

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – JANUARY 19, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on January 19, 2021. Mr. Zamparelli called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board:       Anthony Zamparelli, Chair  
  Pamela VanBlunk, Vice 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:                             Michael Tritt, Zoning Hearing Board Member

APPEAL #20-1873A – JEAN AUGUSTIN  
Tax Parcel #20-20-054-089 – 3 RIDGE AVENUE, YARDLEY, PA 19067

Mr. Zamparelli stated they have received a request for a Continuance.

Mr. Flager stated originally they were requesting a Special Exception to operate a Bed & Breakfast and a Variance for a setback. Mr. Flager stated they then withdrew the request for the Special Exception, and it was just going to be a request for a Variance for the setback. Correspondence was received today from Bryce McGuigan of Begley, Carlin who was representing them indicating that he was no longer going to be representing them, and that they were going to pursue both the Special Exception and the Variance.

Mr. Flager stated this now needs to be re-advertised because the only thing that was advertised for this evening was the Variance and not the Special Exception.

Mr. Zamparelli asked how many times the Board has granted a Continuance already. Mr. Flager stated there were a few because they were going to narrow down the issues; however, now they are expanding them again back to the original request which is a Special Exception for a Bed & Breakfast and a

Variance for the setback. Mr. Zamparelli stated now they are back with a request for the Special Exception for the Bed & Breakfast again and the setback Variance, and Mr. Flager agreed. Mr. Zamparelli stated they also now have a new attorney; however, Mr. Flager stated they are not going to have an attorney and the Applicant will represent himself at this point. Mr. Zamparelli stated there needs to be a limit as to how many times the Board agrees to grant a Continuance.

There was discussion as to what date this would be Continued to. Mr. Flager asked if it could be advertised in time to have the Hearing on February 2. Mr. Majewski asked if they would need to advertise it twice, and Mr. Flager stated they advertise twice for all Appeals. Mr. Majewski stated there would not be sufficient time to advertise twice in order to have the meeting on February 2. Mr. Majewski stated they could indicate it would be Continued to the earliest possible date but no later than March 2. Mr. Flager stated there are five Appeals already scheduled for February 16.

Ms. VanBlunk asked if there is an obligation to hear this within a certain timeframe. Mr. Flager stated the Hearing has not started yet, and the Applicant has requested a Continuance; so as long as the Applicant is waiving any time restrictions under the MPC, it is okay. Ms. VanBlunk asked if the Applicant has waived the time restrictions; and Mr. Flager stated they have previously, and they are the ones who are requesting the Continuance.

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to Continue the Appeal to March 2, 2021.

APPEAL #21-1890 – EDWARD & DEBORAH KENKEL

Tax Parcel #20-038-072-001 – 2114 N. CRESCENT BLVD, 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 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. Edward Kenkel, Ms. Deborah Kenkel, and Mr. Jeffrey Harris, architect, were sworn in.

Mr. Kenkel stated they are seeking an Exception to Section 200-23B dealing with impervious surface. He stated they are looking to add a 150 square foot addition to their home to establish a bedroom and bathroom on the main level of the house so that their elderly parents who cannot easily traverse stairs would have a place on the main floor to stay. The existing impervious surface is 20.5%, and this addition would take them to 21%. There are no dimensional Variances being requested.

Mr. Harris stated they are well within the setback lines. Mr. Harris added that they are already over the permitted impervious surface.

Mr. Zamparelli stated while this a small increase to the impervious surface, the Board always requires some mitigation to get them back to where they are. Ms. VanBlunk stated they are only looking for a .5% increase which is de minimus. Mr. Harris stated it would be difficult to have them cut back on the existing impervious. He stated the existing driveway has just enough room for parking as it is. He stated they could reduce the size of the existing patio; however, that is not ideal either. He stated they are trying to mitigate the stormwater run-off with rain barrels. Ms. VanBlunk stated she was looking for a way to reduce the effective impervious surface percentage. Mr. Solor asked if that is the intent of the rain barrels, and Mr. Harris stated that was to help mitigate the stormwater run-off. Ms. VanBlunk asked what will be the effective impervious surface with the rain barrels. Mr. Harris asked for further clarification.

Mr. Majewski stated the Board is asking how much stormwater they will be controlling with the rain barrels. Mr. Majewski stated he believes that they will be bringing it back to the point where there will be no additional impervious surface from a stormwater management perspective, and Mr. Harris agreed. Mr. Harris stated it will probably do a little bit more than that because they will probably put in two rain barrels at either end of the pipe. He stated he showed it on the calculations as a single rain barrel; however, they will probably use two rain barrels.

Mr. Zamparelli asked Mr. Majewski if he feels the calculations shown are correct, and Mr. Majewski agreed.

Mr. Zamparelli asked how they will maintain the barrels over time.

Mr. Connors asked if a Maintenance Plan will be Recorded. Mr. Harris stated he was unsure what is being asked with regard to maintaining a rain barrel. Mr. Majewski stated they could be required to Record a

Stormwater Management and Operations Agreement for the rain barrels. Mr. Zamparelli asked who would do that, and Mr. Majewski stated there is a standard form that the homeowners would sign, and it would be Recorded at the County. He stated it would indicate that the rain barrels will be maintained in perpetuity. Mr. Zamparelli stated that would be even if they sell the property, and Mr. Majewski agreed. Mr. Solor stated this would carry with the property if the property were sold.

Ms. VanBlunk stated she does not feel that would be required for a de minimus increase, and she would approve this Application as is.

It was noted that the Township is not participating in this matter.

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

Mr. Zamparelli stated while it is just a ½ percent increase, the goal is to address the increase, and there is a form that would be filed that the rain barrels would be maintained. Mr. Connors stated he feels it is reasonable with the rain barrels.

Ms. VanBlunk asked Mr. Majewski if they have every required a Maintenance Recording on a de minimus increase, and Mr. Connors stated it is required by State Law on any stormwater system.

Ms. Kenkel asked what would be the penalty if the form was not submitted. Mr. Majewski stated they would not be able to have their Permit issued. He stated prior to the issuance of the Permit for the construction, the form will have to be provided to the Township to be Recorded.

Mr. Zamparelli stated the concern is that the rain barrel would not be maintained, and they are trying to keep the impervious number down as much as they can; and this is a way to hopefully guarantee that it will. He stated they do not usually allow rain barrels for anything more than what they are requesting, and they would normally want something more permanent than rain barrels.

The Applicants agreed to install the rain barrels and provide the form required.

Ms. VanBlunk moved, Mr. Solor seconded and it was unanimously carried to approve the Variance as submitted with the additional requirement that the Applicant submit the Maintenance Form required by the Township.

APPEAL #21-1891 – VINCENT J. & BEVERLY A. COLISTRA  
Tax Parcel #20-024-121 – 1500 PAGE DRIVE, YARDLEY, PA 19067

Mr. Vincent Colistra and Ms. Beverly Colistra 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. Renderings of the property were marked as Exhibit A-3. The Impervious Surface Calculations were 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. Bruno Morganheira from the pool company was sworn in, and he stated that they are looking to install a new swimming pool, a paver pool deck, and slightly expand the existing composite deck and add a roof over top of a good part of the deck to be a 20 by 20 room. He stated they are asking for relief on the impervious surface as well as the rear setback line.

Mr. Morganheira stated currently the property is at 18.27% impervious surface. He stated 18.5% is permitted for the property which is close to the maximum permitted with minimal features. He stated currently there is a driveway, front walkway, and a composite deck with no cover. He stated with the proposed pool, deck, and cover over the composite deck, they will increase the percentage to 26.4% which is an increase of 2,042 square feet or an increase of 8.13% in impervious surface.

Mr. Morganheira stated based on the Grading Plan provided, which was drawn by Lenape Valley Engineering, they showed the stormwater management calculations; and based on the square footage being added, they are required to provide 340 cubic feet of storage based on water volume control requirements. He stated the seepage bed shown on the Plan allows for 120 cubic feet of storage. He stated they will also install pervious pavers around the pool which will allow water to percolate through, and the pervious paver bed allows for 277 cubic feet. He stated in total based on their water treatment calculations shown on the Plan, they are proposing

397 cubic feet of storage where only 340 cubic feet is required so they are 57 cubic feet over and above what it is needed; and this will bring them back to the 18.5%. Mr. Morganheira stated the pool also captures water, but it has not been included in the impervious calculations as per the Ordinance.

Mr. Morganheira stated they are trying to install a comfortable amount of pool deck, coping, etc. that will allow for a usable space for the family and guests and to provide a space for furniture and walking around the pool.

Mr. Zamparelli asked what will be the effective impervious surface, and Mr. Morganheira stated it will actually be less than 18.5% since the storage proposed is 397 cubic feet and they are only required to have 340 cubic feet. He stated he could try to calculate the percentage but feels it will be less than the 18.5% that is the maximum allowed for the property.

Mr. Zamparelli asked Mr. Morganheira to clarify his comments regarding pervious pavers being part of the calculation. Mr. Morganheira stated even though they are adding that as part of the impervious calculations, they are putting a pervious paver bed below the pervious pavers to allow water to run between the joints and flow into the stone bed below the pavers, and the detail is shown on the Plan prepared by Lenape Valley.

Mr. Zamparelli asked Mr. Majewski if what Mr. Morganheira is saying is accurate, and Mr. Majewski stated it is. Mr. Majewski stated they are still including the porous pavement within the calculation because they do exceed the requirement, and it is classified as impervious surface; however, from a stormwater management perspective, it does allow water to go down into the stone bed to be stored and then slowly percolate into the ground.

Mr. Connors stated the Zoning Data Table identifies some “oddities.” He stated it has been stated that the front yard restriction is 40’ required, but the proposed is 35’; however, they are not showing any additions in the front, and he asked for clarification. Mr. Connors stated the rear yard restriction indicated 50’ is required, but they are proposing 45’; however, they are showing the proposed covered deck to be 46.76’ into the setback. Mr. Connors stated the impervious coverage is identified as N/A, but the numbers “put out are separate from that.”

Mr. Morganheira stated for the front yard, there are no changes; and the 40' required is still the 40' as shown on the actual Plan itself. He stated they will correct that when they submit the Plan for review.

Mr. Morganheira stated that in the back 50' is required, and they are asking to exceed that and go beyond the 50' to 46.76'. He apologized for the engineer not noting that under the "proposed." He stated in the Plan and the Application, they are asking to exceed the 50' to go to 46.76'. He stated that will all be corrected on the Zoning Data when the Plan is submitted for review.

Mr. Zamparelli stated the setback is not very big at 3 ½', and he asked if that is something that they have to have. Mr. Morganheira stated the existing that is there now is very close to the limit already as it is. He stated they are trying to build a room that is 20 by 20, like a standard living room. He stated since they plan to have some larger outdoor furniture and a table, they want to be able to have a comfortable amount of space for the furniture and also to allow friends and family to walk around the deck area. He stated this is how they came up with the 20 by 20 space, and that pushes them beyond the 50' setback to the 46.76'.

Mr. Zamparelli asked if it is the stairs going down to the deck that makes it 46.76', and Mr. Morganheira stated it is not. He stated the bump-out is a fireplace. Mr. Morganheira stated they are trying to create a comfortable 20 by 20 room, and that is why the fireplace is bumped out so it does not encroach into the 20 by 20 space.

Mr. Connors asked if they could move the fireplace to the western wall instead of where it is. Mr. Morganheira stated if they were to move the fireplace to a different location such as the western wall, it would cover up a window on the west side of the house; and they are trying to preserve the open view out toward the back yard. He stated it is an "arena room," and they want to keep the window's view open to the back. Mr. Morganheira stated the east corner of the deck is at 48.27' so it already does go beyond the 50' setback, and by pushing the fireplace, that takes it to 46.76'. Mr. Zamparelli asked if that was there when they purchased the house and was it built with a Permit.

Mr. Morganheira stated there is no roof structure there now, and they are asking now for the roof structure. Currently it is just an existing standard deck.

Mr. Connors stated as it stands it does not violate the setback and it has a set of stairs which is usually “not attributed.” He stated he is confused as to why they cannot move the fireplace to the western side of the proposed covered deck and pull that whole covered deck back behind the 50’.

Mr. Morganheira stated they did not want to shift the fireplace to the west side because it would block a window that looks out from the house, and they want to be able to look out into the fireplace area versus looking at the side of the fireplace. He stated in terms of shifting the deck back beyond the 50’ setback, there is nothing from restricting them from doing that; however, they were trying to create as much as an open room by staying with the 20 by 20 size which goes beyond the 50’ setback. He asked that Mr. and Mrs. Colistra to explain more about the window and why they positioned the fireplace where it is.

Mr. Zamparelli stated the Board looks at hardship, and a view is generally not a hardship.

Mr. Colistra stated when you look at the drawing being shown, where the fence is there is another 20’ to the “party line;” and along that whole area are 40’ to 50’ pine trees so he has total privacy there. He stated the 2 ½’ that they infringe to the “party line” does not affect the neighbor’s view into his yard because they have privacy on their side, and Mr. Colistra has privacy on his side. He stated that is why they put the fence right along the mulch line, and there is 20’ from that fence back to the party line where all the big trees are.

Mr. Colistra stated currently there is a window from the dining room which is in front of where the fireplace will be. He stated that window will be changed to sliding doors to open up from the dining room into what will be the covered deck; and the fireplace is in the middle of the room so that when you are inside in the living room/dining room, you will be able to look out and see the fireplace.

Mr. Colistra noted an area where the conservatory is located, and there is a large window there, and they would like to keep that view out of the conservatory. He stated all they are requesting is 2 ½’, and it does not infringe on their neighbor since they enjoy the privacy of the large oak



trees. Mr. Zamparelli asked for more information on the conservatory which he was unable to see on the drawing. Mr. Colistra stated the conservatory is all windows. He stated it is a typical Toll home with the conservatory on one side of the house. A different drawing was shown, and Mr. Colistra noted the location of the conservatory with windows looking out. Mr. Colistra stated this was an extra, and they got a 20' conservatory added on to the house. He showed where the deck would be brought out next to the windows as well as the windows looking out, and they would like to maintain that view.

Mr. Colistra stated they have been in their home for over twenty years. He noted the location of the storm drain and stated the developer put in ten trees; and over the twenty years, they have grown in the huge trees that provide himself and his neighbor with a lot of privacy. He stated their neighbor will never notice the fact that the setback is "47 ½'" and not 50'. Mr. Morganheira stated it is actually 46.76'. Mr. Colistra stated the neighbor will never notice this because of the big trees between the two properties.

Mr. Zamparelli stated he can see the conservatory by the covered deck area, but it has not been detailed. Mr. Colistra stated there are numerous pictures of their house. Mr. Morganheira asked Mr. Colistra to take his lap top and walk it into that room. Mr. Connors showed a 3D view of the property on Google Maps.

Mr. Morganheira noted a tree on Google maps which will be taken out. He noted the existing deck and stated they will be covering approximately two-thirds of it, and the third where the steps come out into the back yard will stay uncovered. He stated in the middle of the covered space which is centered with the windows that Mr. Colistra indicated earlier will be converted into sliding doors, the fireplace will sit center with that area. He stated they are trying to preserve the view from the bump-out of the house and from the conservatory. Mr. Colistra stated he would not want the fireplace to be at the location mentioned by the board because he wants to be able to look at the fireplace from the conservatory.

Mr. Colistra stated he is looking to enhance his property and have a place for his family to come in the summer.

Ms. VanBlunk stated she does not feel the fireplace on the side would match the side of the house, and Mr. Zamparelli agreed. Mr. Zamparelli stated he does not see their request as a major issue.

Mr. Colistra noted all the existing trees which provide privacy. He noted one tree which has died which he will replace so there is complete privacy from his side and his neighbor's side.

Ms. VanBlunk moved to approve as submitted provided it meets all Township requirements.

Mr. Morganheira stated on the Appeal it notes that the setback being requested is 47.67'; however, he assumes that was a typo because on the Plan as well as the Application they requested 46.76'. Mr. Zamparelli stated they see that noted on the Plan. Mr. Connors stated on the Plan there are two different numbers, and the Decision should indicate 46.76'.

Ms. VanBlunk moved to Amend the Motion to include that the maximum setback relief requested of 46.76'.

Mr. Solor seconded.

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

Motion carried unanimously.

APPEAL #21-1892 – DAN SCHAAL

Tax Parcel #20-008-037 – 23 DELAWARE RIM DRIVE, YARDLEY, PA 19067

Mr. Dan Schaal was sworn in.

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

Mr. Schaal stated they are applying for a Pool Permit. He stated currently they have 20% impervious coverage, and the construction will take it to 21.9%. He stated the hardship is that they have an almost nineteen-year old autistic adult son, and attending the public LMT has become increasingly difficult. Mr. Schaal stated his love for the pool is growing, and the pool was closed last year. He stated for health and safety issues for their son going forward, they have decided to apply for a pool to keep their son happy and safe as going to the public pool has become more difficult the older he gets and the bigger he gets.

Mr. Zamparelli stated he sees that they are proposing infiltration, and he asked what this will bring the effective impervious to. Mr. Zamparelli stated it appears that the infiltration trench will be around the pool. Mr. Schaal stated he did not know that number.

Mr. Majewski stated they are accounting for all new impervious surface that is being created so they will be keeping it effectively at what currently exists.

Mr. Connors stated there is a shed that is shown within the 10' setback, and he asked if that was Permitted. Mr. Schaal stated that was there when he purchased the property which they purchased from a prior Township Supervisor, Frank Fazzalore. Mr. Majewski stated he would have to check into that. He stated it would have to be re-located to be 10' from the property line.

Mr. Zamparelli asked Mr. Schaal if he would be able to move the shed 10' from the property line. Mr. Schaal stated he would agree to that.

Ms. VanBlunk asked the age of the shed. Mr. Schaal stated he does not know since it was there when he purchased the property. Ms. VanBlunk stated the shed may be considered non-conforming. Mr. Schaal stated they have owned the property for thirteen years, and it was there when they purchased the property. Mr. Majewski stated he will review that; and if it was an existing non-conformity, they would not have to re-locate it.

Mr. Majewski added that the Planning Commission is looking into possibly reducing the setback requirement for accessory structures. He stated by the time the pool is constructed, it may be that they will not have to be moved.

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

It was noted that the Township is not participating in this matter.

Mr. Solor moved, Ms. VanBlunk seconded and it was unanimously carried to approve as submitted with the Condition that if determined by the Township engineer that the shed needs to be re-located, that the shed is re-located, and subject to everything being approved by the Township.

January 19, 2021

Zoning Hearing Board – page 12 of 12

OTHER BUSINESS

Mr. Majewski reminded the Board that there is a meeting on Tuesday, January 26 at 7:30 p.m. which is the Continued Hearing of the Challenge to the validity of the Mixed-Use Overlay Ordinance.

There being no further business, Mr. Connors moved, Ms. VanBlunk seconded and it was unanimously carried to adjourn the meeting at 8:30 p.m.

Respectfully Submitted,

Matthew Connors, Secretary