Township know if there is an issue. Mr. Majewski stated if it is a reasonable period of time, they can work with the pool owners to make sure that they correct any deficiencies that there may be.

Mr. Zamparelli stated he believes these Applicants are going above and beyond, and it will make the situation better.

Mr. McCubbin stated the Township also requires an Operations and Maintenance Agreement that the homeowners have to enter into to make sure that the stormwater system is being properly maintained.



Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to approve the Appeal subject to reducing the effective impervious back to 13% in conjunction with the Township engineer reviewing the infiltration system.

APPEAL #21-1898 – ROSS & KAREN BIRNBAUM

Tax Parcel #20-059-021 – 1381 REVERE ROAD, YARDLEY, PA 19067

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 Zoning Data Summary was marked as Exhibit A-3. The Deed was marked as Exhibit A-4.

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. Ross Birnbaum and Ms. Karen Birnbaum were sworn in. Ms. Birnbaum stated they are proposing to build a pool with concrete decking. She stated the property as it stands now as it was built in 1979 is at 19.98% impervious and the maximum permitted is 18%. She stated the Plan shows they will increase it to 25.67%, but they have proposed a seepage pit to bring the percentage back to the 19.98%.

Mr. Majewski stated he agrees with the calculations.

Mr. Zamparelli asked about the mitigation proposed, and Mr. Connors stated it is a seepage pit.

Mr. Solor stated the Grading Plan is using 1' contours, and it looks like it is only collecting from the yard drain. Ms. Birnbaum agreed it is only from the yard drain, and there is no piping from the house. Mr. Solor stated the way the Grading Plan is shown, it is hard to tell if it will be pitched into the yard drain from everywhere. Mr. Majewski stated the way it is graded, the grading from the left side of the property, most of the that water will be channeled and collected into the system. He stated they can work with the Township engineer to refine that better to make sure it captures more of the water. Mr. Zamparelli asked the Applicants if they would be willing to go along with the Township's required recommendations, and the Applicants agreed.

Mr. Solor noted the location of the equipment pads, and he asked if it is acceptable to have them that close to the property line. Ms. Birnbaum stated they understood it was supposed to be 10' from a window. Mr. Connors stated he believes the requirement is that it be 5' from the property line. Ms. Birnbaum stated it is more than 10' from the window so that if it is not showing that it is 5' from the property line, they can make it 5' from the property line. Mr. Zamparelli stated he understands that they would agree to move the pad if it is not 5' from the property line so that there is not a dimensional issue. The Applicants agreed that they would make sure it is 5' from the property line. Mr. Majewski stated the Township requires that pool equipment be a minimum of 5' from the property line.

Mr. Vivek Belagodu was sworn in. He stated he is sure that they will do a great job, but his main concern was with the drainage. He stated he lives to the left of this property, and the gradient is not that much. He stated he wanted to understand what was being done to mitigate that, and he believes they have already answered that. Mr. Zamparelli stated he assumes there is not flow onto his area currently given the grading. He stated according to the Plan, it should gather the water. Mr. Belagodu stated there is currently not a water issue between the properties, but there is a water collection issue between his property and the property behind him although that is not part of this Hearing.

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to approve subject to approval of the Stormwater Management Plan by the Township engineer mitigating it back to 19.98% and subject to relocation of the proposed pads to be in conformance with all Code requirements.

APPEAL #21-1899 – MIKE & MELISSA SCHAFER  
Tax Parcel #20-024-012 – 754 ADAMS CIRCLE, YARDLEY, PA 19067

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-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Mike Schafer, Ms. Melissa Schafer, and Mr. Robert McCubbin, Anthony & Sylvan Pools, were sworn in.

Mr. McCubbin stated they are in the R-2 Zoning District which carries a maximum percentage of 18% impervious surface. He stated the property is 21,779 square feet, and currently they are at 20.2% impervious surface so they are over the 18% permitted. Included in the existing impervious surface is the dwelling, driveway, front walk, rear paver patio, hot tub patio, and a screened-in porch in the back which totals 4,610 square feet. They are proposing pool coping at 116 square feet, a 24 square foot equipment pad, and 700 square feet of patio which total 840 square feet which bring the total and existing impervious surface to 5,450 square feet or 25% which is what they are seeking as the Variance for impervious. Mr. McCubbin stated that is 1,530 square feet over the allowable of 3,920 square feet. He stated they have a stormwater system designed which will mitigate all 1,530 square feet bringing them back down to 18%.

Mr. Majewski stated there were some minor issues. He stated the total existing impervious surface when divided by the Lot area yields an existing impervious surface of 21.2%, and they are showing 20.2%; however, the proposed impervious surface ratio of 25.0% is correct, and the stormwater management system that they have will mitigate the run-off back to 18.5%.

Mr. Zamparelli asked Mr. Connors if he feels there will be any issues with the flow of the water as it relates to the grading. Mr. Connors stated it appears there is a slight swale to the left, but the majority of the water will be captured by the little area drains and brought over to the infiltration basin. Mr. Solor stated he has no issues with the proposal.

There was no one from the public wishing to speak on this matter.

Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to approve the Appeal at 25.0% subject to installation of a stormwater infiltration system back to an effective ratio of 18.5% subject to review and approval by the Township engineer.

There being no further business, Mr. Connors moved, Mr. Solor seconded and the meeting was adjourned at 8:40 p.m.

Respectfully Submitted,

Matthew Connors, Secretary