

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JUNE 3, 2025

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on June 3, 2025. Mr. Dougherty called the meeting to order at 7:30 p.m. Mr. Flager stated that there are only four members present this evening which means that a tie vote would be a denial. He stated if an Applicant is concerned about that, they can request a Continuance until there is a five-person Board.

Those present:

Zoning Hearing Board: James Dougherty, Chair
 Peter Solor, Vice Chair
 Christian Schwartz, Secretary
 Judi Reiss, Member

Others: Dan McLoone, Planner
 Maureen Burke-Carlton, Township Solicitor
 Adam Flager, Zoning Hearing Board Solicitor
 Suzanne Blundi, Supervisor Liaison

Absent: Mike McVan, Zoning Hearing Board Member

APPEAL #Z-25-18 – COGSWELL
Tax Parcel #20-063-154
391 TALL MEADOW LANE, YARDLEY, PA 19067

Ms. Cristiana Cogswell and Mr. Michael Cogswell were 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 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. Received this evening was a packet which was collectively marked as Exhibit A-3.

Ms. Cogswell stated they recently purchased the home and it does not have a lot of storage for outdoor items, supplies, and yard equipment. She stated they decided to buy a shed, consulted with a landscaping company, and they also researched the size and site regulations for accessory buildings. She stated they

decided on the placement of the shed in what they thought was the side yard; however, when they applied for the Permit, they learned that they do not have a side yard. She stated because they are a corner lot, they have a secondary front yard, and the placement of the shed cannot go there.

Ms. Cogswell noted on Page 3 of the packet that was handed out, the location they proposed is shown in red. She stated the Code-compliant location is shown in orange on Page 3. She stated that location is behind their house right next to their patio, their fence, and their neighbor's patio so the space is cramped. Ms. Cogswell stated there is a downward slope in the back yard for drainage, and they also have clay soil. She stated there is a flooding issue in the back yard after major storms, and they still have a pond in the back yard now after the storms from last week. She stated having the shed placed in the cramped spot allowed would increase the water drainage issues because the foundation would be gravel and it would require additional expenses due to the incline that area has.

Mr. Cogswell stated the permitted area is also where they were planning to place a garden so that instead of worsening the drainage issues, a garden would make it better. He stated they have talked to many of their neighbors, and it is felt that the location they would prefer would be better for the neighbors and themselves.

Mr. Cogswell stated in addition to the drainage there is also a visibility issue. He stated at the Code-compliance location, the shed is highly visible to both their row and the parallel row of townhouses in the back. He stated at their proposed location it is blocked by the house for many of the neighbors. He noted Slide 4 which shows the view from Bluestone Drive, which is the secondary front yard side of the lot, which has the shed behind both a tree and a fence so it is not prominent from the front of the house.

Ms. Cogswell stated because of the topography and type of soil they have, the Code-compliant location is not appropriate for a shed; however, their landscapers assured them that the site they chose does not have an incline, the foundation will not sag, and they would not have the same issues as the Code-compliant location even though it is the same soil.

Mr. Schwartz stated he lives in the area, and he is very familiar with the neighborhood, and he agrees that there is clay which results in drainage issues. He stated he understands the need for a shed. He asked the location of the property line, and Mr. McLoone showed the location of the property line.

Mr. Cogswell stated the shed will be more than 17' away from the property line, and Mr. McLoone stated it only needs to be 5'.

Mr. Schwartz stated he agrees they have made the case in the Application for the back quarter of the property being a bad location with moisture, etc. He stated they also mentioned that there was a precedence for Variances with five other homes. He stated while those five homes do border on Blue-stone Drive, there is a difference from the Applicant's location. He noted 269 A of the Zoning Ordinance, 14 A1 which states "No accessory buildings or structures shall be permitted in front yards. Accessory buildings or structures shall only be permitted in the side or rear yards behind the median line of the residence. For the purpose of this Section median line shall be defined as the central location equidistance from the front and rear boundaries of the depth of the dwelling." He stated according to the drawing provided, they are beyond the median line but not by much. Mr. McLoone stated the Ordinance that Mr. Schwartz is citing is the replacement to the old Ordinance Ms. Cogswell is citing which related to the back fourth of the lot. Mr. Schwartz stated they could move the shed over enough to be in the back half.

Mr. Dougherty stated in the Application it does read "to place shed in front yard where only permitted in the side and/or rear yards behind the median line of the residential dwelling." Mr. Schwartz stated they did mention the precedence set by the five others; however, looking at those five, they are all in the back half of the house even though they are on the side by Blue-stone Drive. Mr. Dougherty stated in order for the Board to approve this, they are going to want the shed to come back to be behind the median line as noted in the Application.

Ms. Cogswell stated she understands that the median line is the halfway point between the ends of the property; however, it was noted that it is the halfway point of the house. Ms. Cogswell stated she had done the measurement from the property line to the property line. Mr. Solor stated in this instance the median line would be from the front corner of the garage to the back corner of the house, and Mr. McLoone agreed. Mr. Cogswell stated they had discussed this with Mr. Majewski before, and they must have misunderstood, although it now makes sense.

Mr. Dougherty stated it appears there would be plenty of room, and Ms. Cogswell agreed.

Mr. Solor stated it does not appeal that this would near the impervious limit, and Mr. McLoone agreed.

Ms. Carlton stated her office was asked to attend the meeting in opposition; however, with moving it back, it meets the requirements of the Ordinance, and they are no longer in opposition.

Ms. Blundi asked that they confirm that it is not a shipping container, and Mr. Cogswell stated it is a wooden shed.

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

Mr. Schwartz moved, Ms. Reiss seconded and it was unanimously carried to approve the Variance with the placement of the shed to be behind the median line of the secondary front yard of the house subject to approval of the Code Enforcement Officer.

Mr. McLoone asked that they upload a new Site Plan showing the new location.

APPEAL #Z-25-22 – KALB
Tax Parcel #20-050-058
103 WARWICK ROAD, YARDLEY, PA 19067

Mr. Christian Kalb 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. Thirteen Site Photos were marked as Exhibit A-3. The Landscape Plan was marked as Exhibit A-4. The Deer Fence was marked as Exhibit A-5. 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. Kalb stated Mr. McLoone has been very helpful through the whole process. Mr. Kalb stated they would like to implement a deer fence on their property, and he noted the picture of what it will look like. He stated the goal is to have a fence that is 8' high constructed using 5" to 6" diameter posts and a wire mesh fencing. The fence itself would be 6" square. He stated the plan is to go with black as opposed to galvanized as black blends in more than galvanized.

Mr. Kalb showed on the aerial his home in the Westover neighborhood and the location of the canal. He showed the undeveloped land along the canal which results in a large number of deer coming through their neighborhood on a daily basis compared to a normal area. He stated they have five to twelve deer coming through their property daily, and in the last two years they have deer born on the property. Mr. Kalb stated because of the number of deer coming through the property, they have not been able to implement the landscaping that they would like to implement. He stated the goal of the design is to attract and support native wildlife, primarily insects and birds, help control and prevent erosion problems, grow fresh fruits, berries, and herbs, and enhance the overall look of the property. Mr. Kalb stated from the beginning of their property line down to the canal is about a 60' difference so there is a slope as well as areas of erosion where they have things running down into the canal, and the design would help with that. He stated they would primarily plant native plants.

Mr. Kalb showed on the Site Map the area from the canal up to Westover Road which is called Warwick Road, but it is not a public road; and it is a private right-of-way that has a Septic Easement. He stated it has never been Township property. He stated Warwick Road is their driveway, and there is no through traffic; and from a visual perspective the only people who will see the fence would be himself and his wife, his neighbors, delivery people, and people walking along the canal who would be able to see some of it. He stated otherwise it is invisible to the community. Mr. Kalb showed portions of the road which are gravel about half way down to the canal.

Mr. Kalb stated their house is shaped like a Y, and it does not have a standard front yard, side yard, or back yard. He stated three neighbors received the Notice, and he showed the location of those neighbors. He stated no one indicated they had a problem with putting the fence in the way it is designed.

Mr. Kalb stated the fencing requirements permit 3' in the front and 7' on the sides and the back. He stated the reason they are requesting the 8' is because based on the research they did, deer do not see higher than 7'. He stated the deer are sometimes running through the yard; and they feel that having the 8' fence would prevent them from jumping over.

Mr. Kalb showed the locations of their well, water line, and fuel tank. He stated one of the reasons for the proposed location of the fence is to keep those lines totally inside the fence in case something has to be done with any of those in the future.

Mr. Kalb stated the wooden posts they are proposing to use will be 18’.

Mr. Kalb showed the main areas where deer traverse their property which will still be open so their proposal will not impact the deer’s daily activity except that they will not be able to eat their plants.

Ms. Reiss stated she has seen deer fences in a number of places, and you do not see it unless you are very close. She stated she is very familiar with this street, and she understands the impact from the deer in this area. She stated she has no problem with the request.

Mr. Schwartz noted the Guzikowski property on Big Oak Road has installed one of these fences, and it has done a good job of keeping the deer under control in that area; and the deer are staying more near the Five Mile Woods. Mr. Kalb stated he believes that fence is galvanized’ and he and his wife looked at a number of fences and it is much more difficult to see the black fencing. He stated because of the trees on their property, he does not feel the wooden posts will cause a visual issue either. He noted the proposed location of the fence in an area where there are trees and bushes.

Mr. Flager asked how far off the property line the fence will be. Mr. Kalb showed the location of a shed on his property which is 15’ from the property line. He stated the fence will be about 10’ from the property line in that corner. He noted other locations where the fence will be 50’, 40’, and 30’ from the property line.

Mr. Solor asked Mr. McLoone if there are any Easement or Access requirements for the Township or the State, and Mr. McLoone stated there is no right-of-way or Easement that would prevent what is proposed. Mr. Kalb stated they are specifically staying off Warwick Road.

Ms. Carlton stated the Board of Supervisors did not know of all of the details of the Application when they asked her office to attend and oppose the Variance. Ms. Carlton stated the Application indicates “proposed fence in an Easement or public right-of way,” and she asked if that is just in reference to the corner in the Easement or public right-of-way. Mr. McLoone asked Ms. Carlton if she is looking at the Appeal from OpenGov, and Ms. Carlton agreed. Mr. McLoone stated there are ten things that you can choose from, and that was the one that was most applicable. He stated that is not one of the requested Variances, so it is not applicable. Ms. Carlton stated the requested Variance is really due to the height and the fact that the fence is in the front yard. Ms. Carlton asked if the request

is to have an 8' fence all the way around, and Mr. Kalb agreed. Mr. Kalb showed the front of their house and a covered area that goes into a mud room. He stated the fence would go around the property, and where the Xs are shown is where there will be gates for access.

Mr. McLoone stated the Township Zoning Ordinance which is cited in the Appeal does mention an Easement, but in the same Ordinance it also mentions the height of the fence. Mr. Dougherty stated the fence is not on the perimeter of the property, and it is well inside.

Mr. McLoone was asked to show what would be considered the front yard and what would be considered the back yard. Mr. McLoone stated he spoke to Mr. Kirk and Mr. Majewski, and it is technically not a corner lot. Mr. McLoone stated he would assume the frontage on Warwick Road would be the front yard, and he showed on the Plan that location and the two sides.

Mr. Michael Stieglitz was sworn in. He stated Mr. Kalb discussed the placement of the fence with them a few weeks ago, and they walked the property with him. He stated his house is probably the only one that it likely to see the fence from the house; and with the amount of trees and woods that are there, they do not feel that the fence will be visually objectionable. He showed the location of his home which has the red roof on the aerial. He stated they share the property line with Warwick with the Kalbs; and they may be able to see the fence from several windows in their house, but they do not find it objectionable as long as it is as described with the wooden posts and black, rigid wire.

Mr. Solor moved and Mr. Schwartz seconded to approve the Variance as written inclusive of the description of the fence construction.

Mr. Flager asked Ms. Carlton if the Township is opposing; and Ms. Carlton stated they were sent to oppose the Application, however, hearing the Testimony they no longer have an objection.

Motion carried unanimously.

APPEAL #Z-25-23 – MATHEN
Tax Parcel #20-043-023-086
10 MOON CIRCLE, YARDLEY, PA 19067

Mr. Manuel Mathen 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 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. Mathen stated he is requesting a Variance to add a gate to the Easement located between his property at 10 Moon Circle and his neighbor at 8 Moon Circle. He stated the purpose of the gate is to increase the safety of the cul-de-sac that they live on especially regarding their children and pets. He stated the Easement is an open lawn that directly connects the cul-de-sac and the busy road behind them which is Yardley-Morrisville Road. He stated the benefit of a cul-de-sac is that there is only one entrance and one exit that parents need to be mindful of, and this Easement deteriorates that benefit. He stated he and his wife have three children ages 7, 4, and 2 plus their dog; and there have been several occasions where his children would run through this area when something interesting was happening on the street such as an ice cream truck or fire truck going by. He stated there have also been instances where his dog has chased a rabbit down the Easement. He stated when he moved in the neighbors warned him that the Easement was unsafe because it provides a direct access to the street. He stated his neighbor's dog did run out of the yard into the Easement, and the dog was hit by a car and passed away.

Mr. Mathen stated his proposal is to add a 6' tall gate that is the same approved light vinyl material as his fence, and it will stretch between his property and his neighbor's property to block access by children and pets to the Easement. He stated the gate would still be accessible on both sides to any approved adult that can reach the latch, and it would also include self-closing doors. He stated he understands that the Easement is there because of underground utilities including sewer pipes, but the gate would not hinder any potential construction that might need to happen or any access to anyone approved to go in there.

Mr. Mathen stated he spoke to all of his neighbors regarding this, and not only were they supportive, they were very excited that he was pursuing this given the safety concerns.

Mr. Dougherty asked Mr. McLoone what is underneath the Easement, and Mr. McLoone stated looking at the property in the northeast in the back, there is a Road-Widening Easement, and the one that runs parallel to the house is a Sanitary Sewer Easement over which Aqua now has control.

Mr. McLoone advised Mr. Mathen that he would need approve from Aqua as well. Mr. Dougherty stated if Aqua approves the request, if Aqua had to remove the gate, it would be at Mr. Mathen's expense to put it back up; and Mr. Mathen agreed.

Mr. Dougherty stated it appears to be a 20' Easement, and the neighbor at 8 Moon Drive has their fence at the edge of their property line. The Applicant has it 10' inside. Mr. McLoone stated the Applicant has an approved Permit to place the fence, and he placed the fence outside of the Easement. He stated based on the Site Plan that was provided it looks like the neighbor's fence is in the Easement although that cannot be verified from just this drawing. Mr. Dougherty asked how far apart are the fences, and Mr. Mathen stated they are 15' apart. Mr. Dougherty stated he is trying to determine if some of the gate is going to be on 8 Moon Drive's property, and Mr. Mathen stated if the property is directly in the middle of the Easement, the gate will be on part of his neighbor's property.

Mr. Dougherty stated while we have an Applicant, there is a chance that the gate may be on two different parcels. Mr. Flager stated they cannot grant approval to put something on someone else's property. Ms. Reiss asked if we could get written approval from the neighbor before the Board makes a decision. Mr. Dougherty stated we do not know if it will be on the neighbor's property. Mr. Mathen stated it is unclear where the property line is.

Mr. Solor stated he feels that in order for this to work it will have to connect to both fences, but legally there are complications. Mr. Dougherty stated he understands that just one gate is proposed, and Mr. Mathen agreed.

Mr. Dougherty asked how wide the gate will be, and Mr. Mathen stated it will be 15'. He added that it will open up in the middle of the Easement.

Mr. Schwartz stated they might need to have the property surveyed to dictate where the property line is. Mr. Solor stated in order for it to work it has to reach the neighbor's fence.

Mr. Flager stated the Board could word an approval so that it would require approval of the adjacent neighbor at 8 Moon. Mr. Dougherty asked if the neighbor at 8 Moon also needs to apply for a Variance for the installation of the gate if part of it is on his property. He stated he does not feel the Board has a problem with what Mr. Mathen is trying to do, but they need to make sure that it is done technically correct.

Mr. Flager asked Mr. McLoone if it is known where the property line is, and Mr. McLoone stated it is a 20' Easement so there would be 10' on each. Mr. McLoone stated the Applicant's fence is 10' from the edge of his property line. He stated it is a 20' Easement, 10' on the Applicant's side and 10' on 8 Moon Circle; and Mr. Mathen placed his fence outside of the 10' toward his property. Mr. Dougherty stated it appears that the neighbor is probably not on the property line. Mr. Flager stated he feels the approval could be subject to the neighbors entering into an agreement. He stated if it is on both properties, there will be issues with who is responsible for it including upkeep, maintenance, replacement, etc. He stated he feels approval could be conditioned on the neighbors formalizing an agreement on those things; and once that is finalized they can present that to the Township and get their Permit.

Ms. Blundi stated she feels the other property owner should be present so that they could consider everything at one time. Mr. Schwartz asked if the Applicant would agree to a Continuance so that the other property owner could be present. Mr. Flager stated there would still need to be a formal agreement with regard to the installation, upkeep, and maintenance of the gate. Ms. Blundi stated Aqua has not been considerate of fences over their Easements of late although she is not sure if this would be different for them.

Mr. Dougherty stated there is already a fence running over it at 8 Moon Circle. Ms. Blundi stated that was approved by the Township. Ms. Blundi stated she understands the safety concerns.

Mr. Dougherty asked Mr. Mathen if he would be agreeable to a Continuance. Mr. Mathen asked if it would be possible for him to try to get the 8 Moon Circle residents to join the Zoom call, and the Board agreed. Time was given for Mr. Mathen to contact the residents at 8 Moon Circle.

Subsequently Ms. Gracie Mathen, Ms. Jytte Bambrick, and Mr. Donald Bambrick were sworn in. Mr. Bambrick stated he is the owner of 8 Moon Circle, the next door neighbor.

Mr. Dougherty asked the Bambricks if they know exactly where their fence is on their property. He stated they know that it is in the Easement, and that it pre-dates Aqua owning it. He asked how far off the property line their fence is located. Mr. Bambrick stated he does not know exactly but it is very close to their fence. Ms. Bambrick stated they have no issues with what Mr. Mathen is proposing.

Mr. Flager advised the Bambricks that the Board's main concern is that the gate would be on their property as well as the Mathens' property. He stated they wanted to get the Bambricks' approval on the Record to have that gate on their property, and Mr. and Ms. Bambrick stated they approve. Mr. Flager stated the Board may require some type of formal Agreement since there might be issues with subsequent homeowners about maintenance, upkeep, and cost-sharing, etc. He stated if the Board approved this Appeal, they are permitting the installation of this gate on someone's property other than the Applicant's. Mr. and Ms. Bambrick stated that they have no issues with that.

Mr. Dougherty moved, Mr. Schwartz seconded and it was unanimously carried to approve the Appeal subject to a Recorded Formal Maintenance Agreement between the owners of 10 Moon Circle and 8 Moon Circle and also acknowledging that the owners of 10 Moon Circle agree that should the Easement owner, in this case Aqua, need to remove the gate, it would be their responsibility at their expense to re-install the gate.

Mr. Dougherty advised Mr. Mathen that he before the gate can be installed the Township will make sure that there is a formal Agreement drafted at Mr. Mathen's expense. Mr. Flager stated before doing anything, Mr. Mathen needs to get approval from Aqua.

APPEAL #Z-25-25 – MEGINNISS/1 SUTPHIN ROAD
Tax Parcel #20-042-109
1 SUTPHIN ROAD, YARDLEY, PA 19067

Mr. Dougherty stated the Applicants have requested a Continuance to July 15, 2025.

Mr. Flager stated a letter was received from Bryce McGuigan, counsel for the Applicant; and the request for Continuance is to make modifications to address potential Township concerns and the potential for the need of new Public Notice. Mr. Flager stated they are waiving all applicable time deadlines under the MPC.

Ms. Laura R. Donovan was sworn in. Ms. Donovan asked how she would find out about Continuances, etc. She stated she lives near the property, and the only way she knew anything was going on was an 8 ½ by 11 piece of paper stuck in the ground about 6" to 8" off the ground that she saw when she was stopped at the stop sign. Mr. Dougherty stated the items that are coming up

on the Agenda are published on the Township Website. He stated Notice is advertised in the paper as well, and residents within 200' of the property are mailed notice. He stated those who are not within 200' are still welcome to attend and make public comment. He stated tonight the Board will approve a date when this matter will be heard.

Ms. Donovan asked what newspaper Notice would be published in; and Mr. McLoone stated depending on the deadline when Appeals are received, it is published in either the Advance or the Bucks County Courier. Mr. McLoone added that if you go on the Township Website, LMT.org, you can set up an account and sign up for certain notifications; and there is a prompt for Zoning Hearing Board, and anytime an Agenda or packet is added, you will be notified by e-mail.

Mr. Bob Pilotti was sworn in. Mr. Pilotti stated he came primarily for this Appeal, and he was not aware that there was going to be a Continuance. Mr. Dougherty stated they just found out.

Mr. Pilotti stated he did receive a letter, and he assumes this relates to the large piece of property that is behind the Church of the Resurrection. Mr. McLoone stated it is the property that is at the corner of Sutphin and Makefield Roads. Mr. Solor stated it is the north side of the street not the Church side so it is across the street from the Church. Mr. Pilotti asked why there is no information on the Notice specific to what is going on. Mr. Pilotti stated it is obvious that they are requesting smaller lots, but he questioned "for what?" Mr. McLoone stated it is to further subdivide the property. Mr. Pilotti stated there would therefore have been a sale of the property and they want to subdivide it. Mr. Flager stated he believes it is the same owners, and it was not a sale. Mr. Pilotti asked if he can assume that they are looking to do some type of Residential development, and Mr. Flager agreed. Mr. Flager stated information was put on line. Mr. McLoone stated the Plan is on the Website under packet under Zoning Hearing Board. Mr. McLoone stated that shows much more detail as to how they are going to subdivide the property. Mr. Pilotti asked if it would be single-family or a townhouse development; and Mr. McLoone stated it is single-family as that area is not Zoned to build townhouses, and it is single-family, detached dwellings by right.

Ms. Reiss moved, Mr. Schwartz seconded and it was unanimously carried to Continue the Appeal as requested to July 15, 2025.

OTHER BUSINESS

Upcoming Agenda items were reviewed.

Mr. Dougherty stated Mr. Solor will be moving out of the Township in the near future. He stated over the last few months there have been meetings when only four members were in attendance, and the Alternates are not working out. He stated he feels we need additional Alternates although the existing Alternates do not need to be asked to step down. He stated he also feels that the new Alternates should be requested to attend first in line so that they have a chance to participate. Mr. Solor stated we have had more Alternates in the past than we have now, and at one point there were three Alternates.

Mr. Flager stated when Mr. Solor leaves, there will be the need for a full-time replacement and not just an Alternate. Mr. Solor stated there may also be a need for another full-time member later in the year potentially to replace Ms. Reiss.

Mr. McLoone stated he will discuss this with Ms. McVan and have her put something in the Website. Ms. Blundi stated she will also discuss this with the Board of Supervisors.

Mr. McLoone stated he believes Mr. Sial indicated that he would be able to attend on July 1.

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

Respectfully Submitted,

Christian Schwartz, Secretary