

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – SEPTEMBER 3, 2024

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on September 3, 2024. Mr. Solor called the meeting to order noting that only four Board members are present this evening so three out of four Board members present would need to vote in favor in order for an Appeal to pass if that impacts any of the Applicants' decision whether they want their Appeal heard this evening.

Those present:

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

Others: James Majewski, Community Development Director  
Andrew Griffin, Township Solicitor  
Adam Flager, Zoning Hearing Board Solicitor  
Daniel Grenier, Supervisor Liaison

Absent: Matthew Connors, Zoning Hearing Board Member

APPEAL #Z-24-20 – SCHOTT  
Tax Parcel #20-033-239601A  
301 OXFORD VALLEY ROAD 601A, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Floor Plans were marked as Exhibit A-2. The July 26, 2024 Letter to Jim Majewski outlining the proposed projects and reasons for the requested relief was marked as Exhibit A-3. The Summary of the Planning Commission meeting from 8/26/24 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.

Mr. George Schott was sworn in. He stated he and his business partner own a franchise called Code Ninjas Yardley. He stated they teach kids computer coding which is math based; and they build video games, and then play the video games that they just built. He stated it is a relief for many families

whose kids want to be in front of a computer; and they take that time and turn it into something productive. He stated some of their students are now college students and have taken skills they learned at Code Ninjas with them.

Mr. Schott stated they have been at their current location for five years since September, 2019, and they are looking to move to 301 Oxford Valley Road, Suite 601 A. He stated in the five years that they have been in business struggled to make ends meet because they over-estimated how many students they could have come in during any given month. He stated their original estimates was about 150, and they never got above 130, usually getting between 100 and 110. He stated their current space is too big for their needs which correlates to the rent due. He stated they are looking to downsize – not the offerings, but to have a space that is commensurate with the number of students that they have. He stated they feel that they meet all of the criteria as shown in the letter they provided including the number of parking spots needed which are minimal. He stated they are primarily a drop off/pick up environment. He stated it is not a loud environment because it is a learning environment more like a library.

Mr. Schott stated they also provide a day camp if Pennsbury has a day off which is a service for parents. He stated they also provide week-long camps during the summer. Mr. Schott stated they employ approximately 15 part-time employees, mostly from Pennsbury. He stated he and his business partner also attended Pennsbury and grew up in Lower Makefield. He stated it is critical that they move to a location where the rent is more in line with their revenue. He stated their current lease ends the end of October, 2024.

Mr. Dougherty asked Mr. Schott if he has met with any of the neighboring businesses where he intends to relocate. Mr. Schott stated due to the layout, there is only one neighboring business; and he did introduce himself to that neighbor and to inquire about the WiFi. He stated he advised the two people in the building what they were going to do, and they indicated that they were “excited about fresh blood in the building,” and it did not seem to be a problem.

Mr. Dougherty asked Mr. Majewski about Ordinance restrictions on the number of people who can be in a unit of this size. Mr. Majewski stated that is governed by the International Building Code, and the standard for this size unit is twenty-five maximum permitted. He added that in speaking with Mr. Schott, he indicated that would be greater than the maximum that he would have at any one time.

Mr. Solor asked if there have been other Applications for relief due to parking quantity for other businesses/entities in this complex. Mr. Majewski stated he did not see any, but there are an excess number of parking spaces based on the Ordinance which is high compared to what is currently the recognized standard for parking.

Ms. Reiss asked what type of businesses are in the immediate area. Mr. Schott stated next door was an accounting or financial firm. He stated there is also a dentist in the area and other 9 to 5 type businesses.

A gentleman stated he is the owner of Unit 602, the adjoining property, and they are an accounting firm. He stated their concern for this particular use includes parking which is at a premium at that location. He stated the previous tenant in this space played music, and they could hear the music coming through the wall and they would hear exercise routines happening. He stated he is concerned that in this office environment having ten to twelve kids in a space of that size could be “noise-polluting” to his accounting office. He stated this is professional office space with mostly lawyers, medical practices, accounting firms, etc. in this location. He stated there are also a lot of delivery trucks of all types that are in the area, and he would be concerned about the safety of children in the area which is not really children-oriented as it is a professional office complex.

Mr. Solor asked that the gentleman be sworn in. Mr. Keith Horlacher was sworn in. Mr. Solor asked Mr. Horlacher if he was requesting Party Status. Mr. Flager stated Party Status is a mechanism to provide additional legal rights for involvement in any Decision, notification, Appeals, etc.; and Mr. Horlacher stated he would request Party Status.

Mr. Horlacher stated since they are an accounting office, they have extended hours between January and April working late into the evenings as well as weekends; and he is concerned if there are going to be children outside or waiting outside for parents to pick them up which he does not feel is conducive to the type of professional office part that they are in.

Ms. Reiss stated she is familiar with a dance studio which is also in an office complex, and children are not roaming around, and they have a place to wait to be picked up; and she assumes Mr. Schott would do the same thing for everyone’s safety.

Mr. Schott stated while he understands Mr. Horlacher's concerns about noise, they are in direct control of how many kids can be in the facility at any given time. He stated normally a busy hour would be twelve kids, and there are some-times hours when there are no kids. He stated it is a learning environment. He stated they do sometimes play music, but they could not play it if it is a concern. He stated 80% of the parents come in to pick up their kids because they want to know what they did. He stated their teachers are generally in High School, and they will walk the child out to the parent to tell them what they did. He stated if a child would go out to meet their parent in the car, generally if they are not at least ten years old, they are walked out to the car. He stated there would be no waiting outside. He stated it is a controlled environment and they would control any volume that would be coming from their facility.

Mr. Majewski stated at the Planning Commission when they reviewed the request for the Special Exception, they made a recommendation that the business place a sign out during business hours advising drivers to slow down – children present.

Mr. Solor stated Mr. Majewski had indicated that there is a Code limitation on maximum number of people allowed would be twenty-five, and he asked Mr. Schott asked what would be the maximum number they could put on as a Condition. Mr. Schott stated if they are referring to total people he feels twenty would be sufficient for their busiest day which would probably be a Saturday. He stated he would agree to a maximum of twenty.

Mr. McVan asked the hours of operation. Mr. Schott stated currently it is 3:30 to 6:30 which means the last student would be done by 7:30. He stated on Saturdays it is 10 to 1 which means that they would be done at 2. He stated the busier times are normally 5 to 7. He stated currently they are closed on Thursdays and Mondays. He stated if they were to get busy, they would like to open back up other days.

Mr. McVan stated it looked like there was a floor plan build-out, and he asked if consideration could be given to sound-deadening on the adjoining walls to help prevent sound transfer; and Mr. Schott agreed. He added that with regard to the adjoining wall, none of the computers are against the adjoining wall upstairs. He stated downstairs there are three rooms, and the one that is an adjoining wall is the office. He stated the other two rooms are away from the adjoining, and that is where the kids will be. He agreed that there will be some noise. He stated they could put on some kind of sound-dampening material to try to reduce the sound even more.

Mr. Horlacher stated he feels that this would help. He stated their Website indicated that they have birthday parties, which he feels would involve more than the typical number of kids in attendance. Mr. Schott stated birthday parties are only on Saturdays and only after their curriculum hours which end at 2. He stated he believes that they have only had three birthday parties in the last year, and they last one hour. He stated the camps are held during summer, but that is also a controlled environment.

Mr. Horlacher asked for details about the summer camps, and Mr. Schott stated they are Monday through Friday from 8:30 to 11:30 with a break and then 12:00 to 3; and then their curriculum begins. He stated the camps are important to them since typically 30% of their curriculum families “freeze” in the summer, and the summer camps keep them afloat.

Mr. Schott stated if there were to be a problem, he encouraged Mr. Horlacher to contact him. Mr. Horlacher stated anything that can be done to deaden the noise would be appreciated.

Mr. Solor moved and Ms. Reiss seconded to approve the Appeal on the Condition that the sign is put up per Planning Commission recommendation, that the maximum limit for capacity in the space is set to twenty, and that there are acoustic panels or some similar sound-deadening placed on the shared wall. Motion carried with Mr. Dougherty opposed.

APPEAL #Z-24-3 – MRG STONY HILL LP  
Tax Parcel #20-016-036-001  
748 STONY HILL ROAD, YARDLEY, PA 19067

Mr. John Fenningham, attorney, was present. He stated they are requesting a Continuance until next month for two reasons, one of which is the number of Board members present this evening. Mr. Fenningham stated they have six witnesses they propose to present. He stated he also spoke to the Township’s solicitor earlier this evening, and there was a concern raised whether this Application requires Conditional Use review by the Board of Supervisors, which Mr. Fenningham was not aware of. Mr. Fenningham stated after consulting with members of MRG Stony Hill LP, they are requesting to be carried over until next month.

After discussion, it was agreed to Continue the matter to October 15. It was noted there were already a number of Appeals scheduled for October 1. Mr. Fenningham asked that they be the first matter considered on October 15, and Mr. Solor agreed. Mr. Fenningham stated in the interim, they will try to have a meeting with the Township staff to discuss the issue of the Conditional Use.

Mr. Grenier asked if there is a Conditional Use requirement where they have to come before the Board of Supervisors, which Board would they need to go to first. Mr. Fenningham stated he reviewed a similar case, and the Court decision was to have the Applicant go through the SALDO process to see if the dimensional and any other issues could be addressed within that process as an economy/efficiency of the Administrative process. He stated given what Mr. Griffin advised him this evening, he feels a staff meeting is warranted.

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to Continue the matter to October 15, 2024.

APPEAL #Z-24-18 – MURPHY/PEMBROKE

Tax Parcel #20-012-006-005

777 TOWNSHIP LINE ROAD, YARDLEY, PA 19067

Mr. Edward Murphy, attorney, was present representing the owner of a 110,000 square foot mixed-use office building known as 777 Township Line Road.

Mr. Murphy stated he has been in front of the Zoning Hearing Board three times over the past fifteen years on behalf of different owners of the building over the years seeking allowance to permit an increase in the amount of square footage in that building devoted to medical use. He stated originally the building was more heavily devoted to office; however, over the years, and especially post-COVID, the amount of traditional, general office space in the building has continued to decline, and the amount of medical office space in the building has steadily increased pursuant to the three different approvals that have been received over the last fifteen years.

Mr. Murphy stated tonight they are asking permission, over a gradual period of time, to allow all of the building to be devoted to medical uses. He stated it is a request of the University of Pennsylvania Health system, Penn Medicine, which is currently the principal medical user in the building either Penn or its affiliate, Good Shepherd Therapy.

Mr. Murphy stated each time he has come before the Zoning Hearing Board, they have prepared and submitted an informal traffic count of the existing parking field. He stated when the building was built, there were 550 parking spaces both in front, on the side, and in the rear of the building; and there is still that number. He stated the study which was shared as part of the Application indicates that at no time are more than 30% to 35% of those 550 spaces ever occupied. Mr. Murphy stated he has been there personally multiple times over the past year at different times of the day and different days of the week, and he believes that information is accurate. He stated it is true even though as of today, the building is about 85% leased.

Mr. Murphy stated the trend is moving away from the traditional office user occupying space like this, and Penn wants to make a significant commitment to Lower Makefield and this area in Bucks County to offer a wide range of services much as they do now. He stated there is not an intention to have a surgery center, and it is more traditional, clinical, doctor/patient visits, etc.

Mr. Murphy stated Mr. Tom Weitzel is present virtually, and he is a principal of Jones Lang LaSalle; and he is responsible for marketing and leasing of that building.

Mr. Tom Weitzel was sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The prior Zoning Hearing Board Decisions were marked as Exhibit A-2. The Summary of the Planning Commission meeting from 8/12/24 was marked as Exhibit A-3. The Parking Study 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.

Mr. Weitzel stated he has been responsible for leasing 777 Township Line Road since 2009. He stated it was a different owner at that time, and the current owner has owned it since 2014. He stated he believes everyone is aware of the trends and challenges of leasing office space, particularly long-term. He stated as companies decide that they need less space than what they are paying for, it presents a challenge; and that has happened multiple times over the last few years. He stated this is why they have the vacancy level that they have now which would have been even higher if they did not do short-term leases which is not a guaranteed commitment of long-term revenue coming in.

Mr. Weitzel stated when the building was built, it was designed for 550 parking spaces; and they are lucky to have the large parking field available to accommodate the use being presented. He stated as noted earlier the proposed 100% medical use would not be immediate, and it would be phased over time. He stated there are existing office tenants who have renewal rights so that they could remain well beyond their lease expiration. He stated while this will happen gradually, they were very pleased when Penn came to them and discussed the continued commitment they wanted to make to this market and uses they wanted to add to the building which are needed given the demographics and where the gaps are in medical coverage.

Mr. Dougherty asked how much square footage is currently allocated to medical use at present. He stated he understands that in January, 2007 the Board granted 30,000 square feet, and there was also another Decision granting additional square feet. Mr. Murphy stated currently 57,000 square feet is allowed today. He stated what they are asking for is an additional 52,000 square feet. Mr. Solor stated some members of the current Board were involved in the last Decision-making process. Mr. Murphy stated there were three different Decisions that he attached to the Application – 2007, 2010, and one about a year ago. Mr. Dougherty stated he was not provided the most recent Decision in his packet.

Mr. Dougherty stated the proposal is to take 52,000 square feet of Office space and convert it to Medical space, and he asked the plan for handicapped parking spaces. He stated he assumes that they will need to increase the number of handicapped parking spaces if they are going to have a medical facility. Mr. Weitzel stated they will meet the Code requirements for this, and what they do going forward will accommodate the use. He stated Penn is making a big commitment; and if they need to add five more handicapped spaces, they will probably add seven spaces since they have the space. He stated the parking field surrounds the building, so you would never be too far from an entrance or a ramp into the building. He stated he feels that there are over thirty spaces that are in front of the building.

Mr. Majewski stated when this project was developed in the early 2000s, our Ordinance required more ADA-accessible spaces than are mandated by the Americans with Disabilities Act. He stated he believes there are two to three times as many spaces that are needed, which works out well for a facility such as this. He stated he believes that there are twenty-five to thirty ADA-accessible spaces already.



Mr. McVan asked what is the concern with medical versus office space, and he asked if it is a concern with more clientele coming in and out versus an office space with workers there from 9 to 5. Mr. Weitzel agreed that with medical there is more turn-over with cars coming and going versus one car parked for six to seven hours; however Penn is well aware of the parking that exists, and they are very comfortable with it.

Ms. Reiss asked what would be the protocol for lab waste and other chemical waste. Mr. Weitzel stated there is an existing lab on site, which Penn manages. He stated he does not believe that they are expanding that lab. He stated they do standard blood draws. He stated there is also an oncology space and a new fusion center. He stated nothing they are adding would add to what they currently have with regard to Ms. Reiss' question. Mr. Weitzel stated what they want to add is a concierge service, women's health, more oncology exam space, and a pharmacy on site so patients can get their medication prescribed but would not be open to the public.

Mr. McVan asked is there a need for an additional traffic study due to the new Wegmans and apartments in the area since those have gone in since the last time we did this. Mr. Majewski stated peak traffic for a medical office use is not coincident with the office uses and the other commuting uses associated with an office park. He stated traffic for a medical office is all day long, and it does not exacerbate the peak traffic time that you see for commuting in the morning or afternoon. He stated it is actually better for traffic flow during the peak hours than regular offices. Mr. Murphy stated the times when the traffic counts were done in the last two years have always been 10 to 10:30 in the morning and 2 to 3 in the afternoon which is when historically the parking field is most full; and even at that point, it is only at 35%. He stated their peak time is not the peak in the morning or the peak between 4:30 and 6. He stated typically most of the appointments are between 9 and 4.

Mr. Grenier stated in our Code we have medical office space and hospital, and medical office space in the O/R District is by Special Exception where hospital is by Conditional Use in the Zoning Code. He stated there is a definition for hospital in our Code, but he could not find one for medical office. He stated he wants to make sure that the use as described by the Applicant meets medical office space versus hospital. Mr. Murphy stated this is why he indicated that they are not performing surgeries or traditional hospital-type services in the building. He added that there is a Radiology Department where you can get x-rays, but there are no surgeries in that building.

Mr. Dougherty asked if there was an answer to Mr. McVan's question as to whether a new traffic study was considered. Mr. Murphy stated 35% of the 550 vehicle parking field is used, and the remainder is always open; and he does not feel that ratio will change much with the conversion over the next five to ten years or longer to medical use. Mr. Dougherty stated he does not feel anyone is concerned about the parking, and it is more about the traffic.

Ms. Reiss stated she is pleased with how the traffic is moving at Stony Hill, which is better than before. She stated this will add more traffic, but she is not as concerned with the strip where Prickett Preserve is as she is with the traffic on Stony Hill going over 295 since people will be coming to the building that way. Mr. Murphy stated he believes Mr. Grenier's concern was that there is more anticipated development in the corridor that will create more traffic than what they are proposing tonight. Mr. Grenier stated the other future development that has been put out in the public will require traffic studies and potentially more improvements; and those studies would include this development as well.

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

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal as presented tonight whereby increasing the allowable medical office-related space by 52,200 square feet.

APPEAL #Z-24-21 – MUNZ  
Tax Parcel #20-043-001  
8 ST. JAMES PLACE, YARDLEY, PA 19067

Mr. Colin Craige, representing 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 Impervious Surface Breakdown Calculation and Stormwater Management Small Project Volume Control was collectively marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Craige stated they are requesting two Variances – one for setbacks and one for impervious surface.

Mr. Joe Natale, homeowner, was sworn in and stated they want to expand their family and would like to stay in their current home so they need more space for their daughter and a home office now that he and his wife work part-time from home. He stated the lot is wedged-shape, and they do not want to cut off their back patio from the back right half of their back yard. He stated the project will help them better utilize the existing home and stay in the Township which is important to them since they convinced his parents to move down the street from Delaware County. He stated they will also be able to host more play dates with their children.

Mr. Craige stated with regard to the impervious, the allowable is 18%, the existing is 17.75%, and with the proposed addition, they will be at 21.36%. He stated they are proposing a dry well system per the Township sheet, and that system will be 4' deep by 8' wide and 10' in length. He stated that will bring them below the existing 17.75%. He stated his experience in Lower Makefield is that would be suitable as he has been involved in a number of these meetings in the past.

Mr. Craige stated with regard to the setback, this is an irregularly-shaped lot which creates an angled building envelope. He stated after a number of design iterations, they came up with the location shown as being the most suitable. He stated what is proposed would allow better access to the existing patio in the back yard. He stated it will also allow light into the converted garage space on the right side shown on the floor plan submitted.

Mr. Craige stated there is no external entrance, and the only entrance to the living space above the garage would be through the second floor of the existing dwelling. He stated the side yard setback is 15', and they are requesting this be reduced to 8'. He stated the size of the garage proposed is not only suitable garage space and work space within the garage but also for the above living space of the 13' by 13' bedroom which is generally a good-sized bedroom as well as the office proposed since as noted by Mr. Natale, he and his wife work from home.

Mr. McVan expressed concern with the setback as it relates to the neighbor. Mr. Craige stated Mr. Natale did speak to the neighbor to the right when looking at the home; and Mr. Natale stated that is the neighbor where the garage would be up against that property line. Mr. Natale stated that neighbor did submit a letter of support for the project. Mr. Solor stated that letter was not provided to the Board. Mr. Craige stated the letter of support was submitted through the on-line portal. Mr. Majewski agreed

it was submitted, and he showed a copy of the letter that was submitted in support of the garage addition from the neighbors, the Obyrnes. Mr. Flager marked the letter in support dated 8/4/24 as Exhibit A-4.

Mr. Craige stated they have done a number of projects in the Township and know how important neighbor support can be for setback and impervious issues, and they wanted to make sure that they made them aware of what was proposed prior to the meeting. Mr. Flager stated these are the neighbors who live at 6 St. James and when looking at the house from the street, they are the neighbors to the right; and Mr. Craige agreed. Mr. Majewski highlighted the neighbors' property on the screen.

Mr. Solor asked about the drainage flow on the property. Mr. Natale stated it is relatively flat, but it does slope slightly toward the street. He added that during heavy storms he does get some ponding at the end of his driveway. Mr. Craige stated they plan to reduce the stormwater below what is currently on the property.

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

Ms. Reiss moved, Mr. Dougherty seconded and it was unanimously carried to approve the Appeal as submitted granting an 8' side yard setback where 15' is required and a Variance for stormwater management this is existing at 17.75%, proposed to 21.4%, and effective below 17.75%. The stormwater management to be approved by the Township engineer.

#### OTHER BUSINESS

There was discussion about upcoming Appeals. It was noted that the first meeting in November will be held on Monday, November 4 due to the Election.

There being no further business, Ms. Reiss moved, Mr. Solor seconded and it was unanimously carried to adjourn the meeting at 8:47 p.m.

Respectfully Submitted,

Judi Reiss, Secretary

