

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JUNE 18, 2024

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on June 18, 2024. Mr. Solor called the meeting to order at 7:30 p.m. and noted that because four members are present, it will require three members to vote in favor for an approval.

Those present:

Zoning Hearing Board: Peter Solor, Chair
James Dougherty, Vice Chair
Judi Reiss, Secretary
Mike McVan, Member

Others: James Majewski, Community Development Director
Dan McLoone, Planner
Maureen Burke-Carlton, Township Solicitor
Michael Levin, Zoning Hearing Board Solicitor
Daniel Grenier, Supervisor Liaison

Absent: Matthew Connors, Zoning Hearing Board Member

APPEAL #Z-24-11 – BRACKUP/PATTERSON
Tax Parcel #20-068-012
1756 ASHBOURNE, YARDLEY, PA
(Continued from 5/21/24)

Mr. Levin marked the new Exhibits as follows: Revised Set of Plans was marked as Exhibit A-7. Revised Impervious and Stormwater Calculations were marked as Exhibit A-8.

Mr. Brian Patterson and Mr. Brian Stover were sworn in.

Mr. Patterson stated at the prior meeting they were asked to reduce some of the impervious cover on the lot and come back with a Revised Plan with less impact which they have done. He stated they have decreased the proposed overall impervious by 1,062 square feet, the limit of disturbance has decreased by 1,287 square feet, and the stormwater infiltration bed now exceeds the minimum size required by 108 cubic feet where previously it was 82 cubic feet. He stated the decking around the pool is approximately 10' further from the rear yard and

2' further from the nearest side yard. He stated the Plan now references an 18% maximum impervious surface where previously he had incorrectly shown it as 19%. Mr. Patterson stated the Plan demonstrates a reduction in the proposed total impervious by 2.89% while capturing more stormwater than previously designed by 26 cubic feet.

Mr. Dougherty stated he was in favor of the previous Plan, and he is in favor of what is now shown as well. Ms. Reiss stated she feels they did as much if not more of what the Board asked. Mr. Solor asked what is the effective result, and Mr. McLoone stated it will bring it a little below 18%.

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

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal with an existing impervious of 19.6%, proposed 24.72%, and mitigating it back to an effective 18% as presented in tonight's Plan and with approval from the Township engineer.

APPEAL #24-10 – HORAN
Tax Parcel #20-046-159
10 IVY LANE, YARDLEY, PA 19067
(Continued from 4/24)

Mr. Horan was not present at this time. It was noted that he also did not attend his prior Hearing.

APPEAL #Z-23-34 – WHALEN
Tax Parcel 2-0-142
4 RAMSEY ROAD, YARDLEY, PA 19067
(Continued from 6/4/24)

Mr. Levin marked the new Exhibits as follows: The Amended Application was marked as Exhibit A-4. Revised Plans were marked as Exhibit A-5. Revised Impervious Surface and Stormwater Calculations were marked as Exhibit A-6. The Proof of Publication was marked as Exhibit B-4. The Proof of Posting was marked as Exhibit B-5. The Notice to neighbors was marked as Exhibit B-6.

Mr. Miguel Camacho and Mr. Mathew Whalen were sworn in.

Mr. Whalen stated at the prior meeting, the Board requested a more proper Plan. He stated they also were able to determine how much they could mitigate, and he feels they are now within the parameters of what is expected.

Mr. McLoone stated the existing impervious surface is 20.8%, they are proposing 28.2%, and the maximum permitted is 18%. After mitigation, it will be below 18%. There are no setback issues.

Mr. Solor questioned the location of the trench given the contour lines as it seems to be uphill from the patio to a certain extent. He asked if they will be connecting the downspouts from the roof to take it into the infiltration trench or would they be moving the infiltration trench to the downhill side of the property.

Mr. Camacho stated they are proposing to put a grate drain in and hard pipe to the trench so that anything that goes over the top of the patio goes into the grate drain.

Mr. Dougherty stated they are trying to get them back to the allowable 18%; and while the infiltration trench would accommodate that, if the water is not being pushed to the trench, it is not helping. He stated he feels they should run one or two downspouts from the house directly into the infiltration trench. Mr. Camacho stated they could bring the trench closer to the end of the patio. Mr. Solor stated that would not deal with the natural slope of the property so they will need to either tie in rainwater downspouts from the building or move it and put it on the other side of the building. He stated for it to be effective, it has to be collecting from the impervious surface.

Mr. Solor asked why two patios are being put in and why there is not just one behind the house. Mr. Whalen stated he is concerned with his children playing near the street because of the speeds of cars driving on the street.

Mr. Camacho stated on the side where the larger patio is, it is flat; but there is a swale between the properties, and he showed the location on the Plan.

Mr. Solor stated he was asking the purpose of the patio based on the end of the driveway because the driveway is pitched toward the road.

Mr. Dougherty stated there is a 37' by 20' patio which appears to be the main outdoor recreation amenity, and that is behind the house which would buffer everyone from the street; but then there is a 20' by 20' patio that does not seem to have a lot of functional utility. Mr. Dougherty asked if the plan is to park additional cars there, and it is just being presented as a patio in lieu of a driveway. Mr. Dougherty stated if that 20' by 20' patio were not there, they would have less concerns about impervious surface.

Mr. Camacho asked if they could scale down the walkway 100 square feet. He stated there are two adults, and they share a daughter and a step daughter who live there as well as a sister-in-law, so there will eventually be four cars there. He stated having the additional space at the driveway would help. He stated it is a one-width driveway that opens up to two and a half/three spaces, but it is difficult because of a basketball court at that location. Mr. Camacho stated they could use stepping stones instead of the walkway so that they are not tracking mud.

Mr. Dougherty asked if they proposed to park cars on the patio behind the driveway. Mr. Camacho stated if they could push the basketball court and kids bikes back, they could park three cars at the top of the driveway, and one could come down the driveway. He stated at this point two cars would have to be parked in the street and one at the top of the driveway.

Ms. Reiss stated she is concerned about the second patio. She stated they need to look at the topography as to where the infiltration pit is going to be.

Mr. Whalen stated he had discussed permeable pavers with Mr. Camacho. Mr. Solor stated while they like them, currently they do not count as pervious. Mr. Majewski stated while they would still be classified as impervious, they do allow water to more freely drain through to the sub-soil than hardscaping. He suggested that the secondary patio be permeable pavers, when there are extra cars they could be parked there, but it would not impact stormwater as much. He stated if the roof leaders were tied into the trench as Mr. Solor suggested that would work as well.

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

Mr. Grenier stated he understands that pervious pavers are considered LID in the Township Code, but they do not give 100% relief from stormwater management. Mr. Majewski stated he would like to see the trench remain

the size that is proposed so that the permeable pavers would just be an added stormwater measure in addition to what they are already doing which takes them back as if they were at 18%.

Mr. Majewski stated he can meet with the Applicant in the field prior to the submission of the Application if there is approval by the Zoning Hearing Board to make sure that we capture the water and it is not impacting any of the neighbors.

Mr. Camacho stated they can pull the pit back close to the patio, but he did not want to be too close to the neighbors. Mr. Grenier stated they just want to make sure that it will be effective. Mr. Solor stated the reason for connecting the leaders is that even if it were next to the patio, it will not collect all of the rainwater that it needs to mitigate.

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

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal where it has an existing impervious surface of 20.8%, a proposed of 28.2%, and with the 3' stone infiltration trench an effective 18% impervious surface subject to the following Conditions:

- 1) Downspouts need to be direct piped into the infiltration trench
- 2) The 20' by 37' patio needs to have direct piping into the infiltration trench
- 3) The 20' by 20' patio needs to be designed with permeable pavers

All of this is subject to approval by the Township engineer.

APPEAL #Z-24-12 – PAULLIN
Tax Parcel #200-020-133
20 HIGHLAND DRIVE, YARDLEY, PA 19067

Mr. Levin 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 Break-down and Stormwater Management and Small Project Volume Control was marked as Exhibit A-3. A photograph of the proposed raingarden 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.

Ms. Jennifer Paullin and Ms. Kerrilynn Paullin were sworn in.

Ms. Kerrilynn Paullin stated they are looking to expand their patio in the back yard which is currently 90 square feet and is basically a step-off out of the laundry room. She stated they have a concrete step that is 16 square feet that comes off of a 3-season room that was there when they purchased the property in 2021. She stated she submitted Plans that had been accepted by the Township on June 21, 2017 when the previous owners put in their in-ground pool. Ms. Paullin stated they do not have a patio around the pool.

Ms. Jennifer Paullin stated they just have coping around the pool, and there is no patio or an area for lounge chairs, a picnic table, or barbeque grill; and the whole back yard is mostly grass.

Ms. Kerrilynn Paullin stated they are looking to put in a 494 square foot stamped concrete patio and to increase the size of the step that comes off of the 3-season room to 24 square feet with the removal of the existing 106 square feet that is there already. She stated their existing impervious ratio is 26%, and they are at the maximum for their lot size. She stated they are looking to go up to 29.3%. She stated they need to mitigate 426 square feet of impervious surface to control the water run-off. As opposed to a seepage pit, they propose to install a raingarden in the front yard. They found an area of their rooftop that was measured at 544 square feet, which is larger than what they need which will drain off the southwest corner of their house. They will trench that into a 192 square foot rain-garden. They came up with a formula based off of the Township's calculations, and they will mitigate 544 square feet. They will put in a 12' by 16' raingarden in the front yard to mitigate the 544 square feet off of the roof.

Mr. Solor stated what they are mitigating is cubic volume. Ms. Jennifer Paullin stated they had to mitigate 71 cubic feet of volume, and with their calculation, they actually mitigated more.

Ms. Kerrilynne Paullin stated they did the percolation test on May 1, 2024, and an 8" hole was dug in the front yard. Ms. Jennifer Paullin stated she did the 8 by 8 which was recommended, and she filled the hole at 7:10 up to the 8", and at 8:22, was down by 5", by 9:20 p.m. it was down by 7" and by 10:23 it was down the full 8" of stormwater. She stated she worked with a landscape architect to design the raingarden which will be 10' from neighbor's home off of the property line and 10' from the foundation of the home. It will be directly piped into the raingarden so there will be a 4" pipe with a 2% minimum slope going into the rock area. It will be 14' wide and 18' long, and it will be a kidney-shape, and they took in the radii for that. It will be dug 8" down with all of the earth removed and taken off of the property, and another 18" will be loosened so it can be aerated using compost. The slope will be three to one 18" from the side wall. The raingarden will blend in with their current landscaping. The trees and plants to be used will be native, and they have attached the list of what they will be using. They will have 3" of wood chips.

Mr. Dougherty asked what will be the effective impervious surface. Mr. Majewski stated they did not look at the effective because they are going below what is required, and it will be below the allowable 26%.

Mr. Solor asked if the Native Plant Ordinance would apply as a Condition, and Mr. Majewski stated the Board could add that as a Condition.

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

Ms. Reiss moved and Mr. Dougherty seconded to approve the Appeal as outlined subject to approval by the Township engineer and that is complies with the Township Native Plant Ordinance.

Mr. Grenier asked Mr. Majewski when these mitigations are approved do we need to put any encumbrances/Deed Restrictions on the property moving forward in case the property is sold and the next owner wants to remove a trench, etc. Mr. Majewski stated they should have a Stormwater Operations & Maintenance Agreement as part of it.

Motion carried unanimously.

APPEAL #Z-24-13 – MILLER/FARRELL
Tax Parcel #20-052-052
208 W. FERRY ROAD, YARDLEY, PA 19067

Mr. Levin marked the Exhibits as follows: The Application was marked as Exhibit A-2. The Site Plans were marked as Exhibit A-2. The Impervious Surface Break-down Calculations and Stormwater Management Small Project Volume Control was marked as Exhibit A-3. A photograph of the proposed raingarden was marked as Exhibit A-4. Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to neighbors was marked as Exhibit B-3.

Mr. Thomas Farrell, Ms. Suzanne Farrell, and Ms. Tracy Miller were sworn in.

Mr. Farrell stated they want to make their home large enough for four people. He stated they moved in fourteen years ago, but they now have two children, and there is just one bathroom and space is an issue. He stated during this meeting he has learned that impervious surface is an issue. He stated while they are going to increase that, they want to do whatever they can to mitigate the water since water is collecting anyway. He stated they are looking to add to the existing structure and build a garage if possible.

Mr. Solor stated the request is for a lot. He asked if they considered adding a second story. Mr. Farrell stated they did, but what they are looking for in terms of the kind of space they need, that would not really help them. He stated they do not have an existing dining room, and they want to stay on one floor. He stated he has family who cannot get around easily and a second floor would not be helpful in the future. He stated they have space on the property, and they wanted to go back and not go up and have to have steps.

Mr. Dougherty stated they are requesting a significant amount of impervious, and he does not feel what has been proposed would be able to mitigate it back to 26%.

Mr. Farrell stated the house across the street from them did exactly what he is presenting. He stated he also sees other houses in the neighborhood who have built extensions and garages. He stated from the front of the street you would not be able to tell what they propose to build in the back of the house. He stated they would do whatever engineering is necessary to mitigate the water. Mr. Dougherty stated he does not feel

necessary to mitigate the water. Mr. Dougherty stated he does not feel that the current Board voted in favor of what was built on neighboring properties adding what was done on those properties may have pre-dated the Zoning Code.

Mr. Dougherty stated the detached garage is increasing the numbers up and as a result of the garage, there is also a driveway going back to the garage. He stated if the garage could be eliminated and the proposed driveway, there could be discussion whether they could effectively mitigate what the reduced impervious surface would be back to 26%. Mr. Farrell stated it is helpful that they do have a long driveway where they could park ten cars; however, they have no garage for storage. Ms. Farrell stated they have two boys who have a lot of stuff. Mr. Farrell stated if they were forced to choose between the garage or the interior space, they would want to have more interior space including adding a bathroom.

Mr. Solor stated what is being requested is “way out of character” with what the Zoning Ordinance is set up for as they are asking for 50% impervious which is a characteristic difference from what the intention of the Zoning Ordinance was regarding development of properties in that area. He stated despite Mr. Farrell’s comments about the neighbors, a lot of this has to do with when things happened. He stated the Township has made a decision on what they are looking for. Mr. Solor stated the request is for a huge amount of change to the property which he does not feel is appropriate to the property.

Mr. Dougherty asked if Board members would be in favor of a one-car garage that would be deeper than normal. He suggested a 12’ by 28’ one-car attached garage off either of the existing part of the one-story dwelling or closer to the front of the house recognizing that there could be a setback issue. Mr. Solor stated they are already asking for setback relief. Mr. Farrell stated he would not want to have the garage in the back of their yard, and he would want to have it at the end of the driveway that already exists.

Mr. Dougherty asked where the driveway ends currently, and Mr. Farrell stated it ends where the house ends.

Mr. Majewski showed the aerial of the property. He noted a number of other area properties that have a one-car detached garage at the end of the driveway.

Mr. Dougherty stated he feels a one-car garage should be against the existing one-story structure. He stated there is 51 ½' of driveway from the street to the front of the existing one-story dwelling which is a significant amount.

Mr. Dougherty stated if they were to put the garage where there is already impervious surface, it would not add additional impervious surface. Mr. Farrell stated they do want to see how to make this work.

Ms. Reiss stated there have been several changes in Zoning over the years including with regard to impervious surface. She stated a lot of the houses were designed when people had just one car. She stated while she would go along with a one-car garage, it is still a lot on the property.

Mr. Solor asked about the notification of neighbors for this Appeal, and Mr. McLoone stated the houses to the right and left, three behind, and three houses across the street were notified. Mr. Farrell stated the people they talked to had no objection.

Mr. Solor stated even if they were to delete the garage and the driveway, it would still be about 40% impervious.

Mr. McVan stated the numbers are very high, and usually we are mitigating back 5% to 10%. He asked if it is even possible to mitigate that percentage with what is left on the property. Mr. Majewski stated theoretically you can handle a significant amount of water, but it would take up a lot of the yard. He suggested that the Applicants review this and consider scaling back and come back to the Board.

Ms. Miller asked if there is a percentage they are looking for. Mr. Solor stated he personally feels it would be very difficult to see this level of improvement on this size lot. He stated there is also a member of the Board who is not present this evening, and he would have an opinion as well. He stated while there is no one from the public to speak on this matter, a lot of residents in the Township have concerns about stormwater run-off. He stated these mitigation techniques work, but they do not handle really large rainstorms. He stated the purpose of the Zoning with the percentages was not just for dealing with impervious, but also relates to what the intent was with regard to the character of the neighborhood.

Mr. McVan asked what the percentage would be without the garage and the extra driveway and just for the addition to the house. Mr. Dougherty stated there are also two proposed porches. Ms. Reiss stated there is also an existing shed. Mr. Majewski stated it seems that a number of the surrounding properties in the neighborhood exceed the 26%. Ms. Miller stated taking away the garage and the additional driveway space would result in 37.6% impervious surface. Mr. Dougherty stated he personally would be in favor of about 36% impervious surface provided neighbors do not object. Ms. Reiss stated she would agree. Mr. Dougherty stated the Board could vote to Continue the matter this evening. Mr. Farrell stated they are willing to come within boundaries.

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to Continue the matter to July 16, 2024.

APPEAL #Z-24-10 – HORAN
Tax Parcel #20-046-159
10 IVY LANE, YARDLEY, PA 19067
(Continued from 6/4/24)

It was noted that the Applicants were still not present this evening.

Mr. Majewski stated he spoke to the Applicant yesterday and e-mailed them today reminding that the meeting was this evening. He stated the sixty days ends tomorrow so a decision needs to be made this evening. He stated he does not know if it is possible to Deny it unless they provide an Extension to the next Hearing. Mr. Majewski stated this Applicant also missed their first scheduled Hearing. Mr. Majewski stated Mr. Horan indicated yesterday that he would attend this evening although he indicated his wife may need to leave early.

Mr. Levin stated an action needs to be taken by the Board if they are up against the time limit, and he does not believe that they can vote to Continue. The Board indicated there were not interested in Continuing the matter.

Mr. Dougherty moved and Ms. Reiss seconded to Deny the Appeal.

Ms. Carlton stated the Township was not taking a position on the matter, but were participating because of how much was proposed.

Motion carried unanimously.

OTHER BUSINESS

Zoning Hearing Board Scheduling

Mr. Solor asked that there be more efficient scheduling of Appeals in the future trying to hear them on the first Tuesday of the month since there have been many instances where only one or two Appeals were heard at a meeting, and the Board would prefer having full Agendas and only coming out one night a month if possible. Mr. Solor stated that would not be the preference if there are too many on one night or there is one that generates a lot of “extra effort like Wegman’s or a cell phone tower.

Mr. Majewski stated historically there were Zoning Hearing Boards which preferred that there be shorter Agendas so that meetings did not go too late.

Cancel July 2, 2024 Meeting

Ms. Reiss moved, Mr. Solor seconded and unanimously carried to cancel the July 2, 2024 meeting.

There being no further business, Ms. Reiss moved, Mr. Dougherty seconded and it was unanimously carried to adjourn the meeting at 8:40 p.m.

Respectfully Submitted,

Judi Reiss, Secretary

