

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – DECEMBER 1, 2020

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on December 1, 2020. Mr. Zamparelli called the meeting to order at 7:30 p.m.

Those present: Anthony Zamparelli, Chair/Temporary Secretary
Matthew Connors, Member
Peter Solor, Member
Michael Tritt, Member

Others: James Majewski, Director Planning & Zoning
Barbara Kirk, Township Solicitor (left meeting in progress)
Adam Flager, Zoning Hearing Board Solicitor
John B. Lewis, Supervisor Liaison

Absent: Pamela VanBlunk, ZHB Vice Chair

APPEAL #20-1873 – JEAN AUGUSTIN
Tax Parcel #20-054-089 – 3 RIDGE AVENUE, YARDLEY, PA 19067
(Continued from 10/20/2020)(Continuance requested to 1/19/21)

Mr. Zamparelli stated the Applicant has requested a Continuance. Mr. Flager stated the Applicant's counsel reached out to him as well as to Ms. Kirk and Mr. Majewski. They had an Amended Application which needed to be re-advertised. He stated he understands they will be withdrawing one of their requests. They have requested a Continuance until January 19, 2021.

Mr. Connors moved, Mr. Tritt seconded and it was unanimously carried to Continue the matter to January 19, 2021.

APPEAL #20-1882 – DANIELLE CARCIA
Tax Parcel #20-047-059 – 15 GLENOLDEN ROAD, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The impervious surface calculations were 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.

It was noted that Ms. Kirk is participating on behalf of the Township.

Ms. Danielle Carcia was sworn in.

Ms. Carcia stated they recently moved into the home, and it does not have a garage. They are applying to build a garage. Mr. Zamparelli stated they are looking to build a three-car garage. Mr. Zamparelli stated he feels this would be considered as a detached accessory structure similar to a shed. He stated they have a 10' setback which is permitted. The impervious surface will be increased, and he asked the plan for mitigating impervious surface back down to 23.7%. Ms. Carcia stated there is a large area of driveway behind the house which they will remove and they will make a smaller driveway so that the impervious surface will be less. Mr. Zamparelli asked what that would bring the impervious surface to; however, Ms. Carcia stated she did not have that calculation. Mr. Zamparelli stated the Board would need to know that it will back to what is existing, and the Applicant will have to work Mr. Majewski and the engineer on that number. It was noted that the permitted amount is 13%.

Mr. Majewski stated this is a section of the Township that was formerly the R-2 Zoning District, and there were no impervious surface requirements at the time the home was built. It was then re-mapped as R-RP/Resource Protection which has a lower number of 13%. He stated this home as well as most of the homes in the neighborhood already exceed the allowable impervious surface.

Mr. Zamparelli stated he understands that this is a large garage; however, he sees it as an accessory structure. He stated if they can reduce the impervious back to 23.7%, he does not have a problem. He stated there is no setback issue. He stated he understands that this would have to be in the back quarter of the Lot; and Mr. Majewski agreed it does, and that is where it is proposed.

Mr. Solor stated the Plan provided would suggest that they would need most of the driveway in order to access the garage, and he asked what portion of the existing driveway they are planning on eliminating. Ms. Carcia showed on the Plan where they would be taking out some of the existing driveway, and she stated she believes it would be at least the back one-third of the squared area behind the house although she does not have the exact calculations.

Ms. Carcia stated the access is on the right of the home, and the existing paved area in the back is in excess of what they need. Mr. Zamparelli asked how they would get to the garage doors since there are three doors. Ms. Carcia showed on the Plan the area that they would be removing. She added that one of the

stalls as noted in the Application would be primarily for storage of snow blowers, etc. so access via a vehicle would not necessarily be needed all the time, and it could be unpaved if needed to be.

Mr. Zamparelli stated of the three-car garage, one garage does not therefore have to have access by a car; and Ms. Garcia agreed. Mr. Zamparelli stated that was not indicated on the Plan so they do not know what the calculation would be if that is taken out. Mr. Majewski stated while it is a rough calculation, if they removed that portion of the driveway from the house to the third-car garage and just have the driveway come up to access the portion of the two garages and around, that would reduce the increase in impervious surface by about one third. Mr. Majewski stated it would be reduced by approximately 300 square feet, and that would decrease the impervious surface by about 2%.

Mr. Solor stated that still does not bring them down to the existing impervious surface. Mr. Zamparelli agreed, and he asked else what they would do to mitigate the rest to get it from 29% to 23.7%. Ms. Carcia stated they would be willing to put storm drainage systems in or whatever would be needed.

Mr. Zamparelli asked Mr. Majewski if they have an area on their property which they could utilize to reduce the percentage down to 23.7%. Mr. Majewski stated they would at the area where they would be removing the existing driveway; and since they would have to have equipment there to dig that up, they could put an in an underground infiltration bed in that area which could handle the run-off. Mr. Zamparelli asked Ms. Carcia if she is willing to do that, and Ms. Carcia agreed.

Ms. Kirk asked where this property is in relation to the Canal. Ms. Carcia stated they are on Glenolden Road which is the road closest to the River, and they are four roads away from the Canal. Ms. Kirk asked if any portion of the property sits within the existing floodplain, and Ms. Carcia stated it does not. Ms. Kirk asked if she has Certifications from anyone to verify that. Ms. Carcia stated she would be able to get those. Ms. Kirk asked how she knows that it is not within a floodplain; and Ms. Carcia stated when they purchased the home they looked into that, and they were assured, that it was not. She stated their homeowners' insurance does not require them to have flood insurance.

Ms. Kirk asked if any portion of the property sits within what would be designated by the Township as a floodway which is different from a floodplain. Ms. Carcia stated she did not know. Ms. Kirk asked Mr. Majewski if he is aware if any portion of this property sits within a floodway. Mr. Majewski showed the map of the floodplain area and the location of the property. He stated the blue

area on the map is the special flood hazard area which is regulated by FEMA and by the Township, the red area is an area of potential minor flooding during a much larger flood, and the purple area is the area of the floodway. He stated from the Canal the ground goes up several feet away from the Canal toward the River, and the high point is near the Applicant's property. Ms. Kirk stated their property is not therefore within any of the special floodway or natural resource areas that would otherwise require a Variance for construction, and Mr. Majewski agreed.

Ms. Kirk stated Ms. Carcia has indicated that she would be willing to remove at least 300 square feet of existing driveway in order to reduce the impervious surface coverage, and Ms. Carcia agreed. Ms. Kirk asked if the Board were inclined to approve the Application, would she agree to that Condition and set forth a specific area of no less than 300 square feet; and Ms. Carcia agreed. Ms. Kirk asked Ms. Carcia if she would also be willing to install an underground stormwater facility in that area to mitigate any additional impervious surface increase subject to the Township's approval, and Ms. Carcia agreed. Ms. Kirk asked if she would agree to that being a specific Condition imposed if the Board were to grant the relief, and Ms. Carcia agreed.

Mr. Tritt stated in looking at the Google Earth map of the property, the properties to the west and to the southwest appear to have existing garages that are probably 10' off of the property line as well so what is proposed seems to be fitting in with what has been standard in this neighborhood; and Mr. Zamparelli agreed.

Mr. Lewis asked if the property had a one-car garage previously, and Ms. Carcia stated it had a carport but that is now designated as a pergola; and that was constructed prior to when they purchased the home.

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

Ms. Carcia stated they did receive a letter from a neighbor who lives at 17 Glenolden which is next door to them, and they were in favor.

Mr. Zamparelli stated it appears the Applicant is willing to the terms discussed to reduce the impervious surface to 23.7% which is the existing impervious surface and agree to the Township specifications.

Ms. Carcia stated she understands they will be required to remove at least 300 square feet of the driveway and install the underground water system; however, she stated she does not feel that will bring the impervious to the original 23%. Mr. Zamparelli stated they would have to bring it down to 23.7%.

Mr. Solor stated installing the infiltration system counts toward that. Mr. Connors stated they are looking for an effective impervious surface. He stated this will require the actual removal of impervious materials which is the 300 square feet, and then there is the storm system that would remove the additional effects of the impervious that they are adding.

Ms. Kirk asked that the Conditions be specified for removal of no less than 300 square feet of driveway and the installation of the underground stormwater facility in that or any other approved area subject to the Township's approval that would have a net effect of impervious surface at the current amount existing.

The Applicant agreed to those Conditions.

Mr. Tritt moved, Mr. Solor seconded and it was unanimously carried to grant the Appeal subject to the Condition that the owners agree to remove a minimum of 300' of pavement and install an infiltration system to bring the net effective impervious cover down to the original 23.7%. The Board agrees to allow for a 10' setback on the side and a 10' setback on the rear of the property. All is subject to the approval of the Township.

Ms. Kirk left the meeting at this time.

APPEAL #20-1883 – FRANK A. & DIANE M. KARAM
Tax Parcel #20-039-379 – 889 KILBY DRIVE, YARDLEY, PA 19067

Mr. Edward Murphy, attorney for the Applicants was present.

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 outline of the relief requested prepared by Mr. Murphy was marked as Exhibit A-3. The impervious surface calculations were marked as Exhibit A-4. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Murphy stated almost forty-five years ago the Applicants built the home that is the subject of tonight's Application. He stated the property is slightly over 21,000 square feet in the R-2 District. He stated the maximum impervious limit there is 18%; however, it was not always 18% because when they built the house and for a number of years after that, there was only a building coverage limit, and there was no impervious limit. Mr. Murphy stated at this time the 18% is applicable. He stated some improvements have been made to the home over the last forty-five years including the installation of a deck and an addition for which they got a Permit, and they also did some walkways which are outlined in the Application which either did not require Permits or were installed when there was no impervious limit. He stated the current impervious surface is 20.31% in this District which allows 18%.

Mr. Murphy stated they are proposing to build a pool for use by the family.

Mr. Murphy stated he anticipated that there would need to be a discussion with Mr. Majewski as to how they would manage stormwater because the pool installation will add some impervious surface. Mr. Murphy stated Mr. Karam prepared a Plan that identifies a proposed infiltration trench that would be installed adjacent to the pool which would collect stormwater from the roof leaders, etc. to manage stormwater. Mr. Murphy stated Mr. Majewski confirmed with him today that the infiltration will bring the effective impervious almost back to the original 18%.

Mr. Murphy stated the Applicants have also met with their neighbors about the Application. Mr. Murphy noted the one neighbor in particular who shares a common boundary line and is on the side where the pool would be built, and the Applicants met with them and Mr. Karam has agreed to do some other grading along the common boundary line with the neighbor to insure that no stormwater would leave the site but would stay on the Applicant's property.

Mr. Murphy stated the Plan submitted shows the trench which Mr. Majewski showed on the screen. The location of the proposed trench was noted. Mr. Zamparelli stated Mr. Karam did a nice job on the Plan. Mr. Zamparelli stated it appears that Mr. Majewski is in agreement with the amount of the reduction. Mr. Majewski stated he agrees that they will be down to almost 18%.

Mr. Murphy stated the Applicants spoke to the neighbor to the left of the screen where the longest boundary line is between their property and the neighbor, and that is where they are proposing to do some additional grading to make sure that the stormwater does not flow over onto that neighbor's property.

Mr. Connors asked where they are grading the run-off to. Mr. Karam stated at the south boundary line that runs east/west, there is reference to a berm on the Plan. He stated when they did the addition in 1995, they put topsoil in and re-shaped the contours so that the water would exit where you can see arrows on the Plan in the southwesterly corner into the 11 and a half to 12 acres of open woods. He stated there is a berm that is about 8" to 10" higher than the grade. He stated that way the neighbor does not receive stormwater from the property, and since 1994 the water has exited in a southwesterly and the easterly direction. He stated there is always pitch in both directions. Mr. Connors asked if they are re-grading it, and Mr. Karam stated the water will go east to the street and west to the southwest corner property line. He stated that is the way it is now, and that is the way it will continue.

Mr. Zamparelli stated they are not changing any grading, and there is an existing berm that is already doing that; and Mr. Karam agreed. Mr. Zamparelli stated it had seemed that Mr. Murphy had indicated that they were going to do some re-grading. Mr. Karam stated they used to have trees along the berm which have since died and were taken out, but they did leave the berm. He stated when Mr. Murphy walked the property, he had advised Mr. Murphy that along the berm he would re-dress the area so that it has a good pitch.

Mr. Zamparelli asked Mr. Majewski if he agrees with Mr. Karam that all they have to do is redress the berm area and that nothing is changing as far as the grading or the water flow, and Mr. Majewski agreed.

Mr. Murphy asked the Applicants if they would agree with the summary that he provided to the Board. Mr. Karam stated the only thing he would like to add is that he was concerned about the proposed location of the infiltration pit being close to the basement. He stated they have never had water in their basement. He stated he wanted to shift it, and Mr. Murphy may have discussed this with Mr. Majewski. Mr. Karam stated north of the shed there is an arrow on the Plan, and that is the area where they felt they should put the pit.

Mr. Karam stated he would install the infiltration pit prior to the installation of the pool so that it will be out of the way and protected and no machinery would run over it. Mr. Zamparelli stated that would have to be upon the Township's approval since that is not what is shown on the Plan.

Mr. Connors stated he understands that Mr. Karam is concerned about ground-water getting into his basement. Mr. Connors stated usually he would keep anything like that at least 20' away. He stated he is not sure what the ground-water is in this area. Mr. Connors stated it appears that the proposed location at the landscaped mulch area is more down gradient than its current location, and he asked Mr. Majewski if he would have any objection to the change; and Mr. Majewski stated he would have no objection.

Mr. Karam stated he built the house himself, and he was there when the footings were dug; and he knows that the groundwater was approximately 3' to 3 ½' below the footings. He stated he did not want to introduce any potential problems.

Mr. Solor asked what the effective impervious rate will be after the pool and the infiltration trench are installed other than it will be less than 20.31%. He asked if there is a targeted percentage they are aiming for or just to be less than the 20.31%. Mr. Murphy stated Mr. Majewski sized Mr. Karam's suggested infiltration trench and did some calculations. He believes that Mr. Majewski told him today that the effective rate would be close to 18%. Mr. Majewski stated he believes the number was about 18.3% based on the size shown on the Plans. He stated if the Board is comfortable with that, they could Condition approval on the Applicant providing a stormwater management system of the size as shown on the Plan. Mr. Murphy stated it should also be Conditioned on the Township's approval of any relocation based on tonight's discussion.

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

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal conditioned upon the installation of an underground stormwater management facility to reduce the effective impervious ratio to 18.3%.

APPEAL #20-1884 – DAVID & DAYNA DIEHL

Tax Parcel #20-022-064 – 1017 HARVARD DRIVE, YARDLEY, PA 19067

Mr. David Diehl, Ms. Dayna Diehl, and Mr. Robert McCubbin from Anthony Sylvan Pools were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The impervious surface calculations were 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. McCubbin stated they are looking to install an in-ground, concrete pool with a pool patio and pool equipment pad. He stated the property has 27,066 square feet, and in the Zoning District they are allowed 18%. He stated the current impervious surface area is 5,162 square feet which is 19%. They are looking to add an additional 769 square feet which would include the pool patio area, pool coping, and the pool equipment pad which will bring the impervious surface to 21.9%, and a total of 5,931 square feet.

Mr. McCubbin stated they have a stormwater management system designed which is an underground infiltration trench to be 3' deep, 6' wide, and 25' long. The trench is sized large enough to bring the de facto ratio back down to 18%. Mr. Zamparelli asked Mr. Majewski if that is correct, and Mr. Majewski agreed.

Mr. Connors stated the pool equipment is in the rear setback, and he asked Mr. Majewski if that is an issue; and Mr. Majewski stated it is not an issue.

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

Mr. Solor moved, Mr. Tritt seconded and it was unanimously carried to approve the Appeal contingent upon the installation of an underground stormwater management facility per the Plan to bring the effective ratio to 18% and subject to Township approval.

APPEAL #20-1885 – HEATHER & DARYL GEIST

Tax Parcel #20-060-286 – 1207 LONGMEADOW LANE, YARDLEY, PA 19067

Ms. Heather Geist and Mr. Daryl Geist were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The impervious surface

calculations were marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Ms. Geist stated they are looking to install an in-ground pool in the back yard. She stated there were things that were part of the property when she bought the house five years ago. She stated there is a gazebo and deck. She stated the existing impervious surface is 29.4%, and the maximum permitted is 30%. She stated with what they are proposing, it will bring the impervious to a little over 33%. She stated they worked with their engineer and put together a detailed Plan that the Board was provided. She stated they feel they have put a good plan in place for stormwater management which should bring them back down to “what the expectation is.”

Mr. Zamparelli stated he understands that their method of mitigation is trees, and Mr. Geist agreed that they would be planting eleven evergreen trees against the back. Mr. Zamparelli stated he is not in favor of using trees for that amount of mitigation since they are looking at a 3% increase. Mr. Zamparelli asked Mr. Majewski if that number of trees would mitigate the 3%, and Mr. Majewski stated he would have to calculate that.

Mr. Majewski stated they included the deck in their impervious surface calculations; however, decks typically unless they are covered or underlaid by an impervious surface such as concrete or something impermeable, are not considered a permeable surface. Mr. Geist stated underneath the deck is stone and gravel, and there is no concrete other than for the supports. There is no roof over the deck.

Mr. Zamparelli asked what the impervious would be if they took out the calculation for the deck. Mr. Majewski stated it would reduce the number to 25.2%, and the total proposed would be 29.1%. Mr. Tritt stated they would not then need a Variance. Mr. Zamparelli asked how they can determine if the deck is not impervious. He stated if it is determined that the deck is impervious, they will need something other than trees. He stated trees could die or a new owner may not take care of the trees. He stated they would be looking for other mitigation for stormwater management such as a seepage bed or dry well. He stated if it can be verified that the deck is pervious, they do not need a Variance.

Mr. Connors suggested that a Continuance be granted so that the Township engineer and Mr. Majewski could double check the calculations with the homeowners. He stated if it is found that the deck is not impervious, they can withdraw their Application; and if it is found to be pervious, they can come back before the Zoning Hearing Board.

Mr. Majewski stated generally decks do not have an impermeable surface beneath them, and they could verify that after the Variance if the Board deems that it is appropriate to grant. He stated if that was the case, they would have to come back for another Variance. He stated he feels that under oath they have indicated that it is not a hard surface underneath the deck so it should not be included in the impervious surface calculations. He stated he had indicated that it would be 29.1% proposed if the deck is not impervious. He stated the Township would verify that prior to the start of construction.

Mr. Zamparelli stated the Motion should include verification that the area underneath the deck is permeable, and Mr. Majewski agreed.

Mr. Majewski stated if it is determined that an infiltration would be appropriate, the size of a stone infiltration trench would be 3' deep, 6' wide by 15' long. Mr. Zamparelli stated if it is determined that the deck is pervious, they would have to install that type of seepage bed; and the Applicants agreed. Mr. Zamparelli stated the Board could make a Motion based on those potential facts. Mr. Solor stated the seepage bed would not have to have those specific dimensions, but it would need to add up to the amount needed to mitigate. Mr. Zamparelli stated they would be considering a Motion based on verification of the deck being pervious; and if it is not, upon Township approval, there would have to be a method of mitigation that would bring it down to 29%.

Mr. Connors stated he does not feel there can be a Motion because the the permitted impervious is 30%. Mr. Zamparelli stated at this point they are not sure about the deck. Mr. Connors asked what they are making a Motion on if they have 30% or less impervious surface. Mr. Flager stated they cannot grant a Variance "if they are not granting a Variance."

Mr. Connors moved and Mr. Tritt seconded to Continue the matter to December 15 subject to clarifying the impervious values.

Mr. David Steiner was sworn in and stated the existing storm drainage solution has been represented by trees on the south side of the property. He stated he lives on the east side of the property, which is on the right side of the drawing shown. He stated looking at the slope, the proposed pool and the property is upslope from his property. He stated his property on the east side already has a lot of standing water issues in the back yard, and he has water issues in his basement as his sump pump is constantly on. He stated it is both downgrade from 1207 Longmeadow where the pool will be located, and it then slopes down into the street area opening up a potential soil-erosion issue. Mr. Steiner noted the top of the drawing in the upper right-hand corner you can see a transformer box and utility boxes where there is landscaping and mulch; and along the entire right side of the drawing, the entire east side, the water pools and drains like a river on heavy rain days down into that area. Mr. Steiner stated he is the recipient of a lot of that standing water in the back yard. He stated you can see the slope in the drawing on the lower left, southwest corner, it states at 96.6 and when you go all the way to the right to the southeast it is 96.4. He stated you can see the slope demarcated on the map, and he is on the downside of that slope.

Mr. Steiner stated he is not seeing any storm drain solutions to protect the east side of the property with regard to his back yard or addressing some of the front drainage issues between the homes. He stated what they are requesting is a significant increase. He stated the limit of 30% is 4,850 square feet, and this represents a 10.8% addition of impervious over the max which is a substantial number if the discussion of the deck is addressed. He stated whether the deck is or is not impervious, there are slope issues into his yard which will cause significant additional issues of standing water, flooding his basement, sump pump activity, and potential erosion down into the street into the landscaping area.

Mr. Zamparelli asked for clarification on the number of 10% referenced.

Mr. Steiner stated the maximum impervious for this property is 4,950 square feet, and they are proposing to increase it to 5,483 square feet. Mr. Majewski stated that includes the deck which is what they will be looking into.

Mr. Majewski stated this is information they need to know to make sure that this project does not impact the neighbors regardless of whether or not they need a Variance.

Mr. Steiner stated the drainage system will not protect his property as the drainage system is on the south side, and he is on the east side. He stated he has the worst effect of the slope if you look at the numbers on the bottom of the diagram and on the right side, and it can clearly be seen that it goes right into his yard. Mr. Zamparelli stated while he does see that, he does not know if this project will contribute more to that. He stated while he understands Mr. Steiner's situation and recognizes that it does slope down, he is not sure how much difference this project will make. He stated during the Continuance, they will find out if the deck is part of the calculation. Mr. Zamparelli stated if it is determined that the deck is pervious, that would bring down the impervious surface below the 30% permitted and no Variance would be required.

Mr. Connors stated they are proposing a Continuance; and if it is confirmed that the deck is pervious, it would be a Building Code construction activity.

Mr. Zamparelli stated there would be nothing they could do for the neighbor in terms of issues with water. Mr. Flager stated they would still be permitted to put in remediation efforts; but the question is whether the Zoning Hearing Board has the authority to require that. He stated if they do not need a Variance, the Zoning Hearing Board has no ability to require anything. Mr. Flager stated it would be an issue between the neighbors as far as being neighborly and trying to work out an issue that potentially effects both properties. He stated what the Zoning Hearing Board needs to do depends on whether a Variance is needed or not.

Mr. Steiner thanked the Board for explaining the process. He added that he now understands that the circles at the bottom of the drawing is drainage; but if you look at the slope, it is not intercepting the water that hits his yard anyway, and it is just protecting the back side. He stated the drainage system does not cover the 96.4 on the southeast corner of the property when it slopes down to its lowest point since there is nothing there. Mr. Steiner stated if you look at the coping elevation it is 98.25 in the pool, and it goes down to 96.8 at the property line.

Mr. Zamparelli stated while he understands what Mr. Steiner is saying, this is an issue with water, and it may not be an issue with the pool because if the deck is pervious, a Variance is not needed. Mr. Tritt stated the discussion is academic until they verify whether the deck is pervious or not. Mr. Zamparelli stated while he agrees, he just wanted to let Mr. Steiner to understand that they need to have a Continuance so that they can find out about the deck. He stated

Mr. Steiner would be welcome to come back and comment again once they find out about the deck. He stated if the deck is determined not to be pervious, Mr. Steiner's interests would be considered.

Motion carried unanimously.

Mr. Zamparelli asked Mr. Majewski if December 15 gives sufficient time to verify this. Mr. Majewski stated since they have the discussions, he does not feel it would take long at that meeting for the Zoning Hearing Board to make a decision. Mr. Flager stated it is possible they may not even have to consider this Appeal if it is determined that the deck is pervious, the Applicants could withdraw the request prior to December 15. He stated the Applicants would then work with the Township with regard to a refund of the Application Fee.

OTHER BUSINESS

Mr. Solor asked if they are going to discuss at some point about what the responsibilities of the Zoning Hearing Board are with respect to Appeal #20-1881 to be heard at the meeting on December 15 challenging the validity of the Mixed-Use Overlay Ordinance. Mr. Zamparelli stated he has looked into this and the Zoning Hearing Board has some power to invalidate some Ordinances. Mr. Flager stated they will discuss this either in Executive Session or he will send an e-mail to the Board about this. Mr. Flager stated the Board will review this in advance of that meeting.

There being no further business, the meeting was adjourned at 8:35 p.m.

Respectfully Submitted,

Anthony Zamparelli, Temporary Secretary