

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – FEBRUARY 6, 2024

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on February 6, 2024. Mr. Solor called the meeting to order at 7:30 p.m. He noted that an approval would require three votes in favor as there are only four members present this evening, and a tie would be a loss.

Those present:

Zoning Hearing Board: Peter Solor, Chair
James Dougherty, Vice Chair
Matthew Connors, Member
James Brand, Alternate Member (joined meeting in progress)
Christian Schwartz, Alternate Member

Others: James Majewski, Community Development Director
David Truelove, Township Solicitor
Adam Flager, Zoning Hearing Board Solicitor

Absent: Judi Reiss, Zoning Hearing Board Solicitor
Mike McVan, Zoning Hearing Board Member
Daniel Grenier, Supervisor Liaison

APPEAL #Z-23-2016 – MEGINNISS/HARRIS
Tax Parcel #20-034-130
0 EDGEWOOD ROAD YARDLEY, PA 19067

Mr. Solor stated they have requested a Continuance until March 5, 2024.

Mr. Solor moved, Mr. Dougherty seconded and it was unanimously carried to Continue the matter to March 5, 2024.

Mr. Brand joined the meeting at this time.

APPEAL #Z-24-2042 – SZABLEWSKI

Tax Parcel #20-004-057

2154 W WELLINGTON RAD, NEWTOWN, PA 18940

(Continued from 1/3/24)

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plans were marked as Exhibit A-2. The Impervious Surface Break-down Calculation and Stormwater Management Small Project Volume Control were collectively marked as Exhibit A-3. The Revised Plans, which are the Zoning Exhibit A and Existing Features Plan, were marked as Exhibit A-4. The Aerial Photograph was marked as Exhibit A-5. The Topographical Plan of Yardley Run was marked as Exhibit A-6. The Yardley Run Final Plan was marked as Exhibit A-7. 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. Vince Fioravanti, engineer, and Mr. William Szablewski, were sworn in.

Mr. Fioravanti stated they have a Zoning Application requesting to allow the construction of a modestly-sized, in-ground pool on Lot #40 of Yardley Run, which was approved in 1986. A rendered version of the Exhibits which were filed was shown. Mr. Fioravanti stated three Variances are requested. He stated the first is an impervious cover Variance to allow an impervious cover of 40% where 38% is otherwise the maximum. He stated they are also requesting setback Variances related to a shed shown in the corner as shown on the Exhibit.

Mr. Fioravanti stated there was a shed on the existing Plan of 74 to 78 square feet, which is an older shed which will be replaced in the same location with the same setbacks. He stated the only difference is that it will be a new shed of 10' by 12' instead of 10' by 7'. He stated the Variances being requested are to maintain the existing setbacks as the existing shed.

Mr. Fioravanti stated he feels the project is a representation of the minimum Variances required to allow for reasonable use of the back yard. He stated the pool is modest in size, and the impervious cover increase is 1,378 square feet. He stated they would be willing to comply with all the stormwater regulations that the Township has if the Board were willing to grant the Variances; and they would proceed with grading, erosion controls, and stormwater management.

Mr. Fioravanti stated they feel that what is proposed is consistent with the neighborhood and will have no aesthetic detrimental impact on the neighborhood, and it is consistent exactly with what the neighbors have. He stated there will also be no adverse drainage impact to the neighborhood. He stated as previously noted, they would be willing to comply with any stormwater regulations; and there will be no adverse impact from this.

Mr. Fioravanti noted the aerial photograph, and he showed the location of the site. He stated looking at the property to the left, there is a pool almost exactly like what they are proposing. He noted a property further to the left where there is another pool; and to the right of the property, there is also a pool. He stated they feel that what they are proposing is consistent with the neighborhood. He stated he could also show other existing pools in the neighborhood.

Mr. Fioravanti stated aesthetically there will be no negative impact. He stated there are arborvitae and evergreen trees surrounding the property, and there will be no aesthetic impact detrimental to the neighborhood.

A GIS Exhibit was shown of the drainage patterns in the area. Mr. Fioravanti stated there is twenty acres of open space behind the property. He stated the site slopes from the road directly back into the open space. He stated there is a tributary to Core Creek, and there are no dwellings between the property's run-off and the stream; and there is twenty acres of open space to the rear. He stated it will also be surrounded by evergreen plantings, and they will comply with the Township's Stormwater Management Ordinance. He again noted that they are only increasing the impervious coverage by 1,379 square feet, which "is a very small amount." He stated the drainage patterns will carry their run-off directly into the stream, overland flow, and "it could not be a better situation for no negative impacts with drainage."

Mr. Fioravanti showed the Existing Features Plan. He pointed out the existing shed which is set back at the same location where the proposed shed is. He stated the new shed will be a little larger which is why they need the Variance. He stated in terms of setback and aesthetics, it will just be a new shed instead of an old one located in the same place in the lower left corner.

Mr. Fioravanti stated they feel that they are proposing the minimum relief required to enable reasonable use of the yard, and it is consistent with the surrounding area. He added that there will be no negative impact from an aesthetic perspective, and you would not be able to see anything unless you

were “coming over to visit.” He stated there will be no negative impact from a drainage perspective, and they are willing to comply with the Township’s Stormwater Ordinance to make sure that there is no impact.

Mr. Fioravanti stated they feel this is a reasonable request on an older lot that was approved in 1986, and it will allow the Applicant to enjoy his yard the way his neighbors do without any detrimental impact to anyone.

Mr. Solor asked if the existing shed has an existing Variance in place or a Permit in place. Mr. Szablewski stated the shed was there when he bought the property in 2017, and he is not aware of what the previous owner did. He added it is a Rubbermaid shed that sits on a bed of stone. Mr. Majewski stated there is no record of that shed being Permitted. Mr. Majewski stated the shed location on the aerial photo provided, which apparently is out of date since the one pool being shown is no longer there, it looks like the shed is shown in a different location further away from both the rear and side property. Mr. Fioravanti stated the shed that was located there was when they did their field survey; and if it was a Rubbermaid shed, it could have been moved.

Mr. Connors asked if the shed has been moved from that location to where it was surveyed. Mr. Fioravanti stated he does not know the date of the photo. Mr. Connors stated most of them are only a couple of years old.

Mr. Solor stated the pool coping and deck seem to be pretty extensive relative to the size of the back yard. He asked Mr. Szablewski if he would be willing to discuss potentially reducing the size of that patio area, and Mr. Szablewski agreed he would be willing to discuss the size of the concrete pool deck around the pool. Mr. Fioravanti stated the one dimension is 14’ where the chairs would sit, and he feels they could take a couple of feet off of there and it would still function.

Mr. Connor stated they indicated that they are adding 3 ½%, and he asked what they are proposing to mitigate that. Mr. Fioravanti stated it goes to 40%. He stated they are proposing to add 1,379 square feet, and he stated he believes it is going from 28% to 40%. Mr. Truelove stated according to the Application it is going from 27.8% to 40.2%. Mr. Fioravanti stated it exceeds the allowable by 2.2%. Mr. Solor stated the allowable is 26% so it exceeds it by 14%.

Mr. Truelove stated with respect to possibly reducing the coping in the back corner, if some of that were removed, the shed could be moved in away from the fence; and Mr. Fioravanti agreed. Mr. Truelove asked Mr. Szablewski asked if he would be willing consider doing that to reduce some of the setback mitigation that is occurring. Mr. Szablewski stated the intention of the shed is to house lawn equipment and pool equipment. He stated he would not want it to be right on top of the pool. Mr. Truelove stated while he understands that, he asked if he would be willing to move it back some as there are reasons why there are setbacks. Mr. Fioravanti suggested 3' so that you could walk around behind it. Mr. Szablewski stated he would agree to that if there needs to be flexibility.

Mr. Truelove stated with respect to stormwater management, the Application has an increase of 14.4%. He asked what they are proposing for stormwater management mitigation measures. Mr. Fioravanti stated they are proposing to comply with the Ordinance; and if you are under 2,000 square feet of impervious, you are to look to manage the water quality volume. He stated one of the ways to do this is with the number of trees that they have shown and credits are given for evergreen trees. He stated they need to have twenty-four trees to mitigate the volume per the Code, and that is what they are proposing to do. Mr. Fioravanti stated another option is to have a seepage bed; and if the Board were to grant the Variance, they would have to go to the next level and review the stormwater with the Township engineer. He stated at this stage, the easiest way to do it would be with the evergreen plantings.

Mr. Truelove stated the Township as a policy is moving away from using plantings as a measure, and he asked if they would be willing to do install a seepage pit or something similar; and Mr. Fioravanti agreed. Mr. Truelove stated they would have to consider the calculations to offset the increase.

Mr. Connors asked if they would be willing to work with the Township engineer, and Mr. Fioravanti agreed. Mr. Fioravanti added that they did have the location of a seepage trench shown on one of the Exhibits, and they calculated the volume. He stated they would have to do some soil testing to make sure it is adequate.

Mr. Solor stated the Board does prefer a permanent facility over trees as there is no guarantee that the next owner will not cut down the trees and trees could also die or get knocked over. He stated the Board does like to see trees planted; however, for stormwater mitigation, they like the surety of sub-surface drainage. Mr. Fioravanti stated they would be willing to agree to that as a Condition.

Mr. Brand noted the aerial photo and asked if there was previously a pool on this property as it looks like there is a “pit” in the picture. Mr. Szablewski stated there was a large swing set there when he bought the property in 2017, and it left a large, uneven gully when the swing set was removed. He stated there were also two evergreens in the middle of the back yard.

Mr. Rob Ottenheimer, 1309 Fountain Road, was sworn in. He asked to be a Party to the Appeal.

Mr. Ottenheimer stated he is an original homeowner and built the home in 1989 and has seen “what has gone on.” He stated they knew the original owners of the home being discussed. Mr. Ottenheimer provided pictures to the Board from July 15 when there was flooding in the Township, and the back yard was flooded. He stated the water is not only running down the back of the hill but also where the pool used to be next door. He stated when the pool was built, they brought in approximately twenty truckloads of dirt and it changed the grade. He stated there is a swale that goes along side of his house in the Township open space and one that goes behind it off of their property which is the 100-year floodplain. He stated that water then backs up to his neighbor’s fence which is the second picture he provided, and ultimately it goes down the hill from there and it has totally eroded “somebody else’s yard.” He stated there is already a water problem; and while he is not saying the proposed project is good, bad, or indifferent for the current water problem, no errors can be made at this point in time on changing things so that more water is directed in the direction of the properties in the development.

Mr. Ottenheimer stated the topographic map that was presented is not really how the water flows. He stated it would be “nice if it went to Core Creek; but when you walk in the back yard now, you need to wear boots” because it is very wet, it is not going to Core Creek, and it never will the way things are set up. He stated if something were to be changed, it would be nice if the Township were to require some type of swale directly any kind of back wash or additional water to the open space if that is allowed, and then the problem “would sort of go away,” and some of the residents would be less interested in the outcome.

Mr. Ottenheimer noted the house where the pool was taken out, and he noted the pipe in the first picture he provided adding that is still the result of the grading that was done when the pool was there, and that is the concern.

Mr. Majewski asked if Mr. Ottenheimer if the property where the patio furniture is shown in the picture is his property, and Mr. Ottenheimer agreed. It was also noted that where the white fence is shown in the picture is the property on Fountain that formerly had the pool. Mr. Majewski asked where is the property that is the subject of this Application as it seems to be almost not in the picture, and Mr. Ottenheimer showed the location of that property. Mr. Majewski showed the aerial photo showing the property. Mr. Ottenheimer showed the location of his home on the aerial photo.

Mr. Ottenheimer stated when he moved in, the builder was required to take care of any erosion, and ultimately the builder had to sod the whole hill because nothing could be grown on the hill. He stated the water situation has not gotten any better; and he does not see this project the way it is laid out as being beneficial to the neighborhood.

Mr. Connors asked when the pool was filled in, and Mr. Ottenheimer stated it was gone by 2016. He stated he does have a picture of it being taken out which he can provide.

Mr. Majewski stated he roughly sketched out where the water can be seen coming underneath the fence and around Mr. Ottenheimer's tree and then eventually it goes out.

Mr. Ottenheimer stated when the builder had to bring in sod on his lot, a bulldozer came in and made it so that half of the water broke to the street. He stated they went alongside his home to keep the water at a location he showed on the slide and the other half at a location he showed on the slide. He stated the water therefore went half behind and half to the road. He stated this was done in 1989. Mr. Ottenheimer stated one of his neighbors had to put in a small little dam because the water is so significant. He stated it is not abnormal to have water running along the back of that neighbor's property which ultimately has taken out a shed and "some other stuff of the other neighbors."

Mr. Flager marked the photos provided by Mr. Ottenheimer as Ottenheimer 1 and 2. Mr. Ottenheimer stated he can also e-mail them, and Mr. Majewski asked that he e-mail them to him.

Ms. June Farley, 1289 Fountain Road, was sworn in.

Ms. Farley stated she is not here to cause issues with a neighbor, but her property is experiencing flooding at this point due to the elevation of the hill. Ms. Farley stated Mr. Szablewski's property "is on an elevation," which is not seen on what has been shown. She stated the water comes down to her yard and two other neighbors' yards. She stated she also has photographs to provide. She stated she does not know if this pool will contribute; but given what she has heard from her landscaper, it seems that would be a concern.

Ms. Farley stated she has had discussions with Mr. Mike Kirk about another side of the property where a pool was built that has now created a dam which is unrelated to this Application.

Ms. Farley provided pictures to the Board. She stated one photograph shows a fence and existing pool which she is speaking to Mr. Kirk about. She stated she is concerned that they did not get a Variance, and now there is a 9" erosion according to the landscaper. She stated she is concerned about the pool going in on the right side of the photograph. She stated the water comes from her neighbor into her yard, and she is concerned about the elevation of the property where the pool is as it is quite steep. She stated if that is not surface that is absorbing water, she is concerned that will contribute to their situation with the flooding that is going on. Ms. Farley stated she is waiting to hear from Mr. Kirk about an engineer coming out. She stated Mr. Kirk did come out and look at her property. She stated she is also going to hire an engineer to see what they can do. Ms. Farley stated the water seen on the one photo is Township property. She stated her property stops at the back of the shed shown on the photo.

Ms. Farley asked about the "drainage/mitigation" system that they might be putting in as she is concerned it might affect her. Mr. Truelove stated the Township has taken a position that they would like to see mitigation going back to the original required impervious surface level of 26% for that Zoning District. Mr. Truelove stated the Applicant has indicated that they will look into the possibility of installing a seepage pit or some type of mechanism that would be permanent and below ground that would offset the additional impervious surface. Mr. Solor stated for most storms you would actually have less flow coming off although for very heavy storms that will not change the "circumstance, and a very heavy storm would flow off grass too."

Ms. Farley stated they have seen a significant increase. She stated the photo on the left is another issue that they have to deal with.

Mr. Flager stated they will mark the Exhibits Farley 1 and 2.

Ms. Farley stated she also has video which she can provide of the water from the top of the hill all the way down. She was asked to provide that and the photos submitted to Mr. Majewski.

Ms. Farley requested Party Status.

Ms. Aurelia Sheppard, 1299 Fountain Road, was sworn in. She requested Party Status.

Ms. Sheppard showed on the aerial where the proposed pool will be and the location of her home. She stated she lives between Mr. Ottenheimer and Ms. Farley. She stated her major concern is about the rainwater run-off around the properties located on the hill and the downhill areas bounded by Fountain and W Wellington Roads. She stated the Applicant's property is at the top of the hill, but the other properties are downhill. She stated the slope decreases very quickly and becomes fairly flat very quickly. She stated the rainwater runs through the back yards after her property. She showed on the aerial where the water is going in the back yards. She stated she has not had any water issues because "of the rain water run-off," adding she does not want to have any in the future, which is why she is opposing the Variance.

Ms. Sheppard stated the proposed Variance will result in a tremendous increase in the impervious surface going from 27.8, which is already above the Code allowable of 26%, to 40.2%. She stated she is very concerned that this proposed increase in impervious surface is going to significantly increase the amount of rainwater run-off and/or change the pattern of the flow of the rainwater run-off which will lead to further water issues impacting the properties.

Ms. Sheppard stated she goes out of her way not to cause any problems with her neighbors, but her first responsibility is to protect her property. She stated there is an unresolved issue regarding the installation of the pool at 1281 Fountain Road. Ms. Sheppard stated Ms. Farley has brought this up and it has been reported by at least two different neighbors about this subject. Mr. Majewski stated they are waiting for their engineer to go out to that property to see what needs to be done to address that situation.

Ms. Sheppard stated, as Ms. Farley noted, the water is backing up onto neighboring properties, and this is a big concern which needs to be addressed. Ms. Sheppard stated she does not feel any more projects effecting any property in the area should be considered at this point until the problem is addressed. She stated any new proposals such as the one being discussed could aggravate the problem in this area. Ms. Sheppard stated some of the neighbors have already brought this problem to the attention of the Township, but we have had no follow-up.

Ms. Sheppard stated the water that the rainwater run-off runs right now is to the open space and then starts cutting through the back yards of some of the properties further down from her property. She stated there is a lot of open space, and she asked that the Township engineer survey the area and determine whether something can be done. Mr. Solor stated that is not part of this Appeal, and the Zoning Hearing Board can only deal with this situation. Mr. Solor stated Mr. Majewski has indicated that questions have been sent into the Township, and he would recommend following up with Mr. Majewski on the overall complaint regarding the neighborhood.

Ms. Sheppard stated she feels her point is relevant because if the Township is able to push the rainwater run-off further away from the properties, then there will be more room for further proposals because the water would be further away from the properties.

Mr. Dougherty stated the Zoning Hearing Board makes decisions on Variance matters, and Ms. Sheppard's comments are with regard to possible engineering of Township ground, and that is not relevant to the Zoning Hearing Board.

Ms. Sheppard asked if the Zoning Hearing Board if they would be the proper Board to consider the issues she brought up about the rainwater running through behind their properties and the current issue with the other property from the 2023 pool installation. Mr. Solor stated the Board is only considering the Appeal that is before them. He stated the Board understands that there are water issues in the neighborhood, but they are only looking at the subject property and how it might or might not contribute to the problem which will impact their decision-making process.

Ms. Sheppard asked who should she contact about her other issues, and Mr. Majewski stated they have heard about this, and they are working to get the engineer out to the neighborhood. Ms. Sheppard stated she was not talking about the 2023 pool, and she was talking about other things such as re-directing

the rainwater run-off further away from the properties; and Mr. Majewski stated when the engineer goes out, he will probably go with him, and they will look into that.

Mr. Ottenheimer stated the pool discussed earlier was removed on 10/25/16.

Mr. Dougherty asked Mr. Ottenheimer if out of the three people who spoke, is his house the closest to the Appellant; and Mr. Ottenheimer agreed. Mr. Dougherty stated based on the pictures and the Testimony, there is a water issues behind the houses on Fountain. Mr. Dougherty asked if that water comes from Mr. Szablewski's property. He asked where is the origin of the water, and what role does Mr. Szablewski's house play in that water.

Mr. Ottenheimer stated he is not a water engineer or a soil engineer, which is why he provided the picture and showed the white pipe coming underneath the fence, which was from the previous pool and was water that came from W Wellington and ultimately coming down the hill. Mr. Ottenheimer stated he is the third house in from Fountain on the corner, and the water load starts and comes down. He stated when the pool was in existence, that owner had used a lot of fill. Mr. Ottenheimer stated there was a water problem when he moved in back in 1989.

Mr. Dougherty stated it seems from the Testimony given that the water is coming behind the three people who Testified, coming out of the woods and moving toward them. Mr. Ottenheimer stated that is not correct. He showed the location of the woods and the high-level plain. He stated Mr. Szablewski's yard is totally flat, and the topographical map is not that good. Mr. Dougherty stated he understands that the water is near Mr. Szablewski's property, but that Mr. Ottenheimer is not sure if his lot is part of the problem or not. Mr. Ottenheimer stated the water used to run on the property that previously had the pool, and it used to run between the house and the pool deck. He stated they had a "bunch of rock and plastic, and whatever" to remediate water off of their property which ultimately came out by his house.

Ms. Farley stated she has a video of the water which she will send to the Township. She stated Mr. Szablewski is elevated. She asked if the Board has the elevation level, and Mr. Solor stated the contour map provided does show that it is elevated. She stated water comes down the hill and accumulates and she showed where it goes. She stated her neighbor has built a pool, and that is where it is damming. She stated they are concerned about building this new pool will create more run-off because it is extreme at this point.

Ms. Farley asked if the Township sends engineer out to the properties when someone asks for a Variance. Mr. Majewski stated when a pool is installed, they are supposed to call for the final inspection to make sure everything was done properly; and in this case, they did not call for a final inspection. Ms. Farley stated she is asking about the Variance they are considering this evening if someone goes out to look at the property when someone requests a Variance. Mr. Majewski stated they typically do not look at it unless they really feel it is necessary; however, when they install the pool and the infiltration trench, someone will go out to verify that it has the right dimension, the right filter fabric, etc.

Mr. Brand stated it seems that based on the design of this pool between the Applicant's willingness to put in a water mitigation system as well as significant trees, he feels there might actually be less water coming from this property than there is currently. Mr. Solor stated he agrees that will be the case for the average rainfall as he noted earlier. He added that they indicated that they would be open to mitigate it back to the 26%. Mr. Majewski stated they will have to make sure that they do not inadvertently shift the flow of water as they did at the pool that is four doors down.

Mr. Dougherty stated the Board understands stormwater mitigation pretty well, and he is confident that with the seepage bed and the trees it will definitely improve the situation mildly or at least be neutral.

Mr. Dougherty stated he has a bigger concern with the shed on the property that has not been Permitted although he knows Mr. Szablewski did not install it. Mr. Dougherty stated they are proposing to replace it with a larger shed. Mr. Truelove stated that is why he asked the question about removing some of the coping to offset some of the drastic setback.

Mr. Dougherty asked if the pool surround is approximately 1,100 square feet, and Mr. Fioravanti stated it is 1,016. Mr. Dougherty stated it would make sense to cut that back a little bit which would help solve some of the shed issue as well. Mr. Dougherty stated he would be in favor of something more reasonable than 1,000 square feet of pool decking.

Mr. Fioravanti stated they have heard the input this evening from the neighbors and the Board. He stated they would be willing to keep a 3' minimum setback for the proposed shed so that you can get around it to maintain it. He stated there is also a 14' area for the lounge chairs, and they could take 2' from that and make it 12' to make it a little smaller. He stated they would also mitigate

stormwater back to 26% and include the trees as shown in addition to the seepage bed. He stated while the trees planted would not count toward stormwater management, they would still be planted. He stated the Township engineer would review all of this and inspect it to make sure that it was installed properly. He stated he feels they will be able to reduce the stormwater flow from the site compared to what it is now and will be able to assist the neighbors in that regard.

Mr. Solor suggested that they reduce the decking by 100 square feet, and Mr. Fioravanti stated they would agree to that. Mr. Majewski stated that would bring the impervious surface to 39.3%.

There was further discussion about the shed. Mr. Fioravanti stated the new shed would be 10' by 12', and they are now proposing a 3' setback on the rear and the side. Mr. Connors stated the neighbors have a 5' setback for their shed, and he asked if they would be willing to go to 5'. Mr. Szablewski stated they would have to look at this since there might not be enough room between the pool and the shed. Mr. Dougherty asked Mr. Connors if he would be okay with a 5' setback from the side since there is a neighbor there, but 3' from the rear since they back onto the open space; and Mr. Connors stated he would agree to that. Mr. Dougherty stated it would then not encroach on the pool.

Mr. Solor stated looking at the map the seepage bed will most likely be in the southeast corner because that is the low point where the drainage is shedding to. He added that will also benefit the neighbors if it is at the southeast corner. Mr. Fioravanti stated they would agree to that as a Condition.

Mr. Dougherty moved, Mr. Schwartz seconded and it was unanimously carried to approve the Appeal wherein the pool decking is reduced by 100 square feet from what it was presented on the Plans tonight, whereas the trees as presented on the Plan tonight remain, whereas the shed size is fine as presented but there needs to be a 5' setback on the side and a 3' setback on the rear. With regard to the seepage bed, the Applicant needs to work with the Township engineer to mitigate the stormwater management back from what is now 39.3% to 26%.

APPEAL #Z-24-2044 – MUNZ CONSTRUCTION/CULLEY
Tax Parcel #20-054-001
1009 YARDLEY MORRISVILLE ROAD, YARDLEY, PA 19067

Mr. Steve McGill, Munz Construction, 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. McGill stated they are working with a client to develop an addition to their modest-sized, ranch home. He stated it is a mid-Century modern so the architecture is somewhat unique. The client is looking for an addition for increased living space. He stated the existing structure is an existing non-conforming, and the current plans encroach further into the setbacks, although it is a corner of the structure and not the entire structure. He stated they believe the existing structure was oriented for light for this mid-century model home. He stated while it is not shown on the Plan, he does have a concept from the architect which he can share, which shows some of the unique roof lines.

Mr. McGill stated it will come up to about 3' from the existing setback, and the existing structure is 9' from the existing setback so it is already 6' over the existing. He stated they would be getting another 6' closer to that setback.

Mr. Solor stated the Application does not have that Variance within the request with regard to the setback. He stated while they can discuss this tonight, the suggestion is to request a Continuance to March 5 so that they can re-submit and re-advertise the setback request.

Mr. McGill stated he is sure that they applied for that on the Township site. Mr. Truelove stated the only thing they have is the impervious. Mr. Majewski stated he checked that today, and they did not apply for the setback Variance although it is shown on the Plans. He stated they sent a message to Munz Construction through OpenGov; however, they did not get it back to be on the Application and advertised so it was not advertised for the side setback.

Mr. McGill stated it seems that the Township was aware of it but it was not made public notice, and Mr. Solor agreed that they would not be able to vote on it tonight.

Mr. McGill stated part of the issue is that the existing structure is uniquely positioned on the lot. He stated typically structures are more oriented “90 to the front setback” but the existing structure is not. He stated there are also some unique roof lines with the structure, and they are “trying to keep the new addition to that consideration.”

Mr. McGill stated the second issue is the impervious. He stated they do not currently have a stormwater management plan, but they are prepared to do stormwater management as part of the development of the projects. He stated they have prepared, using the Township’s spreadsheet, some sizing for a suitable trench to accommodate the additional impervious. He stated it is only .1 % over existing, but they would be bringing it up to current standards.

Mr. McGill showed the “rendition art” to the Board. Mr. McGill showed the existing structure with the existing split roof line, and the front half of the house has a lower roof line than the back of the house. He stated the proposed addition has some roof lines that will match that and hold that aesthetic. He stated they are not doing work on the front half of the house, but there are windows on the front which is why they feel that the house was oriented the way it was. Mr. Flager marked the renderings as Exhibit A-3. Mr. McGill agreed to e-mail those to the Township as well.

Mr. Solor asked if there was any consideration given to raising the house which would keep the house within the same footprint. Mr. McGill stated it is an older couple, and they were not looking to do multi-story. He stated they were also trying to stick to the mid-Century modern; and in doing a second floor addition, it would give it a very different look and feel.

Mr. Truelove stated the Township is participating. He stated he would like to confirm that Mr. McGill indicated in his presentation that they are willing to install some type of stormwater mitigation measure such as a trench and not just plantings to offset the increase and take it back to the Ordinance requirements, and Mr. McGill agreed. Mr. Solor stated it would be helpful to have the worksheet filled out and available to the Board at the next meeting as that would help the Board’s decision-making process easier and make it easier for the public to understand that they have addressed this.

Mr. Dougherty stated he has a problem with taking the setback to 3'. He stated he understands that the house was oriented in a manner to take advantage of the sun, he does not understand why they have to come straight back and why they could not angle down and maintain the current setback. He stated he will have a difficult time agreeing to what is proposed. He stated he sees that the family room has been squared off coming back, but everything else follows the same lines on the right side of the house looking at it from the street. He stated he does not understand why they cannot come down that line.

Mr. Connors stated they are talking about essentially going to a zero setback, and he does not see this going forward. He stated it is mid-Century modern, but there is a lot of in-fill space; and a simple shift would allow them to use the existing non-conforming setback while not exacerbating the problem any further for the neighbor. He stated it might even help with the stormwater issue by making that adjustment. Mr. McGill stated he understands, and they recognized that there was not really a hardship.

Mr. Majewski stated the setback when the house was constructed was a 10' setback, and the setbacks changed in the Zoning over time. Mr. Connors stated they were therefore close to compliance as to what was enacted at that time, and Mr. Majewski agreed.

Mr. Tim Marchok, 1110 W. Ferry, was sworn in.

Mr. Marchok stated he is here to learn about the project as he is a neighbor of the Culleys, and he got the notice from the Township that they have something being built that would be 1,000 feet. He stated he has no problem with them putting an addition on. He stated stormwater management was mentioned, and he assumes that something would have to be dug that would be substantial. He showed the location of his property on the Site Plan. He stated they have a large number of large evergreens which they planted 3' from the property line 15 years ago. He stated he does not know where the trench would go, but he would want to make sure that it would not be so close that the roots of his trees would be endangered. He stated he is assuming that the trench would not be put close to his property line.

Mr. Majewski stated the Applicant would have to determine where to put it; but he does not feel they would put it where they would have to cut down to trees, and it would most likely be in an open area. He added that

he feels the Applicant would be agreeable to not put it close to Mr. Marchok's property. Mr. McGill agreed. He added that normally when they build trenches of this nature, the gutters are being routed into it so it would be closer to the addition that it would be to the property line so that they would not have to extend the lines further than needed.

There was discussion as to when the matter should be Continued to, and after discussion, it was agreed it should be Continued to March 19 so that the submittal and advertisement could be done.

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to Continue the matter to March 19, 2024.

Mr. Dougherty asked Mr. McGill to get the architectural plans to the Township as soon as they are available so that they can be disseminated to the Board in advance of the meeting.

APPEAL #Z-24-2045 – SIMCOX/EVANCIK
Tax Parcel #20-037-184
711 JADE ROAD, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plans were 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. Nathan Simcox, Hydroscape Pools, was sworn in.

Mr. Simcox stated they are at 25%, and they are trying to add 600 square foot of pool deck, 144 for a shed, and 32 square feet for an equipment pad. He stated this will get them to 29.5%. He stated they have proposed an infiltration trench to mitigate the water run-off. The dimensions for it are shown as 17' long, 10' wide, and 5' deep. He stated this will mitigate it and get it back to 18% working with the Township engineer.

Mr. Truelove stated that while the Township is participating, their only concern was to get this mitigated back to 18%.

Mr. Majewski stated their Plans show that all impervious over 18% is what is accounted for.

Mr. Solor stated there is a proposed shed shown on the drawing, but it is very difficult to tell what the setback from the property line is. Mr. Simcox stated it is 10'.

Mr. Simcox noted that they will also be adding some plantings.

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

Mr. Connors moved, Mr. Schwartz seconded and it was unanimously carried to approve the Appeal as presented.

OTHER BUSINESS

Mr. Majewski stated at the last meeting that was scheduled, there was a request for a Continuance from Cellco Partnership doing business as Verizon Wireless (Appeal #23-1999) for the cell tower on the Congregation Beth El property at 375 Stony Hill Road. At that time the Applicant was requesting a Continuance indefinitely subject to a Hearing being re-convened on 45-days Notice of any of the represented Parties of the Application. He stated the people involved had no objection nor did the Township. Mr. Majewski stated the Board needs to ratify the decision that was made via e-mail since the meeting was canceled due to weather and other issues.

Mr. Connors stated his only concern is that this has been Continued a number of times and now it is going to be Continued indefinitely. He stated at some point the Zoning may change completely, and we will still be Continuing. Mr. Solor asked what are the Statue of Limitations requirements on this. Mr. Flager stated he understands that the Applicant has waived the requirement; and while normally you have to have a Hearing within 60 days, a lot of times there are Continuance requests and they indicate that they are waiving any applicable deadlines under the MPC, and he understands that has all been waived by the Applicant. Mr. Truelove agreed with that interpretation.

Mr. Majewski stated what the Applicant will do, while there may be some changes to what they are requesting a Variance from and they may slightly move the tower or change the height of it, they have indicated that they will Continue it indefinitely. He stated once they resolve some issues with siting of the tower and the height of the tower, etc. prior to re-convening the Hearing, the Township will do a full public notice of this again as if it is

a new Application. He stated a new ad will be placed in the newspaper, and all those who requested Party Status will be notified in writing of the date of the new Hearing. Mr. Dougherty asked if all Parties are in agreement with this, and Mr. Majewski stated all Parties were notified of this request, and no objections were raised. Mr. Solor stated he was copied on the e-mail exchange.

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

Mr. Solor moved and Mr. Dougherty seconded to Continue Appeal #23-1999 indefinitely with a minimum 45-days' notice prior to reconvening the meeting. Motion carried with Mr. Schwartz abstained.

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

Respectfully Submitted,

Peter Solor, Chair