

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

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on March 16, 2021. Mr. Zamparelli called the meeting to order at 7:36 p.m. and called the Roll.

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

Mr. Zamparelli stated since there are only four Board members present, the Appeal would be Denied if there is a tie vote.

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. Flager stated this Appeal was granted in November, 2019. He stated Special Exceptions and Variances are good for two years unless the Zoning Hearing Board grants additional time. This property is the same property that is proposed for the Mixed-Use development which includes Wegmans. He stated Shady Brook Investors L.P. was a “Plan B” for a Special Exception to use the property as a warehouse. Mr. Flager stated if this Extension is not granted, the Applicant would have to go through Land Development for both projects – Plan B which is the warehouse which is the subject of this Appeal and Plan A which is the proposed Retail/Residential use. Mr. Flager stated since they feel Plan A is the one that will be going forward, they are asking for an Extension for this request. He stated the reason they are requesting this now rather than closer to November

is because a Land Development takes time, and they would have to begin this. They would prefer not spending the time, money, and resources on that Land Development if they do not need to, and to just do one project as opposed to two.

Mr. Flager stated Mr. Edward Murphy, who represents the Applicant, sent him an e-mail asking for the Extension through November of 2022. Mr. Flager stated it would currently expire in November, 2021. Mr. Flager stated they are asking for this Extension to preserve their rights for the Special Exception that was granted in November, 2019.

Ms. VanBlunk stated normally she would have an issue with a one-year Extension, and she does not understand why they would grant this request.

Ms. VanBlunk also noted that she had recused herself from participating in an Appeal that had to do with the same property involved with this as she personally knew the people who were involved with the Appeal. Mr. Flager reminded Ms. VanBlunk that she had recused herself from the more-recent Appeal which was a Challenge to the Zoning Validity, and he did not believe that she had recused herself from the underlying matter in November, 2019. Mr. Flager stated while the property is the same, he does not believe the people who were the Applicants who Challenged the Zoning Validity were Challenged the 2019 Application as well for the Special Exception. Ms. VanBlunk stated she did not believe that they Objected to this Application, but she wanted to make sure she did not have to recuse herself for this request.

Mr. Connors moved and Mr. Solor seconded to approve the Extension to November 11, 2022.

Ms. VanBlunk stated she did not hear any reason why they would grant this Extension. Mr. Zamparelli stated they are looking for more time because it seems the Wegmans decision would be in their favor. Mr. Flager stated a Special Exception/Variance would expire if you do not have Permits to use the Variance or Special Exception. He stated they want to protect their right should something fall through the Plan A which is the Retail/Residential Development. He stated this Extension is for their Plan B. Mr. Flager stated if this were not approved, the developer would have to go through Land Development on both Plan A and Plan B which would be costly and time-consuming; and essentially it would be for no reason if they are only going to actually pursue one project.

Motion carried with Ms. VanBlunk opposed

APPEAL #21-1906 – GABRIEL DECK & ALEXANDRA CALUKOVIC-DECK
Tax Parcel #20-039-004-001 & #20-039-004-002
INTERSECTION OF WOODLAND DRIVE AND WEST SCHOOL LANE

Mr. Flager stated they received a request from Edward Murphy, attorney, via e-mail dated 3/15/21 asking for a Continuance until April 6. He stated in the e-mail it notes that the Township staff has raised certain concerns about various aspects of the Application, and his client and their consultants are working directly with the staff to address those issues; and as a result they are requesting a Continuance until April 6, 2021 to afford the Applicants and their consultants to continue to work to address those concerns.

Mr. Majewski stated this property is in the floodplain and near wetlands at the intersection of Woodland Drive and West School Lane.

Mr. Flager stated he also received an e-mail from Barbara Kirk, the Township's solicitor, indicating that the Township is going to participate; and at least at present oppose the Application, but the Township is not opposed to the Continuance.

Mr. Solor moved and Ms. VanBlunk seconded to approve the Continuance to April 6, 2021.

There was no one from the public wishing to speak at this time.

Motion carried unanimously.

APPEAL #21-1896 – ANTHONY ANELA & AMY LAMOREAU
Tax Parcel #20-042-312
249 SHERWOOD DRIVE
(Continuance from 2/16/21)

Mr. Flager stated this matter was Continued from February 16, 2021 to give the Applicant time to address some concerns of the Board members. He stated all Exhibits were marked at that time; and if there are any additional Exhibits, they can mark them this evening.

Mr. Zamparelli stated he recalls that there was mitigation that needed to be done to get the impervious surface back to where it was when they bought the property.

The Applicants were reminded that they were still under Oath.

Mr. Anela stated they are proposing a 90 square cubic foot trench which will be 3' by 6' and 12.5' in length.

Mr. Majewski stated he met with Mr. Anela at the site and reviewed the property and the stormwater management requirements. He advised him what would be needed in the way of a seepage bed in order to mitigate the stormwater impact of the additional impervious, and he did the calculations with Mr. Anela. Mr. Majewski stated to fully control all of the impervious surface that he is adding a seepage pit would need to have the dimensions of 3' deep by 6' wide by 12 and a ½' long; and that would provide the 90 cubic feet of storage that would account for all of the run-off that is added to take it back to where it is today.

Mr. Zamparelli stated there had been discussion about the driveway. Mr. Solor asked if they are still looking to reduce some of the driveway. Mr. Anela stated they would remove the 100 square foot of driveway that is on the other side of the fence. This is the "bump-out" portion. Mr. Anela stated it is 4' by 7' wide. The Plan was shown, and the area to be removed was noted.

Mr. Anela stated they will also be planting five evergreen trees on the left side of the driveway.

Mr. Solor stated he feels that what they are proposing would meet the requirements.

Mr. Majewski stated with the removal of the driveway, the proposal now would bring the impervious surface below what it currently existing.

Mr. Zamparelli noted there are items listed on the Plan that are shown as "future," and he asked if those are part of the calculations now; and Mr. Anela stated that has all been calculated already. Mr. Majewski agreed. Mr. Majewski stated the effective impervious surface will be 30.6% by providing the stormwater management system and the removal of the 100 square feet of driveway. He stated this takes them to an effective number below where they are existing. Mr. Zamparelli stated that includes the shed and fire pit, and Mr. Majewski agreed.

Mr. Flager asked if the effective rate would be even lower if they plant the trees as well, and Mr. Majewski agreed.

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

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

Mr. Solor moved, Ms. VanBlunk seconded and it was unanimously carried to approve the Variance including removal of 100 square feet of driveway, use of infiltration subject to approval of the Township, and reduction of the effective impervious area to 30.6%. This includes all noted future work on the Plan.

APPEAL #21-1904 – MATTHEW T. SCANLAN

Tax Parcel #20-003-036-014

1239 SILVER STREAM DRIVE

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 requested relief was marked as Exhibit A-3. The depiction of the proposed fence 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.

A short recess was taken as there was an attempt made to contact the Court Reporter.

When the meeting was reconvened, Mr. Zamparelli swore in Mr. Scanlan.

Mr. Scanlan stated he has a storm Easement in the rear of his yard, and he is seeking relief to cross that 20' storm Easement on either side of the property to extend a black aluminum fence to the rear of the property where there already is an existing fence around the perimeter of the pond.

Mr. Zamparelli stated if access is needed to the Easement, the fence will need to be taken down at Mr. Scanlon's expense if this is approved; and the fence also needs to be off the ground at least 2" to allow water to flow through it. Mr. Scanlon agreed.

Ms. VanBlunk stated Exhibit A indicates that he will maintain a 2” gap beneath the fence.

Mr. Connors stated the fence lines appear to be in swales, and he asked if the Township would have an issue with this; and Mr. Majewski stated they do not, and it should not impact the flood water.

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. Connors moved and Ms. VanBlunk seconded to approve as submitted.

Mr. Flager stated the Application does note that they would have the 2” gap but he did not know if it indicates that if necessary the fence would be removed at the Applicant’s expense; and if it does not, that would need to be part of the Motion. Mr. Scanlon stated he did include that in his Application. Mr. Flager noted that is in Exhibit A-3.

Motion carried unanimously.

A short recess was taken as an attempt was made to contact the Court Reporter.

APPEAL #21-1905 – WILLIAM CONNELL
Tax Parcel #20-037-105
701 JADE ROAD

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 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.

Mr. William Connell was sworn in.

Mr. Connell stated they relocated here, and they are interested in putting a pool in the back yard. He stated it was reviewing by an engineer and based on his experience, he indicated they would have to plant twelve trees to effectively manage the potential run-off from the increased impervious surface.

Mr. Zamparelli stated the existing impervious surface is 20.9%, and they are going to 24%. Mr. Zamparelli stated the Board is not usually let Applicants to use trees to do that mitigation, and they would want there to be a seepage/infiltration pit.

Mr. Connell stated when he had discussions with the pool contractor, he had indicated that they would have to put in a pit; and they would agree to that. Mr. Connell stated the engineer had felt that they could put trees in instead.

Mr. Majewski stated this would be an infiltration trench/seepage bed which is a hole that would be lined with filter fabric so that soil cannot migrate, and they would use larger sized stones so that the void ratio between the stones is about 40%. The size of the bed would need to be some configuration that would equal 121 cubic feet of volume, and a representative sample of that would be 2' deep by 4' wide by 38' long which would provide volume to control the stormwater run-off from all the additional impervious surface. Mr. Connell stated he would agree to do that.

Mr. Zamparelli stated they could still put the trees in over and above that, and Mr. Connell stated they probably will.

Mr. Connors stated there is a shed which he feels needs a Variance as well. Mr. Connell stated that was there when they purchased the home. Mr. Connors stated the required setback is 10'. Mr. Majewski stated they are at 9.6' so they would need to move it about 5", and Mr. Connell agreed.

Mr. Zamparelli stated he should ask for that Variance as well. Ms. VanBlunk asked if that has to be advertised; however, Mr. Flager stated if he moves it it does not have to be advertised. Mr. Solor stated he is not asking for a Variance as it is an existing condition.

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

Mr. Michael Sullivan, 933 Gainsway, was sworn in and stated he barely touches the property but appreciates being notified and that Mr. Connell is going through this process. Mr. Sullivan stated Mr. Majewski described the volume of the seepage bed that would be required in order to mitigate the stormwater run-off from the increase. He stated he would like to know where this seepage bed would be located on the property.

Mr. Connell stated when he discussed this with the pool contractor, on the left side of the drawing where the six trees are, that is the low point; and that is where the pool contractor proposing putting in the seepage pit.

Mr. Sullivan stated looking at the survey and topo, the low point is where the shed is.

Mr. Majewski stated based on the topography the actual low point is at the corner of the property behind the shed, and it is just 2" higher in the area that Mr. Connell had mentioned that the pool company had discussed for the location of the seepage pit. Mr. Majewski stated they would want the grading to direct the flow of water into the seepage bed, or as an alternative tie in some roof leaders from the house into the seepage bed so that it captures water and will not impact the downstream neighbors.

Mr. Sullivan asked if there will be a Grading Plan and a detail showing this if this is approved. Ms. VanBlunk stated typically if the Board grants the relief requested, it would be subject to Township approval; and the Township would look at that before it was finalized.

Mr. Majewski stated if this were a by-right Plan where they did not exceed the impervious surface for the Lot, a Grading Plan for the pool would still be required as part of the Permit to build the pool. Mr. Majewski stated the Grading Plan needs to show all of the stormwater management that would be required, and it needs to be reviewed and approved by the Township engineer.

Mr. Zamparelli stated Mr. Sullivan seems to be concerned that possibly run-off would be going onto his property and he wants to make sure that does not happen; however, Mr. Sullivan stated he is not too concerned about that since it will probably not be directed to his property although he is not sure because he cannot see the grading.

Mr. Sullivan stated Mr. Connell has some existing trees; and if those had to be removed to install stormwater management, he would be concerned because he does not like to see trees removed and it helps with the visual screening.

Mr. Connell stated even with the pit, the intention is to try to minimize whatever fence they install, and they were going to put the twelve trees in regardless of whether they need the pit or not. He stated they did not want to create the

appearance that they were blocking themselves off from their neighbors. He stated they wanted to have the proper appearance, minimizing the fencing, and putting more trees up.

Mr. Sullivan discussed the number of fences installed, and Mr. Zamparelli stated fences are permitted. Mr. Zamparelli asked Mr. Sullivan if he is in favor or against the Application; and Mr. Sullivan stated he has no objection, and just wanted to understand how the stormwater management “would be manifested.”

Mr. Connell asked if they need to have another Plan submitted. Mr. Majewski stated if the Board grants approval, Mr. Connell will need to have the engineer revise the Plan to show what is proposed including how water will be directed into the seepage bed. All this information and the calculations will need to be submitted with the Permit Application to the Township.

Mr. Zamparelli stated a letter was sent to the Board by Mr. Metzger, although Mr. Metzger was not present this evening. Mr. Flager stated the Board could consider this letter when they make their decision.

Ms. VanBlunk stated in the letter it discusses 1980 vintage pools, and that is not the case here. She stated they also discussed “chlorine-purging” into their gardens. Mr. Connell stated they will not have chlorine as this will be a salt water pool.

Mr. Zamparelli asked if there is any flooding, and Mr. Solor stated they are addressing the impervious surface areas.

Ms. VanBlunk stated it seemed that they were more concerned about the chlorine. Mr. Zamparelli stated further in the letter they discussed safety and sufficient room for a wheelchair.

Mr. Flager stated while they would not enter this formally as an Exhibit, the Board can consider the letter. Ms. VanBlunk stated the Applicant addressed the chlorine issue and has agreed to put in a seepage bed.

Mr. Connors stated the only issue over which the Zoning Hearing Board has control is the impervious surface.

Mr. Flager stated the last paragraph of the letter has nothing to do with the Applicant. He also noted that it is possible for residents to call in, and they do not need Zoom capabilities.

Ms. VanBlunk moved and Mr. Connors seconded to approve the Appeal so long as the Applicant installs an infiltration/seepage bed that accounts for 121 cubic feet of volume subject to the Township's final approval.

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

Motion carried unanimously.

APPEAL #21-1907 – SUNIL DHAR
Tax Parcel #20-003-036-011
1201 SILVER STREAM DRIVE

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. Sunil Dhar was sworn in and stated because of the restrictions from the pandemic, they would like to put in a pool and patio in the back yard. He had been told that his impervious did not meet the Township requirements, and he needed to do some water mitigation.

Mr. Zamparelli asked the existing impervious surface; and Mr. Connors stated currently they are at 18.6%, permitted is 19%, and they will go to 22.3%.

Mr. Zamparelli asked what is the plan for mitigation. Mr. Dhar stated initially the pool contractor discussed trees; however, he now understands that will not work, and he will need to do a seepage pit. He stated he will do that provided he is told what he needs to do. Mr. Zamparelli stated while trees could still be planted, that would not be the resolution; and they would need mitigation subject to the Township's approval.

Mr. Majewski stated the size to control the increase in run-off from what is existing to what is proposed requires a volume of 219 cubic feet of stormwater to be controlled. He stated this would equate to an infiltration trench or seepage bed with dimensions similar to 2' deep, 4' wide, and 68' long or some configuration that has an equivalent volume. Mr. Zamparelli asked if there is room to do that, and Mr. Majewski agreed. Mr. Dhar stated he would agree to this.

The Board was satisfied with what has been proposed.

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. Flager stated he has determined that there is not an Exhibit A-3.

Mr. Majewski stated the impervious surface calculations were on the Plan.

Mr. Majewski stated if the Board were to approve this, the pool company will have to re-do the Plan to show the infiltration trench with the calculation of the size. Mr. Majewski stated he can provide the information on the size needed. The Township will then review and approve that.

Ms. VanBlunk moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal so long as the Applicant installs a seepage pit/infiltration trench that will control 219 cubic feet of stormwater subject to the Township's final approval.

There being no further business, Ms. VanBlunk moved, Mr. Connors seconded and it was unanimously carried to adjourn the meeting at 9:00 p.m.

Respectfully Submitted,

Matthew Connors, Secretary