

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – JUNE 1, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on June 1, 2021. Ms. VanBlunk called the meeting to order at 7:37 p.m. and called the Roll.

Those present:

Zoning Hearing Board: Pamela VanBlunk, Vice Chair  
Matthew Connors, Secretary  
Peter Solor, Member

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

APPEAL #21-1906 – GABRIEL DECK & ALEXANDRA CALUKOVIC-DECK  
Tax Parcel #20-039-004-001 & #20-039-004-002  
INTERSECTION OF WOODLAND DRIVE & WEST SCHOOL LANE, YARDLEY, PA 19067  
(Continued from 3/16/21, 4/6/21, and 5/17/21)

Ms. VanBlunk stated the Township has requested a Continuance until June 15 because they just received the Revised Plans which were recently submitted by the Applicant. The Applicant's attorney, Ed Murphy, has indicated that the Applicant does not oppose the Township's request.

Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to Continue the Appeal until June 15, 2021.

Mr. Majewski advised that the Revised Plans are available for review by the public on the Township's Website.

APPEAL #21-1913 – GREGORY & LAURA ANN WOZNIAK  
Tax Parcel #20-072-003  
1776 GREENBRIAR COURT, YARDLEY, PA 19067

Mr. Edward Murphy, attorney, was present with Mr. Justin Geonotti, engineer.

Mr. Justin Geonotti and Mr. Greg Wozniak 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 outline of the relief requested prepared by Mr. Murphy 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. Murphy stated he would like to provide a summary and then ask Mr. Wozniak and Mr. Geonotti to confirm the accuracy of the summary, and this was acceptable to the Board.

Mr. Murphy stated the Wozniaks have owned the property in question since August, 1999. He stated the lot is slightly less than 30,000 square feet, is Zoned R-1, and is located in the northwestern corner of the Township backing up to Township preserved open space that resulted from the Realen Subdivisions in the late 1980's/early 1990's.

Mr. Murphy stated the Ordinance adopted in 1994 created the non-conformity that exists with regard to the Lot size. The Ordinance in 1994 specifically provided that going forward the dimensions that existed for the area and yard requirements when the Lot was created would carry forward notwithstanding the later adopted Ordinance. He stated he has included this in his outline, and it shows what the standards are.

Mr. Murphy stated the Wozniaks would like to construct a free-standing garage in an area that is already existing impervious to some degree and also want to remove and modify their existing pool in the back yard. He stated the net result is a slight increase in the amount of allowable impervious surface. He stated they have anticipated what the Board's interest would be as it pertains to additional impervious, and have done a conceptual design for on-site stormwater management and provided the calculations in support of the design to Mr. Majewski.

Mr. Murphy stated the Plan shows an area for stormwater management in the rear of the Lot, and Mr. Geonotti has provided the calculations to confirm the adequacy of that area for stormwater management to address the additional impervious. Mr. Murphy stated the Ordinance allows 21%, and they are at 24 ½% as it was learned that they were 140 square feet over what

was allowed originally. Mr. Murphy stated there is a net increase of 893 square feet. He stated they believe that they have addressed what the Board typically requests.

Mr. Majewski stated he agrees with Mr. Murphy's summary adding that the Applicant has provided information that shows that they will comply with the Stormwater Management Ordinance and provide mitigation that will bring it back to what currently exists.

Mr. Wozniak stated he agrees with Mr. Murphy's summary and everything that was stated was true and correct to the best of his knowledge.

Mr. Geonotti stated he agrees with Mr. Murphy's summary, and everything was true and accurate.

Mr. Murphy stated Mr. and Mrs. Wozniak have reached out to the neighbors on either side of them, and they had no issues. He added that there are no neighbors to the back as it is all open space.

Ms. VanBlunk asked if only calculations were provided to Mr. Majewski of was a Plan provided as well. Mr. Geonotti stated they provided an impervious surface breakdown which was supplemented with a stormwater management design which is a rain garden proposed along the back of the property which complies with all stormwater regulations for the additional impervious.

Ms. VanBlunk asked Mr. Wozniak if he is agreeable to doing the rain garden, and Mr. Wozniak stated he is. He stated he understands that they will work with Mr. Majewski on finalizing this based on the Board's approval.

Ms. VanBlunk asked what will be the effective impervious surface, and Mr. Murphy stated it will be 21%. Mr. Geonotti stated it manages the increase in impervious surface, and it will be brought back down to 21%.

Mr. Majewski stated he reviewed what was submitted, and it does meet the requirements.

Mr. Solor asked if the calculations were provided in the Board's packet; and Mr. Murphy stated they were not part of the initial Application, but they were provided subsequently to the Application at Mr. Majewski's request.

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 for an effective impervious surface of 21% with stormwater management to be reviewed and approved by the Township engineer.

APPEAL #21-1914 – JOSEPH JENNINGS  
Tax Parcel #20-031-004  
2 MCKINLEY AVENUE, YARDLEY, PA 19067

Mr. Majewski stated he just reviewed his e-mails, and he had received an e-mail on Friday indicating that they wanted to work out one more detail and would like the matter Continued to the next Zoning Hearing Board meeting on June 15 which would still be within the sixty-day time period to hold the Hearing.

Mr. Connors moved, Ms. VanBlunk seconded and it was unanimously carried to Continue the Appeal to June 15, 2021.

It was noted that there were approximately fifteen people in the Waiting Room wishing to comment on this matter. Ms. VanBlunk stated Mr. Jennings has requested a Continuance. Mr. Majewski stated they are looking to revise the Plans and re-submit them prior to the next meeting. Ms. VanBlunk stated this is his first request for a Continuance, and it had previously been Continued because the Zoning Hearing Board did not have a quorum at their last meeting. The Hearing will now be held on June 15 for those wishing to comment.

Mr. Flager stated if the request for relief changes, he should be contacted if there is a need to re-advertise.

Mr. Majewski stated when the Township gets the Revised Plans, they will be posted on the Township Website for the public to review.

APPEAL #21-1915 – JONATHAN & KELLEY REISS  
Tax Parcel #20-039-243  
873 PRINCESS DRIVE, YARDLEY, PA 19067

Mr. Jonathan Reiss and Ms. Kelley Reiss 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 reasons for the Variance was marked as Exhibit A-3. An aerial photo was marked as Exhibit

A-4. The Impervious Surface Breakdown Calculations and Stormwater Worksheet were collectively 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.

Ms. Reiss stated they want to install a stamped concrete patio and replace the existing pool decking which is approximately twenty-five years. She stated as it exists it is considered pervious because there are rocks underneath; however, when they do the renovation, it will all be stamped concrete which will all be impervious. She stated the existing impervious surface is 17.8%, and they will be going to 27.8%. Ms. Reiss stated their contractor had been present at the last meeting, but he was unable to attend this evening. She stated the contractor will be installing a Deck-O-Drain and information about that drainage system was included with the Application and to Mr. Majewski as well. Ms. Reiss stated they also accounted for their trees.

Ms. VanBlunk asked the size of the patio proposed, and Ms. Reiss stated it is 990 square feet. Ms. Reiss stated the pool decking is 1,245. Ms. Reiss stated the current pool deck is a very old composite which has warped. It is 1" off the ground, and there is a layer of rock underneath it. She stated it is twenty-five years old. Mr. Majewski stated since it has the gaps to the ground below and a permeable surface below it, it is not considered impervious; and they want to replace that with a stamped concrete decking seen in most pools.

Mr. Connors asked the product that will be used for the trench drain, and Ms. Reiss stated it is called a Deck-O-Drain. Mr. Connors asked Mr. Majewski if he has reviewed the product, and Mr. Majewski stated he has. He stated in conjunction with that they are doing an infiltration trench as well and that will provide the storage that is required by the Ordinance and bring it down to the current impervious surface ratio on the site from a stormwater management perspective. Mr. Majewski stated he has reviewed and is comfortable with the numbers.

Mr. Solor stated it is a significant increase in impervious area, and he asked if they have tried to "streamline this" to reduce the amount that is being increased. Ms. Reiss stated they are eliminating certain areas of impervious. She stated the Plans show the free-form pool, and there are areas that "jut off, and they are chopping off some of those." She noted a 12' by 12' square area on the Plan which is being "chopped off." She also noted an entrance area which is being cut off. Mr. Reiss stated the problem is that it is off the ground somewhat and it is not safe for their children or their older parents stepping up to the pool area from the ground. Ms. Reiss also noted that when you step out the back

door from the kitchen there is nothing to step onto but grass/mud; and 10' from that is the pool deck which is twenty-five years old, and they are trying to make it safer and more functional.

Mr. Connors noted an area on the plan to the left, and Ms. Reiss stated that is where they are proposing a small landing pad from the driveway into the back yard. She stated from the landing pad to the larger patio area, there will be stepping stones. She stated that was included in the 990 square feet. She added that currently there is just grass and some scattered pavers.

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

Mr. Reiss stated they did talk to most of their neighbors. He stated the neighbor behind them on Ramsey had some questions. Ms. Reiss stated the only issue was that the prior owner had drained their pool water into the neighbor's yard behind them, and that is not happening now. Ms. Reiss stated all the neighbors were fine with the proposal.

Ms. VanBlunk asked if they get a lot of water in the back yard after a rain, and Ms. Reiss stated the only area where that happens she had laid down rock and a vegetable garden, and it is no longer an issue. She stated they do have a sprinkler system; and if they get approval for this when the excavation happens for the patio, they will wrap the plumbing under the patio so that if a pipe were to burst the sprinklers would be protected.

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

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to approve the Variance subject to review and approval of the stormwater management with an effective impervious rate of 18%.

APPEAL #21-1916 – PAUL LUPINACCI & ELIZABETH LUCIANO  
Tax Parcel #20-064-020  
1229 ASH LANE, YARDLEY, PA 19067

It was noted that the Township is participating in this matter.

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. Paul Lupinacci and Ms. Elizabeth Luciano were sworn in.

Mr. Lupinacci stated they would like to install a privacy fence across the back of their property that abuts Creamery Road. He stated there are Easements on both sides of the property – 10' Easement and a 15' Easement. He stated they would like to extend it up to the property line or within 1' so that they can get more coverage from the busy road and the noise it generates. He stated on the left side they would like to have it come down about 12' and on the right side about 16'.

Ms. VanBlunk stated the Application indicates that they are willing to remove the fence at their own expense if it needs to be removed for access, and Mr. Lupinacci agreed.

Ms. Kirk stated the 12' that will come along the left side of the property will sit within the drainage Easement, and Mr. Lupinacci agreed. Ms. Kirk stated part of the fence along the rear will encroach into the drainage Easement as well, and Mr. Lupinacci agreed. Ms. Kirk asked what is on that side of the property that is the drainage Easement, and she asked if there is a swale, stones, or just sloped in a way for the water to run. Mr. Lupinacci stated there are some plants in the area. Ms. Kirk asked if there is any piping or structures that can be seen, and Mr. Lupinacci stated there is not.

Ms. Kirk stated the Sanitary Sewer Easement runs along the right side of the property, and Mr. Lupinacci agreed. She asked if they have pulled any documents to determine exactly what that Sanitary Sewer Easement is for. Mr. Lupinacci stated while they have not, their neighbors have told them that there is a pipe that probably runs to Creamery Road. Ms. Kirk asked how far into the Sewer Easement area the fence will be. Mr. Lupinacci stated if they could not build in the Easement, they would have to come in 15' from the property line on the right side and 10' on the left side.

Ms. Kirk stated the Township is currently under an Agreement to sell the Sanitary Sewer system, and that would include transferring ownership of any Sanitary Sewer Easements to the buyer. She stated that may ultimately result in Mr. Lupinacci being told by the new owner of the Sanitary Sewer system to remove the fence. She stated the Township currently owns the Easement, and Mr. Lupinacci could agree to a Condition of removing the fence at his own expense and risk and not digging down to the point where posts could rupture the sanitary sewer pipes; however, the new owner may indicate that he would have to remove the fence. Mr. Lupinacci stated while he understands that, he

asked if there is a reason why they would do that, and Ms. Kirk stated they could do that as the owner if they wish so that there would be unfettered access to the pipes if they have to do repairs, upgrades, or maintenance. Mr. Lupinacci stated if that were necessary in the future, they would be willing to remove that section of the fence, have them do the repairs, etc., and then with their approval put the fence back up. Ms. Kirk stated if the system is sold, the new owner may not approve having a fence in that area at all, and Mr. Lupinacci stated he understands that.

Ms. Kirk asked how far down they would dig for the footers for the fence, and Mr. Lupinacci stated the fence contractor stated it would be 3'. Ms. Kirk asked if the fence contractor will check with the Township to see how far down the sanitary sewer pipe is laid, and Mr. Lupinacci stated he will. Ms. Kirk stated she would ask the Board if they are inclined to grant this request that there be a Condition imposed that there has to be a verification of the depth of the sanitary sewer pipe before any construction can begin. She also asked for a notice as part of the Decision or Disclaimer that there is a possibility that if the Easement is sold or transferred to another owner that the property owners are at risk of having to remove the fence through no fault of the Township.

Mr. Majewski stated with regard to the drainage Easement, he believes that there is a pipe that runs from Ash Lane out to Creamery Road. He stated he would recommend that if the Zoning Hearing Board were inclined to grant the Variance that it be located several feet off the pipe so that it does not interfere with the pipe. He stated typically a storm sewer pipe is at a shallower depth than a sanitary sewer line. He stated he would not feel the fence should be placed at the property line but be moved over several feet from the drainage Easement, and he would request that it be 3' away from the property line.

Mr. Connors asked if a mark out is required, and Mr. Majewski agreed. Mr. Connors stated this information could be provided at the time of the mark out, and Mr. Majewski agreed. Mr. Connors asked if it is the practice of the Township for Mr. Majewski or an inspector to perform this in the field, and Mr. Majewski stated for the sanitary sewer line, the Township Sewer Department will go on site and mark out where the line is. He stated they will also confirm the depth because there is As-Built information that has the depth of the sewer line, and that can be provided to the Applicant. Mr. Majewski stated for the drainage system, the Township will also mark out that line, and provide the Applicants with that depth. He stated typically the drainage lines are shallower and 3' might poke into a line which is why he requested that it be moved a few



feet away. Mr. Connors asked if this could be worked out as part of the Permit and make adjustments in the field based on the mark out, and Mr. Majewski agreed.

Mr. Solor stated the drainage Easement is not a surface drainage Easement and they would not need to be concerned about clearance underneath the fence to allow water to flow through, and Mr. Majewski agreed.

Mr. Gaboda was sworn in and stated he is a neighbor, and the Applicants have done their homework and deserve their privacy. He stated they are excellent neighbors, and he supports the request fully.

Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to approve the Variance per mark out in the field by the Township and subsequent adjustment if needed by the Township and/or the Applicant. The Applicant is also notified that they may at their own expense be required to remove the fence as installed and that all costs associated with removal are at the owners expense. The fence should be located a minimum of 3' off the verified location of the storm pipe. The mark out language includes the Condition that it has to be verification and notice of the sanitary pipe.

Ms. Kirk left the meeting at this time.

APPEAL #21-1917 – JAMES & SHANNON SCOTT  
Tax Parcel #20-039-226  
865 DUCHESS 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. James Scott was sworn in and stated that they plan to remove an existing concrete slab patio which is in poor condition, and they would like to expand it by 700' of new patio. The patio would remain in the same place but would be slightly larger. He stated they are proposing to provide an infiltration trench to capture 100% of the increased coverage.

Ms. VanBlunk asked if those plans have been submitted to Mr. Majewski, and Mr. Scott stated they were included in the submission package. Ms. VanBlunk asked Mr. Majewski if he has reviewed that information; and Mr. Majewski stated he has, and they not only meet the requirements but they proposed additional trees beyond the infiltration trench which will add additional mitigation. He stated this will bring them below what is currently existing. Ms. VanBlunk stated the existing is 22.84%, and she asked the effective rate with the proposed stormwater management design; and Mr. Scott stated it will be a net decrease.

Mr. Solor asked if he will be collecting all of the increased impervious area at the “stormwater control at the base of the low-grade retention,” and Mr. Scott agreed. Mr. Scott added that the stormwater infiltration trench will be located at the natural low point of the property. Mr. Solor asked if that will take care of 100% of the increase and the trees would be above and beyond that, and Mr. Scott agreed. Mr. Scott stated the worksheet provided by the Township would require 125 cubic feet, and the trench plus the plantings, and the number of trees preserved would be 188 cubic feet. Mr. Majewski stated the effective rate with the stormwater management would be 22.5%.

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

Mr. Solor stated the 22.5% is for the below grade only and the trees are taking it lower than that, and Mr. Majewski agreed.

Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to grant the Variance with an effective rate of 22.5% impervious subject to review and approval by the Township engineer.

#### OTHER BUSINESS

It was noted that there are a number of Appeals to be heard at the next meeting to be held on June 15. Mr. Solor stated he will not be available that evening.

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There being no further business, Ms. VanBlunk moved, Mr. Solor seconded and it was unanimously carried to adjourn the meeting at 8:35 p.m.

Respectfully Submitted,

Matthew Connors, Secretary