

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – SEPTEMBER 17, 2019

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on September 17, 2019. Mr. Zamparelli called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Vice Chair
 Keith DosSantos, Secretary
 Pamela Lee, Member
 James McCartney, Member

Others: James Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor
 Adam Flager, Zoning Hearing Board Solicitor
 Frederic K. Weiss, Supervisor Liaison

APPEAL #19-1838 – ROB BROWN
TAX PARCEL #20-068-078 – 1221 COLTS LANE

Ms. Michelle Brown was sworn in, and it was noted that Mr. Rob Brown had been sworn in previously.

Mr. Brown stated this matter had been Continued since there was one Board member missing last time. Mr. Zamparelli stated there is also one member missing this evening as well so there will only be four members voting on the matter. Mr. Zamparelli stated if it were a tie, it would be a Denial. He noted they could Continue again or proceed. Mr. Brown agreed to proceed this evening.

Mr. Brown stated they have a hardship of putting the shed where they would like to. He showed a slide adding that in the image seen, the shed is not placed in the proper area. He showed on the slide the end of his driveway which is where the corner of the shed would meet. Ms. Brown stated it would be where the garage starts.

Mr. Brown stated he has pictures to show what they are speaking of. He showed a trailer on a photograph, and he stated the trailer is exactly where they would want the shed to go. He stated the view is from Jockeys Way. He showed a picture of the trailer taken from the other side of the driveway. He stated the shed will be significantly bigger than the trailer.

Mr. DosSantos asked if the trailer shown in the photograph is on the blacktop on the driveway, and Mr. Brown stated it is not – it is on the grass which is exactly where the shed would go.

Mr. Flager stated the photos will be marked as Exhibit A-6, and he asked Mr. Brown to send them to Mr. Majewski so that they have them for the Record.

Mr. Brown showed a picture and stated he took that in front of the driveway, and you can see the trailer which is directly behind a tree. Mr. Brown then stated what he indicated was incorrect, and he was across the street in the driveway to the east of his property.

Ms. Brown showed the front door of her home, and she stated they are a corner lot, and she showed the two areas which are considered the front. She showed the driveway and where the garage starts. She stated the shed would be as was seen in the pictures, and she showed the property boundary. She stated the picture they saw in the first image of the trailer was taken standing directly at the end of the driveway.

Mr. Brown noted the fence line going around the property.

Mr. Brown noted a picture taken further down the street in front of the same neighbor's home, and he showed the trailer which is where the shed would go behind the tree. Mr. Majewski stated that picture was further to the east across the street, and Mr. Brown agreed.

Mr. DosSantos stated the shed will be substantially larger than the trailer that is shown in the picture, and Mr. Brown agreed. Mr. DosSantos noted the tree in the picture adding the leaves will be off that tree in the fall; and Mr. Brown agreed but showed another tree which will grow more.

Mr. Brown showed a picture of a house around the corner from their house, and he stated that house has what they are proposing. Ms. Brown stated that home is approximately four houses down. Mr. Brown stated it is further east on Jockey's Way. Ms. Lee asked if that is a corner lot, and Mr. and Ms. Brown stated it is not. Mr. Brown stated the shed on that property is directly across from the garage, directly at the end of the driveway; and that is exactly what he is proposing for his home. Mr. Brown showed another picture of that same house from a different angle. Mr. McCartney asked what is to the left of that shed, and Ms. Brown stated it is the property line, and it is the fence for the neighbor.

Mr. Zamparelli stated the request is to not have the shed in the back quarter of the lot. Ms. Brown agreed, and she stated the reason they are applying for the Variance is because their back yard is non-conducive to building a shed because of the foliage they have, the existing trees, the existing physical structure, and the shape of the lot. She stated they also have topological features that make it very challenging to put the shed in the back corner. She stated they have drainage at the very back corner of the fence. She stated their land slopes from the curb toward the back corner of their yard, and the neighbor's yard slopes into the back corner of their yard as well so they end up having a floodplain in the back section. Ms. Brown stated they have attempted to raise it, but they "still get the floodplain."

Mr. DosSantos asked if they put drainage in there, and Mr. Brown stated they did. Ms. Brown stated they installed a French drain, and increased the level and slope; however, they still end up with water because of the angle of the yard.

Mr. DosSantos noted the photo being shown with water, and he asked if this was taken after the remediation measures were taken; and Mr. Brown stated it was.

Mr. Brown showed on the picture where flooding occurs, adding that one of the locations is the "direct corner of the back of the property." He showed on the picture where the French drain is location, and he showed the area where they attempted to bring the level of the ground up. He showed an area where they still experience flooding near the French drain although it is significantly less than it was. He stated they do still experience flooding on "high water volume rain days."

Mr. DosSantos stated at the last Hearing there was discussion about the possibility of building the shed on a platform or that it be raised in some way in order eliminate the issue they have with the flooding. Mr. Brown agreed; however, when they consider where to put the shed itself, there is no good place to put it unless they put it directly in the middle of the yard "which nobody wants to do." Mr. DosSantos asked if they take the flooding issue out, what would be the issue of putting the shed in the back corner where the Ordinance requires. Mr. Brown showed a picture showing the back corner, and he stated there is a tree exactly where the "shed would ideally want to be." Ms. Brown stated there is a "significant level of high level brushes," plus two trees, and they were there before they bought the property. She stated they would have to "pull the trees out." Mr. DosSantos stated they could amend their relief to request that it be put in the back yard in front of those trees; which while it would not be the back corner, they could get a Variance and still have it in the back yard which would alleviate some of the neighbors' concerns as he recalls

the neighbors did not want the shed to be in the front of the house. Mr. DosSantos noted the houses on Jockeys Way, and he stated there is a setback for a reason; and everything is 75' back from the right-of-way. Mr. Brown stated they would still be within that 75' setback. Ms. Brown stated there are two other properties on Jockeys Way "that have this."

Mr. Zamparelli asked if they are corner lots, and Ms. Brown stated the one across the street from them is a corner lot; and their shed is directly across the street. She stated the other lot is not a corner lot. Mr. Brown showed a picture of the shed across the street from his property which is also a corner lot. Mr. Brown stated he believes that the shed is on the property line which means they may not be "within the limits of where they are actually supposed to be away from the other person's property line." He stated he does not know whether they applied for that or not. He stated he assumes they put it there because of the tree cover that surrounds it.

Mr. DosSantos asked the size of the shed they are proposing, and Mr. Brown stated it is 12' by 16'.

Mr. Majewski stated they are proposing to put the shed on the side of the driveway, and Mr. Brown agreed. Ms. Brown stated they "cause a widening of the top of the driveway" with the shed.

Ms. Brown stated the "grounds are based off the physical structure of the lot, the issues with the lot, the issues with the foliage, the positioning of the lot, and the fact that a lot of those issues were in present before they acquired the property, the fact that the Variance is requesting is a minimum Variance to make the most possible use and reasonable use of the land and structures we currently have." Ms. Brown stated it will not impact property values will not "harm individuals or the neighbors."

Mr. Zamparelli stated they have not addressed with the complaint from the neighbors about the shed being "not something they like to see in that part of the yard."

Mr. DosSantos noted the picture showing the trailer, and stated the street seen is Jockey's Way; and Mr. Brown agreed. Mr. DosSantos asked if the picture was taken from Mr. Brown's side yard, and Mr. Brown stated it was taken from the neighbor's driveway. Ms. Lee asked who owns the fence that is seen in the picture, and Ms. Brown stated it is their fence and it is on the property line.

Mr. McCartney asked what they are proposing to do with the trailer if he shed is built, and Mr. Brown stated they will move it into the garage once they move everything that is in the garage into the shed to make room. He stated the trailer has wood on the bottom, and he would like to not have the wood rot “sooner than it needs to.” He stated it would be nice to have it inside.

Ms. Brown stated while she understands the neighbor’s concern, what you do not see in the picture is on the side the neighbor has a large structure of “a bunch of chopped down wood and other pieces;” and while “the trailer would be unsightly, there are other structures on the neighbor’s side that are also not aesthetically pleasing.” Mr. Brown stated they could “go back and forth about that all night, absolutely.”

Mr. DosSantos stated he feels there are other places in the yard where the shed structure could go which would take care of their issue to have a shed, although not in the far back corner, and also take care of the neighbors’ concerns; and that would be a compromise that he would be willing to support.

Mr. Brown stated his opinion from living there is that he would disagree about the placement of the shed, and he does not think there is a convenient place.

Ms. Brown stated because of the way the “gating” is, there is no way to get into the back without a double gate. She stated if they wanted to put a lawn mower into the shed and move it “back and forth” and not have it sit on their driveway which it currently is, they would have to go across the entire yard through the double gate, through the entire back yard to get into that back corner “of that shed placement.” She stated the trees are scattered throughout the back yard. Mr. Zamparelli asked if they do not feel putting the shed in front of the tree he noted is a good spot, and Mr. Brown stated “absolutely not.” Ms. Brown stated that would put it “dead center in the middle of the back yard.” Mr. Brown stated right where that tree is “ideally is where you would want the shed to be in the back yard.”

Mr. McCartney asked Mr. Majewski if there is any additional water mitigation the Applicant could do. Mr. McCartney asked Mr. Brown if he did the infiltration pit himself; and Mr. Brown stated he did not, and they brought in someone to do it for them. Mr. McCartney stated it alleviated what was going on in the one corner but not on the other side. Ms. Brown stated the problem is that it alleviated some of the drainage that is coming from the slope from the road, but they still have the slope from the neighbor’s, and that is where the French drain is. Ms. Brown stated where the Board is proposing they should put the shed in the back corner is where the French drain is. She stated the area still floods.

Mr. McCartney asked Mr. Majewski if he has a recommendation for putting a shed in an area that they know floods; and Mr. Majewski stated generally that is not recommended, and you would want to put it in an area that does not have standing water or water running through it as that will make the shed prematurely rot. Mr. Brown stated that will definitely happen in that location.

Mr. Majewski stated one way to soak up water is to plant water-absorbing trees or other vegetation, and Mr. Brown stated “there is a ton of that back there.”

Ms. Lee asked to be shown where the trees and the French drain is located, and those were shown on the aerial photo. He showed the tree where they would ideally want the shed to be located. He stated the aerial does not show some other trees that were planted since the aerial was taken, and he showed the location of those trees; and that took away places where they could have put the shed in the back yard. He stated they do not want to have the shed too far back closer to the trees because of the flooding and the standing water issue. He noted an area which would be ideal for aesthetics, but that is a place where they have the most flooding at.

Mr. Zamparelli noted the white tree on the Plan, and Mr. Brown stated that is the tree that would have to be removed in order to put the shed there. Mr. Zamparelli asked why they could not put the shed in front of that tree adding that would not be the middle of the yard; however, Mr. Brown stated that is “middle of the back yard, absolutely.” Mr. Brown noted the location of the fence, and he also showed an open area. He stated he feels that the neighbors have a “huge issue with the fence that they do have.” He showed a location on the Plan and stated putting a shed there would be much more the front yard than another location he showed on the Plan.

Mr. DosSantos asked to be shown the front door of the house, and Mr. Brown showed the door on the photograph. Mr. DosSantos stated it is facing the corner, and Mr. Brown agreed. Mr. DosSantos asked if they are proposing to widen the driveway that comes off of Jockeys Way, and Ms. Brown stated they would widen the top to support the shed. Mr. McCartney asked if that is part of the Application, and Mr. Brown stated he did not know. Mr. DosSantos asked about the impervious surface. Mr. Majewski stated he believes they are under the impervious surface requirement.

Mr. Majewski stated going up the driveway toward the home, they would be adding pavement on the right side of the driveway, and Mr. Brown stated that is what his wife is proposing. Mr. Majewski stated they would put the shed on top of that area. Mr. Brown stated he personally “wants to put it on stilts.” He stated at the last

meeting there was another person on the Board who told him the best way to do this was the way he “originally had it in his mind” which was to create concrete pillars underneath the shed and support it on those instead of making a flat surface. Mr. DosSantos stated it was Mr. Gruen who was present at the last meeting, and Mr. Gruen was talking about putting it up on the concrete piers but in the back which would have addressed the flooding issue. Mr. Brown agreed, but he added that he worries that even if he were to build them to code because so much water collects there, he would be concerned about “sinkage.” Ms. Brown stated the ground is really soft, even with just the lawnmower.

Ms. Lee noted the driveway of the neighbor’s property to the right is where the neighbor’s garage is, and Mr. Brown agreed. Mr. Brown showed on the slide the neighbors front door and their driveway, and he also showed the proposed location of the shed.

Mr. McCartney stated that would be designated as the side yard setback, and he asked Mr. Majewski if extending the driveway at that part also require a Variance. Mr. Majewski stated a driveway can be located within 5’ of the property line; and in this instance that driveway would be approximately 25’ from the property line.

Mr. Majewski stated based on the description of where they are proposing it, the shed would be approximately 50’ from the right-of-way line. He stated earlier they had shown it at 20’ from the right-of-way.

Ms. Amy Vietti, 1783 Jockeys Way, was sworn in. Ms. Vietti stated she lives across the street down three houses. She stated the one house that they showed that has the it in the back yard is actually part of their back yard, and their patio is built up to it and it has a fire pit; and it is a wooden shed, and it is back further than where this shed is proposed. Ms. Vietti stated where the trailer is now, no one has a trailer in front of their yard, and when the Brown’s neighbor drives up, that is the first thing they will see especially if it is raised up. Ms. Vietti stated their neighbors could not be here tonight, and they have a shed right where the Browns could put theirs, and they just put down extra rock and built it up, and it has been there for fifteen years; and they have never had a problem with water. She stated it would go right up on the fence where the Browns could put their shed where it would not be such an eyesore for the neighborhood. Ms. Vietti stated she has a shed also, and she would love for the convenience to have it up front; however, they put it in the back because that is what they were told they needed to do.

Mr. DosSantos noted a photograph, and asked if the neighbor's shed is shown there. Mr. DosSantos noted the fence line between the two properties, and the neighbors' shed is to the right of the fence line; and Ms. Vietti agreed. Ms. Vietti stated those neighbors had the same issue, and they just built up the rock, and they have not had a problem.

Ms. Vietti stated she feels having a huge shed right in the front of the yard would be an eyesore and will bring down the neighborhood.

Ms. Brown stated there would be no room where it is being suggested that her shed be placed because there are trees there and it still floods. She stated the run off from the existing shed comes down into her yard and floods that corner. Ms. Brown noted an area on the photograph which is a raised flowerbed with bushes which is where the French drain is, and that still floods.

Mr. DosSantos stated what they were discussing was putting the shed south of that which would be closer to Jockeys Way which would still be in the back yard, and they could amend the Application to allow a Variance to place it there. Ms. Brown stated they would have to rip out trees. She showed where the trees are located and stated the trees take up the entire property line along the side. Mr. Brown showed on the photo where there are trees and "garden bed." Mr. Zamparelli asked how far away are the trees from the property line, and Mr. Brown stated they are almost on the property line itself.

Mr. Zamparelli asked why they would have to rip out the trees. Mr. DosSantos asked if they could not put the shed just to the west of the trees. Ms. Brown stated the shed would not fit between the tree and the start of the flower bed. Ms. Brown noted another section adding they could not put the shed there because that is the flood zone where the French drain is. Mr. McCartney asked if they could not put it below that. Ms. Brown showed where the patio ends, and stated what they are proposing would put the shed right off the patio.

Mr. DosSantos asked if there are photographs of the back yard, and it was noted that one was shown in the photographs they presented. She showed a picture of the back yard which was taken by her husband while he was standing on the patio. She pointed out the tree that they were discussing and where the Board was suggesting the shed be located.

Ms. Vietti stated it is a "huge" back yard. Mr. Brown stated it is really not.

Mr. DosSantos stated there is a tree in the top middle of the photograph, and he asked what is in between that tree and to the right of that tree; and Ms. Brown stated that is the flood zone that was shown before. Mr. DosSantos asked if there are any trees or anything else there, and Ms. Brown stated there is dirt. Mr. DosSantos stated that would be the back corner of the lot; however, Ms. Brown stated it is right in the middle.

Mr. Majewski stated it is not a flood zone as defined by any Ordinance, and it is just a wet area in the yard.

Mr. McCartney noted the aerial photograph, and asked what area they are considering the middle of their yard. Ms. Brown showed what she felt would be the back yard when you walk out the back door. Mr. McCartney stated he would not consider that the middle of the yard, and he feels looking out from the sunroom/office/family room on the upper left hand side that would be the middle of the yard. He stated it is an odd shaped yard, and the building envelope is pushed all the way to the right so the middle of the yard would be directly north of that. Ms. Brown stated she agrees, and that would be most individual's front yard if it were not a corner lot. Mr. McCartney stated that is the downside of having a corner lot, and they are limited as to what they can do.

Ms. Vietti stated she is present to represent the neighbors and no one wants this in the front yard. Ms. Vietti stated she has lived there for twenty years, and no one has ever suggested putting a shed in the front yard. Ms. Brown stated there are two already; however, Ms. Vietti stated one is part of their back yard.

Mr. Flager asked Ms. Vietti if she is requesting Party Status, and he explained what it means to have Party Status. Ms. Vietti stated she is requesting Party Status, and she is opposed to the Application.

Mr. Brown stated with regard to the neighbors opposing this, he stated he delivered letters weeks before he filed for the Variance, and he received no feedback that any one was opposed to this. Mr. DosSantos stated there was a prior Hearing and there was at least one neighbor and maybe more than one that gave similar feedback to what Ms. Vietti just stated, and Mr. Brown agreed. Mr. Brown stated that is two neighbors total. He stated Ms. Vietti was not given a letter because she was further away than he "was required to deliver a letter." Mr. DosSantos stated they are three houses up, and Mr. Brown agreed. Mr. Brown stated none of the other neighbors seemed opposed to it at all.

Mr. McCartney asked Mr. Majewski if the Applicants would consider putting the shed in the area south of the white tree that they had talked about, would they still need relief; and Mr. Majewski stated he believes they would as it would be just outside the fourth of the lot. Mr. McCartney asked the Applicants if they were interested in pursuing that location rather than the driveway. Mr. Brown stated his opinion about that area is that as much as any neighbor would say it is an eyesore for them to look at a shed where they propose to put it, it would be even worse for him to put in that recommended area. Mr. McCartney stated Mr. Brown is stating it would be an eyesore for him, and Mr. Brown agreed. Mr. McCartney stated what Mr. Brown is stating that his eyesore is more important than the neighbors' eyesore.

Ms. Brown stated it is not about an eyesore, it is about utilization of the land. She stated they have two dogs and two children, and there are "eight kids running around their back yard from the neighborhood." She stated it "distracts from their ability to use the back yard which is why they bought the property," and that is a bigger problem for her.

Mr. Brown stated his father is getting older and visits from time to time for months at a time. Mr. Brown stated all the tools he has will be located in the shed, and he wants his father to have access; and he would not want his father to have to walk back and forth that far when there could be direct access for him. He stated as far as hardship goes, he wants to try to help that situation. Mr. McCartney asked if there would be direct access off of the patio, and Mr. Brown stated he is speaking more of from the garage. He stated he would like to "direct electricity into the shed to allow lights and any other kind of tools they would like to put in there." He stated that will be "way easier" from the garage area to do that because he would not have to run any underground lines, and he could use an extension cord.

Mr. DosSantos moved and Mr. McCartney seconded that the relief requested to put the shed in the front of the lot be as discussed be Denied. Motion carried with Ms. Lee opposed.

APPEAL #19-1840 – MUNZ CONSTRUCTION
TAX PARCEL #20-061-060

Mr. Wayne Kliefoth, property owner, and Mr. Steve McGill, Munz Construction, were sworn in.

Mr. Zamparelli stated at the last meeting they were asked to look into trying to re-locate the building, and it does not look like they did so. Mr. McGill stated it was discussed, but the topography of the site is somewhat prohibitive to do that.

Mr. Kliefoth stated they are requesting a setback Variance. Ms. Lee stated she felt it was also a request for height. Mr. McGill stated they are not requesting a height Variance because it is semi-detached. Mr. Zamparelli asked the required setback. Mr. McGill stated it is noted on the Site Plan. He also noted that this is a corner lot so there is a “double front,” and the front yard is 40’. Mr. Zamparelli asked the height of the garage, and Mr. McGill stated he did not bring that information with him. Mr. Zamparelli asked if it is over 15’, and Mr. McGill agreed. Ms. Lee noted it is attached.

Mr. DosSantos stated he recalls that there was good tree coverage, and Mr. Kliefoth stated it is tree lined along Mill Road. He stated the garage would fall within the tree line. He stated it does not quite go over as far as the driveway is wide. Mr. McGill noted Page 3 of the print out it gives a side view from Mill Road and shows the tree coverage.

Mr. Flager marked the print out provided as Exhibit A-4.

Mr. Kliefoth noted the trees along Mill Road on the slide shown. He stated the entire structure will be within the tree line and will be on his side of the tree line; and it will not extend east of the tree line.

Mr. DosSantos stated this is a corner lot, and he asked Mr. Majewski the setback requirements if that were deemed to be the side yard. Mr. Majewski stated where it will be located is in the front yard of Mill Road; and as a corner lot the property has two front yards – one along Landmark Road and one along Mill Road, and both setbacks are required to be 40’. Mr. Majewski stated they are proposing to reduce the setback along Mill Road to 29’ so there will be an 11’ encroachment into the front yard setback along Mill Road although it is on the side of the house.

Mr. DosSantos stated their front door faces Landmark, and Mr. Kliefoth agreed.

Ms. Lee asked if any of the neighbors spoke out against this, and it was noted that they did not. Mr. Kliefoth stated no neighbors are opposed.

There was no one present in the audience wishing to speak on this matter.

Mr. McCartney asked what was the concern originally which resulted in the Continuance adding that the Applicant has not changed anything from the prior meeting.

Mr. DosSantos stated Mr. Gruen was opposed to any type of encroachment into the setback in general. Mr. DosSantos stated he and Mr. Gruen had a “spirited

conversation” about the nature of the hardship being the lot itself and not necessarily a hardship of the Applicants in what he wanted to do with the shed. Mr. DosSantos stated his position was that the lot itself creates a hardship.

Ms. Lee stated she recalls that Mr. Gruen wanted him to move it more to the back where the Applicant’s deck is which would have put the garage in the back yard on this particular lot. Mr. DosSantos stated it would also then probably be detached which would create height requirements. Mr. Kliefoth stated it would also reduce more permeable surface, and the driveway would have had to come around. Mr. DosSantos stated he feels that would have created more problems than it would have solved, and Mr. McGill agreed. Mr. Kliefoth stated they would also have lost their deck.

Mr. DosSantos moved, Ms. Lee seconded and it was unanimously carried that the relief requested by the Applicant be granted.

APPEAL #19-1824 – RYAN & SAMANTHA O’MARA
TAX PARCEL #20-050-239 – 1217 EVERGREEN ROAD

Mr. Zamparelli stated the Applicants have requested a Continuance until 5/2020.

Mr. DosSantos asked If there are any concerns about the MPC. Mr. Flager stated the Applicants concern is that they do not want to lose the Application Fee, and that is why they want to keep it open.

Mr. McCartney asked if there is any opposition from the Township, and Ms. Kirk stated there is not.

Mr. McCartney moved, Mr. DosSantos seconded and it was unanimously carried to accept the Continuance request for May, 2020.

APPEAL #19-1847 – CEDAR CROSSING INVESTORS, L.P.
TAX PARCEL #20-050-001-001 – 1301 YARDLEY ROAD

Mr. Edward Murphy, attorney, and Mr. Vince DeLuca were present.

Ms. Kirk stated the Township participated, and she made a report back to the Supervisors as to what the Applicants intend to do. She stated at this point, the Township is not taking a position one way or the other with respect to the Application, but defers to the Zoning Hearing Board.

Ms. Lee stated she was not present at the meeting when this was heard and did not hear the Testimony, and she will Abstain.

Mr. Murphy stated the way it was left at the August 17 Hearing was that Ms. Kirk was going to report back to the Board of Supervisors after having heard the Testimony which she has done. He stated the other open question was whether or not the Sutphin Pines HOA was going to make a formal position. He stated he shared with the Township earlier today the correspondence he received from counsel to the HOA. He provided this tonight. Mr. Murphy stated it is consistent with what was stated at the last Hearing which is the HOA Board is supportive of the Application but did not intend to write an official letter about it. Mr. DosSantos stated there was an HOA Board member present at the last Hearing who Testified in favor of the Application but on his own behalf.

The e-mail dated yesterday from counsel for the HOA was marked as Exhibit A-7.

Mr. Murphy stated he has no further Testimony or Witnesses to present this evening.

Mr. Matt Zubrzycki stated he is on the HOA Board, but he is representing himself. He stated there is also another member of the Board present this evening, and it was noted they heard from that individual at the last meeting.

Mr. Zubrzycki was sworn in.

Mr. Zubrzycki stated the correspondence was from their counsel, and they had indicated that they were not comfortable sending a formal letter on behalf of the community. He stated there was a meeting with the developers which was reasonably well attended by the community. He stated the HOA Board is 100% in favor of the Plans as they have seen them so far. He stated everyone in the community he had talked to after the meeting they had, was in favor of the proposal.

Ms. Cynthia Weiss, 1308 Yardley-Morrisville Road, was sworn in. She stated as she noted at the last meeting when she spoke, she lives directly across the street from Marrazzo's, and she has lived there for fifteen years. Ms. Weiss stated she would welcome this development. She stated the day after the last Zoning meeting when she spoke very much in favor of this, not realizing Mr. Marrazzo was standing in the back of the room, the next day there was a huge piece of equipment out with a big sign saying, "Rent Me." Ms. Weiss stated she would welcome beautiful townhomes, and she knows the quality of homes that Mr. DeLuca constructs which can be seen at Flowers Field. She asked the Zoning Hearing Board to approve this.

Ms. Christine Martin, Sutphin Road, was sworn in. She stated she is not in favor of this because of the traffic that it will impose on the intersection at Yardley-Morrisville Road. Ms. Martin stated she also feels they need to stop building on every vacant lot available – especially houses. She stated she thinks if they want to build something, they should build something that is more traditional neighborhood development that will bring the community together and not just houses. She stated there is also not enough low-income housing for people in our neighborhood, and there are not a lot of people who can rent an apartment for \$1,000 or less.

Ms. Martin stated she and her family like to walk along the path that is on Sutphin Road, and it would be nice if they could walk to something and not just “walking around looking at houses.” She stated it would be nice if there was less traffic in that area.

Mr. Flager asked Ms. Martin if she was requesting Party Status, and he explained what Party Status would provide. Ms. Martin stated she is not requesting Party Status.

Mr. McCartney asked if there will be additional road improvements at the intersection to help mitigate some of the concerns of traffic. He also asked about sidewalks. Mr. Majewski stated the Township has a bike lane in front of Sutphin Pines and the Marrasso property. He stated further down to the west on Sutphin Road, the bike lane turns into a bike path that is off road. He stated along the entire frontage of Sutphin Pines and the Marrasso property, it is currently a designated bike lane. Mr. McCartney asked if this will be “another self-contained Lower Makefield neighborhood that is not connected to anything else.”

Mr. DeLuca stated the plan would be to leave the bike lanes that are there and incorporated them with their plan. He stated with regard to traffic a Commercial use of a property of that size generates far more traffic than the proposed eleven townhomes. Mr. McCartney stated there would be integration of the existing bike lanes and access of Sutphin up to Yardley-Morrisville Road. Mr. DeLuca stated Mr. Majewski indicated that there are bike paths that exist currently, and they will not be removed. Mr. McCartney stated it looks like there is a sidewalk that comes out from the development onto Sutphin Road, and it will be tied into the bike path, and Mr. DeLuca agreed.

There was no one present in the audience wishing to speak on this matter.

Mr. DosSantos moved and Mr. McCartney seconded that the relief requested in the Application be granted. Motion carried with Ms. Lee Abstained.

APPEAL #19-1848 – CHARLES & ELIZABETH WHITE
TAX PARCEL #20-055-192 – 942 WEBER DRIVE

Mr. Charles White, and Mr. John Schweizer, Gasper Landscapes, 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 impervious surface breakdown 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. Zamparelli stated they have an impervious surface issue. Mr. White stated they are seeking relief in order to reconstruct a patio. He stated they have a patio on the side of the house which is relatively small; and in order to increase their enjoyment and utility of the back yard as well as the value of the house, they are looking to increase the size of the patio.

Mr. White stated they are currently at 22.6% impervious surface. He stated to his knowledge all of the impervious surface with the exception of the shed are original to the house. He stated the original impervious surface was at 21.8%. He stated the property is under 25ths of an acre, and it is a ranch-style house so there is not a lot of "give."

Mr. McCartney asked Mr. White if he installed the shed, and he stated he did not. Mr. White stated he did not change anything on the property that changed the impervious surface, and he has owned the property since 2005.

Mr. DosSantos stated he understands that they have proposed stormwater management. Mr. Schweizer stated they can propose stormwater management to help offset the additional square footage. He stated there is no egress out the actual back of the house, and the egress is out the side which is the most logical place for the patio to be, and is where the current patio is located. He stated there is also a grade elevation change from the sill of the door down to where the patio would be which is why the stairs are there. He stated in order to limit the amount of the additional impervious surface, they have the patio on the side with the landing and the steps coming down to it rather than wrapping around the back of the house which would involve additional impervious surface. He stated they are trying to limit the amount of impervious surface that they are adding, but also make it usable. Mr. Schweizer stated when you put a patio right up against the foundation of a house, it makes it very difficult to maneuver with chairs, etc. getting around the patio so you have to make it a little bit wider because of the obstructions of the back of the garage as well as the side of the house. He stated they

also have the landing which limits it; and in order to put furniture on the patio and be able to utilize it, they do need to make the patio a little larger so that it can be utilized.

Mr. McCartney stated they are adding 10' by 30' going toward the neighbors, and Mr. Schweizer agreed. Mr. McCartney asked if there is a need for a side yard Variance; and Mr. Schweizer stated the submitted the Application, and the only that was indicated was that they needed a Variance for impervious surface.

Ms. Lee asked what is the effective impervious surface with the proposed stormwater management system. Ms. Schweizer stated they were going to bring it back down so that the net change was zero and bring it to what is existing now as opposed to getting it all the way down to 18% which would be a very large financial commitment. Mr. Schweizer stated they would bring it back to the 22.6%. Mr. DosSantos stated that was the condition when they purchased the home in 2005. Mr. Majewski stated many of the houses in this District as well as other parts of the Township are over the requirement that was put in of 18%, and they were existing at the time they were built.

Mr. McCartney asked what size pit would they need to offset 4.6%, and Mr. Majewski stated it would be very large.

Mr. White stated he had e-mailed computations for the stone pit, and he provided information to the Board noting what he had e-mailed to Mr. Majewski has been changed. Mr. Majewski stated he had reviewed the original, and that was satisfactory. Mr. Majewski stated for the stormwater calculations per Ordinance the Township has developed a spreadsheet to make it easier for people to do the calculations. He stated in the past Applicants had come up with calculations that the Township had often disagreed with; but in this instance they used the spreadsheet, and came up with numbers that were acceptable. Mr. Majewski stated provided that the revised spreadsheet is generally compliant, it will be okay. Mr. White stated the spreadsheet was very helpful. Mr. Majewski stated Mr. White also found a "flaw or two" that he fixed.

Mr. DosSantos asked Mr. White if the changes that he made were significant. Mr. White stated the original seepage pit was 3 ½ by 6 by 6, and the landscaper came in with 3 by 6 by 6 so they had to add in two trees in order to make up that difference, and the remission reflects a 3 by 6 by 6 and two trees. He stated there are some options they could consider. Mr. DosSantos asked Mr. Majewski if the revised Plan of 3 by 6 by 6 with two trees an acceptable mitigation to bring it back down to the current level, and Mr. Majewski agreed.

Mr. McCartney asked if they have any water in the back yard during normal rain events, and Mr. White stated they do not. Mr. White stated when he first bought the property he spent approximately \$3,000 and 2" of top soil put in his back yard and had it sloped away. He stated he also had trees taken out that were leaning over onto his neighbors' properties, etc. He stated he has never had any issues with drainage in his back yard. He stated he did run the infiltration tests that the Township provides instruction on 8" deep, and he had 6" of drainage in forty-five minutes and he re-ran it again and had 4" in two hours. He therefore had 10" of drainage in less than three hours. Mr. Majewski stated that is a well-drained soil.

Mr. McCartney stated it seems that the existing shed is to the rear left corner, and it might be tight up against the property line. Mr. White stated he consulted Mr. Majewski ahead of time, and Mr. Majewski advised him that the existing location of the shed was not correct. Mr. White stated they are going to get a smaller shed. He stated the footprint of the existing shed is 12' by 11' 7", but they used 12' by 12' for calculation purposes. He stated they have taken out that shed, and they are going to have a smaller shed put in at the correct location. Mr. McCartney asked if the shed shown on the Plan is no longer there, and Mr. White agreed. He stated they are downsizing the shed in order to decrease the impervious surface. He stated the original shed was 12' by 12', and the new shed will be 8' by 12'.

Mr. Zamparelli asked how many feet from the property line will they have when they put the new shed in, and Mr. White stated Mr. Majewski told him it had to be 10' away from the property line. Mr. Majewski stated he will therefore be in compliance.

Mr. McCartney asked if they need to update A-1 to include that the shed has been removed from the property. Mr. Flager stated while they can note it, "the Plan is the Plan." Mr. Flager stated there is not an additional Plan that shows a change.

Mr. Majewski stated if the Board agrees to grant the Variance it would be for the impervious surface however it is configured generally.

There was no one in the audience wishing to speak on this matter.

Mr. DosSantos moved, Ms. Lee seconded and it was unanimously carried that the relief requested be granted conditioned that the Applicant has remediation measures to bring the impervious surface down to its current level of 22.6 and those measures must be approved by the Township engineer.

APPEAL #19-1849 – GWEDOLYN & JASON SODEN
TAX PARCEL #20-019-249 – 1089 DREW DRIVE

Ms. Gwendolyn Soden 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 reasons for the requested relief was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Ms. Soden stated they would like to build a two-car detached garage, one with an enlarged bay and one with a regular car bay, and a second-floor storage area. She stated they are requesting a Variance to exceed the height of 15' and to not have to put it in the back one fourth of the property. Ms. Soden stated that back area is all wetlands, and there is no access to it.

Mr. Zamparelli asked Mr. Majewski if he visited the property; and Mr. Majewski stated while he has not visited the property recently, he is familiar with the property, the neighborhood, and the detention basin that is in that area.

Mr. DosSantos asked if these are actual wetlands as opposed to a damp area in the yard, and Mr. Majewski stated in this instance Buck Creek does flow through the property. He showed an aerial photograph and stated the area in purple and blue is the floodplain. He stated it appears that where they are proposing the garage is short of that floodplain, and therefore there will be no impact.

Mr. Zamparelli asked why they have to have the garage so high. Ms. Soden stated they are going to house their boat in the garage, and the boat goes to 11' when standing on the trailer. She stated in order to have access and do maintenance on it, they felt 15' would be too close. She stated given the scale of the property and the size of their house, they need extra storage. She stated they have had two cars in the driveway when you need storage for the lawnmower, tools, bicycles, etc. She stated there is not really other storage space on the property. She stated they would like to have either a workshop or extra storage space on the second floor of the detached accessory structure. She stated the height will be approximately 22'.

Mr. Zamparelli asked if it is wooded area in the back quarter of the lot or is it just wet. Ms. Soden stated the property is two and a half acres, and the whole front is very manicured including the immediate area before the purple line which is Buck Creek. She stated the property slopes down, and it is graded very well so

they do not get any flooding prior to that. She stated they are proposing to put the detached garage at the end of the driveway, and she showed the proposed location on the slide. Ms. Soden stated beyond Buck Creek it is still their property and the whole blue section does flood regularly anytime there is a storm. She stated the property extends a little beyond that as well.

Mr. DosSantos stated they are proposing loft storage, and he asked if there will be any plumbing and electric in the garage. Ms. Soden stated there will be plumbing but not for the purpose of living space, and it would be to have a hose to hose down the boat and maybe have a utility sink. She stated they would have electric.

Ms. Kirk asked how large do they propose the second-floor loft area will be; and Ms. Soden stated it would be over the car bay so she estimated it to be 24' by 15'. Ms. Kirk asked Ms. Soden if the Board were inclined to grant the request, would she agree that the loft area could not be used at any time for livable space; and Ms. Soden agreed.

Ms. Kirk noted the wetland area, and she asked if that is delineated for a monument, or iron pin, etc.; and Ms. Soden stated she does not think so. She stated there is a the creek bordering it and a bridge across it but the bridge is small and not for vehicle use. Ms. Kirk asked Ms. Soden would agree that the garage has to be located out of the designated floodplain area. Ms. Kirk stated Ms. Soden has indicated she does not expect the garage to be in the floodplain area, but Ms. Kirk asked what kind of assurances there will be that the building itself will not be in the floodplain area. Ms. Soden stated it would be easier to look at the Lot and see the grade of the property, and the area where the garage would be is very stable and flat. She stated the property grades steeply into the creek, and the back is much more natural. Ms. Kirk asked if there is a plan to have a formal survey done to insure that the garage will not be in the floodplain area. Ms. Soden stated they have been working with Munz Construction, and she believes they have had people come out and look at that; but she would have to double check that. Ms. Kirk stated the concern is what assurances can be given that the location of the garage is not going to encroach into the floodplain area; and if for some reason it is determined that it does, is Ms. Soden willing to move it out of the floodplain area, and Ms. Soden stated she would be willing to do that.

Mr. DosSantos asked if they could not make it a Condition of Approval that it not be put in the floodplain since the building will have to get Approval. Mr. Zamparelli agreed it could be made a Condition. Mr. Majewski stated the Township does have Recorded Plans for this development, but they are not depicted on the map provided.

Mr. Zamparelli asked if the Plans show the floodplain area, and Mr. Majewski stated they do. Mr. Majewski stated based on the elevation, he believes that the Applicant's ascertain that is not in the floodplain would be correct because it does drop down at least 5' or more.

Ms. Kirk stated she did not know if a visual view of the elevation drop was sufficient to determine the floodplain cut-off area. Mr. Majewski stated there are Recorded Plans, and will make sure that they comply with those.

There was no one in the audience wishing to speak on this matter.

Mr. DosSantos moved, Ms. Lee seconded and it was unanimously carried that the relief requested be granted Conditioned that the Applicant agree not to use the loft area as livable space and that the building not be placed within the floodplain.

OTHER BUSINESS

Mr. McCartney stated he understands Shady Brook Investors will be coming back at the next meeting to be held on October 1. Mr. Majewski stated the Applicant did prepare a response to PennDOT's comments on the Traffic Study, and that will be in the Board's packet for the next meeting. Mr. Majewski stated given that they just submitted that to PennDOT, he believes that most likely there will be another Continuance request to wait for PennDOT's response to the Applicant's response to PennDOT's response. Mr. Majewski stated in the next packet he will provide the Board with PennDOT's response, and the Applicant's response to PennDOT with all of the adjustments.

Mr. McCartney asked if all the Witnesses for the Applicant with respect to traffic will be present, and Mr. Majewski stated he feels he would be.

There being no further business, Mr. DosSantos moved, Mr. McCartney seconded and it was unanimously carried to adjourn the meeting at 8:55 p.m.

Respectfully Submitted,

Keith DosSantos, Secretary

