TOWNSHIP OF LOWER MAKEFIELD

ZONING HEARING BOARD

MINUTES – AUGUST 1, 2023

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield

was held in the Municipal Building on August 1, 2023. Mr. Solor called the meeting to

order at 7:30 p.m.

Those present:

Zoning Hearing Board: Peter Solor, Chair

James Dougherty, Vice Chair

Judi Reiss, Secretary

Mike McVan, Member

Christian Schwartz, Alternate Member

Others: Dan McLoone, Planner

Adam Flager, Zoning Hearing Board Solicitor

Absent: Matthew Connors, Zoning Hearing Board Member

CONTINUATION OF CELLCO TOWER APPEAL #23-1999

Mr. Solor stated the Board has been advised that there is an agreement by all

those participating on a request for a Continuance until October 17, 2023

Mr. Dougherty moved and Mr. McVan seconded to approve the Continuation of

Appeal #23-1999 CELLCO Tower to October 17, 2023. Motion carried with

Ms. Reiss abstained.

APPEAL #Z-23-2015 – CALVIN SUN

Tax Parcel #20-028-11

1514 HAYFIELD DRIVE, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit

A-1. The Plans were marked as Exhibit A-2. The Impervious Surface Breakdown

was marked as Exhibit A-3. The June 14, 2023 letter from the Applicant to the

Township regarding the installation of the 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.

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Mr. Calvin Sun was sworn in.

Mr. Dougherty stated he is one of Mr. Sun’s neighbors, and he was on the

publication list; however, he does not feel the need to recuse himself.

Mr. Sun stated he is looking to install a fence, and there is an Easement along

two sides of his back yard. He stated there are also a number of mature trees

and a pond along the Easement; and in fact, straddle the Easement line.

He stated if they were to install the fence outside the Easement, they would

have to either thread the fence through the trees, which would be extremely

expensive, or they would have to remove the trees which would be environ-

mentally insensitive and expensive. He stated in either case, the fence would

go through the pond. He stated the fence being outside the Easement would

also reduce the size of their back yard and decrease their enjoyment of it.

Mr. Sun stated they are Appealing the Denial of their Application, and are

asking for a Variance to allow the fence within the Easement. Mr. Sun stated

they are willing to pay to remove any portions of the fence should access to

the Easement require such removal. He stated the fence will not cross the

Easement, and therefore will not cross over any pipe that is within that Ease-

ment, rather it will be parallel to the Easement. He stated they are also willing

to have a minimum clearance from the center line of the Easement of 3’ to 4’;

and at most that would require them to trim tree branches. He stated they

would impress any such Conditions on their fence contractor. Mr. Sun stated

there is a manhole at the corner of the property, and the fence will not come

close to that manhole given the clearance.

Mr. Schwartz stated it appears that the house faces Hayfield Drive; however,

Mr. Sun stated the front door of the house faces Old Farm Court, and the

garage faces Hayfield, and the mailbox is on Hayfield.

Mr. McVan asked the type of fence they are proposing. Mr. Sun stated they

expect it to be a 6’ high, semi-private fence. He stated they have been talking

with County Line Fence, and the one that they are leaning toward is called

Breezewood. Mr. Solor stated information on this was provided in the packet.

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

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Ms. Reiss moved, Mr. Dougherty seconded and it was unanimously carried to

approve the Variance with the Stipulation that the property owner has

already put on that if there is need to remove the fence for any purpose,

it would be at his expense.

APPEAL #Z-23-2017 – EDMAN REID

Tax Parcel #20-058-169

1359 GATES CIRCLE, 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 Impervious Surface

Calculations and Stormwater Management Small Project Volume Control was

marked collectively as Exhibit A-3. The hand-sketched Plans 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. Edman Reid was sworn in and stated he is looking to have a 10 by 12 shed

installed in the rear of his property. He stated in the impervious surface break-

down calculation there was a line item that said 800 square feet for accessory

structures, shed, and detached garages; and they have none currently on the

property. Mr. McLoone stated he believes that is the existing pool.

Mr. Schwartz stated he does not see a measurement for the distance of the

shed from the pool, and he asked if it is more than 10’; and Mr. Reid agreed.

Mr. Dougherty stated when he reviewed the Application he saw that under

“Present Zoning Classification,” it said “Residential.” He stated he feels some-

one in the Township should have caught what the classification was and put it

on the Application. Mr. Dougherty stated he understands the property is in

Yardley Hunt, and he believes that is R-2 Zoning; and Mr. McLoone agreed.

Mr. Dougherty stated on the back of the Application, they were looking at

what was allowable for R-1, and we should be looking at it from an R-2 stand-

point.

Mr. Dougherty stated under R-2, the side setback is 15’, and he believes that

applies to outbuildings and sheds; and it looks like the proposal is to build the

shed at 12’. Mr. McLoone stated the Ordinance requires 10’ for all accessory

structures.

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Mr. Dougherty stated when the Applications are processed, they should not

have “Present Zoning Classification” written as “Residential.” Mr. McLoone

stated he believes that was a result of the new software with OpenGov, and

was a minor oversight by one of the staff.

Mr. Solor stated with regard to stormwater mitigation, they are increasing the

impervious area; and he stated for all new development in the Township there

needs to be mitigation. He stated the Board prefers to see permanent types of

mitigation; and for a small project like this, it could be a seepage pit, rain barrels,

or a rain garden as opposed to trees which could die or be subject to removal by

a future owner.

Mr. McLoone stated he did not feel a seepage pit would make the most sense

fiscally because it is only 120 square feet. He suggested a rain barrel or a dry

well. He stated while he feels trees would be fine, he understands how the

Board feels about this issue so he would defer to the Board.

Ms. Reiss asked if the shed will be set right on the ground or will it be raised

up with stone under and around it. Mr. Reid stated it will be on a gravel

foundation. Mr. Dougherty stated it will not be footed on a concrete slab,

and Mr. Reid agreed. Mr. Dougherty asked the permitted impervious

surface in R-2, and Mr. McLoone stated it is 18%. It was noted they are

currently at 25.7%. Mr. Flager asked how much a rain barrel would offset,

and Mr. McLoone stated he believes it would cover the increase of 120

square feet based off of other Permits the Township has received as they

are very common.

Mr. Dougherty advised Mr. Reid that they are trying to get the impervious

back to 25.7% and make it as least onerous as possible to Mr. Reid. Mr. Solor

asked Mr. Reid if he would be amenable to rain barrels attached to downspouts

on one side or the other of the shed. Mr. Reid stated it would not be his first

preference just based on the appearance; however, he would not be opposed

to it. Mr. Solor stated a dry well would require a little bit of excavation, and

that would not be visible. Mr. Solor advised Mr. Reid he would not have to

pick something this evening, but it would have to be something permanent.

Ms. Reiss stated a dry well would be underground, and it works well.

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

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Mr. Dougherty moved, Mr. Schwartz seconded and it was unanimously carried

to approve the Appeal subject to mitigating the stormwater management back

to the existing 25.7%. The form of mitigation will be negotiated between the

Township engineer and the homeowner, but not to include planting of trees.

Mr. Reid thanked Mr. McLoone for all his help through this process.

APPEAL #Z-23-2018 – MURPHY/POTTEIGER

Tax Parcel #20-003-043-007

1513 BRAY LANE, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit

A-1. The 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. Edward Murphy, attorney, was present on behalf of the Applicants, Scott and

Danielle Potteiger. He stated they are slightly under the impervious allowed for

homeowners in the R-1 District. He stated their property is slightly less than

38,000 square feet. He stated they are allowed 19% impervious surface, and they

are at 18.95%. Mr. Murphy stated as depicted on the Plan, the Applicants would

like to build an in-ground pool to the rear. He stated in anticipation of the obliga-

tion when an Applicant is proposing to exceed the allowable impervious, they

contemplated providing an on-site permanent stormwater management facility.

He added that it has not yet been reviewed by the Township engineer or

Mr. Majewski, but it was anticipated, and is depicted on the Plan.

Mr. Murphy stated Mr. Eric Chase from Gilmore Engineering is present, and he

and his staff have put together what is before the Board. Also present this

evening is Ms. Danielle Potteiger. Ms. Potteiger was asked if she agreed with

the summary Mr. Murphy provided, and she agreed.

Mr. Eric Chase and Ms. Danielle Potteiger were sworn in.

Mr. Chase stated he is he design engineer for the project, and he agreed that

he supports the summary that Mr. Murphy provided.

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Mr. Murphy asked Mr. Chase to explain how they intend to manage the additional

impervious generated by the project. Mr. Chase stated the additional impervious

is the pool decking around the water’s surface will be directed to a stone seepage

bed adjacent to it. He stated all of the impervious will be graded in a manner to

get it over to that structure.

Mr. Murphy stated to the rear and to the side is conserved open space, and

Mr. Chase agreed. Mr. Murphy stated the neighbor’s home on Bray Lane is

further forward toward the cul-de-sac and would not be adversely impacted

by where the seepage bed is proposed, and Mr. Chase agreed.

Mr. Murphy asked Ms. Potteiger if the neighbors indicated they had any

objection to it, and Ms. Potteiger stated they do not as far as they know.

Mr. Solor asked if there is a pool equipment shed proposed as he does not

see one on the Plan. Mr. Chase stated it will be within the impervious area

shown. He added that the details with the Pool contractor are not completely

worked out, but what they have is the perimeter of the impervious where it

would be stored.

Mr. Dougherty asked if the allowable impervious surface is 19%, and the

existing 18 ½%. Mr. Chase stated the allowable is 19% by a lot owner, and

the existing is 18.9% so they are slightly under the allowable. Mr. Dougherty

asked what they will be at after construction, and Mr. Murphy stated it will

be 20.97%. Mr. Chase stated in square footage they are about 700 square

feet over. Mr. Chase stated as to existing impervious, they are removing

a swing set and some things around it to bring it down to allow what is

proposed; and while they will still be slightly over, they are removing some

things. Mr. Solor stated this is shown on the Plan.

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

Mr. Dougherty moved to approve the Appeal subject to mitigating the

stormwater management from the proposed 20.97% back to the allowable

19%.

Mr. Solor asked if the requirement was not to mitigate all new impervious.

Mr. Chase stated they have to control all of the new impervious.

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Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried

to approve the Appeal subject to mitigating all additional stormwater manage-

ment back to the existing 18.96%.

There being no further business, Ms. Reiss moved, Mr. Dougherty seconded

and it was unanimously carried to adjourn the meeting at 8:00 p.m.

Respectfully Submitted,

Judi Reiss, Secretary