

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – JULY 16, 2024

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on July 16, 2024. 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

Others: Dan McLoone, Planner  
Adam Flager, Zoning Hearing Board Solicitor

Absent: Matthew Connors, Zoning Hearing Board Member  
Daniel Grenier, Supervisor Liaison

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

Mr. Dougherty moved, Mr. McVan seconded and it was unanimously carried to Continue the Appeal to August 6, 2024.

APPEAL #Z-24-14 – ROMIG  
Tax Parcel #20-056-060  
140 MOUNTAIN OAKS ROAD, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The 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. Brian Romig was sworn in and stated they have rescued a puppy and want to install a fence in the back yard where there is a Sewer Easement on one side.

Mr. Solor asked if the Sewer line is parallel to the proposed fence line and it is not crossing it anywhere, and Mr. McLoone agreed. Mr. Dougherty asked how far off the Sewer line the fence will be, and Mr. Romig stated it will be at least 3' away. Mr. McLoone stated he spoke to the Public Works Director who indicated he had no issues with the proposal provided that if there is a need for access it would need to be taken down at the homeowners' expense. Mr. Romig stated that is acceptable.

Mr. Solor asked if there are any drainage concerns where the fence would need to be a certain distance from the bottom, and Mr. McLoone stated there are no concerns with that.

There was no one wishing to make public comment with regard to this matter.

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal contingent upon approval of the Township engineer at the time of the fence installation and subject to removal at the request of the Township for access and that it is a minimum of 3' off the center line of the pipe.

APPEAL #Z-24-15 – CREBS  
Tax Parcel #20-038-065  
2115 N CRESCENT BLVD, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The coop model photo 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.

Ms. Bethany Crebs was sworn in and stated that she is asking for a chicken coop in a residence that does not meet the residence requirement. She stated it is for educational purposes and not for Commercial use. She stated she is asking for a maximum of five chickens. She is looking to teach sustainability in raising chickens and responsibility for some youth programs that she is involved with as well as her own children.

Mr. Dougherty stated he assumes there will not be a rooster and it will just be chickens, and Ms. Crebs agreed. Mr. Dougherty asked Ms. Crebs if she spoke to her neighbors who abut her property, and Ms. Crebs stated she did. She stated

their back yard is fully enclosed with a fence, and she spoke to the neighbors that align with their perimeter; and they were excited about having chickens and had indicated that their friends love chickens, and they were overall positive. Ms. Crebs stated she looked into breeds which are social and low key.

Mr. Dougherty asked for further details about the fence, and Ms. Crebs stated it is an aluminum fence that is narrow and six feet off the ground and chickens could not get under it, through it, or over it. Mr. Dougherty asked Ms. Crebs to elaborate on her comment about education. Ms. Crebs stated chickens can eat fruit and vegetable refuse, and their feces and bedding can be composted and is good for gardening which she has advised her neighbors she would share. She stated she goes once a week to Snipes Farm working with ages between two and five and some homeschooling programs are excited about coming to learn about composting and backyard chickens.

Mr. Solor stated prior to the time he was on the Board, there was a house three doors down from Ms. Crebs that did have chickens.

Ms. Reiss asked if any of the neighbors have dogs, and Ms. Crebs stated she has a dog and her neighbor has a dog and they have an electric fence. Ms. Reiss stated the chicken coop proposed is very attractive.

Ms. Judy Reedman was sworn in and stated she lives next door to Ms. Crebs. She stated she did not speak to Ms. Crebs about it and would like more information. Mr. Solor stated it was confirmed that there would be no roosters, and they were looking for five chickens. Ms. Reedman stated the neighbor's fence is an open rail fence with gaps "between the rods," and it is not a solid fence. She asked what will be done to make sure that the chickens do not escape or wander onto other properties. She added she has beautiful expansive gardens and shrubs right next door to this property. She asked if they plan on putting chicken wire across their fence to close it off for the chickens. Ms. Crebs stated she sent her a message about this, and she would be happy to talk to her about any concerns. She stated they have an open fence, but the chickens cannot fit through. She added that they would have a chicken run that would be attached to the coop that would confine them unless she was outside with them to allow them to be free range in the enclosed back yard. Ms. Crebs stated if it requires chicken wire near Ms. Reedman's privacy fence, she would be open to that. She stated she would not ask Ms. Reedman to put chicken wire on her own security fence.

Ms. Reedman stated it was indicated that there would be no roosters, and Ms. Crebs agreed.

Ms. Reedman asked if there is an issue with rodents who should she notify; and Mr. Solor stated if she has any wildlife control issues, she should call the wildlife control board.

Ms. Reedman stated she has only had farm animals at her family farm so they did not know what the protocols were for having farm animals in the back yard of a residence. She stated they never expressed excitement towards this. Mr. Solor stated four houses down from this residence, there was a house that had chickens for many years on N. Crescent by Terracedale. Ms. Reedman stated that is not adjacent to her property.

Ms. Crebs stated she could make comment about mitigating rodents if that is necessary. Mr. Dougherty stated he did not have experience that chickens attract rodents although he understands that foxes would be interested in getting to the chickens.

Mr. Dougherty stated that the Variance being requested is because the property did not meet the acreage requirements to have a chicken coop. He stated he wanted to know how the neighbors feel about this; and if Ms. Reedman is uncomfortable with this, she should express that now. Ms. Reedman stated she had a concern about the open fence and the chickens wandering out and the devaluing of her property as she has expansive English gardens that they have spent "a fortune on." Mr. Dougherty asked Ms. Reedman if she is in favor of the request, and Ms. Reedman she would prefer that it not be approved. She added that there is a second Variance where it is going to be less than the 50' required from the property line, and that it will only be 35' from her property line. Mr. Flager agreed that is the request. Ms. Reedman stated that was included in the Township letter she received.

Mr. Solor asked Ms. Reedman if she is asking that it be 50' from her property line. Ms. Crebs showed on the Plan the location of her property and the location of Ms. Reedman's property as well as the proposed location for the chicken coop which is 35' from the property line. Ms. Crebs noted where the location would be if it were 50' from the property line. Ms. Reedman stated she is uncomfortable with farm animals in the property next to hers especially if it would be 35' rather than the 50' required. Ms. Crebs noted the location of beehives on the property on the other side of Ms. Reedman's property. Ms. Reedman stated those are not farm animals.

Mr. Nicholas Crebs was sworn in and asked Ms. Reedman if they were to put the coop with the full fenced-in run on the opposite corner of the property relative to the Reedman house which would give them closer to 75' from their property line. He stated they do not want to have any of the chickens going into the Reedman gardens which look fantastic. Ms. Reedman asked if that means that they would never be free-roaming in the back yard and that they would always be fenced in, and Mr. Crebs agreed. He stated they want the Reedmans to be comfortable with this. He stated it would also be safe for the chickens since there are some foxes in the area. He stated they would be responsive to any concerns the Reedmans had once the chickens were on the property.

Ms. Reedman asked if there is a way to write this so that there would be a clear delineation of where the chickens would be on the property. Mr. Solor stated the Board could add this as a Condition of approval of the Appeal.

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

Mr. Dougherty suggested that Ms. Crebs request a Continuance so that she can meet with her neighbors and come back before the Board. It would not have to be re-advertised. Ms. Reedman stated she would be in favor of that.

Ms. Crebs stated she wishes that Ms. Reedman would have taken her up on her offer previously to discuss this when she reached out; however, she would agree to meet with the Reedmans. Mr. McVan and Ms. Reiss agreed to the suggestion for a Continuance. Mr. Dougherty suggested that Ms. Crebs show the Reedmans a copy of the Plan and discuss what is being proposed so that they are comfortable with the proposal when the matter comes back before the Board for approval.

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to Continue the matter to August 6, 2024.

APPEAL #Z-24-16 – MEGINNISS/BRZEZINSKI  
Tax Parcel #20-034-130  
0 EDGEWOOD ROAD, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The three-sheet 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. Mike Meginniss, attorney was present.

Mr. Heath Dumack, and Mr. Brian Brzezinski were sworn in.

Mr. Meginniss stated Mr. Brzezinski is the owner of the property located on Edgewood Road. He stated they originally applied approximately one year ago for two lots on the site. The matter was Continued a number of times, and they are now back with a different version of the Plan which requires significantly less relief from what they sought originally. He stated the subject property is unimproved and consists of approximately 1.84 acres and is Zoned R-2.

Mr. Meginniss stated they were previously questions about the interplay of some of the natural resources on the site versus what was proposed a year ago. He stated a Sketch Plan had been submitted to the Township engineer for review, and the issued a review letter; and following that, they decided to pull the Application. He stated at that time there were questions with respect to the wetlands. He stated a wetlands delineation was done, and the location of wetlands are shown on the Site Plan which has been provided. He stated there was also a question about the timing of a potential Letter of Map Amendment that they were considering because of the location of the second structure, a Jurisdictional Determination, and a variety of items that they were analyzing and corresponding with Mr. Majewski and the Township on. Mr. Meginniss stated all of this is eliminated as part of this Application.

Mr. Meginniss stated they are now proposing one single-family detached dwelling on the lot. He stated another change is that at the time of the original Application, Mr. Brzezinski was the equitable owner, and he has since moved forward with the acquisition of the property. Mr. Meginniss stated they are not impacting the environmental resources, disturbing the wetlands, they are not within the floodplain, and they are compliant with respect to any woodlands which would be removed as part of the Application. He stated the design is the minimum relief necessary to facilitate the construction of a single-family dwelling.

Mr. Meginniss stated two Variances are being requested. One of the Variances from a dimensional standpoint is with respect to the front yard setback. Mr. Meginniss noted the Plan shows that the front yard setback is 71' whereas the minimum front yard setback requirement is 80'. He stated it is 71' from the right-of-way and not 71' from the roadway; and because of the location of the wetlands shown in gray on the Plan, if they were to move the house any further

back, they would be encroaching further within the wetland buffer. He stated they tried to design this appropriately to honor as best they could the front yard setback requirement while not getting any closer to the natural resources on site.

Mr. Meginniss stated the second component is with respect to how they are measuring the setbacks which Mr. Dumack will discuss. Mr. Meginniss stated the stated the closest that they are to the wetlands, which is the natural resource that is in closest proximity to the structure, is 30' at a minimum; and that is from the proposed patio and not from the dwelling itself which is approximately 46' at its closest point.

Mr. Meginniss stated they feel that what is now proposed is an appropriate Application and use for the property and the minimum relief necessary to facilitate a few single-family home on Edgewood Road.

Mr. Dumack stated he is the President and owner of Dumack Engineering and has a License in Civil Engineering and Surveying. Mr. Dumack stated he has been recognized as an expert in Civil Engineering in front of this and other Boards in Bucks County. Mr. Solor stated the Board accepts Mr. Dumack as an expert.

Mr. Dumack stated he prepared the Plan which is before the Board. He stated the Lot is approximately 68,000 square feet and is irregularly shaped. He stated it is on the south side of Edgewood Road. There is an area of Waters of the U.S. which comes from a culvert that crosses underneath the Railroad tracks north-west and connects into the existing creek on the far side of the property. There is a shallow area, highlighted in gray on the Plan, that has been delineated and confirmed by the Army Corps of Engineers as being wetlands. He stated the dark green areas are woodlands.

Mr. Dumack stated they are proposing one single-family home at this time. Mr. Meginniss stated the prior Application was proposing two homes, and they were looking for a Letter of Map Amendment and other items, but they are now looking for the construction of one single-family detached dwelling; and Mr. Dumack agreed. Mr. Meginniss stated there is a floodplain located on the property, but not in near proximity to the proposed structure, and Mr. Dumack agreed. Mr. Dumack showed on the Plan a heavy dashed line that encompasses about a third of the rear of the property, which is the 100-year floodplain line that was delineated based on the existing flood maps from FEMA. He stated the proposed home is approximately 50' to 60' away from that line. Mr. Dumack stated the floodplain line is based on the true elevation/

topography on the site. He stated they did a full topographic survey and overlaid on top of that the flood maps and the study which was done by FEMA, and they adjusted it based on the actual elevation versus the concept that FEMA had.

Mr. Meginniss stated the dark green areas on the Plan are woods, and they would remain as part of this Application and the construction moving forward and would form an additional natural buffer from this property to any of the adjacent parcels, and Mr. Dumack agreed.

Mr. Meginniss stated with respect to the wetland buffer, he had indicated that the minimum wetland buffer is 30' on the site; and he asked Mr. Dumack if that is correct. Mr. Dumack agreed that is with respect to the proposed patio, and the rest of the area as depicted in the hashed lines are approximately 46' from the wetland buffer to the corner of the home.

Mr. Meginniss stated there is a Variance request for the front yard setback to be 71' and that is with respect to the right-of-way and not to the edge of pavement; and Mr. Dumack agreed. Mr. Meginniss stated he had previously indicated that the reason why they are located within the front yard setback is because pushing the home any further back would encroach closer to the wetland buffer; and Mr. Dumack agreed.

Mr. Meginniss stated the other Variance being sought is measuring from the property setback line, and he understands Mr. Dumack has done this previously. He asked Mr. Dumack to explain why this is how they are handling this Application. Mr. Dumack stated the way the Township's Ordinance reads is that yard setbacks – front, side, and rear – are required to be measured from the edge of whatever proposed buffer there is. He stated in this instance they are showing a 30' wide buffer between the wetlands and the proposed development. He stated there is an existing stream to the west; and based on the Zoning Ordinance, there is an aggregate buffer requirement that allows for some flexibility. For that they are showing 80' between the top of bank of the creek and the edge of the proposed development. He stated the Ordinance indicates that the setback requirements need to be measured from the limit of the buffer lines. He stated if you have an 80' front yard and something that has buffer requirements along that front yard, it is whatever that buffer is and then you add the 80' total. He stated in this instance, they would have the 30' buffer for the wetlands and the rear yard setback for this Zoning District is 45' so 45' plus 30' comes to 75' at that point. He stated what they are requesting is that the yard setbacks be measured from the property lines and not from the buffers.

Mr. Meginniss stated even though Mr. Dumack Testified that the property is irregularly-shaped and is burdened by the existence of several natural resources, they would not be disturbing or worsening those natural resources in any way with respect to this Application, and Mr. Dumack agreed.

Mr. Meginniss stated with regard to the woodlands, some of the trees which would be removed, it is compliance with what the Ordinance allows for in the Township; and Mr. Dumack agreed.

Mr. Meginniss asked Mr. Dumack if it is his opinion that in order to build a reasonably-sized home on this property, it would necessitate Zoning relief; and Mr. Dumack agreed. Mr. Dumack stated he believes that the Zoning relief that is being proposed is the minimum Zoning relief required to move forward with this site.

Mr. Meginniss stated the Board on occasion required Conditions for properties burdened with natural resources that they enter into a Unilateral Restrictive Covenant or something similar to make sure that these areas are not disturbed in perpetuity regardless of ownership, and he asked if that would be agreeable; and Mr. Dumack stated he believes that is true. Mr. Meginniss asked Mr. Dumack if it is his opinion that developing this property in this area and maintaining the buffers would allow for reasonable use so that a family could enjoy this property once constructed, and Mr. Dumack agreed.

Ms. Reiss stated she knows that parts of Edgewood Road do not have sewer access, and she asked if this property will be connected to a sewer system. Mr. Dumack stated they are proposing public water and public sewer. He added that water is in Edgewood Road; and the sewer is approximately 100' down Sandy Run, and they will be carrying it across to this property as part of this Application. Ms. Reiss asked if the Sewer Authority has approved this connection, and Mr. Dumack stated it will be as part of the Application.

Mr. Dougherty stated he feels this Plan represents the minimum amount of relief and he is less concerned about the 71' setback and that it is good that they are not disturbing the natural resources.

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

Mr. Solor stated to delineate the Covenant area, typically the Board has requested something like a split rail fence and signage or some other way of visualizing where the lines are, and Mr. McLoone agreed. Mr. Brzezinski stated he would agree to that. Mr. McLoone stated Mr. Majewski just texted him and indicated that a fence at the limit of the wetlands buffer would make sense.

Mr. Solor stated the wetlands buffer is the entire perimeter and lines up with the tree line so it would be the line as delineated on the Plan, and the Board was in favor of that. Mr. Dougherty stated that line does run into the wooded area at two points. Mr. Solor stated they can do some clearing, and if they do an excess amount, they would owe replanting as part of the Ordinance. Mr. McLoone stated a fence would be a supplemental Permit from the house and would be reviewed at the time they get the Fence Permit. Mr. Meginniss stated that there are areas at the beginning where the edge of the woodlands mirrors the buffer, and they can maintain the buffer line; and the area where it goes into the woods where they theoretically have a couple of extra feet they would surrender that couple of extra feet in order to mirror the edge of the woods there. Mr. Dougherty stated they would run it along the edge of the woods, and Mr. Meginniss agreed. Mr. Meginniss stated that would be more beneficial to the Township as they would be creating a larger buffer area, and it would make more sense from the homeowners' standpoint to not have the fence meander through the woods. Mr. Dougherty stated he would be in favor of that.

Mr. Solor stated they could look at Applications similar to this where the Board made the suggestion to reduce the front yard setback further to pull the building forward; and while he is not proposing that be done, the Board could discuss that. Mr. Dougherty stated that he is fine with what is proposed; and if the homeowner feels it important for them to be 71' off of the ultimate right-of-way opposed to 61', he would prefer to defer to their wishes. Ms. Reiss stated she is a little concerned with disturbing the woodlands, and if they moved it closer to Edgewood, it might solve the problem more easily. Mr. Solor stated they agreed to follow the buffer zone and provide all of the shown wooded area as restricted. Mr. Dougherty stated at 71' the buffer would not be disturbed at all. Mr. Solor stated they are also willing to protect the woodlands. Mr. Meginniss stated the reason they have a 71' front yard setback was to get them as close to compliance with the Ordinance as they could. He stated if the Board wants to make it even 60' from the ultimate right-of way, they would get 11' more feet to the rear and could save a few more

trees and get a more-usable back yard for the homeowner. He stated it would still be more than 80' from the edge of pavement because of the ultimate right-of way. He stated they would be comfortable with moving the house up 11' or proceed with what the Plan currently shows. Mr. Solor stated by the Board providing an allowance for 60' it would give the Applicant flexibility to submit what they want to submit.

Mr. Solor moved to approve the Appeal to allow for a 60' minimum front yard setback.

Mr. Flager stated if they are increasing the amount of relief they would have to re-advertise.

Mr. Solor stated they should therefore stay with the 71'. Mr. Flager stated they could proceed with the 60' minimum but it would have to be re-advertised, and they could not get approval this evening. Mr. Brzezinski stated he would agree to the 71'.

Mr. Solor moved, Mr. Dougherty seconded and it was unanimously carried to approve the Appeal to allow a front yard setback of 71' and a wetland buffer zone of 30' in the back as depicted. The wetland buffer zone and all wooded areas as shown on the Plan are to be delineated with a fence and be set as an Easement to be protected with the Township and to be noted as a not-to-be disturbed area.

#### OTHER BUSINESS

Mr. Solor stated he has seen that the notice to the neighbors are getting wider dispersion which is what the Board was looking for.

Mr. Flager stated at this point there is a full Agenda for August 6 and nothing scheduled for August 20.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Judi Reiss, Secretary

