

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – OCTOBER 1, 2024

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on October 1, 2024. Mr. Solor called the meeting to order.

Those present:

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

Others: James Majewski, Community Development Director
Dan McLoone, Planner
Adam Flager, Zoning Hearing Board Solicitor
Daniel Grenier, Supervisor Liaison

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

Mr. Solor stated the Applicants have requested a Continuance to October 15, 2024.

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 Continue the matter to October 15, 2024.

APPEAL #Z-24-23 – RUSK
Tax Parcel #20-037-171
904 GAINSWAY ROAD, YARDLEY, PA 19067

Mr. Solor stated the Applicants sent in a letter this afternoon requesting a Continuance to November 19, 2024.

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 Continue the matter to November 19, 2024.

APPEAL #Z-24-22 – KONYVES

Tax Parcel #20-055-076

1514 DAVID TERRACE, 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 Impervious Surface Breakdown Calculations and Stormwater Management Small Project Volume Control Sheets were 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. Rich Pursell was sworn in.

Mr. Pursell stated he and his wife moved to Lower Makefield a year and a half ago looking for a bigger property where they could put in a pool for their family. He stated he and his wife also have joint replacements, and their doctors have suggested aqua-therapy.

Mr. Solor stated he understands that there has been discussion about changing the status about how pools are considered for impervious. Mr. Majewski stated that has not changed yet although we are looking at that from the perspective of calculation of stormwater management and taking into consideration that the area of the pool be classified as impervious for the purposes of stormwater management. He added that should be done by the end of the year.

Mr. Dougherty asked the allowable impervious in the District. Mr. McLoone stated the allowable is 24%, the existing is 21.6%, and they are proposing 25.3%. Mr. Solor stated he understands that per the Township regulations they are mitigating for the whole increase in impervious, and Mr. McLoone agreed. Mr. Dougherty stated they will need to mitigate back to 21.6%; however, Mr. McLoone stated they are going well below that. Mr. McLoone stated that 117 cubic feet is required, and they are providing 209 so they are well over what is required.

Mr. Dougherty asked if part of the parcel is in the flood zone, and Mr. Majewski agreed. Mr. Majewski added that there is a small stream, Rock Run, that goes to the property; and they have delineated the flood plain, which is a studied stream and is by elevation, and the pool and the house are not located within the flood plain. Mr. Dougherty asked about the infiltration trench, and Mr. Majewski stated that is also not located within the flood plain.

Mr. Solor stated it was noted that they are mitigating lower than the 21.6%, and Mr. McLoone agreed. Mr. Solor stated he had read it as they were mitigating just the increased impervious area which is the requirement. Mr. McLoone stated to go from 21.6% to 26.3% 117 cubic feet of controlled volume is required, and they are doing 209 so they are bringing it below the existing.

Mr. Solor stated the grading is not clear from the design, and he asked if the pool is downstream from the house and the trench. Mr. Pursell stated the pool is downstream from the house, and he believes the trench is going to be beyond the pool. Mr. Dougherty asked if the property grades away from the house, and Mr. Pursell agreed.

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 where at present there is a 21.6% impervious surface with a proposed 26.3% impervious surface, and being mitigated to the extent proposed in the Appeal subject to review and approval by the Township engineer at the time of construction.

APPEAL #Z-24-24 – TORR/HAFT
Tax Parcel #20-005-027
1054 N. KIMBLES 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 Impervious Surface and Stormwater Management sheets were 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. Flager stated the Hafts are family friends of his family; however, he is not a voting member of the Board.

Ms. Leah Haft, Mr. Jason Haft, and Mr. Bruno Morganheira were sworn in.

Mr. Haft stated they have lived in the house for twelve years, and the existing pool is the original pool which they have always wanted to upgrade and add some covered space in the back for the family.

Mr. Morganheira stated the pool and surround area were there when the Hafts purchased the house in 2012. Mr. Morganheira noted on the Plan what is existing on the property which includes the pool, the surrounding concrete deck area, and a pool shed. Mr. Morganheira stated there are a number of issues with the pool and it is not working well, and they plan to renovate the pool and add a covered deck off of the back of the house.

Mr. Morganheira stated the property is currently at 29.8%; and the property owners did not know that the property was over the maximum impervious when they purchased the house. He stated they found out that they were over when they recently surveyed the property so that they could proceed with this project. He stated they are asking for an additional 409 square feet which is the covered deck space as well as a small extra area of pool deck of approximately 70 square feet. He stated they are proposing additional stormwater management for the 409 square feet which requires 68 cubic feet of volume storage. He stated the Plan shows that they are proposing 72 square feet of volume storage so that it is a little bit more than what is required.

Mr. Morganheira stated the property grades downhill, and they are also placing the stormwater seepage bed downhill. He stated there is a swale that will be cut on the left side of the pool to try to control the water so that it does not go onto the neighbor's house. He stated they are also putting in a few drains to collect water coming off the walkway leading down to the pool deck. He stated this is an area that tends to hold water on the property, and this allows them to collect some of that run-off of the pool deck. He stated the downspouts off the covered deck will also be running into the seepage bed. He stated all of the stormwater from the extra impervious that they are adding will go into the proposed seepage bed.

Mr. Morganheira stated the Plan has already been approved by the Bucks County Conservation District. He stated he understands that that Hafts have spoken to their neighbors.

Mr. Haft stated they spoke to the neighbors on both sides and reviewed the Plan with them, and he does not believe that they have any objections; and one of them wrote a letter that they were excited for the pool since their children will be enjoying the pool since they are there frequently. He stated they also spoke to the neighbors across the street as well who had no issues. He stated he believes that everything they are proposing is downgrade from every other house in the neighborhood and behind them is woods that runs into a creek.

Mr. Solor asked if the Board were to ask for mitigation back to 24% what would that do to the proposed trench.

Mr. Haft stated there is an existing seepage bed that was put in when they did an addition in 2019/2020 although he does not know the size. Mr. Morganheira stated while he does not know the size, it is in the Township's records as it was provided to him when the Right-To-Know was submitted. Mr. Solor asked if there was a Variance for that addition. Mr. Haft stated at the time that was done they were advised that since they took away some impervious and added some impervious, it was net neutral and there was no need for a Variance; but it never came up that they were already over.

Mr. McLoone stated to bring it back to 24%, they would need a 3' by 6' by 30' trench.

Ms. Reiss asked if there is water already back there. Mr. Haft noted on the Plan where the creek is located. Mr. Majewski stated the line on the Plan does not accurately reflect the location of the stream and he noted the dark area to the top of the slide.

Mr. Grenier stated the property lines on the viewer show what appears to be a swing set in the back which appears to be on Township property, and he asked if that is accurate. It was noted that the Applicant's property is fenced in. Mr. Grenier asked Mr. Morganheira how recently the survey noted earlier was done, and Mr. Morganheira stated it was done in 2024. Mr. Grenier asked if it was a boundary survey which showed the fence and other features, and Mr. Morganheira stated it showed the proposed pool fence and topography which was shown on the Plan provided. Mr. Morganheira stated he believes the fence was already there when the Mr. Haft purchased the house. Mr. Haft agreed and added that a swing set was there as well although they did replace it with a swing set in the same exact spot.

After review, Mr. Majewski stated Mr. Grenier is correct and there appears to be a discrepancy in the location of the fence compared to the survey. He stated the survey shows that the dimension of the property is 160' and that would take them out to the parcel line that is depicted on the slide being shown. He stated the fence is 20' off on the right side of the property and that will have to be relocated off of Township property.

Mr. Dougherty stated that Mr. Haft had indicated that a seepage bed was installed when they did the addition although they were not required to because the impervious was neutral and it had not come up that they were already over the allowable impervious. He asked what was the rationale for installing the seepage bed. He added that the engineer may have knowingly mitigated them back to 24%. Mr. Haft stated he is not sure why that was done. Mr. Majewski asked when that addition was done, and Mr. Haft stated it was started in February or March of 2019 but was not finished until August or September. Mr. Dougherty asked if it is possible that the Permits were submitted in 2018, and Ms. Haft stated she did not believe so.

Mr. Dougherty noted Page 1 of the Building Plan showing existing impervious in orange and the proposed in purple. He stated he knows that the patio surround is a different shape from what is existing but it looks like some of that should be orange. He note on the Plan the portion he is referring to. Mr. Morganheira stated with regard to the pool deck, although the shape has changed, it is only an increase of 70 square feet and that comes from the walkway. He stated there was a small L-shaped walkway that led to nowhere, and it has been changed and opened up for a walkway from the driveway down to the pool area and then connects to the steps on the deck. He stated that is the 70 square feet that they are asking for. He stated while the pool deck looks larger, it is really the same size; but it is a different shape.

Mr. Steven Horowitz was sworn in. He stated he has had a neighbor with a pool for twenty-five years. He asked if the water from the pool will be pumped out to the rear of the yard or out to the street. He stated he assumes the water is chlorinated or is it salt water. Mr. Haft stated it is chlorinated but salt water is chlorinated too. Mr. Horowitz asked the impact to the environment with this chlorinated water being pumped out. Mr. Majewski stated typically at the end of the season, people let the pool sit for three to five days and all of the chlorine dissipates. He stated when the pool is then pumped out it is just water. Mr. Horowitz stated that has not been his experience with his neighbors who have been pumping pool water inappropriately whenever maintenance is done and not letting it sit five days, and they are doing damage to the environment which is why he posed the question.

Mr. Horowitz stated he assumes the Applicant will be pumping out the entire pool; however, Mr. Haft stated they will not. Mr. Horowitz stated the company who worked on his neighbor's pool a couple of years ago came out twice in the middle of the season in two weeks. He stated they first pumped it into the environment which he objected to and told them they had to pump it into the street; however, they pumped it into the street with such force that they damaged the street, and the street has never been fixed. He stated it also right at a drain that leads to a lake down the street. He asked what people should do with pool water.

Mr. Haft stated he keeps the chlorine extremely low, and he adds it every day. He stated others have a pool company come and add it once a week, and they have to add enough to last all week; however, if you add it every day, you only add a little bit at a time. He stated if he lets it sit for two days it goes to true zero.

Ms. Reiss stated she believes that when Applicants have come before the Board and were already over the allowable, when they were requesting a Variance we had them go back to close to 18%. Mr. Solor stated for this area it is 24%.

Mr. Dougherty asked the Applicants if they would be willing to work with their engineer and the Township engineer to install a seepage bed with the specs that were suggested of 3' by 6' by 30' to mitigate the impervious back to 24%. Mr. Morganheira asked if that would account for the existing seepage bed that they already have; and Mr. Majewski stated he does not feel that accounted for the existing seepage bed. Mr. Majewski asked that if something documented on what was installed could be provided, would the Board be willing to consider that; and Mr. Dougherty stated he would. Ms. Reiss stated she would not have a problem with that provided the Township engineers were able to get that information.

Mr. Solor asked if new developments are not mitigating for 100% of new impervious surfaces, and Mr. Majewski stated all impervious surface must be mitigated. Mr. Solor stated he is open to extra mitigation because he is not sure it is taking them back that far, and we need the mitigation for downstream reasons. Mr. Dougherty asked for further clarification. Mr. Connors stated the Board was looking for them to mitigate back to a percentage based upon the fact that we have a lot of developments that did not have stormwater mitigation for it, and Mr. Solor is looking to have them mitigate to the dimension provided by Mr. McLoone no matter what because it still does not meet the PA regulations for stormwater although it is an improvement.

Mr. Connors asked if this area is part of a master development where there is a stormwater structure for the development, and Mr. Majewski stated this development was part of the Farmview Subdivision. They did Farmland Preservation and built on half of the property and preserved the other half, and they have stormwater management facilities/stormwater management basins in the development to handle all of the peak flow of run-off. The State DEP requires that all small scale projects like this account for the water volume that is generated, and that is the calculation that we have in our Ordinance and accounts for all of the run-off.

Ms. Reiss asked if Farmland Preservation was given notice of this Application since they back directly onto where they farm. Mr. Majewski stated it does not back onto the farmland, rather it backs to a wooded area.

Mr. Solor stated he would therefore amend his suggestion to 24% plus whatever consideration for the already installed stormwater mitigation measures. Mr. Connors stated he would agree that is reasonable.

Mr. Grenier asked if the impervious calculation consider the surface area and volume of the pool or is it strictly the coping since we are looking to update our definitions and requirements in the Code. Mr. Majewski stated it does not include the water surface. He stated the Amendment that is being considered will change that, but currently it does not account for the open area of the pool that retains some water.

Mr. Grenier stated the Township is doing a comprehensive update to all of our stormwater management rules. He stated in July, 2023 there was massive flooding in the Township and surrounding area, and we are taking a comprehensive approach throughout the Township to go through and update all of our stormwater rules for new development and other developments. He stated part of that is how we address impervious surface and mitigation relative to things like swimming pools.

Mr. Solor moved to approve the Appeal with the effective impervious reduced back to 24% with the consideration of any already installed stormwater measurements to be considered by the Township engineer in the calculation of what is required and that the Plan is subject to review and approval of the Township engineer.

Ms. Reiss asked about the fence encroachment, and Mr. Solor stated he believes that is just enforcement by the Township and not a Variance. Mr. Majewski stated he will look into that since it is possible that there is a survey error in that dimension or they will have to relocate the fence.

Mr. Connors seconded, and the Motion carried unanimously.

Ms. Haft asked if the Board would like a copy of the letter from their neighbor, and the Board indicated that they did not need the letter.

APPEAL #Z-24-25 – SALVO/SICILIA
Tax Parcel #20-039-309
368 RAMSEY ROAD, YARDLEY, PA 19067

Mr. Stephen Sicilia and Ms. Lisa Sicilia were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked at Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Impervious Surface Breakdown Calculations and Stormwater Management Small Project Volume Controls were 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. Mike Salvo was sworn in.

Mr. Sicilia stated they bought their home 12 years go; and while they did not want a pool, they loved the house so they took the pool. He stated recently there have been a number of issues with the pool and they need some new concrete around the border of the pool. He stated they also have an old patio and the retaining wall is made of railroad ties which are crumbling and falling over. He stated as a safety measure and for aesthetics they would like to upgrade some steps down to the pool for his father who has Parkinson's Disease.

Mr. Connors asked what is being proposed for stormwater mitigation. Mr. Salvo stated Mr. McLoone had advised him of the cubic feet needed, and he was going to run it along the side that is 25' where there are currently lawn chairs. He stated he believes they were going to go 25' by 3' by 3' for the seepage pit. He stated he believes that is what is needed, but he could not find the e-mail on this.

Mr. Connors stated the Variance request is for 25%, and 18% is allowable. Mr. Connors asked if what is proposed will mitigate him back to 18%; and Mr. McLoone stated it would not, and would only cover from the existing to the proposed. Mr. McLoone stated if the Board wants them to get it back to 18%, it would need to be roughly 3' by 6' by 35'. Mr. Connors asked if the Applicants would be open to this, and Ms. Sicilia stated but they would have to talk to Mr. Salvo. Mr. Connors stated it would be a bigger hole in the ground than what was proposed, and it will not be seen. Mr. Salvo stated they could make this work, and Mr. Sicilia stated it would then be fine with them.

Mr. Solor stated it appears that the creek is on the back side of the property, and Ms. Sicilia agreed. She added that there is a slope from the screened porch down to the pool which is on a flat level, and then there is another slope down a bit to the creek. Mr. Connors asked if there is any floodplain on the property. Mr. Majewski stated this area does not have a delineated floodplain, and it is not a large drainage area upstream so it is minimal in this area. He stated this is basically the headwaters of the stream.

Mr. Grenier asked if the proposed work to be done within 50' of the top of bank of the stream. Mr. Majewski stated it looks like it is right about at 50'. Mr. Solor stated the existing pool is within the 50'. Mr. Grenier stated what he is referencing is the State's Chapter 105 Permit requirements for development within 50' of a regulated floodway of a stream. Mr. Majewski stated he believes that they are right at that limit. Mr. Grenier stated a regulated floodway applies to any stream in the Commonwealth that has not had a FEMA study completed, which is most of them. Mr. Majewski stated alternatively we can have them do a calculation to verify what the floodway would be which would not be difficult to do to double check the 50'.

Mr. Solor stated it would also impact where they put the infiltration basin as well, and Mr. Majewski agreed. Mr. Solor stated if they were to pull it closer to the house it would still be functional, and Mr. Majewski agreed.

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

Mr. Dougherty asked what is the existing impervious surface and what is the proposed. Mr. McLoone stated 25% is existing, and 27.5% is proposed. Mr. Dougherty stated he believes that the pool and the surround probably pre-date the State regulation so this would be grandfathered. He stated he is more concerned about getting back to an effective 18% stormwater management; and it seems that if they were to do a 3' by 6' by 35' seepage

bed they could do that. He also wants to make sure that is oriented the best way on the site to catch as much water as possible because of the waterway at the rear of the house. Mr. Majewski stated one possible method would be to take one of the roof leaders from the house and pipe that into the seepage bed, and that would control some of the water that would run off toward the stream.

Mr. Solor stated if the contours are correct another method would be to put it on the south edge of the proposed coping because that is the low spot on the Grading Plan, and they would catch all of the water coming down from the house and the slope and not be within the 50' so there are options. Mr. Dougherty stated from a functional standpoint, it can be executed; and Mr. Solor agreed.

Mr. Connors moved, Mr. Dougherty seconded and it was unanimously carried to approve the Appeal subject to remediating the impervious coverage back to 18% subject to review and approval by the Township engineer.

OTHER BUSINESS

There was discussion on upcoming Appeals. Mr. Majewski stated it may not be necessary to have a meeting on November 4. He stated the first regularly-scheduled meeting in November would have been November 5, but that is Election Day so it was moved to November 4; however, we may not need to have a meeting on November 4 and a decision would be made on this at the next meeting in October.

Mr. Connors stated he is moving out of the Township and will be resigning from the Zoning Hearing Board although he is not sure what his last day would be as he wanted to make sure that there were sufficient Board members to hear Appeals before he resigns. Mr. Solor stated there are three Alternates so that decision would be up to Mr. Connors. Mr. Connors stated his last meeting will therefore be October 15, 2024.

There being no further business, Ms. Reiss moved, Mr. Dougherty seconded and it was unanimously carried to adjourn the meeting.

Respectfully Submitted,

Judi Reiss, Secretary

