

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – JUNE 7, 2022

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on June 7, 2022. Mr. Solor called the meeting to order at 7:30 p.m. Mr. Solor noted that because there are only four members present this evening, if there were to be a tie, the Appeal would be denied.

Those present:

Zoning Hearing Board: Peter Solor, Chair  
Matthew Connors, Vice Chair  
James Dougherty, Member  
Mike McVan, Member

Others: James Majewski, Community Development Director  
Barbara Kirk, Township Solicitor  
Adam Flager, Zoning Hearing Board Solicitor  
Fredric K. Weiss, Supervisor Liaison

Absent: Judi Reiss, Zoning Hearing Board Secretary

#### REORGANIZATION

Due to the retirement of Chair Anthony Zamparelli, it was necessary for the Board to reorganize this evening, and the meeting was turned over to Mr. Flager. Mr. Zamparelli was thanked for his years of service to the Township.

Mr. Flager asked for nominations for Chair of the Zoning Hearing Board. Mr. Connors moved and Mr. Dougherty seconded the nomination of Peter Solor as Chair, and the Motion carried unanimously. The meeting was turned over to Mr. Solor.

Mr. Solor asked for nominations for Vice Chair of the Zoning Hearing Board. Mr. Dougherty moved and Mr. Solor seconded Matthew Connors as Vice Chair, and the Motion carried unanimously.

Mr. Solor asked for nominations for Secretary of the Zoning Hearing Board. Mr. Dougherty moved and Mr. Connors seconded Judi Reiss as Secretary, and the Motion carried unanimously.

APPEAL #22-1964 – SHIJU VADAKOT & STACY JACOB VADAKOT  
Tax Parcel #20-056-086  
300 FRAZER DRIVE, YARDLEY, PA 19067

Mr. Shiju Vadakot and Ms. Stacy Jacob Vadakot were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Solor stated the permitted impervious is significantly higher than what was written in the Application recognizing that they have not applied for a Variance for the impervious.

Mr. Vadakot stated they have lived at the property since 2012. He stated since his parents are aging and having difficulty walking, they wanted to build an extension to the house so that they can accommodate some changes to the family. They also have three children using a single bathroom on the second floor and they wanted to build an additional bathroom there as well. He stated even though their lot is of a similar size as others on the street, because they are a corner lot, they are considered to have two front streets which reduces the building envelope which is the hardship they hope to get an exception for.

Mr. Connors asked if this a one-story or two-story addition, and Mr. Vadakot stated it is a two-story addition. Mr. Connors asked if they will keep the existing trees along Stony Hill as a buffer, and Mr. Vadakot stated they will keep those.

Mr. Dougherty asked if they are hoping that the addition will perform like an in-law suite, and he asked if there will be a kitchen; and Mr. Vadakot stated there will be no kitchen. He stated it will just be so that they can have a bedroom and a bathroom on the first floor.

Mr. Connors asked about the impervious surface, and Mr. Majewski stated the Recorded Plan for this development allows for an impervious surface of 32%, and they are around 19% and are well within the requirements.

Mr. Connors asked if this is already built into the detention system as there is a pond across the street. Mr. Majewski agreed that is the reasoning behind the split in 1987 between the lower impervious surface number and the higher ones

for developments afterward as the developments after 1987 all have stormwater management built into the development that could adequately handle all of the run-off up to the 32% number.

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

Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to approve as presented.

APPEAL #22-1965 – MEGAN & JAMES ABRIOLA  
Tax Parcel #20-025-205  
1201 WARD DRIVE, YARDLEY, PA 19067

Ms. Megan Abriola and Mr. James Abriola were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Impervious Surface Breakdown was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Ms. Abriola stated they wanted to put in an extension on their driveway. She stated they have a travel trailer that they wanted to put there; and at some point even if they do not have that, they have three children and an in-law suite so with the amount of cars, it is good to have the extra space for parking.

Mr. Dougherty stated it appears that they are using strictly trees for their stormwater management. Ms. Abriola stated they have a lot of trees on their property, and the architectural landscaping company that did the stormwater management numbers indicated that the amount of trees that they have on their property surrounding the area would cover what was needed for stormwater management. Mr. Dougherty stated historically the Zoning Hearing Board would agree to trees if it was around 1%, and he asked about using a seepage bed to capture some of the stormwater coming off the improvements.

Mr. Abriola stated they are a corner lot and their house is higher than the road. Ms. Abriola stated their neighbor also has a French drain along the property line. Mr. Solor stated there could be a strip along the driveway, or there could be a connection from the drainage from the roof. Mr. Connors stated they are

looking for something to mitigate the increased driveway, and they could take it off the roof and the Township engineer could help them size something that would be appropriate.

Mr. Majewski stated they would dig a trench, and a representative size would be 2' deep by 3' wide by 30' long; and it would be alongside the driveway, downstream so that the water runs into that. He stated it could be a depression in the grass or it could be lined with stone. He stated that would be adequate to handle the run-off from all of the impervious surface on the property.

Mr. Solor asked if there are any setback limitations for the driveway, and Mr. Majewski stated normally they want a minimum of 10' back so they are more than adequate.

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

Mr. Connors moved and Mr. Dougherty seconded to approve the Variance subject to stormwater mitigation back to 18% from 21.1% subject to review and approval by the Township engineer.

Mr. Dougherty stated they could do the seepage bed adjacent to the driveway as noted by Mr. Majewski or they could do it coming off the house so there are options where the seepage bed can go.

Motion carried unanimously.

APPEAL #22-1966 – JESSICA FESTA & TOM VOLPE

Tax Parcel #20-054-043

1002 BUCKINGHAM WAY, YARDLEY, PA 19067

Ms. Jessica Festa and Mr. Tom Volpe were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Proof of Publication was marked as B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Ms. Festa stated they are looking to remove the deck that is on the back of the house and build a one-story addition. She stated they would like to increase their household space. She stated they have two children, and they

do not have a family room or great room for their children. She stated they are looking to increase “home time” and spend time with their children as well as host family gatherings. She stated when they measured out the impervious space it was only over 3.4%, and they were hoping that it would be “appealed.”

Mr. Dougherty stated their existing front walk is on the Plan as 1,320 square feet and the existing driveway of 260 square feet, and he believes that was juxtaposed as the driveway is clearly much bigger than the walkway. He asked how that could be fixed. Mr. Majewski stated when they submit the Plan, they can make that correction.

Mr. Dougherty stated they can meet with Mr. Majewski and come up with a stormwater management plan, most likely a seepage bed, and discuss different places what would make sense. This was acceptable to the Applicants.

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

Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal pending stormwater management taking the impervious surface from the proposed 21.4% back to 18% pending Township engineer approval.

APPEAL #22-1967 – DARIN BODOLOSKY  
Tax Parcel #20-052-127-001  
116 WALNUT LANE, MORRISVILLE, PA 19067

Mr. Darin Bodolosky was sworn in, and Mr. Jason Weaver, affirmed to tell the truth.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Reasons for the Requested Relief was marked as Exhibit A-3. A 3-D view of the proposed shed was 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. Bodolosky stated his house is on the smaller size in the neighborhood, and he is looking to put up a storage facility. He stated he currently has a few Classic cars that he would like to keep out of the elements, out of the driveway, and

off the lawn so it does not “look like a junk yard.” He stated he is also looking to get a boat and would like to put that into storage so it does not “clutter the neighborhood.” He stated he would also like to keep all of his seasonal and landscaping equipment out of the elements and out of the house if possible.

Mr. Bodolosky stated the second part of what he is trying to do is mitigate some stormwater that runs off of other properties onto his as he has one of the most low-lying properties in the area. He stated looking at the Site Plans that were provided, they are going above and beyond the 100-year storm for the entire property so that they can mitigate the run-off from the house and from the proposed storage facility as well as mitigate all of the standing water. He stated he has photos which can be provided.

Mr. Weaver stated they were not aware that there was an issue with the impervious surface.

Mr. Bodolosky stated looking at the Site Plans as well as the photos, they are going to mitigate all of the water to keep it from another neighbor as well so that it will allow them to keep that water underground and keep the mosquitos at bay as well as be able to use the rest of the property that is not a “mud pit.”

Two sheets with four photographs per sheet were collectively marked as Exhibit A-5.

Mr. Dougherty what type of rain event occurred when the pictures provided were taken. Mr. Bodolosky stated that was a week’s worth of March/April weather, and it was a fair amount of steady rain although it was nothing out of the ordinary. Mr. Dougherty stated on the Plan it indicates he estimated a 3,100 square foot area of existing flooding area, and asked if the pictures are showing that area; and Mr. Bodolosky agreed. Mr. Dougherty asked if they are proposing mitigation to stop this flooding, and Mr. Bodolosky stated they are at least going to try to “contain it to the 100-year levels.”

Mr. Solor asked Mr. Majewski what the underground detention that is shown will mitigate relative to what the property is generating. Mr. Majewski stated they were not provided that information in the packet by the Applicant. He stated the Plan shows Sheet 1 of 2; however, they did not get Sheet 2 or 2. Mr. Weaver stated that was an oversight, and he added that they used that Plan as a Site Plan not as much “water mitigation or pervious.” He stated there is a Page 2 and it shows the storm tanks being used by “Brentwood” with 97% capacity. He stated Page 2 shows details of the inlets and the Brentwood

product that is used. Mr. Weaver stated he does have a 11" by 17" copy. He added they both just found out about the impervious issue when "they were mailed the letters."

Mr. Solor stated they could Continue this to a later meeting if they want to pull the information together more. Mr. Weaver stated he believes it is spelled out on the first page in the upper line about the site impervious/storm-water structure schedule, etc. He stated what he has creates some details, and the engineer has the square footage listed on the Zoning and Site Data Schedule as 33,500 which should give the information needed.

Mr. Dougherty stated the Application does not address stormwater management mitigation, and it only addresses the height of the subordinate structure. He stated he feels a Continuation makes the most sense. Mr. Majewski stated they do have it shown in the Plan, but we do not have a calculation to say how much of a volume of water it mitigates. Mr. Bodolosky stated that should be on Page 2. Mr. Solor stated they would need to apply for a Variance for that, and that is not part of the current Application. Mr. Bodolosky stated the "announcement" said that there was an Application for a Variance of the impervious. Mr. Majewski stated they did advertise for the impervious surface Variance.

Mr. Bodolosky stated he had previously spoken to Mr. Majewski about the stormwater mitigation because when he purchased the house supposedly they had been talking with the Township engineer to mitigate it; and he told Mr. Majewski his plans, and he "was okay with them."

Mr. Flager stated what has been presented is Page 2 of 2 so this will still be part of Exhibit A-2 to make it a complete Exhibit.

Mr. Solor asked the total void volume that is associated with this so there is some sense of what is being mitigated, and he asked if he has talked about that with Mr. Majewski and his team. Mr. Bodolosky stated he has not, but his engineer has assured him that it was for the 100-year storm calculations so it is "thousands upon thousands of gallons." Mr. Connors asked what is the area, and Mr. Bodolosky stated it is for his property.

Mr. Solor stated there are two issues – one the standard impervious and the other the flooding consideration. Mr. Majewski stated he has been out to the property and a nearby neighbor had some issues with the stormwater, and they looked at it several years ago. He stated he does not recall talking to

Mr. Bodolosky, but he is familiar with the area around Walnut Lane and the tennis courts back along Arborlea and there is a little bit of a drainage problem back there in the heavier rains, especially in the spring as he believes the soils are primarily clay, and the water does not seep through.

Mr. Connors stated he noticed that there was a credit being taken for the pool in the impervious calculations. Mr. Majewski stated we do not count the water surface area of a pool as impervious surface. He stated the reason for that is that when you have a pool, within the coping, typically the water is not right up to the top of the pool, and it is down maybe 6" or more so it takes a lot of rain to fill up a pool to a point where it starts to overflow. He stated it almost acts like a little mini detention basin until there is a lot of rain. Mr. Solor stated it would not be a credit, and it would just be lined out. Mr. Majewski stated he believes the concrete number above of 1,610 included around the pool and the patio and the concrete so the pool area is a subtraction from that. He stated he believes it is the 1,030 number that he got for all the rest of the impervious surface.

Mr. Connors stated he has concerns about the garage as it is almost as big as the house, plus they want it to be 25' tall. Mr. Bodolosky stated in order to fit all of his equipment, cars, and seasonal decorations, etc. that is about the square footage that he calculated. He stated the height is for "cold storage in the attic space." Mr. Connors asked if it is a peaked roof, and Mr. Bodolosky agreed. Mr. Connors stated 13 ½' is the highest vehicle he would get, and Mr. Bodolosky agreed. Mr. Connors asked if that is the size of the garage doors, and Mr. Bodolosky stated the garage doors will be 12'. Mr. Bodolosky asked how many vehicles he will put in the garage, and Mr. Bodolosky stated he currently has five vehicles. Mr. Connors asked if they will be double deep, and Mr. Bodolosky stated it is about one and a half as one of his cars is 19' long.

Mr. Weaver stated the building height is 12' and the doors themselves are 10' tall, and part of the reason was for aesthetics to get away from the low-slope roof and make it look more of a Residential style and also to utilize the attic for storage up top and use the attic trusses.

Mr. Connors stated it would be a half floor, and Mr. Bodolosky stated that would be the Halloween and Christmas decorations and storage cabinets.



Mr. Connors stated it is very close to the rear alley. Mr. Bodolosky stated there could be a zero setback according to the Code from the rear alleyway, and it is not a main thoroughfare. Mr. Majewski stated that is incorrect, and there is a 10' setback that is required. Mr. Bodolosky stated they are at least 20' back. Mr. Majewski stated the Plans show an 8' concrete slab and 4 ½' to the right-of-way at the near point so the nearest point is 12 ½' and on the other side it would be about 16'. Mr. Bodolosky stated they could push that back so that they could be 20' to 25' back. Mr. Connors stated it appears that they were getting close to the alley and creating a condition that would be crowding. Mr. Bodolosky stated they could push it back 20'.

Ms. Kirk stated the Township is in opposition to the Application due to the height of the proposed garage as well as the amount of increase in the impervious surface coverage as it is almost a 6% increase. Ms. Kirk stated the Plan shows a 35' by 50' slab for the garage, and Mr. Bodolosky agreed. Ms. Kirk asked if that will hold the entire size of the garage, and Mr. Bodolosky agreed. Ms. Kirk stated the garage is 35' by 50', and Mr. Bodolosky agreed. Ms. Kirk stated the diagram shows what appears to be three bays to access it, and Mr. Bodolosky agreed.

Ms. Kirk stated the height to the peak is proposed to be 25', and Mr. Bodolosky agreed. Ms. Kirk stated they are anticipating a second floor storage area, and Mr. Bodolosky agreed. Ms. Kirk asked if the garage will have electricity, and Mr. Bodolosky agreed. Ms. Kirk asked if it will have water, and Mr. Bodolosky stated it will not.

Ms. Kirk asked Mr. Bodolosky why he would need a second floor of such great dimensions for storage. Mr. Bodolosky stated it is for all of his seasonal items, car parts for his Classic cars, tools, etc. Ms. Kirk asked where everything is being stored now, and Mr. Bodolosky stated some of it is in the basement, some of it is at friends' houses, some of it is in the garage, some of it is in the back yard, some of it is in the front yard, etc. Ms. Kirk asked Mr. Bodolosky if he has a garage right now, and he stated it is attached to the house. Ms. Kirk asked the size of that attached garage, and Mr. Bodolosky stated it is a two-car garage. Ms. Kirk asked if that currently holds two cars, and Mr. Bodolosky agreed.

Ms. Kirk asked if he also has a masonry shed in the back, and Mr. Bodolosky agreed. She asked the size of the shed, and Mr. Bodolosky stated he believes that it is 12' by 14'.

Ms. Kirk stated the 35' by 50' structure will be almost a third storage facility for Mr. Bodolosky on the property, and Mr. Bodolosky agreed.

Ms. Kirk stated Mr. Bodolosky indicated that he needed the 25' height because he intended to also store a trailer, and Mr. Bodolosky stated it would be a trailer and/or a boat. Ms. Kirk stated Mr. Bodolosky testified that he has five vehicles and a boat that he intends to store, and Mr. Bodolosky agreed. Ms. Kirk asked where the trailer is now, and Mr. Bodolosky stated he does not have one yet. Ms. Kirk asked what kind of trailer he is talking about, and Mr. Bodolosky stated it would be an enclosed equipment trailer. He stated it would be a "tag-along trailer." Ms. Kirk asked if that would be something like a landscaper would use, and Mr. Bodolosky agreed it would be a cargo trailer. Ms. Kirk stated he has indicated that he needs the garage to be 25' high to be able to store that type of vehicle, and Mr. Bodolosky stated the whole vehicle would not be 25' but the door space that he needs for it plus the "added extra height" for the attic storage space totals 25'.

Ms. Kirk stated the photographs presented show flooding on the property before the garage has been considered, and Mr. Bodolosky agreed. Ms. Kirk stated Mr. Bodolosky has indicated that he is proposing stormwater facilities that will mitigate the flooding, and Mr. Bodolosky stated it is going to help mitigate it. Ms. Kirk asked Mr. Bodolosky based on the fact that no calculations have yet been provided, does he have any idea how much water the stormwater facilities will hold; and Mr. Bodolosky stated he believes that was on the second sheet that was provided. Ms. Kirk stated she saw diagrams and specs but did not see any calculations. She asked if anyone has performed any formal calculations to see that if they put in a drainage ditch of a certain amount of feet it will hold a certain amount of water, and Mr. Bodolosky stated he had a Civil Engineer do that. Ms. Kirk asked if those calculations were submitted separately to the Township, and Mr. Bodolosky stated he believes that they are on Page 1. Mr. Weaver stated they should have been included with the proposed improvements. He stated it shows the seepage bed which uses the storm tanks, and they are a 97% capacity. He stated there are 85 units that are placed in the square. Ms. Kirk asked if that is the cross-hatched square in the area where the estimated existing flooding occurs, and Mr. Bodolosky agreed. Ms. Kirk asked if the storage tanks in the ground right now, and Mr. Bodolosky stated they are not right now and they are proposed.

Ms. Kirk asked how many storage tanks are proposed to go in, and Mr. Bodolosky stated he believes there are 85 or 90. Mr. Weaver stated they are a modular system that gets placed and are made by Brentwood and it is shown on the second page. Mr. Bodolosky stated the second page shows the volume of one module. Mr. Solor stated using what it has is 1,105 cubic feet capacity.

Ms. Kirk stated what she wanted to ask was if what Mr. Bodolosky is proposing to install is designed to mitigate the water, and Mr. Bodolosky agreed. Ms. Kirk asked if he did any calculations to include any additional water that could be generated as a result of the garage being installed, and Mr. Bodolosky stated that is all included in the calculations. Ms. Kirk stated Mr. Bodolosky is saying that his stormwater calculations for this facility include existing and what is proposed, and Mr. Bodolosky agreed. Ms. Kirk stated not having had those calculations reviewed by anyone, she is still hesitant. Mr. Flager asked what the effective rate would be brought down to with the 1,105 cubic feet being captured. Mr. Solor stated there are two things – one is the impervious and the other is the flooding, and they are interacting with each other. He stated the 100 year storm and the impervious are two separate issues they are trying to “mash together,” and they are two different calculations. Ms. Kirk asked if those calculations are distinguished on Page 2, and Mr. Solor stated they are not.

Ms. Kirk stated she believes that the calculations that are being provided should have a separate review done by the Township engineer to assure them of the amount of water that is going to be captured by this proposed stormwater facility. She stated the photographs show an extensive amount of water sits on the property as it is right now. She stated it is also a huge garage that is going to be installed if accepted by the Zoning Hearing Board.

Mr. Connors asked Mr. Solor how he figured out the volume because there are three modules for the storm tank – a 20, a 25, and a “pro.” Mr. Solor stated the drawing that was provided to the Board at the meeting x’ed out all but one of the tanks. He stated it is the ST36, and it matches what the Plan is. Mr. Flager stated he believes that it is 13 cubic feet per unit with 85 units. Mr. Connors stated he agrees with Ms. Kirk, and he would like to know what the totals are. He stated he believes that there is mitigation for the garage, but he would like to understand it better. Mr. Bodolosky stated he can provide additional information. He stated they will also be stamped by the engineer.

Mr. Solor stated they actually have more capacity because it is wrapped in a layer of stone that is a geo-textile which gives even more void space.

Mr. Bodolosky stated he asked that it be over-engineered because of the amount of water coming through the neighborhood. He stated he is trying to make the area better and dry and keep the mosquitos at bay and all of the other issues he has because he cannot use 90% of his property because it is a “mud pit.” He stated he cannot mow his grass unless he goes around the street and comes back by the alleyway to mow the back half. He stated it is a hardship to him as it is, and he wants to make sure that he improves the entire neighborhood.

Ms. Kirk asked Mr. Bodolosky if other than the garage that he is proposing to construct, did he build anything else on the property. She asked him if he installed the swimming pool, and Mr. Bodolosky stated they had to remove the old swimming pool because when they purchased it, it had been lifted from the ground so they re-engineered that as well. He stated they put extra storage capacity for water because of wetness in the area, and they put extra gravel in around the pool area. Ms. Kirk stated when he moved in he had to replace the in-ground pool, and Mr. Bodolosky agreed. Ms. Kirk asked Mr. Bodolosky if he constructed the masonry shed that is on the property, and he stated he did not. Ms. Kirk stated other than the new proposed garage, he only replaced the in-ground swimming pool, and Mr. Bodolosky agreed adding that everything else is as-is. He stated when they replaced the old swimming pool, they removed a lot of impervious because there was a huge deck around it; and they removed that to put some grass space back into the yard. Ms. Kirk asked Mr. Bodolosky how long ago he did that, and Mr. Bodolosky stated it was done in 2018. Ms. Kirk asked Mr. Bodolosky if he has a copy of the Permit that he submitted to the Township that showed the calculations, and Mr. Bodolosky stated he believes that he can get that. Ms. Kirk stated that might be beneficial for the Board so that they can see how much was removed; and the Board agreed.

Mr. Dougherty stated with regard to the garage, Mr. Bodolosky made note in his Application that he was hoping to have the second floor attic storage for seasonal items, car parts, tools, etc.; but it was also noted in the Application that the higher roof ridge and the steeper pitch will be more-aesthetically pleasing for the neighbors. Mr. Dougherty stated he is interested in hearing if there is any Public Comment since there are houses on the other side of the alley. He asked Mr. Bodolosky if he could shrink the height down, and Mr. Bodolosky stated he would lose a lot of storage space if he were to do that.

Mr. Dougherty asked Mr. Bodolosky if it is more important to have the ability to garage cars or more important to have the second floor storage area, and Mr. Bodolosky stated he would like to have both. Mr. Bodolosky stated he wanted to get all of the equipment and the cars out of the elements and not have them in the yard is. Mr. Dougherty asked if it is an option to have the back side of the building which faces Mr. Bodolosky's house be two-stories which might solve what some of the neighbors on the other side of the alley are looking for and still give Mr. Bodolosky the storage area. Mr. Bodolosky stated he does not believe the neighbors on the other side have an issue with that. Mr. Dougherty stated Ms. Kirk brought up the height issue, and he is trying to offer solutions if this turns out to be a problem.

Mr. Weaver stated from a builder's standpoint, the 25' height was attained by having a 10' garage door and a 12' ceiling; and there is an attic-truss style and the main first floor is a square 12' high ceiling, and so the roof edge starts from the 12' ceiling and goes up on an 8/12 pitch which creates a room up in the truss itself and it is an attic-truss. He stated there is no actual second floor built per se, and it is just a 16' wide room down the middle at the highest part of the roof. He stated lowering that would take away that attic room. He stated he needs to get the 10' high doors for the boat and the trailer.

Mr. Dougherty stated he understands the 10' doors and the 12' ceiling on the first floor, and they could always frame a roof and not use pre-fab so it could be a "salt box" if they were to frame the roof instead of using pre-fab trusses, and they would still have the majority of the storage pushed to the back; and instead of being 25' it could be 22' so that there would still be 8' of clearance at the back part. Mr. Weaver stated depending on what gets approved, they would have to see what they could design. Mr. Dougherty stated while he has not made a decision on the Appeal, he is trying to provide possible solutions.

Ms. Deborah Shaffer, 118 Walnut Lane, was sworn in and stated she is the neighboring property. Ms. Shaffer stated she is concerned about the overall impact of the height of the proposed building. She stated she currently has a 35' by 25' garage although she is not sure of the height. She stated what is proposed will take away from the openness of the neighborhood, but her biggest concern is the impact to the existing drainage issue that is pre-dominantly at the lowest point of her property between the two properties. She stated she has some pictures as well. She stated she moved into the house in 2015, and it has gotten deeper in the area. She stated it has been an issue with mosquitos in addition to the fact that the geology is mostly clay

so the percolation of any infiltration is very slow. Ms. Shaffer stated she was also not sure about the design of the storm tank system and what the capacity was and whether that would alleviate the increase in the impervious surface in the area in addition to the existing drainage issue.

Ms. Shaffer provided photographs as Exhibits. Mr. Flager stated there are four pages with the first page from January 25, 2017 with four photos and the second page from December 2, 2018 and another picture from December 2, 2018, and the last one April 6, 2022; and these were marked collectively as Shaffer 1.

Ms. Shaffer asked if a percolation test has been done in the area in addition to whatever the volume is that is proposed for storm basin. Mr. Bodolosky stated calculations were made by his engineer. Ms. Shaffer stated the base survey that is on Page 1 is similar to a 2018 survey from a topographical standpoint, and she asked if after the pool was installed if a new survey was conducted, and Mr. Bodolosky stated it was not.

Ms. Shaffer asked if she could submit the survey from January, 2018 that shows the same top. Mr. Flager marked the Plan of Survey of 118 Walnut dated "9/29/15" by Monarch Survey Engineering Bruce R. McKenna as Shaffer 2.

Ms. Shaffer stated in summary her biggest concern is the drainage issue and the increase in impervious surface. She understands that a stormwater basin is proposed as part of a joint effort with the accessory structure, but she still believes that it may still exacerbate the existing conditions that she is experiencing.

Mr. Majewski stated he did a quick review of what their calculations show, and it is a sizable amount of storage that they have for stormwater although he does not know exactly how much. He stated once that is provided he will be able to more adequately evaluate that.

Mr. Bruce Witt, 122 Walnut Lane, was sworn in and stated he appreciates the effort being put into trying to mitigate the issues. He stated he is concerned about the increase in impervious surface ratio. He stated he is at the end where there is combination of the wetlands, the woodlands, and the stream that goes into the back areas. He stated given the additional information that has been provided, he has questions as to what that will do with the present situation. He stated during March and April there was a lot of rain

although they were not heavy storms, and there was saturation and a lot of water in everyone's back yard in the section. He stated the area with the small creek behind him had more than what he has seen for a long period of time.

Mr. Witt stated his section issue is the height of the accessory structure. He stated with the Zoning the maximum is 15, and 25' is going quite a bit above the 15' that is allowed at the present time. Mr. Solor asked Mr. Witt his opinion on the height, and Mr. Witt stated it will not affect him as much as the next-door neighbor as what is behind him are the tennis courts. He stated he may see a part of the building to the back, and it would not impact him as much as it would those who are along Ferry and the other side of the alley. He stated if it is being set back farther, he may be able to see part of the garage. He stated it is Zoned 15' for a reason at the 25' would be quite a bit higher considering the homes along that area. He stated his home is a raised ranch, and most of the other houses on that side of that street are ranch homes at that location. He stated he would be opposed to the 25'.

Mr. Bodolosky stated his neighbor, Ms. Shaffer, who just Testified has a garage that is similar in size and shape of what he is proposing; and it is over the 15'. He stated he does not believe the person who built it who owned the home before her did not have a Permit to put it in, and she had to get it Permitted after the fact. Mr. Bodolosky stated he has also counted six to ten detached garages in his neighborhood that have second stories that are well over 25' that have either had a Variance or were installed without the Township's knowledge so it is not uncommon to see a large extra structure on a property in the neighborhood. He stated he is not sure where the opposition comes from especially since it would be right next to one that is over the 15' limit.

Mr. McVan asked Mr. Bodolosky if he is planning on removing any trees, and Mr. Bodolosky stated he is not. Mr. McVan asked Mr. Bodolosky to describe the aesthetics of the proposed structure, and Mr. Bodolosky stated he plans to blend it in with the color of the house which is tan, cream, and brown.

Mr. Walter Olivant, 9 Oak Avenue, was sworn in. He stated he is asking that no Variance be granted for this. He stated the proposed building is larger than most houses in the "little grouping in the back." He stated he and his wife live in a rancher, and the square footage is 1,300 feet plus a garage. He stated Mr. Bodolosky's is probably the same and the neighbor on the other side of the Easement is probably about 1,200 feet. He stated Ms. Shaffer, who spoke earlier, also has a rancher, and she has a garage in the back of her yard. Mr. Olivant stated the large building that Mr. Bodolosky is proposing

will probably house six to eight cars and have enough storage space to fit half of the things in his own home. He stated he has three children and they use the garage and attic for some storage.

Mr. Olivant stated there is a standing-water issue in the back of everyone's property. He stated he practices environmental engineering, and he knows about stormwater management. He stated the park land that is behind Mr. Bodolosky's property, Ms. Shaffer's property, and the tennis courts is owned by the Township; and that houses a lot of wildlife. He stated the water problem is due to a property owner that lived behind Mr. Bodolosky and Ms. Shaffer and that comes from an intermittent stream. He stated it pre-dates the tennis court from the 1920's. He stated stream goes through the properties in the area and across West Ferry down to the River. He stated it is not just stormwater. Mr. Olivant stated he did try to talk to Mr. Bodolosky about some of these issues.

Mr. Olivant stated the size of the proposed building is huge, and it is larger than all the houses. He stated he does not see the need for a height of 25' to put cars, and he feels it is excessive. He stated the back of his house which includes his bedroom, kitchen, dining room, bathroom, and the sunroom all look out onto Mr. Bodolosky's property. He stated he can see the forest behind the tennis courts, but if they put in anything higher than 15' he will not be able to see the forest or the sky. He stated the more it is backed up from the Easement, he will just be looking at this building. He stated they could fit two families in the size of the building he is proposing.

Mr. Olivant stated the increased impervious cover is not just the 1,750 feet for the storage building. He added he does not see any of Mr. Bodolosky's cars at this time because they are in the driveway. He stated the drawing shows that there is an additional 400' impervious for the concrete slab that will be in front of the garage so that is 2,150 extra square feet. He stated he would estimate the size of Ms. Shaffer's garage might be 16' or 17' high.

Mr. Olivant stated Mr. Bodolosky has also removed eight to ten trees over the last year some of which were 3' in diameter. He stated removing them will only increase over the years the amount of water that sits in the back.

Mr. Olivant stated the proposed is too large and will be all that he can look at from the back of his house. He stated it is 300' from Mr. Bodolosky's house, and 200' behind his pool. Mr. Olivant stated it will be 75' from his home, and he will not be able to see the trees or the forest and sky, rather he will



see a storage shed that is twice the size of the neighbor's shed, and larger than his own home. He stated there is no reason for it to be 25'. He stated Mr. Bodolosky does not have a boat yet, and he does not have his lawn maintenance equipment sitting back there. He stated he has a two-car garage and Mr. Bodolosky and his wife each have a car. He stated he does not believe that they have any children or other accessories that need to be stored off-site.

Mr. Olivant stated he understands that there will be a basin area. He stated he understands why Mr. Bodolosky had to put in a pool, and the water sits in the area behind the pool and behind his property and Ms. Shaffer's property. Mr. Olivant stated he has been in his home since 1990 and in 1999 when they had Hurricane Floyd, over a foot of water sat in everyone's back yard. Mr. Olivant stated he calculates that what he proposing in the storage tank area would hold less than 10,000 gallons, and the water that sits in Mr. Bodolosky's property alone when there is a lot of rain is the size of his swimming pool or more which he estimates to be 30,000 to 40,000 gallons. He stated the water will go from Mr. Shaffer's property to Mr. Bodolosky even without the proposed building.

Mr. Olivant stated currently water drains off of the stone driveway which Mr. Olivant uses as his driveway as well as the residents of 11 Oak Avenue, and water sits on the property at 11 Oak Avenue. Mr. Olivant stated if the proposed shed is within 100' of that driveway, it will increase the flow down the driveway. He stated the water issue will be increased by putting in impervious cover of a structure that is 1,750' plus an additional 400' for the concrete slab in the front, and that is "overly excessive." Mr. Olivant stated the stormwater has not been addressed and it sits in the back yard, and he already took down eight to ten years and is now proposing a building larger than all of the neighbors in the area. He stated the people on West Ferry do not really have a view of Mr. Bodolosky's property because they all have trees behind them. Mr. Olivant stated this building will be 75' directly behind his house. He stated this is not just a stormwater issue, and it is an over-sized proposed building which should not be any more than 15' to 16' high. He stated the storage tank idea for controlling the water is not going to work for an intermittent stream.

Mr. Dougherty stated he commends the Applicant for being forthright about the fact that there is an existing flooding condition on the property. He stated he likes that he will have the ability to start capturing some of the floodwater that will mitigate a condition that exists which could be a positive for all of the

neighbors; however, if he is going to put in a 35' by 50' garage, he feels that needs to have its own independent stormwater management possibly a seepage bed. He stated he does not understand how the water from the proposed building will travel all the way to the underground tanks.

Mr. Bodolosky stated there would be leaders from it, and the contour points there. Mr. Dougherty stated he is still concerned about the stormwater coming off the building and he would feel better if there were downspouts tied into a bed behind the building.

Mr. Dougherty stated with regard to the height; Mr. Bodolosky had commented on some of the neighboring existing structure, but he is assuming that the majority of them were grandfathered in. He stated the Township's Code does get re-written periodically over the years. He stated with regard to Ms. Shaffer and having to get a Permit, it would have been a real hardship for her to have to tear that garage down adding that the current Board was not part of that decision. Mr. Dougherty stated the fact that people have been granted Variances or are grandfathered in is not something that the Board is supposed to consider.

Mr. Bodolosky stated looking back over the last five years, he has seen some Variances granted for external buildings with two stories which is why he applied for one.

Mr. McVan stated he likes the stormwater plan which he feels that the neighborhood needs, and Mr. Bodolosky is actually in some ways making the neighborhood better. He stated the lowest spot in the entire neighborhood is at 116. He stated he sees there will be a benefit to Ms. Shaffer's property by Mr. Bodolosky putting this in. He stated if it is oversized, he feels it will help the neighborhood.

Mr. Bodolosky stated he had previously requested that the neighbors all work together with him to mitigate it for all of the neighbors, but no one wanted to join in. He stated he wanted to oversize it so that he could mitigate it and not have the water filter back onto his property; and if it does, he can contain it.

Mr. Dougherty stated he agrees that the flooding condition could be mitigated with this system other than for the 75 and 100 year events. Mr. McVan stated it can only make it better, and it will not make it worse.

Mr. Solor stated there is also the issue of the height of the garage. Mr. Dougherty stated he feels the biggest problem with the height of the garage is that it is bigger than a lot of the houses in the neighborhood, and he can see it as being a

bit of an anomaly in the neighborhood. He stated while Mr. Bodolosky saying it is not, without driving through the neighborhood, he can see why people are concerned about it, and he has a problem with the 25'.

Mr. Bodolosky stated while he appreciates that, he is surrounded by trees and houses and he is landlocked from the road in the back yard. He stated there are minimal people who will be impacted. He stated if Mr. Olivant is looking out his back door, he sees another accessory structure; and it is just that one would be closer to him.

Ms. Kirk comments have been raised and the Township has a concern and is in opposition at this time especially to the height. She stated one concern is that when people install these accessory structure with a second floor and at some point in the future someone is living on the second floor which is an issue. Ms. Kirk asked Mr. Bodolosky if there is any possibility of reconsidering the overall size of the structure that might help reduce the height as well. She stated his home is about 1,800 square feet, and proposed garaged which is supposed to be a secondary structure is 1,750 square feet, which is like having another house on the lot. Mr. Bodolosky stated he has Classic cars which are longer, wider, and bigger than most new cars; and he is trying to preserve them as they were. He stated in order to do that, you need to protect them from the elements. He stated you also need to collect parts for them since you cannot always find them. He stated in order to catalog and keep parts for things he would like to continue to enjoy and pass down to his family, he needs some storage area. He stated it cannot all go into the house.

Ms. Kirk stated she is asking if there is a way to re-configure or reconsider the size. She stated when he purchased the property, he knew the size of the house. Mr. Bodolosky stated he also knew about the size of the property; and he had planned to put a garage on it since there was one right next door to the house he was looking to buy, and he felt that an external, accessory building would not be an issue since there was one right next door.

Mr. Dougherty stated he has been in pole barns/accessory buildings with Classic cars in them some of which had more than 30 cars in them so he is aware that you can park one on top of the other with a 12' ceiling. He stated the way the doors are configured, it would not be a problem to easily get 12 classic cars in the proposed structure if they were double-stacked. Mr. Bodolosky stated he would have to be able to afford the lifts to put them up. Mr. Dougherty stated he feels the Board is struggling less with the fact that the proposed structure is to be 50' by 35' than with the fact that it is proposed to be 25' high.

Mr. McVan stated if he were able to get the height down, he feels it would help everyone. Mr. Bodolosky asked the Board if they had a recommendation as to how high he could go. Mr. McVan suggested 20’.

Mr. Connors suggested that this matter be Continued to the next meeting which would give Mr. Bodolosky the time to do the calculations and further consider the height. Mr. Bodolosky stated he believes that they could come down to 20’. Mr. Solor stated he agrees that a Continuance should be requested, and he could come back with more information. Mr. Dougherty stated Mr. Connors had suggested pushing this a little further off the alley, and a plan could be shown of that. Mr. Solor stated that would increase the impervious so there are trade-offs in doing that.

Mr. Solor stated he would also suggest that Mr. Bodolosky speak to his neighbors a little more as well. Mr. Dougherty stated it appears that the Board members feel that the proposed tank would be good for the neighbors, and he could discuss that with his neighbors. Mr. Bodolosky stated he will try. Mr. Solor stated having the calculations will also help with that. Mr. Dougherty stated once he has the calculations that might make a big difference to the neighbors when they see what the tanks can carry.

Mr. Dougherty stated if a Decision were made this evening which did not go in Mr. Bodolosky’s favor, he would have to come back and re-advertise which would be an expense, so that a Continuance would save that. Mr. Solor stated discussions with the neighbors may also provide more insight and impact what he decides to come back with. Mr. Bodolosky agreed to the Continuance.

Mr. Connors moved, Mr. Dougherty seconded and it was unanimously carried to Continue the matter to June 21, 2022.

APPEAL #22-1968 – JOSEPH & ANGELA KEARNS  
Tax Parcel #20-034-089-002  
BIG OAK ROAD, MORRISVILLE, PA 19067

Ms. Kimberly Smith, Attorney, was present with Mr. Joseph Kearns and Mr. Rick Stoneback, project engineer, who 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 Deed was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Ms. Smith stated the subject property is located at the intersection of Big Oak Road and Makefield Road, and is located in the R-2 District of the Township. It is approximately 1.6 acres. She stated as can be seen from the Site Plan, this is an oddly-configured lot, and it is an L-shaped lot that straddles the existing gas station. It is currently vacant and has most likely not been improved previously because of its odd configuration. She stated the property backs up to Rock Run Creek, and there is a 100 year floodplain at the rear of the property. Ms. Smith stated the Applicant is not planning to disturb the floodplain in any way; but because of the existing floodplain, there is a “strange” triangular-shaped building coverage. She stated Mr. Kearns is not intending to subdivide this property or sell it, and he intends to build a residence for himself, his wife, and his seven children.

Ms. Smith stated under the Ordinance there is a minimum front yard setback of 80’, and they are requesting one Variance which is to permit a front yard setback of 60’. She stated otherwise this Plan is compliant with all other Zoning requirements.

Ms. Smith asked Mr. Kearns if he is the owner of the subject property, and Mr. Kearns agreed. Ms. Smith asked Mr. Kearns when he purchased the property, and he stated he purchased it in April, 2022. Ms. Kearns asked if he intended to build a residence on it, and Mr. Kearns agreed. Ms. Kearns asked the approximate square footage of the residence he proposes to build, and Mr. Kearns stated it is proposed to be 4,500 square feet. Ms. Smith asked if the property is currently vacant, and Mr. Kearns agreed. Ms. Smith asked if he intends to subdivide the property, and Mr. Kearns stated he does not. Ms. Smith asked Mr. Kearns if he is aware that there is a creek behind his property and a floodplain at the rear, and Mr. Kearns agreed. Ms. Smith stated Mr. Kearns does not intend to disturb that area at all, and Mr. Kearns agreed.

Ms. Smith stated due to the odd building envelope, they will have to build the property in the front yard setback to provide an adequate side yard to the School that is beside the property, and Mr. Kearns agreed. Ms. Smith

stated the front yard setback they are requesting is 60', and Mr. Kearns agreed. Ms. Smith asked if that will give them a sufficient amount of back yard space, and Mr. Kearns agreed.

Ms. Smith stated Mr. Stoneback was retained by Mr. Kearns to do some storm-water management, and Mr. Kearns agreed. Ms. Smith asked if the Plan requires any other dimensional relief such as building coverage, impervious surface or other setbacks, and Mr. Kearns stated it does not.

Ms. Smith asked Mr. Kearns if he is familiar with the surrounding properties, and Mr. Kearns stated that he is. Ms. Smith stated many of those surrounding properties have less of a front yard setback, and Mr. Kearns agreed they have about half of what he has. Ms. Smith stated what they are proposing will be consistent with the surrounding properties, and Mr. Kearns agreed. Ms. Smith asked Mr. Kearns if he is aware of any reason why this would be detrimental to the surrounding area, and Mr. Kearns stated he is not.

Mr. Stoneback stated he is President of Charles Shoemaker Incorporated. He stated he is a Graduate of Penn State and has Licenses in Pennsylvania as a Professional Land Surveyor and also as a Professional Engineer. He stated they specialize in site development for single-family homes, Residential developments, schools, Senior living, and Retail.

Mr. Stoneback stated he was retained by Mr. Kearns to get his approvals to build a house for his family. He stated they delineated the 100 year floodplain from the FEMA mapping. He stated the setback to the rear to the floodplain is 45' so there is an additional 45' between the structure and the floodplain. He stated they are present tonight because Big Oak Road is identified in the Zoning Ordinance as a Collector Road, which is more than a normal Residential road and carries more traffic and has the potential for future improvements. He stated the requirement for the right-of-way of a Collector Road is 80' which means on their side they are 40' from the center. He stated from the center of the paving to the right-of-way line, which is roughly where the sidewalk is built, is 40'. He stated the front yard requirement increases on a Collector Road from what is normally required, and it is 80'. He stated from the center of the road to the front of the house, it would have to be 80' plus the 40' or 120'. He stated this really pushes the house back far, increases the length of the driveway, and in effect increases the impervious coverage. He stated it also reduces the area in the back yard and forces the house to be up against the buffer yard from the 100-year floodplain. He stated they will still be 45' from the 100-year floodplain, and the building area becomes

triangular. He stated the house is approximately 66' by 50' with a living area of approximately 4,500. He stated there will be a driveway coming off Big Oak Road and a side entrance garage. He stated the area in the 45' can be developed with a pool or a patio, and they have designed some encroachment into the 45' which is permitted by Code to account for that. He stated they have designed a stormwater management system that would handle all of the run-off that is proposed now as well as some additional. He stated the impervious coverage with the house is about 10%, and 18% is permitted. He stated they did soil testing for the stormwater management and found evidence of high ground water which is not unusual when you are near a stream. He stated they therefore have to have a very shallow system, and they cannot go deep or the groundwater will fill up the system. He stated they have designed something akin to a rain garden which is a shallow ponding area that would have plants that are selected based upon their ability to sustain themselves in the wet conditions and also help absorb the water through trans evaporation.

Mr. Stoneback stated the request for the 20' reduction in the front yard allows them to slide the house more to the center of the site because they are not pinched in the triangle, and it allows them to create a larger side yard to the School. He stated there is only a 15' side yard required to the School, and they are hoping that they will be able to have something closer to 30' by sliding the house more to the right with a 20' reduction in the front yard.

Mr. Stoneback stated they also included in the submission package aerial photos along Big Oak Road, and it can be seen that the homes are much closer to the road than what they are proposing and have approximately 50' to 60' to the center of Big Oak Road. He stated the proposed home will be back twice as far as most of the homes on the street; and they feel that given the unusual characteristics of the site, they have a reasonable hardship to move the house 20' closer.

Ms. Smith asked Mr. Stoneback if he feels that the 60' setback that is being requested is reasonable, and Mr. Stoneback agreed. Ms. Smith asked if it will be consistent with the surrounding area, and Mr. Stoneback agreed. Ms. Smith asked if he feels this is the best location for this residence on this site due to the irregularities of the building footprint, the floodplain, the irregular shape, and having two front yards; and Mr. Stoneback agreed. Mr. Stoneback added that it is a 1.6 acre lot and is very unusual since it has a double frontage and the stream. He stated he feels this will be a better design than pushing the house back and tight to the 45' setback.

Mr. Dougherty asked Mr. Majewski if the 45' buffer from the floodplain is accurate, and Mr. Majewski stated that is the building setback from the floodplain. Mr. Majewski stated when they delineated the floodplain it is a studied stream, and there are elevations associated with the floodplain, and they mapped that out accurately so it is 45' to where they show the building setback box on the Plan. He stated they also have a little bit more room from there to the house. Mr. Majewski stated to the stream it is over 100' away. He stated there is no buffer from a floodplain. He stated there is a buffer from a water course, and the water course buffer is completely within the floodplain so therefore they just have the building setback from the floodplain. He stated we have in the Ordinance that all setbacks are measured from Resource-Protected lands so that you do have a free and clear yard area from the house to a resource so that you could put in a swing set or something else in that area without encroaching upon the resource which in this case is the floodplain.

Mr. Connors asked if Big Oak is at full build out or are there any plans for expansion. Mr. Majewski stated he does not believe PennDOT would ever anticipate widening Big Oak further than it is already. He stated there is also a sidewalk there, and he does not feel there would be widening that would impact this development.

Ms. Kirk stated the Township is just participating and not opposing the Application. Ms. Kirk noted where the 45' rear yard line is designated on the Plan, it is attached to another green line that goes down triangularly. Mr. Stoneback stated that is the building envelope. Ms. Kirk asked if that building envelope line set so that it is a 45' setback from any point along the envelope line to the floodplain, and Mr. Stoneback agreed. Ms. Kirk asked if there is any intention of any permanent structures being built within that 45' rear yard, and Mr. Stoneback stated there may be an accessory use someday such as a pool. Ms. Kirk stated she understands that the request is to eliminate the 80' front yard setback in order to preserve the 45' in the rear yard along the floodplain. Mr. Kearns stated he wanted to make sure that his family of seven children have a back yard since otherwise they would not have a back yard.

Ms. Kirk stated the concern that the Township has to a certain extent is maintaining a free back yard along the floodplain area as a result of the request for the front yard Variance. She asked if other than a pool which would be a permanent structure, is there any intention of building an addition; and Mr. Kearns stated there is not, and the house is being built



for his family. Ms. Kirk asked if there was any suggestion made of doing some sort of restriction on the land that would preserve the 45' rear yard so that if the property were to be sold at some point in the future, a buyer will not be coming in trying to build in that area. Ms. Smith stated they did not have that discussion; however, she assumes a new owner would have to go through Zoning relief and Land Use for that.

Mr. Connors asked if they would be open to preserving the floodplain. Mr. Kearns stated the floodplain is already preserved, and the 45' is his property.

Ms. Kirk stated in order to preserve the 45', Mr. Kearns is asking for 20' less in the front yard, and she asked Mr. Kearns if he is willing to put something in writing that would preserve that 45' in perpetuity. Mr. Kearns stated his plans are to put in a pool in the future in that 45', but he would never build an addition of the house there. Ms. Kirk asked Mr. Majewski if a pool were intended to be placed within the 45' along the floodplain area, would Zoning relief have to be requested; and Mr. Majewski stated there would be no Zoning relief required, and that is just for the principal building to be set back. He stated as he noted before the reason why we have the principal building setback from the Resource-Protection land is so that it affords the homeowner the opportunity to have a usable back yard to put in a swing set, have a place to play, and even put in a pool or a shed. Ms. Kirk stated the restriction in order to preserve the 45' clear yard setback, would be that there be no structures built that would be an extension of the principal structure.

Mr. Majewski stated if they tried to extend the house back into the 45' area, that would require another Variance as they would then be encroaching on the rear yard setback.

Ms. Kirk stated based on the calculations, she understands it would not make sense to turn the house in any way to try to get more footage for the front yard, and Mr. Stoneback stated he is working with the house that he was given. He stated if there is an L-shaped house where the L side was the School side, it would fit in there, but he feels that with the 100' it would become very tight in order to get it in.

Mr. Majewski stated Mr. Connors had asked about an Easement, and he asked if Mr. Kearns would be willing to preserve the floodplain in a written form. Mr. Connors stated he was asking if there could be a Deed Restriction on the floodplain as identified. Mr. Kearns stated he was told he could never build

there anyway, and so as long as he can put in a pool in the 45' buffer that is all he cares about. Mr. Majewski stated it would just quantify that they cannot build in the floodplain area, and it would be part of the Deed and not subject to a future homeowner thinking they can build back in the floodplain.

Mr. Kearns stated he understands that he cannot put a principal building in the 45', but he can put the pool or swing set there, and the Board indicated that was correct.

Ms. Kirk asked Mr. Kearns if he would be willing to put a restriction on the Deed that says that the area between the creek and the limit of the floodplain cannot have a structure or construction in it, and Mr. Kearns agreed.

Mr. Stoneback asked if that would impact the pool, and Mr. Solor stated it would only restrict building in the floodplain.

Mr. Stoneback stated the rain garden will be sized for any additional impervious that may happen around the pool.

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

Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal as submitted on the Plan with a Recorded Deed Restriction stating that there be no development of any type inside the floodplain or as a Recorded Conservation Easement.

#### OTHER BUSINESS

There was discussion about Appeals on upcoming Agendas. Mr. Majewski noted that the first meeting in July will be July 5, and he wanted to make sure there will be a quorum available for that meeting.

There being no further business, Mr. Dougherty moved, Mr. McVan seconded and it was unanimously carried to adjourn the meeting at 9:35 p.m.

Respectfully Submitted,

Peter Solor, Chair

