

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – MAY 16, 2011

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on May 16, 2011. Mr. Smith called the meeting to order at 7:10 p.m.

Those present:

Zoning Hearing Board:            Gregory J. Smith, Vice Chairman  
   Jerry Gruen, Secretary  
   Anthony Zamparelli, Member  
   James McCartney, Alternate Member  
   Mark Moffa, Alternate Member

Others:                                 Robert Habgood, Code Enforcement Officer  
   James Majewski, Township Engineer  
   Barbara Kirk, Zoning Hearing Board Solicitor

Absent:                                 Paul Bamburak, Zoning Hearing Board Chairman  
   Keith DosSantos, Zoning Hearing Board Member  
   Dan McLaughlin, Supervisor Liaison

APPEAL #11-1587 – GARY AND DANIELLE ABRAHAMS

Ms. Kirk stated this Application was heard on April 19, 2011 for the property at 1483 Revere Drive. She stated the Applicants are requesting a Variance from Section 200-23B of the Zoning Code. This Section allows for impervious surface coverage of up to 18%. She stated the current coverage at the property is 25.6%, and the Applicants are requesting an increase to 30.5% in order to construct an in-ground swimming pool with decking and coping. She stated the Applicant and the pool sales representative both appeared at the last meeting to explain the reason for the increase in impervious surface coverage. She stated there was a proposal to install a stone seepage bed which would effectively reduce the amount of stormwater drainage. She stated there was also discussion about the proposed size and depth of the seepage pit. Ms. Kirk stated the Applicant further indicated that he had removed a rear wood deck and installed a paver patio without a Township Permit.

Ms. Kirk stated two members of the public did request Party status – Carol Crotty on behalf of herself and her husband, Edward, at 1470 Clinton Drive who were opposed to the Application due to stormwater drainage issues, and John Noto at 1466 Clinton Drive who is the rear neighbor who voiced concern with stormwater drainage. Ms. Kirk stated Mr. Noto is present this evening represented by counsel, Paul Cohen, Esquire; but Mr. and Mrs. Crotty are not present this evening.

Ms. Kirk stated the Board continued this matter as they had questions about the proposed seepage pit in order to reduce the amount of stormwater drainage. She added that at one point during the discussions at the last Hearing, the Board questioned the Applicant if he would agree to construction of a seepage pit to reduce the effective amount of impervious surface coverage, which pit would be constructed subject to the Township engineer's approval. She stated Mr. Abrahams asked for a Continuance in order to discuss this with other professionals.

Mr. Abrahams stated to date he has spent approximately \$2,750 on Applications, topographical surveys, stormwater management calculations, and Plans to ensure that the pool they wish to install in their yard addresses all concerns about impervious surfaces and other water-related issues. He stated he is not a physicist, mathematician, or engineer nor does he have these experts at his disposal; and he is also not represented by an attorney. He stated he is a good, tax-paying citizen who is looking to enjoy the same benefits that so many Yardley Hunt homeowners have been able to enjoy for years. He stated countless homes in Yardley Hunt have pools, but he has been told by his neighbor that it will never happen in his yard.

He stated following the last meeting, he approached both his neighbors to try to address their concerns. He stated he was told that one was too busy with school and the other was not home. He stated subsequently when he saw Mr. Crotty in his yard and asked to speak to him, Mr. Crotty's first words to him in years were, "I'm going to be honest with you, I'm going to fight this to the end. I plan to exercise my common-law right to protect my property." Mr. Abrahams stated he went on to say that even if it were approved and the Plans were acceptable from a legal perspective, he would still fight this; and he did not see foresee any possible engineered Plan being able to address his concerns.

Mr. Abrahams stated frustrated and disappointed, they have since put their house up for sale; but they would prefer to remain in Yardley with a pool for the family to enjoy for years to come.

Mr. Abrahams stated he did speak to his neighbor, John Noto, today, and explained that he was committed to ensuring that the pool design would not result in any water issues for himself or his neighbors.

Mr. Abrahams stated he is not an engineer and does not have countless experts at his disposal; and he only has the Zoning Hearing Board and the Township engineer to give him assurance that the Pool design will address any and all concerns. He stated he has been told that the plan for the seepage pit remediates any current issues that exist, satisfies all requirements, and ensures that there will be no water issues caused by the pool.

Mr. Abrahams stated he feels his neighbors will do whatever it takes to prevent his wife and two children from trying to enjoy a better lifestyle. He stated they are asking for no more than so many of their neighbors already have, and he feels it is unfortunate that his neighbors have taken an existing “mud when it rains heavily issue” and are using it to stop them from getting a pool. He stated he does not feel this is a neighborly way to try to address an issue that effects his and their properties currently, and is certainly not caused solely by water from his property. He stated his neighbors have built large extensions to their homes, placed fences and a shed on the edge of his property; and he and his family have been gracious even though their lifestyle enhancement certainly had an effect on the aesthetics and other aspects of his property. He stated he wishes that he was given the same courtesy. Mr. Abrahams stated as a good neighbor he is willing to work with everyone to address the current “mud when it rains heavily issue” and ensure that their pool design does not make the current situation any worse, and he wishes he could say the same about his neighbors

Mr. Abrahams stated he and his wife have been active in the Yardley community, and he noted a number of activities they have been involved in. He stated he remains hopeful that the Board will rule in their favor so that the family can enjoy a quality lifestyle in Yardley.

Mr. Smith asked what they have done with regard to seepage pit size and mitigating the run off.

Mr. Tom Casey, Vice President of Sales for Anthony Pools, was present and stated there were questions about differences on the Plans with regard to the size of the seepage pit. He stated he has copies of a Plan tonight on which they corrected the dimensions on the proposed seepage pit. He stated it is now shown as 15' by 7.5'. He stated they still need to decide on the depth of the seepage pit whether it should be changed from 2' to 3'. He stated they are open to making this change and would agree to change this and re-submit the Plans. He stated the existing Plan shows 2'.

Mr. Casey provided the revised copies of the Plan which was marked as Exhibit A-3 and shows the revised Zoning Permit Plan as of today's date.

Ms. Kirk asked what is proposed by way of the seepage pit, and Mr. Casey stated they recognized at the onset of the Building Permit process that they would be in excess of the allowable impervious surface percentages. He stated the Plan, as he has been advised by the licensed surveyor, would meet the requirements in a manner which would get them back to 18% impervious groundcover calculations.

Mr. Cohen objected, but Ms. Kirk asked that Mr. Cohen allow them to continue with the presentation; and he would then be able to ask questions.

Mr. Casey stated in order to get the allowable impervious ground cover under control and remediate the water problems that exist currently, the seepage pit, at an expense to Mr. and Mrs. Abrahams, would remediate the problems. Mr. Casey stated there were calculations discussed previously, and Mr. Majewski offered comment on this. Mr. Casey stated he understands the concerns of the neighbors as it relates to the construction of the swimming pool and how it would effect stormwater run-off patterns; but he feels if nothing were built, it would still not resolve the problem. He stated they feel that by virtue of the pool construction and subsequent construction of the seepage pit, they will adequately and successfully remediate the water problem that exists.

Ms. Kirk stated the proposed seepage pit is listed as a proposed infiltration bed on Exhibit A-3 and would be constructed at the rear of the property behind the proposed pool and coping area, and Mr. Casey agreed. Mr. Smith stated it is proposed to be 15' by 7.5' by 3'. Mr. Casey stated they could do it at 3' deep, although currently it is shown as 2' deep.

Mr. Majewski stated in order to take the impervious surface proposed for the property back to what is existing from a stormwater management perspective it would require that the size of the stone infiltration bed or seepage bed be 3' deep, by 7.5' wide, by 15.5' long. He stated this would bring it back to what it is today which is 25.6% impervious surface.

Mr. Gruen asked Mr. Majewski how he arrived at this calculation, and Mr. Majewski stated the calculation was taken from Township Stormwater Management Ordinances which use the most common storm event. He stated it would take the stormwater that would come down and store it all underground. He stated the calculation also assumes that there is no infiltration through the soil and is just based on pure storage size between the gaps in the stone underground. Mr. Majewski stated typically you will see some infiltration; however, they have assumed there is none so that it is conservative.

Mr. Gruen asked what it would take to bring it to 18%, and Mr. Majewski stated to take it to an effective 18% impervious surface from a stormwater management perspective would require that the bed be 3' deep by 17' by 17' or roughly double the size.

Mr. Casey stated this would bring it beneath where it was today and would also come at some considerable expense to Mr. Abrahams. Mr. Gruen stated while they realize this, Mr. Abrahams installed a patio without benefit of Permit.

Mr. Majewski stated he also did a calculation to see what the size of the pit would need to be if they went to 21% which is approximately what it would have been if the patio had remained as a deck, and this would be 3' deep, by 15' by 15'.

Mr. Gruen stated Mr. Abrahams indicated in his opening statement that he was going to sell his house, and added this discussion might be a moot point if he is selling the house. Mr. Abrahams stated out of frustration and disappointment as to how things were progressing with his neighbors in this process, he did put his house up for sale; but it is not sold, and he would prefer to stay where he is and build a pool. Mr. Gruen stated even if the Board approves this, he will have to wait thirty days to allow time for his neighbors to go to Court if they choose; and if they do go to Court, it could be very expensive and take a long time to resolve. Mr. Abrahams stated he recognizes this.

Mr. Gruen stated Mr. Casey have indicated that the seepage pit would resolve some of the water problems, and he asked what are the existing water problems. Mr. Casey stated the neighbors immediately behind Mr. Abrahams indicated that they have a water problem. Mr. Abrahams stated the water problem is on his own property; and when they have heavy downpours, it can get muddy on the edge of the property. He stated he is indicating that he is willing to address the concerns not only of the water from the pool but also the existing water. Mr. Abrahams stated the problem is in the back where the two rear yards meets, and stated it does get muddy primarily on his own side. Mr. Gruen asked how long the water stays, and Mr. Abrahams stated it depends on how heavy the rain is and how sunny it then is.

Mr. McCartney asked Mr. Casey if he has done this type of installation on other properties, and Mr. Casey stated they have. Mr. McCartney asked the success rate, and Mr. Casey stated there have been no issues. He stated they do not design the installations, and they go to an outside agency to advise them what to do to correct a situation. He stated his licensed surveyor who has done a lot of work in the Township for years, advised him that by virtue of the swimming pool installation and the seepage pit and catch basin between the back edge of the swimming pool and the area where Mr. Abrahams property line abuts the neighbor to the rear, it should remediate anything from Mr. Abrahams back door out. Mr. McCartney asked if it "should" or "will" remediate it; and Mr. Casey stated it "will" in terms of the calculations that are done.

Mr. Abrahams stated his neighbor has indicated that what he believes is the issue is a Yardley Hunt issue caused by Toll. Bros. Mr. Abrahams stated Anthony/Sylvan has installed a number of pools in the development without any problems that he is aware of.

Mr. Gruen stated they are showing a catch basin, and he asked what it is draining to. Mr. Casey stated these are drains where they catch the ancillary run off. He stated there will be no visual evidence of the seepage pit when the project is completed because it will be below grade. He stated the visual evidence would be in the low areas where the catch drains would feet the seepage pit.

Mr. John Noto was present with his attorney, Paul Cohen. Mr. Cohen stated on the Plan they have marked out the limits of the disturbance, and he asked the limit of the re-grading. Mr. Casey stated the limits of construction disruption will be as stated on the Plan. He stated they can utilize the equipment to excavate the swimming pool and keep it within the limit of disruption area shown on the Plan. He stated the other part is the entrance and egress area mandated by the Township which is to be a stone construction entrance to minimize soil being carried out by the vehicles.

Mr. Cohen stated looking at the Plan it shows the pool and coping that goes out a few feet from the edge of the pool. Mr. Casey stated the coping is 1' wide, and there is a proposed decking. He stated because of the impervious cover, they are limited as to the amount of surface area that they can cover. He stated when it is finished, it will be raked and seeded. Mr. Cohen asked if the area beyond the decking will stay at its current grade, and Mr. Casey stated the proposed grades are for the finished product. He stated the existing grades are shown as dotted lines on the diagram, and the solid lines are the proposed grades.

Mr. Cohen stated looking at the Plan to the southeast there is a grade indicator of 153', and Mr. Casey agreed. Mr. Cohen stated on the other side of the topsoil stockpile, there is a dotted line of 152', and he asked if this will remain at 152' or will the whole area be raised to 153'. Mr. Casey stated beyond the back edge of the equipment, they are going to carry the dotted line of 153' into a solid line further toward the back property line, looping around, touching the stockpile of topsoil location, and then it blends back into the 153' which is dotted. He stated the proposed grade would take the 153 and grade it down to meet on either property line to what the existing grade is.

Mr. Cohen stated Mr. Noto's home is behind the topsoil stockpile, and it appears that the higher grade is going to move close to his property. Mr. Casey stated they will get to the 152 where it exists now before you get to the area of the topsoil stockpile. Mr. Cohen stated the area that was 153 will be moving back toward his home, and Mr. Casey stated it depends on where you hold the tape. He stated if you are looking right in front of the

stockpile, where the dotted line joins the solid line, the answer to Mr. Cohen's question would be "no." He stated as you move over from left to right toward the spa, the answer is "yes."

Mr. Cohen stated he assumes the topsoil stockpile is temporary, and he asked if it will be removed from the property or will it be used for the re-grading of the property.

Mr. Casey stated they hope to be able to pull some topsoil that is already existing and stockpile it for Mr. and Mrs. Abrahams to use when the physical construction of the deck is complete to re-grade.

Mr. Cohen asked how much soil will be on top of the seepage bed. Mr. Casey stated the cross-section to the left shows it is 6" to 12" below. Mr. Cohen stated there are two catch basins, and Mr. Casey agreed. Mr. Cohen asked if there is an actual entry into the seepage bed by the seepage bed or is it just the two catch basins, and Mr. Casey stated it is just the two catch basins. Mr. Cohen stated any water heading in a southeasterly direction during a rain event would bypass the catch basins and just flow naturally to the lower grade. Mr. Casey stated in the center of it, there is an inflow and overflow relief grade. Mr. Cohen asked the size of this, but Mr. Casey stated he could not tell specifically how big this is. Mr. Smith stated at the top view it appears to be 6". Mr. Cohen stated this extends on the right half of the seepage bed, and Mr. Casey stated it is a center pipe and what is going laterally left and right is being fed to the seepage bed by the catch basins.

Mr. Cohen asked if the ground is sloped so that all the water collects at the catch basin, and Mr. Casey stated it is not. He added that the grade is a gradual grade as the survey suggests. Mr. Cohen asked if the catch basins are to scale on the Plan, and Mr. Casey stated everything is to scale. Mr. Cohen stated he is concerned that it does not seem that they are going to get a lot of water going into the seepage bed because there are only two little entrances on either far end of the proposed construction. Mr. Casey disagreed based upon the surveyor's assessment of how the stormwater pattern is based on the topographical lay out and where the stormwater will go. He stated it is indicated on both sides with the grades that depict the stormwater, and the path of the arrows go directly to the catch basin. Mr. Casey showed the arrows on either side of the pool decking going from the high grade on the right, looping around behind the diving board, and then the grade takes it directly into the catch basin to the right. He stated similarly on the left side as you move from the existing paver patio onto the pool deck proposed, it goes to the left by virtue of the grade.

Mr. Cohen stated anything that would fall between those two arrows will just naturally flow to the lower elevation. Mr. Casey noted the existing grade on the left side closest to Mr. Noto's property, and stated the dotted lines suggest that there is a definite swale probably built by Toll Bros, and that catch basin is at its lowest point. He stated their proposed grade will not interrupt this, and in fact will accentuate it. Mr. Cohen asked if that swale is lower than the grade that will be at Mr. Noto's property line so that the water instead of pooling into a stream during storm events, will come back into the catch basin.

Mr. Smith stated he is not sure that Mr. Casey is the best Witness to testify as to this since he did not design the Plans or the drainage seepage pit. Mr. Casey stated this was done by the licensed surveyor. Mr. Cohen stated while he understands this, he is just trying to determine what Mr. Casey understands from his knowledge.

Mr. Gruen stated if the Board were to approve this, it would have to be approved by the Township engineer.

Mr. Cohen stated the Plan does not show any trees to be removed, and he asked the number of trees they will remove, noting a specific area on the Plan. Mr. Abrahams stated he is not sure how many trees they have now in the back left corner, and they plan to remove a number if not all of them. Mr. Cohen stated he feels the removal of the trees will have an effect on the stormwater and run-off of the property, and he does not know if this was taken into consideration when calculating the proposed size of the seepage bed. He stated he is not sure if other growth or trees along the rest of the property will be removed as part of this project.

Mr. Abrahams stated he and Mr. Noto did discuss removal of the trees and felt it would be a benefit because it would dry out the wet areas quicker. He stated if he is told to remove the trees, he would remove them; and if he is told not to, he will not remove them. He stated he wants to get a pool.

Mr. Cohen asked if Mr. Abrahams has considered moving the pool further away from the back property line and moving it closer to his own home, and Mr. Abrahams stated he is open to doing whatever it takes to make sure there is no issue. He stated he has already put countless hours and \$3,000 into a design; and if his neighbors have any suggestions on how they could be comfortable with this, he would be happy to hear it. Mr. Cohen stated Mr. Noto is not opposed to the entire idea, but he is concerned that there is a substantial amount of water that comes from Mr. Abrahams' property, runs along the back property, and infiltrates his property quite substantially. Mr. Cohen stated Mr. Noto has requested moving the Pool. Mr. Cohen stated there is a lot of space on Mr. Abrahams' property to the northwest side closer to Mr. Abrahams' home that would have less of an effect on Mr. Noto's property that is already substantially effected by the runoff.

Mr. Abrahams asked if they are suggesting that Mr. Noto's property is substantially effected by the water today, and Mr. Cohen agreed.

Mr. Smith stated Mr. Abrahams will have an opportunity to question Mr. Noto after he has testified.

Mr. Cohen asked Mr. Abrahams if he would consider moving the pool away from the property line; and Mr. Abrahams stated if he has to have flexibility in how this is done in order to get it done, he is not unreasonable. He stated he would not put it on the edge of his driveway in order to make his neighbor happy.

Mr. Zamparelli stated Mr. Abrahams has indicated that he is willing to consider handling the water, and he must meet the requirements of the Township engineer.

Mr. Cohen stated they are willing to work with the Applicant in order to get to a point where he has some assurance that there is not going to be any increase in the water run off onto his property. Mr. Cohen stated he understands from Mr. Majewski that in order to bring the property back to where it was before the current deck was installed which added impervious surface to the property, it would require a substantially larger basin. Mr. Cohen stated his concern is to make sure that the water is effectively being captured into the basin and it is serving its purpose. He stated he feels there have been efforts by Mr. Noto to try to work with Mr. Abrahams on coming up with a Plan that would have less of an impact on Mr. Noto's property, but he does not feel there has been a great level of cooperation. He stated one of the Township requirements is that it be the least Variance that would be required, and he does not know that this is what is happening in this case. Mr. Cohen stated there are pervious pavers that could be considered for both the decking around the pool as well as the patio and other methods of offsetting the run off that could be considered. He stated they also do not have the benefit of the Applicant's engineer to really question the effectiveness of what has been proposed.

Mr. John Noto was sworn in. Mr. Noto stated his property is in the back left hand corner behind the stockpile shown on the diagram. Mr. Cohen asked that Mr. Noto describe the ground in Mr. Abrahams' yard leading into his yard. Mr. Noto stated he made three attempts to call Mr. Abrahams, and he did speak to him today. Mr. Noto stated because Mr. Abrahams had an issue with another neighbor, Mr. Abrahams assumed that it was a waste of their time to discuss the pool. Mr. Noto stated his intention was to meet with Mr. Abrahams as was discussed at the last meeting, in Mr. Abrahams back yard with an engineer or whoever designed the Plan so they could explain what would happen with the grading of the yard. Mr. Noto stated this never happened because of an incident that occurred between Mr. Abrahams and another neighbor. Mr. Noto stated his concern is that Mr. Abrahams' yard is approximately four and a half higher than his, and the ground slopes before it levels off into his yard. Mr. Noto stated he knows that Mr. Abrahams has a problem now. Mr. Noto stated he does not have a problem unless there is heavy rain.

Mr. Noto stated his concern is that the slope and the swale will be interrupted. He stated he advised Mr. Abrahams today on the phone that if he can be assured that nothing will happen to his property as a result of this Plan, and that the water flow will go the same direction as now and will not change as a result of this project, that he would not be opposed. Mr. Noto stated he is not an engineer so he cannot state that he understands that what is proposed will protect his property. Mr. Noto stated he is not against the pool, but would like someone to explain how this will work and that the natural progression of the water during heavy rainstorms will go the way it goes currently and not come further into his property.

Mr. Abrahams stated Mr. Noto indicated that his home was four and a half feet higher than Mr. Noto's, and he asked what this is based on. Mr. Noto stated he is guessing this based on what it appears to be. Mr. Abrahams stated he feels everyone else's water seems to be running off onto his property, and he would ask the Board not to consider the four and a half feet since there is no evidence of this. Mr. Abrahams stated he feels that Mr. Noto is on record from the last meeting that he does not have a water problem currently and is concerned about a future water problem, but Mr. Noto indicated this evening that he has water in a heavy rain.

Mr. Abrahams stated he would like to make a statement since Mr. Noto made a reference as to what transpired since the last meeting. Ms. Kirk stated Mr. Abrahams opened up with a statement as to the attempts he made to speak to his neighbors, and the Board has the ability to assess Mr. Abrahams' credibility. Ms. Kirk stated Mr. Noto has also made a statement as to what he views as his attempts to speak with Mr. Abrahams, and the Board also has the ability to make a credibility determination.

Mr. Abrahams stated when they discuss needing to go through a Plan and get engineers, he felt that he had already done his part by spending \$3,000 to put together a Plan which he feels addresses the concerns. He stated he is not sure that he is obligated to hire an engineer to come to his property to make his neighbor comfortable, and he feels the Township engineer would serve in that capacity. Ms. Kirk stated Mr. Abrahams is wrong in assuming that the Township engineer will be the one to address those issues. She stated the Township engineer will review this as far as the Township's concerns, but as to providing opinions as to whether or not it meets what his neighbor is requiring or if there is something additional Mr. Abrahams needs to do, this is not the Township engineer's responsibility. Mr. Abrahams stated he understands that he presents a Plan, and the Township engineer will give an opinion as to whether or not this addresses any concerns; and he feels that he has done this.

There was no further public comment, and testimony was closed. A short recess was taken at this time.

The meeting was reconvened at 8:10 p.m. Ms. Kirk stated the Board had some legal questions about the request for a Variance, and they discussed this in Executive Session.

Mr. Gruen moved, Mr. Zamparelli seconded, and it was unanimously carried that the Variance be denied.

Ms. Kirk stated a short Decision will be issued. She added that because the matter was denied and there was opposition, the Board will issue formal Findings of Fact and an Order which will be sent to Mr. Abrahams within forty-five days from today's date. Ms. Kirk stated once that is mailed, there is a thirty-day period during which Mr. Abrahams can file an Appeal to Doylestown if he desires. She suggested that he speak to an attorney to understand what needs to be done if he wishes to seek an Appeal. Mr. Abrahams asked if the Findings of Fact will explain the basis for the conclusion, and Mr. Kirk agreed it will be a multi-page document from the Board explaining everything for the basis of the Denial.

#### APPEAL #11-1588 – GEORGE AND LINDA MCDAVID

Ms. Kirk stated Mr. and Mrs. McDavid own property at 1346 Lexington Drive, and filed a request for a Variance from impervious surface coverage under Section 200-23B of the Ordinance. She stated this Section permits 18% as the maximum coverage. She stated they currently have 21.26% impervious surface, and they are proposing an increase to 23.5% in order to construct a 288 square foot addition which would involve removing an existing covered porch and expanding a patio so that the patio and addition together would increase the impervious surface to 23.5%. Ms. Kirk stated Mr. McDavid was at the last meeting and explained to the Board that the addition would provide more living space for the owners, and that the patio would also give them more living space outside. Ms. Kirk stated they are looking to do EP Henry style brick for the patio, but had not decided whether they were going to do strictly the pavers, brick, or concrete. The Board asked questions about possible installation of a dry well facility to help reduce the effective rate of impervious surface coverage.

Mr. Smith asked Mr. McDavid if he has given any additional thought to the type of pavers. Mr. McDavid stated he has done some research and discussed the situation with Mr. Majewski, and they did some calculations. Mr. McDavid stated he would like to mitigate the increase in impervious surface with catch basins/dry wells. He stated there are two existing dry wells on the property. He stated the one in the rear of the property is approximately 7' or 8' by 7' or 8', and the one in the front is approximately 4' by 12'.

Mr. McDavid stated he discussed this with Mr. Majewski, and he calculated that they need to account for the increase in impervious surface and come up with approximately 205 cubic feet of retention basin. Mr. McDavid stated he feels that this already exists based on what they already have.

Mr. Kirk asked Mr. McDavid, if the Board were inclined to grant the relief, would he agree to a specific Condition that he would construct or install a stormwater management mitigation system such as a dry well as approved by the Township engineer; and Mr. McDavid stated assuming that what he has is not sufficient, he would agree to this.

Mr. Smith stated the property is currently at 21.26%, and he understands that Mr. McDavid would be willing to place whatever mitigating devices are needed to keep the impervious surface at an effective 21.26%; and Mr. McDavid stated he understands that in order to add the additional impervious surface, he would need to mitigate that with a certain amount of dry well. He added he feels that dry well already exists. He understands that what he is being asked is to commit to making sure it does exist if it does not already exist, and Mr. Smith agreed.

Ms. Kirk stated if the Board were inclined to grant the request, Mr. McDavid would have to either repair/replace the existing dry wells if they needed to be enlarged or deepened based upon the Township engineer's recommendation so that it would be as if he did not add anything more to the property; and Mr. McDavid stated he understands this and would agree to it.

Mr. Moffa asked if additional remediation is necessary, who would determine where that would go on the property. Ms. Kirk stated it would be subject to the Township engineer's approval. Mr. Gruen asked who would design it, and Mr. Majewski stated the homeowner would suggest a location, and he would then review it to make sure it would be acceptable. Ms. Kirk stated this is assuming that something new needs to be constructed. She stated Mr. McDavid has indicated that with the two existing dry wells, he feels this may be sufficient although they may need to be modified by deepening them or widening them, and Mr. Majewski agreed.

Mr. Moffa stated he assumes they have no indication as to the current depth of the existing dry wells, and Mr. McDavid stated he does not know. He stated Mr. Majewski did suggest that there is a standard depth, and they could assume that this is what they are. Mr. Majewski stated he feels 2' would provide enough volume, and 2' is a standard minimum size. Ms. Kirk stated it may be that the two dry wells Mr. McDavid already has on the property are sufficient to handle the additional impervious surface, and Mr. Majewski stated he believes that they do.

Mr. Zamparelli stated he felt at the last meeting the impervious surface calculation was 24.2% and the number on the Plan was wrong. Mr. Zamparelli stated this is the number they would need to mitigate to. Ms. Kirk agreed and stated whatever work is done as to dry wells or other additional stormwater management would effectively have to have an impervious surface ratio rate of 21.26%. Mr. Smith stated they would be granting a Variance for 24.2%, with an effective 21.26%; and Ms. Kirk agreed.

Mr. Moffa asked who would check the depth of the current well; and Ms. Kirk stated Mr. McDavid would supply the information to the Township, and Mr. Majewski would inspect to make sure that these are accurate measurements.

Mr. McCartney asked the location of the existing dry wells, and Mr. McDavid stated the one in the front is next to the driveway on the side toward the middle between the driveway and the tree. He stated the one in the back is on the left as you look at it from the front, on the left side of the existing tree in the middle of the property.

Mr. McCartney asked the size of the well in the rear, and Mr. McDavid stated it is approximately 8' by 8'. Mr. McCartney asked if this rear well handle the additional impervious surface, and Mr. Majewski stated it is the overall impervious surface and impact that they are looking at.

Mr. Moffa moved to Grant the Variance with the Condition that there be an effective rate of 21.26% impervious surface; and that if further remediation is necessary, it will be performed. Mr. Gruen seconded and amended the Motion that the maximum impervious will not exceed 24.2% and that effective impervious will stay at 21.26%. Mr. McCartney seconded the Amendment. Motion to approve the Amendment carried unanimously.

Mr. Smith stated there is a Motion to approve the Appeal so long as there are stormwater management systems in place to maintain an effective 21.26% impervious surface and the maximum actual impervious surface on the property does not exceed 24.2%.

Mr. McCartney agreed to second the Motion as amended.

Ms. Kirk stated Mr. Moffa indicated that he would make a Motion to approve the Variance request with an effective rate of 21.26% impervious surface so that it was implied that stormwater management be placed at the property in order to reach the effect rate of 21.26%. Mr. Gruen seconded the Motion and amended it to indicate a maximum impervious surface coverage not to exceed 24.2%; and she recommended to the Board an additional provision that the stormwater management facilities to reach an effective rate an effective rate of 21.26% must be approved by the Township engineer.

Mr. Gruen moved to approve the suggested Amendment, and Mr. McCartney seconded, and the Motion carried. Unanimously carried to approve the Motion as amended.

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

Respectfully Submitted,

Jerry Gruen, Secretary