

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – NOVEMBER 19, 2024

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on November 19, 2024. Mr. Solor called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Peter Solor, Chair  
Judi Reiss, Secretary  
Mike McVan, Member  
Christian Schwartz, Alternate Member

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

Absent: James Dougherty, Zoning Hearing Board, Vice Chair

APPEAL #Z-24-23 – RUSK  
TAX PARCEL #20-037-171  
904 GAINSWAY ROAD, YARDLEY, PA 19067  
(Continued from 10/1/24)

It was unanimously carried to Continue the Appeal until December 3, 2024.

APPEAL #Z-24-28 – THOMPSON  
Tax Parcel #20-022-019  
8 SCAMMEL DRIVE, 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 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. Bob Thompson and Ms. Tracy Thompson were sworn in.

Ms. Thompson stated they would like to invest in a pool. She stated they are retired and have a large, extended family they would like to have over more often during the summer. She stated they moved into the home in 2006 and enjoy the neighborhood.

Mr. Solor asked the allowed impervious and what are they requesting.

Mr. McLoone stated existing is 25.1%, they are proposing 27.3%, and 18% is the allowable amount.

Ms. Thompson stated the pool is one of the smallest they could find, and it less than 10' by 20'. It is a kidney-shaped pool. It will be 3' to 5' deep. She stated they wanted to put it close to their existing patio and integrate it into the space on the side. She stated they also have some blue slate that they wanted to incorporate as the surround so that it looks seamless.

Mr. Solor stated this seems to be a different strategy from what is typically seen for infiltration, and he asked if it is acceptable according to the Township's engineering standard. Mr. McLoone stated it would need to be bigger to get back to 18%. Mr. Majewski stated the system would be acceptable according to our Ordinance, and it does meet the standards. He stated they are taking it back to what is currently existing on the property by the size that they have proposed.

Mr. Majewski stated at the time this development was built, there was not a standard for impervious surface, and there was only a standard for building coverage of 15%. When the Township came up with the impervious surface calculations in the mid-90's they added 3% onto all of the Lots that had 15%, although that has been shown to be insufficient given the number of Variances.

Ms. Reiss stated this is 7% over what is allowable, and she asked if there is something that could be done to mitigate further. Mr. McLoone stated the trench currently proposed is 1 by 3 by 62, and if they made it a little deeper and a little wider it would bring it back to 18%. He stated they would need 310 cubic feet to bring it back to 18%, and if they had a trench 2 ½ by 5 by 62 that would work. Ms. Reiss asked if the Applicants would agree to that, and they indicated that they would agree to that.

Mr. Solor stated in order for that to be effective to mitigate that much surface area, there would need to be rain leaders tied to it. Ms. Thompson stated the back yard slopes away from the home, and because of the overhead wires, they had to move the pool a little closer to the house.

Mr. Majewski stated on the Plan there is a designation “RD” and “PU,” and he believes those are the roof drains and the pop-up drains. Mr. Majewski stated to be effective, they may need to have a few of those drains tied into the storm system so that it captures more of the run-off; and that should improve the whole neighborhood.

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

Ms. Reiss moved, Mr. Schwartz seconded and it was unanimously carried to approve the Appeal with the Condition that the trench is enlarged and that the pop-ups are tied into the trench with the approval of the Township engineer to an effective rate of 18%.

APPEAL #Z-24-13 – MILLER/FARRELL

Tax Parcel #20-052-052

208 W. FERRY ROAD, YARDLEY, PA 19067

(Continued from 10/15/24)

Mr. Flager marked additional Exhibits as follows: The Updated Relief Requested was marked as Exhibit A-5. The Revised Plan was marked as Exhibit A-6. The Revised Proof of Publication was marked as Exhibit B-4. The Revised Proof of Posting was marked as Exhibit B-5. The Revised Notice to the neighbors was marked as Exhibit B-6.

Ms. Suzanne Farrell and Ms. Tracy Miller were sworn in.

Ms. Miller stated they previously presented a proposal for an addition to the rear of the house as well as a detached garage that required a driveway to attach to it. She stated the total impervious cover at that time was 49.8% and 26% is allowed. She stated they were asked to go back and revise the Plan, and there were some suggestions made by some of the Board members. She stated they have now attached the garage to the house on the right-hand side and the rear addition remains largely the same. She stated in doing this they were able to get the impervious cover down to 34.9%. Ms. Miller stated they already had the extension of the existing nonconformance on the left-hand side of the house where the house is only 10’ off the property line where it should be 15’, and by adding the garage on the right-hand side, they are now creating a Variance required on that side as well.

Mr. Schwartz asked what will be done to mitigate the increase to the impervious surface above the allowable amount. Ms. Miller stated the homeowners are going to have a civil engineer take over assuming they get approval, and there will be an infiltration trench to get them to 26%. She stated their existing cover is 26.8%.

Mr. Solor asked if they talked to their neighbors about the setback. Ms. Farrell stated she did not hear of any problems about this from the neighbors. She stated several of the neighbors indicated they hoped she would get what she had asked for. Mr. Schwartz asked about the neighbor on the side where the addition is going on the right, and Ms. Farrell stated those neighbors did not have an issue.

Mr. Solor stated they did address scaling back the size. He added that the Township was previously participating; however, they have since decided not to participate.

Ms. Reiss stated she assumes the neighbors all received notices; and Mr. McLoone stated when the Plans were re-submitted, we re-advertised and increased the amount of neighbors who were notified since the Ordinance had subsequently been Codified.

Mr. Flager asked what the setback will be now compared to what was originally proposed for the garage; and Ms. Miller stated originally it was detached and it was going to be a 5' setback where 10' was required, and now it is proposed to be 6' where 15' is required.

Mr. McVan asked how close to the property line is the adjacent house to the right as it appears that they may be a non-conformance as well.

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

Mr. Majewski stated these homes were built many year ago, many of them only have a 10' setback, and some may have even less than that as they were done prior to the implementation of setback requirements.

Mr. Schwartz moved to approve the Appeal as stated with the updated relief and the Revised Plans and the mitigation of the stormwater back to an effective rate of 26% subject to the approval of the Township engineer.

Mr. Majewski stated he looked up the original house plan for 206 W. Ferry, the adjoining property; and their plan showed that it was proposed to be built 12' from the property line, so it will not be 6' like it appears from the aerial photo, and it will be some amount greater than 10'.

Ms. Reiss seconded and the Motion carried unanimously.

APPEAL #Z-24-31 – MCCUBBIN  
Tax Parcel #20-023-016  
18 BROOK LANE, 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 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. Rob McCubbin was sworn in.

Mr. McCubbin stated the homeowner was unable to attend this evening. He stated they are looking to install an in-ground, concrete swimming pool with a little bit of patio around it. He stated it is a 15,000 square foot lot that is Zoned R-2 with a 24% maximum impervious surface. He stated what is existing currently on the Lot is a dwelling, driveway, combination of concrete patio and walkways, hot tub pad, shed, and a set of Bilco doors; and they are currently at 31.55%. He stated they are looking to install the pool, a patio, and a mechanical pad for the swimming pool which is an increase of 588 square feet which would put them at 35.47%.

Mr. McCubbin stated they have a Stormwater Manager Plan in place that will mitigate them back to the 24%, and the seepage bed is designed for 1,720 square feet which is the overage. Mr. McLoone stated he believes that it is a little bit below 24%.

Mr. Solor stated it is already significantly over, and this is more so; and he asked if the Applicants are open to removing some of the existing impervious. He stated what is shown is a concrete area between the house and the property line running the whole length of the building. Mr. McCubbin stated that is a walkway to the Bilco door. Mr. Solor stated that seems extensive, and he asked if they would be amenable to removing some of the existing impervious

surface to try to reduce the situation. Mr. McCubbin stated while he cannot answer that 100%, he feels that they would prefer not cutting that concrete up. He stated most of the pool has a 3' walkway so that there is not a lot around the pool. Mr. McCubbin stated with regard to the concrete path to the Bilco doors, he does not know where the control joints are in the concrete, and he does not know how much they could get out and still have it look aesthetic.

Ms. Reiss stated the walkway to the Bilco door seems to be wide, and Mr. McCubbin stated it is 4 ½. Ms. Reiss stated sidewalks are normally 3' for accessibility. Ms. Reiss stated that is a lot of concrete, and there is a lot going on with the separate hot tub pad.

Mr. Schwartz asked the dimension of the shed off the property line. Mr. McLoone stated if it is less than 200 square feet, the current Ordinance requires that it be 5' off the property line. Mr. McCubbin stated it is less than 200 square feet, and it is over 6' from the property line.

Mr. Solor asked how will water get directed from the impervious surfaces, and Mr. McCubbin stated the area where the inlet is will capture the large patio area off of the house and funnel it back to the stormwater system on the back side of the pool. Mr. Solor asked what the rain leaders are attached to; however, McCubbin did not know. He stated they have to go underground somewhere because they go under the concrete. Mr. McCubbin stated the stormwater system could potentially be moved to the 92/21 contour so that it would capture everything on the downhill side toward the shed. Mr. Solor stated they could still put the inlet in and run the drain on the Plan north side past the pool since they are working on that side of the house. Mr. McCubbin stated the engineer put the Plans together, and he would have to comply with the Township engineer's comments.

Ms. Reiss stated the concrete patio is quite large, and Mr. Solor agreed adding that the driveway is wide as well.

Mr. McCubbin stated he could probably get it down by a full percent to 34.54%. Mr. McCubbin stated all that is being proposed is 588 square feet around the pool. Mr. Solor stated it is the existing that is starting out high, and they are adding more, so they are looking for offsets. Mr. McCubbin noted an area on the Plan where impervious could be taken off two sides of the pool which would reduce it by 138 square feet. This would bring it down to 34.54%, and they would keep the stormwater the same size as proposed. Mr. Solor stated there are constraints with the property.

Mr. Solor asked if the homeowner is available this evening, and Mr. McCubbin stated he is on vacation out of the Country.

Mr. McVan stated looking at the Plan compared to the existing on Google Earth, it seems that the deck could be re-worked. He stated it seems that we could make a compromise to give them a nicer pool deck by removing some of the concrete patio and re-working it so that they have more usable area that would work better for everyone.

Mr. Solor stated it is the percentage they are considering, and there would be flexibility in what they might do since nothing else requires a Variances. Mr. Solor stated the other option is that Mr. McCubbin talks to the homeowner about this, and Ms. Reiss stated she agrees that they should talk to the homeowner before a decision is made. Mr. McCubbin agreed to a Continuance as he would not want to make the decision for the homeowner.

Ms. Reiss moved, Mr. Schwartz seconded and it was unanimously carried to approve a Continuance to January 7, 2025.

APPEAL #Z-24-32 – URION  
Tax Parcel #20-028-032  
212 MORRIS LANE, WASHINGTON CROSSING, PA 18977

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 letter in support of the Application signed by a number of the neighbors 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.

Mr. Ken Urion was sworn in.

Mr. Urion stated they have had goats and chickens for approximately nine years on less than a half-acre of property on Morris Lane. He stated they are requesting a Variance to keep them until they pass on, and “maybe they would not get an more but maybe they would.”

Mr. Schwartz asked Mr. Urion if he is building a chicken run or if that is existing, and Mr. Urion stated everything is existing. Mr. Schwartz asked how close the chicken run is to the property line, and Mr. Urion stated it is approximately 10’

from the property line. Mr. Schwartz stated on the “signature list” the neighbors on both sides have agreed that there is not a problem, and Mr. Urion stated they are all here tonight, and many people in the audience raised their hands in favor.

Mr. Solor asked the number of goats and chickens. Mr. Urion stated he has four chickens and five Nigerian dwarf goats.

Ms. Reiss stated as long as there are no roosters, it is quiet; and she would have no objection. Mr. Urion stated they did have roosters, but they were removed in December as there was a complaint about them.

Mr. McVan asked Mr. Urion how long he has had the goats, and Mr. Urion stated he has had them about nine years.

Mr. Solor asked Mr. Urion how many chickens he would like to have, and Mr. Urion stated they have lost a number of chickens because of animals in the neighborhood, and they have had as many as six. He stated originally they only had two goats

Ms. Christine Janaski and Mr. Jeff Janaski were present. Ms. Janaski stated they live directly across the street from Mr. Urion and just moved into their home in August. She stated they have no problem with the animals being there, and it was one of the features that they liked when they came to see the house.

Mr. and Ms. Janaski were sworn in.

Ms. Janaski stated the Urions take excellent care of the animals, the animals are not nuisance, and they enjoy them being there. Mr. Janaski stated it was one of the things that attracted them to the house adding that they had chickens at their old house. Ms. Janaski asked that the Board give them approval tonight for the Variance.

Mr. Brendan Mason was sworn in. He stated he is the neighbor directly next to the Urions at 217 Morris Lane, and has been there over a year, and never smelled or heard goats. He stated he cannot see them from his property adding that the chicken coop, chicken run, and goat pen enclosure cannot be seen from his property. He stated he is excited to be able to show his child the animals at some point. He stated he feels it would be disservice to the neighborhood if they were forced to get rid of them.



Mr. Schwartz asked what would be the number of goats permitted on five acres according to the Ordinance, and Mr. Urion stated five goats are allowed. Mr. Solor stated because it is a Variance, we can set the limit.

Mr. Solor moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal subject to the limitations of no more than 5 goats, no more than 6 chickens, and that the chickens must all be hens.

APPEAL #Z-24-33 – FAIRLESS

Tax Parcel #20-034-129-013

202 FREEMANS FARM WAY, 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. Brandan Fairless was sworn in.

Mr. Fairless stated they want to put in a fence along the property so their dog can run outside. He stated in the process of doing the survey for that, they found that there is a Sewage Easement on one side of the property, and he filed a Variance to be able to build out to the property line so that they can maximize the space they could utilize.

Mr. Schwartz asked Mr. Fairless if he were approved to build the fence on the Sewer Easement, would he bear the expense of removal of the fence should the Sewage Department need to come through and work on their systems; and Mr. Fairless agreed. Mr. McLoone stated this is a Sewer Drain Easement, and the Lower Makefield Public Works Department would be in charge of that. Mr. Grenier stated it is the storm sewer not the sanitary sewer.

Mr. McLoone stated they would prefer that the fence be 3' off the line, and Mr. Solor stated it looked like the drainage line was underneath the proposed location of the fence. He stated they would not want the Applicant to drill fence post holes directly on top of the drain pipe, and they would have to offset a few feet onto their property, and Mr. Fairless agreed to do so.

Mr. Solor since there is a yard drain, he asked if there is any concern as to the fence type. Mr. McLoone stated he does not believe Mr. Fairless submitted the Permit yet, so he is not sure what type of fence it would be. Mr. Fairless stated they are planning for a black aluminum fencing which would have space in it, and Mr. McLoone stated that would be fine. Mr. Majewski stated that would allow the flow of water to get through.

Mr. Grenier asked with regard to the flow of water, are these Easements just for pipes or are they for actual swales that are above the pipes as well. Mr. Majewski stated while there are swales, they are not very large swales because it is a very small drainage area that contributes to the storm drain. Mr. Solor stated the swale can be seen on the topography. He added this is an open fence so it is less of an issue.

Mr. Mark Sanford, 879 Big Oak Road, was sworn in.

Mr. Sanford showed the location of his property compared to the Applicant's on the Plan. He asked if there will be a buffer so that the Applicant can go behind the fence and clean out that area and do maintenance on the fence. Mr. Majewski asked Mr. Fairless how far he proposes to have the fence off the property line. Mr. Fairless stated he believes that it is 10' to 11' in from the back property line as there is a line of trees and the buffer space. Mr. Solor stated technically that will not be part of the Variance since the only thing the Variance address is the sewer line.

Mr. Solor moved, Mr. Schwartz seconded and it was unanimously carried to approve the Appeal subject to the location of the fence being 3' off the center line of the pipe and that the fence will be removed and re-installed at the cost of the homeowner if the Township needs access in order to work on the Storm Sewer Easement.

APPEAL #Z-24-34 – MELFI  
Tax Parcel #20-050-016  
7 BERKLEY DRIVE, 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. Renderings of the garage addition were marked as Exhibit A-3. The Impervious Surface and Stormwater Sheets were marked as Exhibit A-4. The Proof of Publication was marked as Exhibit B-1.

The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. John Melfi was sworn in.

Mr. Melfi stated he recently bought the home at 7 Berkley Drive. He stated they are a four-car family, and they have a two-car, attached garage. He stated the house was built in 1950 so it is run-down, and the concrete slab is in disrepair. He stated he works on his cars and wants to make it easier to work on the cars there. He stated they would like to add another garage so which allow them to garage at least three of the cars.

Mr. Melfi stated the property is Zoned R-2. He showed general renderings of what they were considering. Mr. Melfi stated the current impervious surface is 19.5%, and the permitted is 18%. He stated what they are proposing would take the imperious to 23.5%. He stated based on the calculations provided by the Township, he was looking to get approval for using tree coverage although he has not seen the Board approve that often. He stated there are a lot of large trees that cover most of the property, and there are a lot of trees in the neighborhood. He stated with the trees they would get back to beyond the 18% although he is not opposed to an infiltration pit if that is what the Board would require in order to approve this.

Mr. Melfi stated in order to have a standard garage size, which is 12' wide, it would take them within the 15' of the side yard to his neighbor to the right. He stated he is looking to take it to 10'. He stated currently the offset is 22'. Mr. Melfi stated he spoke to as many neighbors as he could including the neighbor to the right and left of his property, and no one had an issue.

Ms. Reiss stated while the Board loves trees, they do not live forever, and someone else may decide to take them out after Mr. Melfi sells the property so they cannot be counted on to mitigate water. Ms. Reiss stated doing a trench would be a more permanent solution.

Mr. Schwartz stated he looked at the property on Google, and there are a lot of trees behind the house. He stated according to the topography, the property slopes down in the back and down in the front so any water coming off the front such as the roof, etc. the trees in the back are not going to matter. He stated there are a few trees in the front, but they will not make that much of a

difference. Mr. Schwartz stated there are also no curbs on the street so that everything that runs off will collect on the lawns and in the street; and this is a lot of impervious surface being added, so he feels this will need a trench.

Mr. McVan stated he would also like to see a trench to pick up the water.

There was no one from the public wishing to make public comment at this time.

Mr. Schwartz asked Mr. Melfi if he spoke directly to the neighbor on the side where he is building the garage; and Mr. Melfi stated he did, and they and the other neighbors he spoke to did not have an issue.

Mr. Solor asked the type of deck that is in the back. Mr. Melfi stated the one that is 206 square feet seems to be deck on top of concrete although it is hard to tell. He stated the smaller one is just a small, little deck. He stated they were all factored into the existing. Mr. Solor stated if they were just wood and not over concrete, they would not count as impervious.

Mr. Schwartz asked if the new garage will have a peak running up the center house. A slide was shown of what is proposed. Mr. Schwartz stated they would have a drain on the front and the back of the house off of the roof, and Mr. Melfi agreed. Mr. Schwartz stated knowing that there is a paved driveway in front of the existing garage, Mr. Melfi will probably want to put a retention trench in the 10' space on the side of the property. Mr. Solor stated they could do it in front of the house if there are no trees there; and there are options.

Mr. McLoone stated he has estimated that the trench would be 2.5' deep, 5' wide, and 42' long. Mr. Solor stated it would therefore probably have to be in the front yard. Mr. McLoone stated that would bring it back to 18%.

Mr. Solor stated while it was not heard tonight, overall there are a lot of drainage problems in the Township, and a lot of public comment on that due to the flooding issues. He stated the goal is to try to mitigate the flooding issues from people and impact their neighboring properties.

Ms. Reiss asked if they are near any floodplain areas, and it was noted that they are not. Mr. Majewski stated the nearest stream/waterway is down near the Sanctuary Subdivision off of Pine Grove Road.

Mr. Schwartz moved, Ms. Reiss seconded and it was unanimously carried to approve the Appeal with the addition of a drainage trench to bring it to 18% subject to approval of the Township engineer.

OTHER BUSINESS

Mr. Matt Connors was thanked for his years of service on the Zoning Hearing Board. Mr. Flager and the other Board members also thanked Mr. Connors for his service.

There being no further business, Ms. Reiss moved, Mr. Schwartz seconded, and it was unanimously carried to adjourn the meeting at 8:45 p.m.

Respectfully Submitted,

Judi Reiss, Secretary