

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JULY 20, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on July 20, 2021. Mr. Zamparelli called the meeting to order.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Chair
 Matthew Connors, Secretary
 James Dougherty, Member
 Peter Solor, Member
 Michael Tritt, Alternate Member

Others: James Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor (left meeting in progress)
 Adam Flager, Zoning Hearing Board Solicitor

Absent: Pamela VanBlunk, Zoning Hearing Board Vice Chair
 Frederic K. Weiss, Supervisor Liaison

APPEAL #21-1914 – JOSEPH JENNINGS
Tax Parcel #20-031-004
2 MC KINLEY AVENUE, YARDLEY, PA 19067
(Continued from 6/15/21)

Mr. Joseph Jennings was present and 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 Revised Plan 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. Jennings stated he would like to do a Subdivision off of his six and a half acres and make two, three-acre Lots. He stated he moved to Lower Makefield in 1999, sold one property and then purchased ten acres near the Canal where he lived for twelve to thirteen years. He stated he started having problems with the neighbors who were crossing his land and who then made demands that he clean up the property, put sidewalks in, etc. He stated the Township approached him to sell a portion of the property so that there could be public access to the bridge.

He stated did sell a portion of the property to the Township and gave them 75' in front of the bridge which goes half way up the property and then tapers out into a triangle shape for a total of three acres that the Township bought from him.

Mr. Jennings stated previous to Subdividing for the open space project, he had started a Subdivision, and he is proposing to do the same thing that he proposed to do then; but the Variances have now changed, and he is suffering from the sale to the Township which has led the Variances needed being more complicated.

Mr. Jennings stated what he is proposing will also benefit three of the neighbors who are back along the Canal because they have McKinley Avenue that cuts right through the middle of their yards. He stated the first person has to deal with the other two neighbors coming up next to his house with their cars, and they are trying to put a fence up to protect their children and their dogs from wandering. He stated it is proposed to move McKinley Avenue out to the borderline, and he will put up the property for the new McKinley Avenue and then new driveways will come in off the new McKinley Avenue to the three houses across the back along the Canal. He stated he also proposes to extend McKinley Avenue to the house that would be in the Subdivision that he is trying to create.

Mr. Zamparelli asked about the comment made about moving McKinley Avenue. Mr. Jennings stated currently McKinley Avenue is really not even paved, and it is basically stone. He stated it goes to the end of McKinley where it is seen on a map, and does a "dog-leg" off to the left; and that is where the three houses off of the Canal are located. He stated they never put McKinley Avenue at the ends of the property, and they stuck it right through the middle. He stated he understands that those used to be vacation homes, and as a vacation home a long time ago, it was not required to do much "other than what they wanted."

Mr. Zamparelli stated McKinley Avenue is paved now, and Mr. Jennings stated McKinley Avenue coming off of Taylorsville back to Irving is paved.

Mr. Zamparelli stated there is an existing dwelling, and Mr. Jennings agreed that he lives in the existing dwelling which is close to McKinley; and that is Lot #1. Mr. Zamparelli stated he wants to have a second lot with a proposed dwelling. He asked if it will be a flag lot for access to the rear dwelling; and Mr. Jennings stated he understands it would be considered a flag lot.

Mr. Zamparelli stated prior to selling the land to the Township, the Lot was larger; and Mr. Jennings stated it was slightly less than ten acres. He stated he sold the Township approximately three acres, and that gave him about six and a half acres left. He stated some of that he was going to put toward the new McKinley Avenue to satisfy the neighbors in the back and extend it a little further to the house that he proposes to build.

Mr. Majewski asked if Mr. Jennings' surveyor wishes to comment.

Mr. Robert Snyder was sworn in. Mr. Snyder stated in 2008 Mr. Jennings submitted very similar Plans to create one new building Lot; however, in 2012, the engineer he was using went out of business so the Plans were never Recorded or finalized. He stated Mr. Jennings has been in "Limbo" and trying to get enough money together to recreate the entire Subdivision process again.

Mr. Snyder stated in 2009 similar Zoning Variances were granted, but that was based on a larger Lot. He stated they are essentially asking for the same type of Variances but on a smaller Lot since he sold some of the ground as open space to the Township in 2016.

Mr. Snyder stated Mr. Jennings referred to the drive that goes through the three properties to the east as McKinley Avenue; however, it is really just an access driveway and it is not really part of McKinley. He stated it goes through their back yards, and those three neighbors approached Mr. Jennings to try to create a common drive that they could access as part of this; and he has shown that on the Plan.

Mr. Snyder stated the proposal is essentially the same as it was almost ten years ago to create one new building Lot. He stated they still have to go through all of the appropriate reviews and approvals with the Planning Commission, the Conservation District, and the Township engineer which they intend to do if the Variances are granted.

Mr. Zamparelli stated there is a driveway at the end of McKinley Avenue that goes to the house, and that is the area where they show the new access road where the flag Lot is. He asked why that has to be accessible to the Jennings' property. Mr. Snyder stated currently there are three properties and they drive through each other's back yards to get to the next Lot. He stated what is proposed would be much more desirable to have one driveway, and they would gain some yard area where right now it is a gravel/stone drive.

Mr. Zamparelli asked about the Variances being requested. Mr. Snyder stated they are for density and the minimum net lot area. He added that both Lots are over three acres; but when you take out the environmental issues, they are slightly over one acre each net.

Mr. Solor asked with the previous Application and the Variances with it, when there was the ten acres was there a Lot density issue at that time; and Mr. Snyder stated there was. He added that they are the same two Variances but there are different numbers because it is less ground at this point due to the fact that the Township obtained some of the property as open space. Mr. Solor asked if the Variances were passed by the Board at that time; and Mr. Snyder stated the Variances were granted, but the Plans were never finalized because the engineer went out of business, and there was no way to complete the Plans at that time.

Ms. Kirk stated she is present on behalf of the Township who is in opposition to this Application. She stated she believes that there are more than two Variances that would be required. She stated she believes that a Variance from the minimum front yard setback would be required for the Lots off of McKinley Avenue which is still designated as a roadway with road frontage; and based on information she was provided by the Township engineer it appears that the minimum front yard setback will be less than the otherwise required 50'. Ms. Kirk stated it also appears that because they are creating two new Lots out of one existing single lot at the present time, the impervious coverage will be effected.

Ms. Kirk stated the Township engineer provided information that also indicates that the building envelope for Lot #2 is not shown properly so she is not sure that these Amended Plans are in a condition for the Board to consider.

Mr. Snyder stated the impervious surface area for both Lots seems to be under the 13%. He stated the existing front yard for the existing house is an existing non-conformity, and that is not being created by the Subdivision. Ms. Kirk stated it is going to be a modification on the basis that what was a non-conformity for one whole Lot is now being subdivided to create a second Lot so that non-conformity is not necessarily going to become a legal non-conformity in that the property owner is creating this whole second Lot from the existing one Lot.

Mr. Zamparelli stated Ms. Kirk has indicated that the existing dwelling does not have the proper setback the way it is now, and Ms. Kirk agreed. She stated because the property now is on one entire Lot, it would be considered a currently-existing non-conformity because it was created prior to current Zoning regulations; however, because he is carving out a whole separate Lot, he is changing the entire configuration of the Lot therefore that non-conformity is no longer going to be a legal pre-existing condition.

Ms. Kirk stated with regard to the impervious surface, currently they meet the requirements; but she believes that the Township's position is that by creating a second Lot, the property owner is becoming a developer because he will be building a new building on that, and as a result of that, he would be subject to the 10% impervious surface ratio. She stated it appears based on the Amended Plan that the construction would exceed that coverage.

Mr. Zamparelli stated Ms. Kirk is indicating that they would need 50' for the existing dwelling, and Ms. Kirk agreed.

Mr. Solor stated it does not look like there is any change in the geometry on the existing condition on that side, and they are not changing the setback on that existing building. Ms. Kirk stated while it is not on the existing building specifically as part of this Plan, it is on the nature and the condition of the entire Lot.

Mr. Zamparelli stated the Township's issue is that the impervious surface is not calculated correctly based on the Subdivision and the existing dwelling is not really in the envelope either and would also need a Variance; and

Ms. Kirk agreed adding that the Variance relief is being requested merely as a result of a property owner's desire to subdivide the Lot. She stated had he not created that condition, he would not need Zoning relief.

Mr. Snyder asked Ms. Kirk if she is speaking with regard to the front yard of McKinley Avenue, and Ms. Kirk agreed as to the setback. Mr. Snyder stated the right-of-way of McKinley is not changing as far as this Subdivision. Ms. Kirk stated they are not changing the right-of-way, but McKinley is going to be altered in its course and its path, and they are changing the condition of the Lot that is facing McKinley; and it is no longer one whole Lot as it will be two Lots.

Mr. Snyder stated he feels they have a difference of opinion. He stated they did revise the Plans, and they believed that they had addressed the engineer's comments although he did not get a written review back. He stated the engineer did not bring up the issue in his review of using a different criteria for impervious; and if that is the case, Ms. Kirk would be correct that they would need an additional Variance. Mr. Snyder stated since there are a few outstanding issues, they might ask for this to be Continued so that they can resolve these questions with the Township engineer and the Zoning Officer.

Ms. Kirk asked when the Amended Plans were delivered to the Township, and Mr. Snyder stated he believes they were delivered last Thursday. Ms. Kirk stated the engineer may have not had enough of an opportunity to get information back to Mr. Snyder after his review of the Amended Plans. Mr. Snyder agreed adding that he was surprised that they were on the Agenda this evening because from his experience he did not feel a Municipal review would be turned around that fast. He stated their goal for delaying a prior meeting was to make sure that they had the Plans cleaned up to address the engineer's comments in the Zoning review; and a number of things brought up by Ms. Kirk including the impervious, were not brought up by the engineer in the Zoning review although he may have in the follow-up review.

Ms. Kirk stated everything Mr. Snyder is referring to with regard to the Township engineer's Zoning review is based on information he received from the Township engineer on the original Plan submitted, and Mr. Snyder agreed.

Mr. Zamparelli asked if the proposed accessory garage should be in the envelope. Mr. Majewski stated an accessory building does not have to be within the building setback as that is for the principal building structure. He stated the accessory structure just needs to be in the fourth of the Lot furthest removed from the road and 10' off of the property line.

Mr. Solor stated infiltration basins are shown, and he asked if that is an effort to reduce the effective coverage. Mr. Snyder stated that is to show the intention of putting something there when they submit a complete set of site drawings for the Subdivision reviews. He stated these are not fully-engineered Plans at this point and are strictly to show what is proposed to get done for the required Zoning relief.

Mr. Majewski stated they would have to control all of the run-off from all new impervious surfaces created, so effectively it would be as if the development technically did not happen from some stormwater management perspectives.

Ms. Kirk stated she received a copy of an e-mail which was sent this afternoon, and there is a copy to Mr. Jennings and Mr. Snyder at Kelly and Close Engineers; however, she presumes that was sent by regular mail and not e-mail.

Mr. Snyder stated he did not receive anything via e-mail.

Ms. Kirk stated the maximum density of units per acre based on what is proposed for Lot #2 is more than 2% of what would otherwise be permitted. Mr. Snyder stated he believes that is correct. Ms. Kirk stated for Lot #1 it is almost three times more than what is permitted, and Mr. Snyder agreed.

Mr. Snyder stated he feels it would be best to Continue this until they get a chance to get the engineer's review back and confirm the items that Ms. Kirk brought up since they were a little different from what was in the engineer's letter. He stated if they have to modify their requested Variances, they will do that.

Ms. Kirk stated she could send Mr. Snyder a copy of the e-mail she received if he would provide his e-mail address, and Mr. Snyder did so this evening.

Mr. Flager stated if there is a need to re-advertise, August 17 would be the date this could be heard next. This was acceptable to Mr. Jennings.

Public Comment was taken at this time.

Ms. Kimberly Mumme, 36 Maplevale, was sworn in. She stated she grew up here and has used the trail that the Township "was forced to buy for \$250,000." She stated when Mr. Jennings moved in he was well aware that for sixty years that was the path to get to the Canal, and everybody "has more than graciously used it." Ms. Mumme stated he "has not been a great neighbor." She stated the property is Zoned Resource Protection which was a choice made by the Township which she feels was a great choice because of the building going on, and this is right next to the Canal with a nice access area. She stated with the impervious surface and drainage and those considerations, she asked why the Township would be considering this because of the fact that "the property is that way." She stated over the years that Mr. Jennings has been there, he has been cutting "stuff down all spring;" and

based upon the Code, she knows that you are limited to how much you are allowed to take down. She stated she also believes that you have to get permission which “maybe has been authorized.”

Ms. Mumme stated they just put the bridge in which has taken away some of the area for the animals; and with the Airport over us, it is good to have some more trees to try to absorb some of the “stuff that flies down from them.”

Ms. Mumme stated he bought the property knowing that there were conditions with it, and it was a Lot that should be wooded and kept in that form, and they are definitely moving away from that.

Mr. Zamparelli asked that those making comment focus on the Application itself.

Mr. David Rishel, 220 Meadow Drive, was sworn in. He stated he agrees with the points made by Ms. Mumme. He stated when this land was purchased by the present owner, it was clear that it could not be developed; and he purchased it knowing that. He stated for there to be a Variance to Zoning rules, there should be some compelling reason to benefit the community; and he has not heard anything in what was proposed that would justify that. Mr. Rishel stated this is just something that he is trying to do for personal gain, and it would be unfortunate for a person who bought property to discover that they could not develop it like they had planned, and he has his sympathies; but there is no good reason that the rest of the neighborhood should be compelled to accept the loss of this land which has been set aside for well-established reasons merely because he wants to profit from this development. Mr. Rishel stated he hopes that the Board will consider that.

Mr. Michael Brennan, 6 Maplevale, was sworn in. He stated when Mr. Jennings was negotiating with the Township in 2015 and 2016 to sell a portion of his property to the Township he was advised by Mr. Fedorchak who was the Manager at the time that he could sell a portion of the property to the Township or he could Subdivide, but he could not do both. Mr. Brennan stated it seems that Mr. Jennings “has waited out some of the people who were on the Board of Supervisors and the management of Township at the time,” and has now re-applied for the same Variances that he was looking for that he was told he was not going to be able to get previously.

Ms. Mary Mashack, 10 McKinley Avenue, was sworn in. She stated she does not have a problem with Mr. Jennings subdividing and putting another home back there. She stated he has managed the property very well and cared for it. She stated insofar as having the Township purchase the right-of-way, it was understandable when you think about the liability. She stated while you can say it has always been that way when you can be held liable for anyone's injury that feels free to come through your property, she feels that is a problem. She stated insofar as Mr. Jennings buildings another home back there, she has no problem with that.

Ms. Lorena Stoddard, 220 Meadow Drive, was sworn in. She stated has lived her for sixteen/seventeen years and the path was always accessible and then a couple of years ago it did get blocked. She stated maybe the neighbor who just spoke is correct and people did actually say they had problems. She stated the pathway was not hard to access and people accessed the Canal in that "one line," and now that it is purchased, obviously it is "safer although it was never cleaned up from the huge trees that he cut down and blocked the path with."

Ms. Stoddard stated her concern has to do with the fact that she believes the land is labeled Resource Protection, and she thought that meant that no Variance could be brought to the Zoning Board. She stated she does not understand how this is possible. Ms. Stoddard stated separate from that issue she is very concerned about the water that comes down the hill and is not caught by the basin at the bottom of Dolington "through all the building of homes that have been put up there." She stated they have flooded in their neighborhood. Ms. Stoddard stated in addition to flooding she is also very concerned about losing the trees that were lost because of the bridge. She stated there is also an Airport that is becoming much more active now that COVID is over, and was very active prior to COVID. She stated the trees keep getting cut down now before he even got Variances which is surprising because she believes there are rules about the Resource Protected land that says you cannot cut down trees. She stated there are already issues about air quality in Bucks County, and this land is a small plot of land but it has been protected for years; and now they are going to put in a couple of homes – "a one-family home and a two-family home in one dwelling."

Ms. Stoddard asked if it is Resource Protected and how he can ask for Variances. She stated he has already "gotten rid of a good portion of the land for a good quantity of money," and she does not understand how the Township can allow "this fellow who moved to the community when she moved to the community

to do this to the Town itself.” She stated she feels they should be looking into what Resource Protected means and how Variances can be put onto that kind of land and if this is really a good thing for our community. She stated we are already being inundated by an Airport, by a new bridge, and air quality that is already bad, and we know we flood; and it just does not seem that it is a wise idea for the community to have two new homes built for the benefit of this “gentleman and for two families, maybe three.”

Mr. Zamparelli asked Mr. Majewski to comment on the Resources Protection issue raised by Ms. Stoddard. Mr. Majewski stated the Township has the entirety of the Township separated into different Zoning Districts, and there are Commercial Districts, Office, and various Residential Districts. He stated the Residential Resource Protection District requires a three-acre Lot size, and one of the purposes for that is to limit development to a lesser amount than otherwise would be allowed in other parts of the Township.

Mr. Majewski stated R-1 Zoning District typically allows a rough net of about one acre Lots on a large piece of property. R-2 is roughly about half acre Lots over the entirety, and R-3 is roughly about one-third. He stated RRP is one Lot for every three acres. He stated the development potential for the RRP is much less than the other Zones, but that does not abridge the rights of the person who owns the property to Appeal to the Zoning Hearing Board as they have done to request that relief be granted because they feel that the strict application of the Zoning does not quite allow for the reasonable use of the property. He added a Variance is a separate issue from the RRP Residential Resource Protection. He stated within this area, the resources are protected by virtue of the fact that you can only develop on a three acre parcel of land as opposed to a quarter acre to an acre that you would see in other parts of the Township.

Mr. Zamparelli stated people have a right to try to do something with their property; and you cannot just tell them it is “worthless,” but they do have to do it correctly.

Mr. Rick Geers, 17 Maplevale Drive, was sworn in. He stated for Mr. Jennings to open up the conversation and “gloss over the circumstances that surrounded the closing of the access to the bridge so quickly does not do the whole thing justice.” He stated that was probably “on the whole in his thirty years of living at this address one of the worst things he ever had happen to him.” He stated it “was not just what he did, it was how he did it.” Mr. Geers stated if that property is resource protected “he needs to just stop the whole process.”

Mr. Geers stated we do not need another house in that area. He stated there are already flooding issues and development happening above them out at the highway. He asked “what we are coming to if we are going to just be able to walk across the roofs of the houses in this neighborhood.”

Mr. Zamparelli stated they have not seen the complete drawings yet, and some of the issues Mr. Geers has raised could be corrected or made better based on the Plans with regard to the flooding, and he should be given the benefit of the doubt.

Mr. Geers stated given “the history of how this gentleman operates, giving him the benefit of the doubt he does not believe is fair because he did not act like a good neighbor before this and asked why should we expect that he would go forward.” Mr. Geers stated his vote is to not give him the Variance he needs to continue to build there.

Mr. Zamparelli stated certain things will be required to be done with regard to mitigation and possibly setbacks.

Mr. Geers stated things have been said over the years “and the names and the faces change and people wait things out or they do not wait things out and things change, and all of the sudden it is on the 95 passageway.” He stated that area was resource protected or open space area and “every once in a while someone comes along and carves out ten acres here and ten acres there.” He stated everything “gets watered down over the years; and if you have been here long enough, you see it.” He stated the laws were set up originally and regulations to keep some things from happening, and he feels they need to consider those things.

Mr. Michael Katzman, 6 McKinley Avenue, was sworn in. He stated his property is directly adjacent to Mr. Jennings, and his issue is with the safety aspect of the way that the McKinley driveway is currently laid out. He stated it is cutting through the center of his front yard. He stated he has three small children under the age of five and two dogs; and every time they go out, he worries about them getting run over by a car or an “Amazon truck” speeding through the center of his driveway to get to the other two houses. He stated he has made multiple complaints, and there are people cutting through their yards all the time going to the towpath. He stated he cannot fence off his yard because the driveway is in the center of it. He stated there is a gentleman who continuously drives his snowmobile at a very high rate of speed who is possibly intoxicated, and he has called the Police several times. He stated he is worried about his children’s safety.

Mr. Zamparelli asked if he has seen the drawings; and Mr. Katzman stated he has, and he is in support of the Plan. He stated Mr. Jennings has been a very good neighbor, and he does not feel his character is up for question.

Ms. Michelle James, 38 Maplevale Drive, was sworn in. She stated her husband also owns 24 Maplevale Drive. She stated she agrees with her neighbors about the trees and the flooding. She stated her yard flooded from the storm they had the other day, and they are adding two more homes in that section, and they are surrounded by wetlands, the River, and the canal. She stated her main concern “with Mr. Jennings is traffic.” She stated traffic has been a huge concern of hers, and she has been very active. Mr. Zamparelli stated he has nothing to do with traffic; however, Ms. James stated he will if he puts up two more homes. Mr. Majewski stated it would be one more home. Ms. James stated if they add two more cars with one more home “to the mix, and you are talking about a lot of traffic.” She stated the way Dolington and McKinley line up, it is an extremely dangerous intersection.

Mr. Zamparelli stated his new Plan may make the water problem a lot better and there may not be flooding. Ms. James stated she does not feel that will be a possibility by adding another home. She stated she is going by the fact that she has lived in this neighborhood for twenty-eight years, and “her expertise is knowing the area, seeing it, and living it.” She stated she has seen her street flooded.

Mr. Tritt stated these are interim Plans, and they should wait until they see the new Plans to see what is proposed.

Ms. James stated she does not feel that they should see new Plans since when Mr. Jennings bought this tract he knew that it was not allowed to be subdivided. She stated they are surrounded by wetlands, and her property at 38 Maplevale is surrounded by wetlands.

Mr. Zamparelli stated Mr. Tritt is stating that there is a possibility that he could correct that. Ms. James asked if he is going to correct the neighborhood flooding and the sewer drains, etc. Mr. Zamparelli stated they need to give him a chance to come up with a Plan to show what is proposed.

Ms. James stated she “knows for a fact that the Board is well aware of Mr. Jennings’ antics because her son went to a meeting before the Township.” Mr. Zamparelli stated that does not pertain to this. Ms. James stated there is a public record of when her son went to a meeting.

Ms. April Bollwage-Cloer, 20 Maplevale Drive was sworn in. Ms. Cloer stated her concerns are in line with the rest of her neighbors. She stated her family owned a home here when she was a child, and she chose to buy her home here knowing about the flooding; and now they are faced with an environmental situation where we are losing more trees. She stated unless Mr. Jennings is “going to plant a new forest, she does not know how he can make up for that.” She stated the neighborhood has seen a tremendous amount of flooding. She stated her home is the one at the lowest part of the neighborhood and she has seen the house “gutted multiple times in her life.”

Mr. Zamparelli they need to wait for the new Plans since they need to see them so they can make comment based on those Plans.

Ms. Cloer stated she understands that everyone is aware that there was a Petition in their neighborhood, there are strong feelings, and quite a number of people called in tonight; and she hopes that the Board realizes that this is very important to their neighborhood and to those from other neighborhoods who use that path, and the ramifications that there will be environmental issues because of the loss of trees and the construction.

There was no further Public Comment on this matter at this time.

Mr. Dougherty stated it was alleged earlier that Terry Fedorchak and Mr. Jennings had an Agreement for Mr. Jennings to trade his Subdivision rights for the Township to purchase the three acres. He asked Ms. Kirk if she is aware if there is a record of that. Ms. Kirk stated this is the first she has heard about that. Mr. Dougherty asked if it is common for “handshake deals like that to be made sometimes;” and Ms. Kirk stated it could be. She stated she could try to see if there is anything in the Minutes or anything of that nature. She stated she is not sure how enforceable a deal of that nature would be, and how someone could give up their rights to request a Variance or Zoning relief. Mr. Flager stated the Township Manager could not make a deal that involves the Zoning Board. Ms. Kirk stated if it was something to have been enforced it should have been Recorded as a Deed Restriction of such.

Mr. Connors moved, Mr. Tritt seconded and it was unanimously carried to Continue this matter to August 17, 2021.

Ms. Kirk left the meeting at this time as the Township is not participating in the remaining Appeals.

APPEAL #21-1919 – SHARI LEICHTER
Tax Parcel #20-060-312
532 CLARENDON COURT, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-2. 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.

Ms. Shari Leichter and Mr. Steve McGill, Munz Construction, were sworn in.

Mr. McGill stated most of the patio is existing, and they are asking for relief so that they can build a roof cover over the “mostly-existing” patio. He added there is a small section of flower beds carved out of the patio that will get infilled.

Mr. Zamparelli asked if there was a Permit for the existing patio, and Ms. Leichter stated the patio was put in by previous owners.

Mr. Zamparelli stated it seems that they are making the patio wider than it is now, but Mr. McGill stated the patio is not getting widened. Ms. Leichter stated all they are doing is putting a roof over the existing porch that is already there.

Ms. Leichter thanked the Zoning Hearing Board for giving her the opportunity to speak on behalf of her Appeal for the proposed overhead in her back yard. She stated this property is Lot #8 in Woods of Makefield. She stated she is asking the Board to grant the overhead for her existing porch that is in her back yard. She stated she is trying to put an overhead over the existing porch which is already there. She stated she is on the Board for the Association at Woods of Makefield, which is her neighborhood, so she made sure that this was approved by them first.

Ms. Leichter stated she really needs an overhead because she is not allowed to sit out in the sun for too long “or at all.” She stated she has already had “skin tags, red dots, and skin irritations” removed that could developed into skin cancer if not removed. She stated her dermatologist in Yardley removed them and tells her she really needs to stay out of the sun to prevent any more. Ms. Leichter stated she has a boxer dog, and boxer dogs have small noses so it is hard for her to be out in the sun for long periods of time because of her

breathing. She starts to pant and it also can cause heat stroke. Ms. Leichter stated her Vet said her dog should only stay out for ten to twenty minutes because it is not good for her to be in the sun for long periods of time. Ms. Leichter stated a few years ago she lost her husband suddenly, and her dog is “her life and is all she has left from what she and her husband shared.”

Ms. Leichter stated right now she and her dog sit under a portion of a tree when the shade comes out one part of the day usually later in the day. She stated when they sit under there everything falls on them from the tree or they “have to sit where the gnats are,” and it would be much better if they had the overhead.

Ms. Leichter stated she is a law-abiding citizen and a Board member for the Association in her neighborhood, and she always tries to help her neighbors especially when they call upon her.

Ms. Leichter stated in summary both she and her dog need to stay out of the sun which is why they are asking for this overhead which is only to go over the existing porch which is already there. She stated she is looking for a peaceful and safer place for herself and her dog to sit out back.

Mr. Zamparelli stated they will be encroaching on the rear setback. Mr. McGill stated they recognize that, and they are asking for relief due to the hardship that it is a corner Lot. He stated the existing building footprint is pretty much completely filling all setbacks. He stated had it not been a double-front property, there would have been more area that could have potentially been developed on.

Ms. Leichter stated the roof cover is only for part of the porch.

Mr. Tritt stated it will be open, and it will not be enclosed; and Ms. Leichter agreed. She added it is just a roof. Mr. McGill stated they are not putting in a full foundation, and they would just be putting in footers at the two posts which would support the roof.

Mr. Connors stated the existing porch is a ground structure.

Mr. Tritt suggested that they pull the cover back. Ms. Leichter stated she just wants there to be an overhead. Mr. Zamparelli asked how much she would be comfortable with. Mr. Flager stated she is requesting 26’ 11” and 40’ is required.

Mr. McGill stated they were proposing the roof to be just over 17' in depth. He stated from his experience 12' is "usually pretty good" and is suitable for a patio table, chairs, and a relatively comfortable passage around it. He stated if they were to reduce the overhang back to 12' that would be a 5' difference.

Ms. Leichter asked the Board if they are saying it is too big "long or width." Mr. Zamparelli stated it is the setback and how close it is. Ms. Leichter stated they are asking for 26', and she asked if it could be 23'. Mr. Zamparelli asked Ms. Leichter if she could go to 12' which would be a 32' setback.

Ms. Leichter asked if she would have to take down the cement porch; and Mr. Connors stated the porch can remain, but the Board has a concern about the size of the Variance being requested for the cover. He stated the Zoning is concerned about the cover/structure and not the patio. The proposal is for the structure to come out approximately 27' from the property line, and he is concerned that is too close to the property line. He stated he would be comfortable with 32' which means the cover would have to be pulled back closer to the house. Ms. Leichter stated that would not make her yard any smaller, and Mr. Zamparelli stated it would make the overhang smaller.

Mr. Dougherty stated the patio would be semi-covered, and about two-thirds of the existing patio would be covered from the house and then two-thirds out. Ms. Leichter stated the furniture would then not be underneath. Mr. Solor stated 12' of it would be covered.

Mr. Connors stated Ms. Leichter could request a Continuance to consider this further, and come back at a future meeting. Mr. McGill asked if they would have to update it and re-submit it; and Mr. Connors stated the Board could approve the setback tonight, and they would then work with Mr. Majewski.

Ms. Leichter noted on the Plan where the overhead would come to if she agrees with Mr. Connors. Mr. Tritt stated she could use umbrellas or other ways to have shade as well, and he feels what has been suggested is a great compromise. Mr. Dougherty stated this is not something unusual, and it will look fine.

Mr. Solor asked Ms. Leichter if she would like to have a Continuance so that she can come back before the Board in a couple of weeks. Mr. Flager suggested that the Applicant take time to discuss this further with her contractor while the Board considers the next Appeals, which she agreed to do.

APPEAL #21-1920 – JULIA SKOLNIK
Tax Parcel #20-057-172
1072 GAREY DRIVE, YARDLEY, PA 19067

Ms. Julia Skolnik 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.

Ms. Skolnik stated they would like to install a fence almost to the edge of their property which goes over a Sewer Easement.

Mr. Zamparelli stated if access is needed to the Easement, the Applicant would have to take the fence down at her expense. Mr. Majewski stated the Easement that is on the property is a Storm Sewer Easement, and there is a pipe that runs through the Storm Sewer Easement. He stated in the event that the Township at some future date has to repair or replace the pipe, the fence would need to be removed and replaced at the Applicant's sole expense. Ms. Skolnik stated she would agree to that.

Mr. Solor stated the Plan provided shows an inlet on the property corner, and it looks like it is the high end of the pipe. He asked about fence footers on top of that, and he asked if it should be set back a couple of feet to remove the risk of putting fence footers into the pipe. Mr. Majewski stated he would agree that the fence should be pulled back about 2' off the property line to make sure they do not poke a hole in the pipe when the footers are put in for the fence. Ms. Skolnik asked if it would just be in the corner or should it be all the way along the edge; and Mr. Connors stated it appears that the pipe runs along the rear property line, and the fence should be pulled in 2' all across it. Mr. Majewski stated that would just be in the area where the Easement is – not on the sides of the property on each side of the house.

Ms. Skolnik asked if it could be 1'. Mr. Solor noted the width of the post and the footer. Mr. Majewski stated while they could determine this in the field, he feels 2' is reasonable. Ms. Skolnik agreed to the 2'.

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

Mr. Connors moved to approve the Appeal for the installation of a fence along the property line within the rear property line Easement subject to an offset of 2' from the storm sewer.

Ms. Skolnik stated looking at her Lot it appears that there is 10' that is on the Sewer Easement, and she asked if they mean 2' in from that 10', and it would be 10' from the property line.

Mr. Connors agreed it would be from the property line.

Mr. Solor stated the other contingency to be added is that she will remove the fence at no cost to the Township when access is required to the storm sewer.

Ms. Skolnik stated she would agree to that but asked that she be reminded what the circumstances would be when the Township would need it to be removed. Mr. Connors stated it would be if they need access to the pipe if it breaks or if there is maintenance going on. He stated they would bring in an excavator to access the pipe, and they would take down the fence that is in the way. Mr. Connors stated they are allowing Ms. Skolnik to install a fence within the Easement for the Sewer with the understanding that the Township would not absorb any additional cost to remove the fence and then reinstall it. Ms. Skolnik agreed.

Mr. Majewski stated this development was done in the 1990's and the pipe that was installed is concrete pipe and typically that will last at least one hundred years. Mr. Majewski stated the only problem that you occasionally have is that the pick holes that they use to pick up the pipe can have a piece of concrete used to plug it will collapse in and will suck soil in and the Township would have to dig down a couple of feet to re-plug the hole which is another reason to pull the fence in a few feet off the top of the pipe. He stated generally concrete pipe lasts a very long time.

Mr. Tritt seconded the Motion, and the Motion carried unanimously.

APPEAL #21-1921 – BRIAN & MELANIE PARKER
Tax Parcel #20-020-135
24 HIGHLAND DRIVE, YARDLEY, PA 19067

Mr. Brian Parker and Ms. Melanie Parker were sworn in along with Mr. Rob McCubbin from Anthony and Sylvan Pools.

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. McCubbin stated they are requesting two Variances one for impervious surface and the other for an existing shed. Mr. McCubbin stated the property is 14,476 square feet and holds an impervious limit of 24% or 3,474 square feet. He stated the property currently has an existing impervious coverage of 26.5%. He stated the existing dwelling is 2,065 square feet, the existing driveway is 1,479 square feet, a front walkway is 191 square feet, and the shed is 100 square feet which brings them to 3,835 or 26.5%.

Mr. McCubbin stated they are looking to build an in-ground concrete pool with a patio. They have a proposed a pool coping area of 94 square feet. The pool equipment pad which would consist of the filter, heater, and all mechanicals for the pool would be 24 square feet, and there would be 600 square feet of pool deck for a total of 718 square feet. Mr. McCubbin stated when you add the total existing and proposed it gives them 4,553 square feet or 31.51%.

Mr. McCubbin stated they have a Stormwater Management Plan for the project which will mitigate back down to 24% so the Stormwater Management Plan is not just designed for the 718 square feet they are adding, and it is designed for the full 806 square feet that they are over the 24%. He stated they would comply with any Township engineer recommendations on modifications to that Plan as they go through the engineering process. He stated they would also have the Operations & Maintenance Agreement filed with the Township for the Stormwater Management system itself. He stated the Stormwater Management system is an infiltration system that is 3' deep, 3' wide by 37 ½' long on the downhill side of the property to capture the excess rainwater that is coming off the property.

Mr. McCubbin stated with the Plan they are technically improving the drainage on the property because they are taking into account what they are already over.

Mr. Zamparelli asked Mr. Majewski if the calculations are correct; and Mr. Majewski stated that what Mr. McCubbin has stated is correct, and the calculations are accurate.

Mr. Zamparelli stated Mr. McCubbin indicated that they are putting a new patio in; however, Mr. McCubbin stated it is just the sidewalk around the pool.

Mr. Parker stated he was also told that he would have to request a Variance for the shed that has probably been there twenty years well before they purchased the property. He stated it is required to be 10' from the property line, and he is requesting that they keep it as it is. Mr. Zamparelli stated it seems to be 3' off the property line. Mr. Parker stated he does not know exactly where the property line is, and he was just looking at where the fence line is. Mr. McCubbin stated it is 1' off the side property line. Mr. Zamparelli asked about having it at 3' instead of 1'. Mr. Parker stated the shed has been there for years.

Mr. Zamparelli asked if there is a Permit for the shed, and Mr. Majewski stated he is not sure if a Permit was ever obtained for the shed.

Mr. Connors asked what is in the shed; and Mr. Parker stated there are tools, lawn mowers, and it is used for storage.

Mr. Zamparelli asked if it could be moved over 2'; however, Mr. Parker stated he does not feel they could since it may fall apart and would not withstand any movement.

Mr. Dougherty asked if the shed has a concrete pad underneath it, and Mr. Parker stated it does not. He stated there are many houses in the Township which have their sheds along that line as well. Mr. Zamparelli asked Mr. Parker how he takes care of the area between the shed and the property line. Mr. Parker stated there is a fence along the side of the fence, and they pull out any weeds that grow there.

Mr. Alex Hraur, 26 Highland Drive, stated he is the property adjacent to the Parkers next to the shed. Mr. Hraur was sworn in. He stated he has no immediate conceptual objection to the Appeal or Variances at hand, and he has no objection to the shed remaining as is. He stated his only potential concern is increasing the impervious surface and any effects it may have on his adjacent property. He stated his back yard is subject to some degree of flooding in heavy rain events, and he would like to be assured that this requested project will not worsen this condition if granted. He stated since there will be less impervious surface to absorb rain events, he would like some assurances that water run-off will be managed as part of the approval process so as to not to cause any additional challenges to his property.

He asked if water run-off will flow onto his property at a higher rate than currently accustomed, and he asked if new water run-off from the new concrete patio be managed, channeled, or drained so as to not sheet directly onto adjoining back yard properties. Mr. Hraur also asked how pool overflow dumping will be managed.

Mr. Hraur stated ideally design considerations are being made to direct any excess water to the front portion of the Applicant's property onto the street without imposing any new ill side effects to adjoining back yard properties. He asked for a clear explanation of these water run-off concerns in order to alleviate his concerns and so that he can better support this Appeal request.

Mr. Zamparelli stated the design incorporates an infiltration trench that has to be engineered so that the excess water is taken up, and that water will be directed toward the trench and not Mr. Hraur's property.

Mr. Zamparelli asked Mr. Hraur if he is indicating that he gets water from this property now, and Mr. Hraur stated he has an issue with run-off from the other property which has to do with a previous owner.

Mr. Connors stated they are installing a stormwater management system to compensate for the added impervious. Mr. Hraur stated he just wants assurances so that he does not have a pool in his back yard.

Mr. Tritt stated currently they are at 26%, and they are going to be taking that down to 24% so that even with the additions that are being put in, the effective impervious will be brought down in line with where they are supposed to be so that should be a better situation.

Mr. Hraur stated as long as he is assured that he will have no issues, he has no issue with this. Mr. Zamparelli stated it will be an improvement. Mr. Hraur asked if he could get anything in writing. Mr. Flager stated the Variance granted would most likely be granted with the Condition that the effective impervious rate would be brought down to 24% meaning the effective rate is lower than what it is currently, and that will be in writing. Mr. Solor stated that means that there should be less run-off than there is now. Mr. Flager stated it will be done with the approval of the Township as far as the specifics of the stormwater system.

Mr. Thomas Lien and Ms. Katie Lien, 7 Plymouth Lane, were present. Mr. Lien stated their back yard is connected to the Parkers' back yard separated by the fence.

Mr. Thomas Lien and Ms. Katie Lien were sworn in.

Mr. Lien stated they have lived in Yardley for over forty-five years, and the Parker property has changed hands many times. He stated Mr. and Mrs. Parker are "amenable," and if they decide to build a pool they do not have any objection; and the only concern they have is about the stormwater run-off. He stated the stormwater currently runs from west to east.

Ms. Lien showed the Board a picture she had taken. She described how the water flows and the slopes. She showed the lowest part of her property; and if there is heavy rain, that becomes a pond. She asked how they will take care of the drainage so their property does not become a pond.

Mr. Zamparelli stated it will be engineered.

Mr. Tritt showed Ms. Lien the Plans and where the water will be captured adding they will be bringing down the impervious surface back to 25% so they are actually improving their contribution to the area so it will be much better than it was before.

Ms. Lien asked where will the water flow go. Mr. Solor stated the water will stay on the Parker property. He stated they will dig a big trench and fill it with stone. That will be covered over so that it is not seen, but below grade there will be stone with spaces between the stones so when there is a lot of water it will go into that and fill the spaces between the stones, and then gradually soak into the ground. Mr. Tritt stated there will be a containment berm right in front of it as well.

Mr. Lien stated the project also calls for building a 6" "impoundment berm/dike," but he does not know what side that will be on. He stated if that is built on the one side, it will push the water into his side. Mr. Connors stated it is on the joint property line, and they are looking to capture any run-off from his pool area by a series of swales to their infiltration system that they are digging. He stated they are putting a berm on the back side of it between his property and the Lien property to help capture the water. Mr. Lien asked if the berm will be closer to the fence, and Mr. Connors agreed. Mr. Lien stated it could overflow. Mr. Connors noted there will be swales to capture the water and bring it to the right location. Mr. Connors stated what they are providing

is a swale on the rear property line that pushes the water into the infiltration system, and there is also another swale that is on the near side between the pool and his house that also pushes water to the infiltration system.

Mr. Lien stated the berm is closest to the fence meaning that it is taking care of that side. Mr. Zamparelli stated the water will go right into the trench, but anything that is on Mr. Lien's side, Mr. Lien will keep. Mr. Zamparelli stated they will be grading the ground so that the water swales into the trench. Mr. Lien asked if the Board feels that this will assure that they will not affect the stormwater run-off, and Mr. Zamparelli stated it will be better. Mr. Connors stated all of the stormwater will not disappear; but they are designing it so that whatever is added along with a little bit more will go into the stormwater management system, and there will be no adverse effect.

Mr. Zamparelli stated the drawing shows how the water will go. Mr. Tritt stated the design will minimize the impact that the Liens receive from the Parker property, and it will be a better situation for them.

Mr. Connors noted the existing crushed stone area to be used as a construction entrance, and he asked if that will stay or be removed at the end. Mr. McCubbin stated that is existing stone coming off of the driveway. Mr. Parker stated that is an existing stone area, and they have a camper parked on it. Mr. Zamparelli asked how they will know that the construction vehicles are not dragging the mud out into the street during construction. Mr. Majewski stated they will make the Township engineer aware of that; and as they review the Plans, they will make sure that the proper procedures are followed in order to make sure that works out. Mr. Zamparelli stated when the construction is done, the stone should be put back in its original condition which would be the responsibility of the contractor, and the Township will inspect that.

Mr. Zamparelli stated he has no problem with the shed. He stated if they were to change the shed, they should move it out and get a Permit for it.

Mr. McCubbin stated if the shed does slide, he believes that there is a 10' setback requirement from a roof structure in the Township for the pool; and Mr. Majewski agreed. Mr. McCubbin stated if the shed slides, the pool would have to go with it. Mr. Zamparelli stated if they change the shed, they are not going to be able to put it in the current location, and Mr. Parker stated they do not plan to change the shed.

Mr. Tritt moved, Mr. Solor seconded and it was unanimously carried to approve as submitted.

APPEAL #21-1919 – SHARI LEICHTER
Tax Parcel #20-060-312
532 CLARENDON COURT, YARDLEY, PA 10067 (Continued)

Mr. McGill stated they had been talking about changing this to a 32' setback, and Ms. Leichter would ask for a 30' setback which would allow for a 14' roof cover.

There was a question about where the sun is oriented in relation to the back yard. Mr. Majewski stated the property is oriented so that the front of the house faces Clarendon Court which is on the west, and the driveway on the side of the house goes out to Longmeadow and that is on the north side. He stated the existing patio is on the east side of the property. Mr. Zamparelli stated they would get the morning sun there, and Mr. Majewski agreed.

Mr. Zamparelli stated he would be in favor of keeping the setback at 32' which he feels is reasonable since 40' is required.

Ms. Leichter asked if the reason is because her house is on the end. Mr. Connors stated he understands the need for the Variance because there are two front yards which pushes the house back; however, he is concerned that pushing into the rear setback will impact the character of the neighborhood and the neighbor. He stated the Board is trying to allow Ms. Leichter to make her home work better, but they also have to have an understanding of what the impact is to other people's property and the neighborhood. He stated he would be in favor of the 32' setback.

Ms. Leichter stated it is making the porch 5' smaller. She stated even if she got an awning it could not go all the way out to the porch; however, Mr. Tritt stated she could put up an awning. Mr. Connors stated she could put an umbrella up since that would not be a structure. Ms. Leichter stated there could be problems with bad storms. She stated she would rather have a stronger overhead. Mr. Zamparelli stated he feels the 32' is a good compromise.

Mr. Tom Amendolari, 1213 Longmeadow Lane, was sworn in. He stated he is adjacent to Ms. Leichter's home, and he is the last home on Longmeadow Lane. He stated many years ago there were no homes behind them, and it was all woods; and then they put a number of homes on Clarendon.

He stated he appreciates the Board's concern about the 40' Variance since it is "obviously 40 for a reason." He stated that home encroaches on his home on Longmeadow once they took the trees down and put the homes in on Clarendon. He stated the real issue is the same one that has come before the Board on all of these Appeals which is the run-off. He stated there is a "very terrible water saturation issue between their homes." He stated that was somewhat mitigated by some very large privacy pine trees that were taken down to accommodate a fence; and with the removal of the trees went the shade that the property owner "now seems to want to replace with a patio cover." He stated the absorption of the water has been reduced as a result of the removal of the trees. He stated he is concerned that anything less than a 40' Variance will continue to contribute to the saturation issue between their homes. He stated the homes on Clarendon were "shoehorned in," and the spacing between his side yard on the west-facing to Ms. Leichter's east-facing is very limited. He stated to the extent that this cover contributed to additional run-off which is what he is envisioning with a slanted roof without the benefit of the trees that were there he is concerned about increased saturation and inability to remove the water.

Mr. Zamparelli stated he does not believe that there is an impervious surface issue on this Appeal. Mr. Tritt stated the patio has been there a while which is impervious cover already so this is not an impervious cover issue at all. Mr. Connors stated the cover that is being proposed is already over an existing impervious surface.

Mr. Amendolari stated he feels the Board's point about the aesthetics were valid and relevant, and they should take that into consideration as well. He stated he feels there is a reason why it is a 40' setback, and he does not quite understand the compromise down to 32'.

Mr. Amendolari asked now that he is a Party, what would he do if they approve the 32', and he wants to Appeal this further. Mr. Flager stated he would first need to request Party Status, and Mr. Amendolari stated he is requesting

Party Status and is opposed to the Variance. Mr. Flager stated he would be notified; and after the Board makes its decision, he would have the right to Appeal that to the Court of Common Pleas.

Mr. Connors asked Ms. Leichter if she had talked to her neighbor about this issue, and Ms. Leichter stated she did not but the sign was on her property. Ms. Leichter stated the overhead is not near Mr. Amendolari's house.

She added that he is concerned because previously she took trees out to put her fence in. She stated the trees were on her property and she took them out to put in a "beautiful \$20,000 fence in." She stated she "could have put in an ugly fence." She stated she had to do this for her dog's sake. She stated the trees in her back yard took up her whole back yard. She stated the overhead has nothing to do with the trees or run-off. Ms. Leichter stated she did not ask Mr. Amendolari about the overhead, and she did not know that she had to. Mr. Zamparelli stated while she did not have to, the Board was just asking if she did. Ms. Leichter stated they do not talk to her now.

Mr. Tritt moved, Mr. Connors seconded and it was unanimously carried to approve a minimum 32' rear yard setback.

There being no further business, Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to adjourn the meeting.

Respectfully Submitted,

Matthew Connors, Secretary