

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – AUGUST 5, 2025

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on August 5, 2025. Mr. Dougherty called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: James Dougherty, Chair
 Peter Solor, Vice Chair
 Christian Schwartz, Secretary
 Mike McVan, Member
 Judi Reiss, Member

Others: James Majewski, Community Development Director
 Dan McLoone, Planner
 Maureen Burke-Carlton, Township Supervisor
 Adam Flager, Zoning Hearing Board Solicitor
 Suzanne Blundi, Supervisor Liaison

Mr. Dougherty stated there is only one Appeal on the Agenda tonight. He stated the Applicant will present their case, the Board will ask questions, and then public comment will be taken. He stated those speaking will be sworn in and are asked to be concise. He stated they will also be given the opportunity to request Party Status; and those not satisfied with the Decision have the ability to Appeal the Decision.

Mr. Dougherty stated the Board has reviewed the Exhibits submitted. He stated there has been a lot of discussion by the community about possibly turning this property into open space; however, the Zoning Hearing Board has no governance over that. He stated those who feel strongly about that should take that to the Board of Supervisors. Mr. Flager stated the Zoning Hearing Board is a quasi-judicial body listening to evidence and making a decision. He stated any questions related to open space should be directed to the Township Board of Supervisors as they are the ones who make those decisions, and the Zoning Hearing Board has nothing to do with that. Mr. Flager stated the Township is participating in this matter; and Ms. Carlton, the Township solicitor, will have questions and statements of her own.

APPEAL #Z-25-13 – UMANSKY

Tax Parcel #20-032-001

136 OLD OXFORD VALLEY ROAD, LANGHORNE, PA 19047

(Continued from 6/17/25)

Mr. Jeffrey Garton, attorney, was present.

Mr. Chirag Thakkar, ARNA Engineering, Mr. Jerome Skrincosky, Hawk Valley Associates, and Eugene Umansky, Trinity Realty Companies, were sworn in.

Mr. Flager marked the Exhibits as follows: The CV of Chirag Thakkar was marked as Exhibit A-1. The Site Plans were marked as Exhibit A-2. The Agreement of Sale was marked as Exhibit A-3. Repudiation and Novation were marked as Exhibit A-4. Extension Agreement was marked as Exhibit A-5. The Building Façade Options was marked as Exhibit A-6. The aerial photograph of the surrounding neighborhood was marked as Exhibit A-7. The CV of Jerome Skrincosky was marked as Exhibit A-8. The Land Use and Zoning Assessment Report was marked as Exhibit A-9. The Application was marked as Exhibit A-10. 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.

Paper copies were provided by Mr. Garton to the Board this evening.

Mr. Garton stated he represents the Oxford Valley Road owner, LLC, and Mr. Umansky is present who is the managing member. Also present is Mr. Skrincosky who is the Planner, and Mr. Thakkar who is a Licensed Civil engineer.

Mr. Garton stated the property has frontage on Old Oxford Valley Road and is Zoned C-3. The property consists of approximately 3.551 acres. He stated the Applicant has requested a Variance from Section #200-47A.3.a with respect to the mix of the unit types for a Senior Housing Development and from Section #200-47A.3.f requiring minimum density number of units. Mr. Garton stated they are not requesting a Use Variance because this use is permitted within the Zoning District.

Mr. Thakkar stated he is a Civil Engineer employed with ARNA Engineering. Mr. Garton stated Exhibit A-1 is his Mr. Thakkar's resume, and Mr. Thakkar described his experience and his Licensures as a professional engineer.

Mr. Thakkar was accepted by the Board as an expert in Civil Engineering.

Mr. Thakkar stated he oversaw the preparation of the Plan depicting the proposed construction of 16 attached dwellings as an age-qualified development which is identified as Exhibit A-2 and was shown on the screen this evening. Mr. Thakkar stated it shows four clusters of four attached product for a total of 16 units shown in the colored rectangular box. He stated the proposed street takes access off of Oxford Valley Road. He stated the existing farmhouse on the western side toward the end of the property is proposed to be removed. He stated a cul-de-sac is proposed with approximately eight parking spaces for visitors and a sidewalk that runs along the front of the proposed units. He stated there is .66 acres of open space proposed at a location shown on the Plan and a proposed stormwater management facility at the corner of the property intersection with Oxford Valley and the open space as shown on the Plan.

Mr. Thakkar stated the property will be served by public water and public sewer. He stated it will have to go through a Land Development approval process and a full engineering review by the Township. He stated an NPDES Permit will be required since the site is more than one acre and will result in a disturbance of more than one acre, and therefore DEP will take jurisdiction over the stormwater management design above and beyond the Township stormwater regulations.

Mr. Garton asked Mr. Thakkar how the topography works with respect to the stormwater. An aerial was shown, and Mr. Thakkar stated it can be seen that the land had previously been disturbed. He stated there is an access drive that goes from Oxford Valley toward the rear of the farmhouse. He stated the topography is gently pitching from the western end of the property toward the eastern side toward the road. He stated there is a small portion of the property that drains toward the northwest at an area he showed on the aerial.

Mr. Garton asked what they are proposing to resolve any stormwater issues. Mr. Thakkar stated the property is close to 3.5 acres on a gross site area basis; and whenever you have more than one acre of disturbance, you are under the jurisdiction of an NPDES Permit which is a State Permit with DEP. He stated they will have to comply with not only the stormwater regulations that are in the Township Ordinance, but will also have to comply with the State requirements.

Mr. Thakkar stated they have proposed a stormwater facility in the rear of Units 1 through 4 as shown on the Plan. He stated the reason it is proposed there is because the topography flows toward that area, and that is where the water flows naturally. He stated water will be collected, treated, and discharged in compliance with the Township Ordinances as well as the State Ordinances.

Mr. Garton asked if that will diminish in part the water from the site that goes onto the open space owned by the Township adjacent to that, and Mr. Thakkar agreed. Mr. Thakkar added that currently there is no existing stormwater facility for this property, and it is just sheet flow going out to the road and into the Township property shown on the Plan. He stated they will install the stormwater facility to today's standards. He stated Act 167 requires that they not only maintain the peaks, they have to actually reduce the stormwater that goes out of the development.

Mr. Garton asked Mr. Thakkar to speak on the Variances being requested. Mr. Thakkar stated one Variance is related to the product mix and the other is related to the density. He stated density permitted in the Township Zoning Ordinance is 4.6 units per base site area, and they are requesting 4.65 units which is a de minimus request.

Mr. Garton asked Mr. Thakkar how the construction of the 16 attached dwelling units compare with the surrounding uses. Mr. Thakkar stated it is very compatible. He noted on the aerial the existing Toll community which has been built; and although the product is not exactly the same, it is very similar to that product in that it is an attached product with a driveway in the front, an access road that serves the community, a stormwater facility, and a sidewalk system that fronts the units.

Mr. Garton asked Mr. Thakkar if he sees the possibility of a negative impact on the community related to the construction of this project, and Mr. Thakkar stated he does not. He added that there is no stormwater control currently, and the site is non-conforming to the Township's Stormwater Ordinances. He stated as they go through Land Development approval and the engineering is designed through the Township and the State, it will then be in compliance so he sees a benefit from a stormwater point of view. Mr. Garton stated the site currently is basically a lawn with a limited number of trees, and Mr. Thakkar agreed.

Ms. Reiss asked the age of the farmhouse, and Mr. Garton stated there will be testimony from the planner about the farmhouse. Ms. Reiss stated she is impressed with Mr. Thakkar's resume, but most of what he has done is Commercial or Mixed-Use. She stated she is concerned about the farmhouse and the amount of paving that will be in the area.

Mr. Umansky stated he is managing member of Oxford Valley Road owner who is the Applicant for this project. Mr. Garton asked Mr. Umansky to describe the two Agreements attached as Exhibit A-3. Mr. Umansky stated it is their Agreement of Sale for the property. Mr. Garton stated there are two Agreements, and one appears to be executed by the owner and Dryden Court Development, which is not Mr. Umansky; and Mr. Umansky agreed.

Mr. Garton stated also attached to Exhibit A-3 is a subsequent Agreement which he would characterize as the assignment of that Agreement to Mr. Umansky's entity; and Mr. Umansky agreed. Mr. Garton stated Exhibit A-4 is the Repudiation and Novation Agreement, and Mr. Umansky agreed. Mr. Garton asked about Exhibit A-5, and Mr. Umansky stated they are Amendments to certain terms in the original Agreement. Mr. Garton asked if that extends the time-frame of the Agreement of Sale, and Mr. Umansky agreed. Mr. Garton asked to when the most recent Amendment extends the Agreement of Sale, and Mr. Umansky stated it is December 31, 2025. Mr. Garton stated they are the equity owners of the property, and Mr. Umansky agreed.

Mr. Garton asked Mr. Umansky to for clarify the Zoning Variances requested. Mr. Umansky stated they are proposing the construction of 16 attached dwelling units in four clusters of four homes whereas the C-3 Zoning Code as it relates to age-qualified communities allows for only 60% of units to be attached. He stated the other Variance is for a maximum dwelling unit count where the Code allows for 4.6 dwelling units per acre, and they are requesting 4.65.

Mr. Garton asked Mr. Umansky to speak to Exhibit A-6, and Mr. Umansky stated it is a sample rendering of one of the potential facades for their homes. Mr. Garton stated a floor plan is also attached, and Mr. Umansky agreed. Mr. Garton stated there is also a subsequent rendering, and Mr. Umansky stated that is an example of other façade materials that could be used in this product. Mr. Garton stated there are two to three options as well as floor plans which could be the basis for the homes to be constructed, and Mr. Umansky agreed.

Mr. Garton asked the price point for the properties proposed to be constructed; and Mr. Umansky stated the base model home for an interior unit, not a corner unit, would be about \$750,000, and a corner unit would have a premium added to that, but it has not yet been determined. Mr. Umansky stated base price is standard building delivery, but there would be upgrades for certain items such as nicer floors, kitchens, etc.

Mr. Garton asked Mr. Umansky if he believes that these Variances are the minimum Variances necessary to make a reasonable use of the property as a C-3 Senior Housing project, and Mr. Umansky agreed. Mr. Garton stated there is a slight deviation from the lot yield, and he asked if he agrees that it is de minimus; and Mr. Umansky agreed.

Mr. Garton noted the aerial photograph marked as Exhibit A-7. Mr. Umansky stated the Exhibit shows the entire C-3 Zoning District in the Township, and he noted the location of their property on the aerial at the bottom on the south corner. He stated the entire red border is the only C-3 District in the Township. He stated above their property is a portion of Regency at Yardley which are the townhomes, and north of that is Yardley Woods, which has 62, over-55 townhomes on about 19 acres. He stated while that was in the C-3 District, he found it to be re-zoned to R-4. Mr. Umansky stated further north are carriage homes, which is the rest of Regency, and they are detached. He stated north of that there is a Senior Living facility, and above that is Yardley Preserve, which is 76, attached homes (townhouses) on roughly 16 acres with no mix of Units. He stated above that are offices.

Mr. Garton asked if the Senior Living facility is a multi-family house, and Mr. Umansky stated it could be called that.

Mr. Garton asked Mr. Umansky to describe the portion of the neighborhood adjoining the Applicant's property. Mr. Umansky stated it is all attached townhomes. Mr. Garton asked Mr. Umansky if he believes that the development of this project will have a negative impact on the neighborhood, and Mr. Umansky stated he does not.

Mr. McVan asked the average square footage of each unit, and Mr. Umansky stated the above-grade square footage is about 2,114 square feet. He stated the homes will have a finished basement which will add another 850 square feet so that in total finished living space will be 2,965 square feet. Mr. McVan asked Mr. Umansky if he knows how large the townhouses are which are

behind his property, and Mr. Umansky stated there are a variety models. He stated most recently there was a home that was sold which was 1,754 square feet which was a little further from their property. He stated the homes behind their property on Lavender Drive are a little larger, and there are listings of 3,100 square feet above grade with extra square footage in the basement. He stated there are some other homes that are about 2,900 square feet.

Mr. Dougherty asked Mr. Umansky if they have developed a product like this before, and Mr. Umansky stated they have developed attached town-home products before in general with no age encumbrance. Mr. Dougherty stated he understands the base price will be \$750,000; and he asked based on experience with buyers adding options, which is common in new construction, what does he anticipate the average sale price to be post options. Mr. Umansky stated he is not sure; however, given the size of the home, he does not expect it to exceed 10%.

Mr. Dougherty asked Mr. Umansky if he knows what the homes in Regency at Yardley have sold for; and Mr. Umansky stated the price varies based on the size. He stated a property on Cypress sold in October, 2024 for \$764,000, and it was 2,900 square feet. He stated there was also a home that recently sold for \$1.15 million on Lavender, and that home was larger and very well equipped. He stated a 1,700 square foot home sold for \$700,000 on June 30. He stated there is a range, and they are well within the range. Mr. Dougherty asked Mr. Umansky if it is fair to say that he feels that they are not undercutting their values, and Mr. Umansky agreed.

Mr. Skrincosky stated he is the President of Hawk Valley Associates, which provides professional planning and Zoning consulting services. He reviewed his experience as shown in Exhibit A-8. He stated approximately 90% of his work effort has been representing Municipalities and 10% devoted to working with the private development company. He reviewed the Comprehensive Plans, Zoning Ordinances, Subdivision and Land Development Ordinances, and other Ordinances that he has prepared, which included his time as the Planner for Northampton Township. Mr. Skrincosky was accepted by the Board as an Expert Planner.

Mr. Skrincosky was engaged by the Applicant to review the parcel/proposed development and prepare a report, and Mr. Skrincosky agreed adding Exhibit A-9 is the Land Use and Zoning Assessment Report (LUZA Report) dated April 14, 2025. Mr. Garton stated the Conceptual Zoning Plan was

attached as Appendix A-11 and A-12 to the Report, and Umansky agreed. Mr. Umansky stated he also visited the site on three occasions and reviewed the aerial photographs which are also included in his Report as A-1 through A-8. He also included photographs of the immediate neighborhood.

Mr. Garton asked Mr. Skrincosky to describe the existing Land Uses. Mr. Skrincosky stated the existing land uses are described in Section 2.8 of the LUZA Report starting with the subject property which is identified as a Residential use. He stated to the north of the subject property is age-qualified community development, and the area adjacent are age-qualified, single-family attached dwellings or townhouses, which are part of Regency at Yardley. He stated further north are additional age-qualified attached townhouses, which are part of the Yardley Woods community. He stated to the east is Old Oxford Road, and beyond that are Commercial uses that include a truck dealership, pharmacy, bank, gas station, health clinic, and other highway-commercial type uses. He stated to the south is Tall Pines Road, and beyond that is a cell/communication towers. He stated to the west are age-qualified single-family attached dwelling units that are part of Regency at Yardley, and further to the west are attached townhouse units that are part of Big Oak Crossing which is not an age-qualified, retirement community.

Mr. Garton asked Mr. Skrincosky if he has reviewed the Bucks County Comprehensive Plan, and Mr. Skrincosky agreed he has. Mr. Garton asked if the proposal to construct age-qualified housing on this property consistent with the Bucks County Comprehensive Plan, and Mr. Skrincosky stated it is. Mr. Garton asked what that Plan says about this part of the Township. Mr. Skrincosky stated the Bucks County Board of Commissioners as part of their adoption of the Plan in 2024 indicated that the Plan provides emphasis that new developments should be steered towards under-utilized sites that should be compact and built where existing infrastructure is adequate and be designed as an emphasis on access control, streetscape appearance, pedestrian and travel, and safety. Mr. Garton asked if this property has access to a public street, and Mr. Skrincosky stated it does. Mr. Garton asked if it is adequate for the purposes intended, and Mr. Skrincosky agreed.

Mr. Garton asked Mr. Skrincosky if he has reviewed the Lower Makefield Township Comprehensive Plan, and Mr. Skrincosky stated he has approved that Plan which was approved in 2019. Mr. Garton stated Appendix A-9 of Mr. Skrincosky's report is a Map of Existing Land Use in the Lower Makefield Township Master Comprehensive Plan. Mr. Garton asked Mr. Skrincosky what does the Lower Makefield Township Master Comprehensive Plan

(Appendix A-10 of Mr. Skrincosky's report) talk about as far as this particular property; and Mr. Skrincosky stated the Future Land Use Analysis/Map identifies the subject property as an age-qualified Residential Use, which means that is the desired Use moving forward that the Township desires to see on that site. He stated to the north is age-qualified Residential uses, to the east is Commercial/Highway Services uses, to the south is age-qualified Residential uses, and to the west is age-qualified Residential uses. He stated these are depicted on the map that is located within the LUZA Report. Mr. Garton stated the Lower Makefield Township Comprehensive Plan contemplates age-qualified housing on this property, and Mr. Skrincosky agreed.

Mr. Garton asked Mr. Skrincosky if the Lower Makefield Comprehensive Plan has a Chapter devoted to historic resources, and Mr. Skrincosky agreed it is located on pages 95 through 100. Mr. Garton asked if the property in question is identified as a historic resource in that Comprehensive Plan, and Mr. Skrincosky stated it is not.

Mr. Garton asked Mr. Skrincosky to describe the C-3 Zoning District with respect to the primary permitted uses. Mr. Skrincosky stated in Section 3.b of the LUZA Report is what the age-qualified community within the C-3 District is specified for. He stated there is limited under-developed land area to establish a new, age-qualified community that can meet all of the design criteria that are specified under Section #200-47 of the Zoning Ordinance. He stated the Lower Makefield Township Comprehensive Master Plan states residents over 55 years of age make up 33% of the Township's population and is the only age group that grew since the 2000 Census; therefore the expansion of an existing age-qualified community located in the C-3 Zoning District is logical considering land use compatibility and the impacts associated with their development. The subject property can be harmoniously developed and integrated as a compatible use to the existing age-qualified community at Regency at Yardley and Yardley Woods.

Mr. Garton asked what other uses are permitted in the C-3 Zoning District. Mr. Umansky stated the uses permitted by right are agriculture, automobile body repair or paint shop, cemetery, convenience store, crematorium, day care facility, nursery school, kindergarten, emergency service operations, finance services, funeral home, general business, professional or governmental offices, health or fitness clubs, hospitals, kennels, large retail stores, light manufacturing uses, medical offices, nursery, horticulture or greenhouses, nursing home, research/development facility, restaurant with or without drive-through facilities, retail or personal service shops, service stations, vehicle sales, veterinary offices, warehousing and distribution facilities, wholesale trade, forestry and timber harvesting, and age-qualified communities.

Mr. Garton asked if the age-qualified community is the only Residential use that is identified in C-3, and Mr. Skrincosky agreed. Mr. Garton stated all of the other uses are non-Residential, and Mr. Skrincosky agreed.

Mr. Garton stated he understands that there is no other area in C-3 which is suitable for an age-qualified development, and Mr. Umansky agreed adding that the C-3 District provides minimal opportunities for it to be developed in strict consistency with the Zoning Ordinance and the specifications for an age-qualified community.

Mr. Garton asked Mr. Skrincosky to speak to the rationale for the two Variances that have been requested. Mr. Skrincosky stated the first is under Section #200-47A.3.a which requires that the development be designed with 60% of the Residential units containing single-family attached units, and the Applicant is proposing 100%. He stated the second Variance is from Section #200-47A.3.f1 which is the requirement for a maximum Residential density of 4.6 dwelling units per acre; and with the 16 attached dwelling units, it is 4.65 dwelling units per acre. Mr. Garton asked if Mr. Skrincosky, in his professional opinion, feels that is a de minimus deviation; and Mr. Skrincosky agreed.

Mr. Garton asked Mr. Skrincosky if this project will have a negative impact on the neighborhood, and Mr. Skrincosky stated he does not feel it will. Mr. Garton asked if rigid compliance is necessary to protect the public policy concerns inherently noted in the Zoning Ordinance. Mr. Skrincosky stated under Section 4 of the LUZA Report it provides a host of requirements such as environmental and ecological impacts, stormwater impacts, sewer, water, utilities, transportation, community facilities, and visual landscape; and those are all identified within the Zoning Ordinance and the Subdivision and Land Development Ordinance which the Applicant will be required to do. He stated there are currently no impacts, and it will be up to the Applicant to demonstrate further compliance. Mr. Garton stated there is nothing inherent about this project that is not consistent with the public policy concerns noted in the Zoning Ordinance, and Mr. Skrincosky agreed.

Mr. Garton noted the issue with regard to the allocation of housing types. He asked Mr. Skrincosky if he has reviewed the C-3 Zoning Ordinance related to age-qualified housing, and Mr. Skrincosky agreed. Mr. Garton stated that aside from the fact that this is a non-conforming lot, the minimum acreage is 10 acres; and Mr. Skrincosky agreed. Mr. Garton asked if that is the rationale for the required percentages of various housing types, and Mr. Skrincosky agreed. Mr. Garton stated that would not be applicable to

a small site like this, and Mr. Skrincosky agreed. Mr. Garton asked what are the reasons why you do not want a mix on a small property like this to have singles and attached dwellings. Mr. Skrincosky stated it would impractical because the lot is too small; and the area would be best designed with townhouse units in groups because of its linear fashion. He stated if it were to be developed with a mix of uses, it would be a few homes that would meet the criteria, and more Variances would probably be required in terms of setbacks and other items. Mr. Garton asked if having a few singles with townhouses would be conducive to an age-qualified community, and Mr. Skrincosky stated it would not. Mr. Skrincosky stated multi-family units are customarily in age-qualified communities because of less maintenance. Mr. Garton asked about the allocation of expense if there are larger singles versus attached, and Mr. Skrincosky stated there would be more expense with a single-family detached versus single-family attached. Mr. Garton stated it would not be a common assessment of costs in a small project like this, and Mr. Skrincosky agreed.

Mr. Garton asked Mr. Skrincosky his opinion as to whether this property could be feasibly developed with a mix of uses as far as the housing types for C-3, age-qualified housing; and Mr. Skrincosky stated he believes that the Applicant has proposed the conceptual plan that works best for the site in its linear fashion plus it is a very compatible use with the adjacent land uses given that the homes surrounding the property are age-qualified, attached units or townhouse units.

Mr. Garton asked if the proposed development or Variances, if granted, have any negative impact on the neighborhood, and Mr. Skrincosky stated it will not.

Mr. Schwartz stated it appears from the information provided in the packet that the Agreement of Sale is contingent upon the Applicant getting the Variances. Mr. Umansky stated as a buyer/equitable owner, Zoning is one of the factors that they consider when moving forward with a purchase; and it is not contingent strictly on Zoning.

Mr. Schwartz asked if the Applicant has already gone before the Planning Commission, and Mr. Garton stated they have not been before the Planning Commission.

Mr. Schwartz stated while he had questions about the reasons for the two Variances Mr. Skrincosky answered all his questions when he made his presentation.

Ms. Reiss asked the age of the farmhouse adding that she recognizes that it will not be an exact date. Mr. Umansky stated there is information from Mr. Camaratta and Dr. Heinz of the Historical Commission who guessed that the original portion of the home was built between 1820 and 1840. Mr. Umansky stated it has since had multiple additions. Ms. Reiss stated it is not surprising that something is not listed in the Plans since in many cases they are “hidden and nobody thought about it until a sale would come up.”

Mr. Solor asked what the density would be if they had 15 units. Mr. Thakkar stated using the base site, it would be about 4.38. Mr. Dougherty stated that means one less Variance would be required.

Mr. McVan asked if the property will actually be better with the proposed stormwater management. Mr. Thakkar stated it will be better since there are no controls at this time, and the water just runs through the property. He stated they will have to intercept the water, treat it, and release it such that it will be less in terms as peak and volume compared to what it is today.

Ms. Reiss asked if there has been a soil analysis since there are areas where the water does not drain down. Mr. Thakkar stated they have not done a soil test, but that will be done during the Land Development review process. He stated he has an NRCS soil map, and none of the soils listed are hydric in nature; but this is a County-based map which is not a specific study of a particular site, although it does give a general idea.

Mr. Dougherty stated he assumes that Regency at Yardley needed Variances. Mr. McLoone stated the Ordinance indicates an age-qualified community is permitted by right, and that was added on 12/19/05 which is when Regency was built.

Mr. Solor stated the public should understand that any development built on this site would require stormwater mitigation and retention to be put in place. Mr. Thakkar stated all the uses Mr. Skrincosky read other than the one that is under consideration are non-Residential; and they typically generate a lot more impervious surface which would mean more pollutants and water running faster. He stated the Ordinance allows 60% impervious surface, and what they are proposing would be lower than that. He stated what they are proposing has more green area, grass, lawn, open space, etc. which helps with stormwater control.

Mr. McLoone stated Yardley Preserve, which is north of Regency, was granted the same type of Variance for the different type of unit types similar to what is being requested by this Applicant.

Ms. Blundi stated Regency was developed as a result of litigation, and it was not the typical process.

Mr. Flager asked Mr. McLoone if Yardley Preserve had the same Variances granted, and Mr. McLoone stated it was Appeal #17-92A of Erin Development, Inc. for the property located on Dobry Road, west of the intersection with Oxford Valley Road, Tax Parcel #20-012-028. Applicant requested a Variance to Township Zoning Ordinance Section #200-47A3a in order to permit the entirety of the proposed age-qualified community to consist of quadplex units as opposed to varying the unit mix between single-family detached, single-family attached, and multi-family buildings. He stated they were granted Variances to build duplexes where other type of unit mixes was permitted. Mr. Dougherty stated duplexes would mean attached, and Mr. McLoone agreed.

Mr. Dougherty asked about the Variance for density, and he asked if Yardley Preserve had a density Variance; and Mr. McLoone stated they did not. He added the other Variance listed was Section #200-61c to permit a 32.5' setback from a resource-protected woodland boundary.

Ms. Reiss stated the traffic will flow onto Old Oxford Valley Road, and Mr. Umansky stated that is the primary in and out. Ms. Reiss stated it will then go into where the pharmacy is. Mr. Umansky stated there is a light at Big Oak, and that will be the only entrance for these homes.

Ms. Carlton stated she is present on behalf of the Township which is just participating, and the Township is not taking a position or opposing.

Ms. Carlton stated she understands that Mr. Umansky received information from the Township's Historical Commission that the farmhouse was built in approximately 1820. Mr. Umansky stated Dr. Heinz stated that she would guess that it was built between 1820 and 1840. Mr. McLoone stated the Bucks County Board of Assessment states that the year it was built was 1804. Ms. Carlton stated that is what she has in the information that she was provided, although that is not an issue before the Zoning Hearing Board this evening.

Mr. Dougherty stated he saw that the existing farmhouse was not identified as a resource by the LMT Historical Commission. Mr. Skrincosky stated he had testified earlier that within the Comprehensive Plan it is not referenced or identified. Ms. Reiss stated she is sure that “there are several like that, and she trusts Dr. Heinz.” She stated that is not a Zoning Board issue, and it was just a question she had.

Mr. Dougherty stated that those wishing to make public comment should spell their name, provide their address, and advise if they would like to be a Party to this matter. He asked that comments be concise and that those speaking not repeat themselves.

Mr. John W. Cullen, 99 Lavender Drive, was sworn in, and asked to be a Party. Mr. Garton stated he had no objection to Mr. Cullen having Party status.

Mr. Cullen thanked the Board for their service to the Township residents. Mr. Cullen stated over a three-day period he was able to collect 277 resident signatures to a Petition which he presented to Mr. Dougherty. Mr. Cullen stated this was signed during a time when many neighbors were on vacation, and it was signed by neighbors from both of the Carriages with 64% of the 277 being from Carriage residents 35% were from the Villas. He stated this is a serious matter for the community which will not be taken lightly. He asked to be able to read the Petition.

Mr. Garton stated he objects to the Petition as being irrelevant to the proceeding.

Mr. Dougherty stated he does not know if it should be entered into the Record although he feels it is fair to speak about it because of the amount of signatures. Mr. Dougherty asked Mr. Flager if there is anything legally that would preclude the Board from considering the impact of the fact that 277 people signed it.

Mr. Flager asked Mr. Garton to clarify his objection. Mr. Garton stated he understands from what it purports to say that it is Testimonial. He stated the people who signed it had the opportunity to come to the meeting; and while some of them are here, they are relevant to having a conversation, but not a Petition circulated since it is not known why it was circulated, who organized it, or who urged it to be signed. He stated he cannot cross-examine all of the people who signed the Petition.

Mr. Flager stated he feels as a compromise, Mr. Cullen could read the Petition into the Record; and anyone who comes up to speak if they have signed it, they can state that they signed it and that they agree with it. He stated that would eliminate Mr. Garton's concerns about admitting numbers he does not have the opportunity to cross-examine. Mr. Garton stated he is fine with Mr. Cullen reading it and indicating that he agrees with it since he can ask Mr. Cullen questions. Mr. Cullen was in agreement with this.

Mr. Cullen read the Petition as follows: We the undersigned residents of the Regency at Yardley respectfully request a temporary delay in the Zoning Variance determinations of Parcel ID 20-032-001 so that Federal, State, and Local officials as well as regulatory agencies have sufficient time to assess the full impact of any Zoning Variance request. This 3.55 acre parcel is located at 136 Old Oxford Valley Road in Lower Makefield Township. We sincerely hope that you will honor our request for this due diligence to take place. If you decide to proceed to plan to make determination anyway without delay, it is our strong position that the Variance request should be denied.

Mr. Cullen stated in the history book on the Five Mile Woods, it included a lot of dates as to when that house was built by the Satterthwaite family that go as far back as 1797.

Mr. Umansky stated Mr. Cullen indicated that 36% of the 277 signers of the Petition were from the Villas. Mr. Cullen stated that is 100 people. Mr. Umansky asked Mr. Cullen how 100 people who are half a mile away impacted by this proposed development. Mr. Cullen stated while he cannot speak for them, there is great concern for "every bit of green space" in the area of the southern portion of the Township. He stated they are surrounded on four sides by major highways – Route 1, 95, Big Oak Road, and Oxford Valley Road. He stated he feels it is underestimated how many people go in and out of Old Oxford Valley Road.

Mr. Umansky stated it was indicated that 64% of the signatories were from Mr. Cullen's specific community. Mr. Cullen stated his whole community is Regency at Yardley. Mr. Umansky stated he is referring to the "attached" portion of community that is adjacent to the Applicant's property. Mr. Cullen stated 64% or 177 of the signers were from the Carriages. Mr. Umansky asked how many of those about the subject property or live on Lavender. Mr. Cullen stated that would be a little less than 30 homes so it would be a total of about 50 people.

Mr. Schwartz asked Mr. Cullen why he signed the Petition; and Mr. Cullen stated he needs as much green space as possible. He stated they are a community of 55 and older, and he needs less pollution and the safest environment that he can possibly live in. He stated he does not think that there has been enough due diligence on the Federal, State, and local level and particularly by regulatory agencies to make a decision tonight. He stated if the Board were to make a decision tonight, he feels strongly that there is no reason for Variances to be granted.

Mr. Solor stated open space is not under the purview of the Zoning Hearing Board, and that is a Board of Supervisors' issue. Mr. Cullen stated he did not use the words "open space."

Mr. Dougherty asked Mr. Cullen to elaborate who he is talking about when he talks about local, State, and Federal regulatory agencies. Mr. Cullen noted the Army Corps of Engineers relative to the last time a wetlands survey was done in this portion of the Township. He stated he believes it may have been 10 years ago which was before Regency at Yardley was built. He stated he knows that part of the Exhibits that they are going to give the Board includes the Bucks County Wetlands look at this specific area, and there are residents here who have homes that are on wetlands according to the last survey that was done by the Army Corps of Engineers. He stated the EPA would be another agency. Mr. Dougherty stated whether the Zoning Hearing Board approves these Variances or not all local, State, and Federal agencies that are required to participate in a development of this nature are going to participate. He stated the Variance does not allow the developer to begin construction, and it just allows the developer to pursue construction.

Mr. Cullen stated he understands that, and they are just asking the Board to hold off on a decision with regard to the two Variances. Mr. Dougherty stated no developer would do all of that type of due diligence without first going to Zoning.

Mr. Robert Nemeroff, 89 Lavender Drive, was sworn in and requested Party status. Mr. Garton stated he had no objection to Mr. Nemeroff having Party status.

Mr. Nemeroff stated Mr. Umansky's company seeks two Variances from Article 12 Sections #200-47A3f and #200-47A3a of the Lower Makefield Zoning Code. Mr. Nemeroff stated while Mr. Umansky maintains that the Variance from Section #200-47A3f is de minimus, his Development Plan is technically not

complying with that Section's density requirements. He stated the Code requires a maximum of 4.6 units per acre, and Mr. Umansky's Plan proposes 4.65 units per acre and therefore needs a Variance. Mr. Nemeroff stated the Code also maintains that such a requirement applies where the minimum lot acreage is 10 acres; however, that specific requirement was addressed tonight despite the fact that the proposed development on the tract only consists of 3.5 acres which is less than 10 acres. He stated calling it de minimus obviates the need on their part to demonstrate a hardship.

Mr. Nemeroff stated a Variance may be granted where (1) unique physical conditions or circumstances of the property create an unnecessary hardship, (2) because of such unique physical conditions the property cannot be developed in strict conformity with the Zoning Code, (3) the hardship has not been created by the Applicant, (4) the Variance if granted will not alter the essential character of the neighborhood nor impair the use of adjacent property nor be detrimental to the public welfare, and (5) the Variance if granted will represent the minimum Variance that will afford relief and the least modification of the regulations in issue.

Mr. Nemeroff stated all five of these requirements must be met; and if any one of the five are not met, the Variance request should be denied. He stated this is a 3.5 acre tract and not a 10 acre tract; and during the presentation he heard that because of that, they could dispense with any hardship evaluation relative to the Mixed-Use requirement of the Code which requires 60% attached or detached single-family homes and 40% multi-family building. Mr. Nemeroff stated he recognizes that it would be impractical to build a combination of multi-family building and detached or unattached single-family homes on a 3 ½ acre tract. He asked if that means that they dispense entirely with a hardship evaluation, adding that the Code does not say that; and instead it says minimum lot 10 acres, Mixed-Use 40/60, density requirement 4.6. He stated it does not say that if it is less than 10 acres, you can dispense completely with the hardship evaluation, which is what is being asked of the Board this evening because they know that they cannot meet that. He stated the arguments that he has heard are compatible use to the surrounding use and consistent with the County and Township Comprehensive Plans, which makes sense since there are surrounding communities consisting of townhomes that do not contain multi-family buildings; however, he stated that is irrelevant on the issue of hardship, but it is relevant as to compatible use although that is only one of five requirements that he just alluded to.

Mr. Nemeroff asked if they have heard any evidence in this case that supports the fact that some particular unique condition or circumstance of the tract itself is the cause for failure to comply with the Mixed-Use requirement if they decide that requirement applies to a 3 ½ acre tract. He stated he did not hear anything; and he believes that is because an assumption was made that because it is not 10 acres, they do not have to demonstrate hardship.

Mr. Flager stated the argument about de minimus is in relation to the dwelling units per acre as it is a 1.1% difference. He stated hardship still has to be shown for the other Variance which is using 100% attached units instead of the 60% limit.

Mr. Kyle Melander was present on behalf of Congressman Brian Fitzpatrick.

Mr. Garton asked for an Offer of Proof, and he asked if Mr. Melander is a resident of Lower Makefield; and Mr. Melander stated he is a resident of Langhorne and lives a mile away from the impacted area. Mr. Garton stated he would not agree to Mr. Melander having Party Status. He stated the Congressman has no Party Status as he lives in Middletown. Mr. Garton stated this is not a political forum, and it is a Zoning Hearing Board Application. Mr. Melander stated he would argue that the Congressman represents all constituents of Pennsylvania's First Congressional District which includes residents from Lower Makefield.

Mr. Flager stated he would agree that he cannot have Party Status, but he is not opposed to him speaking.

Mr. Melander was sworn in. He thanked the Board for their time to address the Board and the residents as it relates to Regency at Yardley and more specifically the proposal by Trinity. He stated he speaks not only as a representative of the Congressman but also as a neighbor since he lives just one mile away from the proposed site; and he understands first-hand the character of the area and the concerns of the residents present in Lower Makefield and the impacted area.

Mr. Melander stated over the last few weeks his office has heard from a large number of residents, and the Petition noted earlier with 277 signatories reflects very strongly an organized community opposition. He stated concerns brought to his office were stormwater drainage issues, loss of open space, increased traffic and safety risks, public health impacts, Zoning Variances and non-compliance, proximity to sensitive wetlands, and environmental risks.

He stated his office has seen first-hand the negative consequences of unchecked development especially in the Lower Bucks area where similar projects have led to serious flooding, drainage, and infrastructure issues. He stated they understand that this area is already prone to flooding, and there is a wetland designation near Lavender Drive. He stated these are documented issues that can be potentially worsened by this development.

Mr. Melander stated in light of these concerns Congressman Fitzpatrick sent a formal letter to the EPA Administrator, Lee Zeldin, asking for a direct review of the proposal to insure full compliance with NEPA and other Federal environmental projections.

Mr. Melander noted the recent Courier Times article addressing this development project. He stated the developer's response to the community feedback when Trinity was asked about the concerns, they chose to "dismiss them and belittle them." He stated in their response he found it insulting to the residents where they essentially said, "there is nothing to see here." Mr. Melander stated while he is glad that they are present tonight and explaining the project, they have criticized every concern that was addressed to them. He stated they also indicated the residents should welcome the project because there are storm-water issues that they were going to fix it. He stated he feels that their position "made them look mean and was very dismissive of the concerns of the residents present today."

Mr. Flager asked Mr. Melander to focus on what his issues are. Mr. Melander stated while it is early in the Zoning process, he strongly urges that approvals not be granted until a thorough, multi-level review is completed especially considering the significant environmental impacts at stake. He asked that the Board give full and fair consideration to all of the residents showing up tonight.

Mr. Flager asked Mr. Melander if he knows when he will hear back from the EPA, and Mr. Melander stated it "all varies." He added they could have a staff-level briefing at any time, and it could take a couple weeks for a formal response from the EPA, or it could take about a month or so to hear from the EPA Administrator. Mr. Flager asked if he legitimately feels it could be that fast, and Mr. Melander stated potentially it could be. Ms. Reiss stated the EPA's "teeth and claws" have been gone/DOGE'd." Mr. Melander stated they work very closely with the Region 4 EPA Office in the Commonwealth. Ms. Reiss asked if they are still staffed and "have not all been DOGE'd," and Mr. Melander stated they are still staffed and they have worked very closely with them over many matters regarding the issues of Pennsylvania's First Congressional District.

Mr. Garton asked Mr. Melander if he would be here tonight if there were not 250 voters. Mr. Melander stated they would be here since whenever a concern is brought to them, the Congressman always advocates regardless of the matter. He added that the fact that there were many constituents of the community that brought the matter to their attention, the Congressman is compelled as a representative of this region to advocate for his constituents.

Mr. Garton asked Mr. Melander if he is familiar with the neighborhood, and Mr. Melander stated he is very familiar. Mr. Garton asked if he knows that this parcel is only 3 ½ acres. Mr. Melander stated he does not know the specifics. Mr. Garton asked him if he saw all the “massive amount of homes” that are adjoining this property, and Mr. Melander stated he does not know the specifics. Mr. Garton asked how 3 ½ acres and 16 houses could make a material difference on traffic. Mr. Melander stated they need to take into consideration the impact on the region as there will be large vehicles coming in and out, and there are also the impacts of egress to the area as well from the new residents. Mr. Garton asked if construction vehicles would not have been available when Regency at Yardley was constructed, and Mr. Melander stated he is sure that they were. Mr. Garton asked if the Congressman showed up in opposition to that project, and Mr. Melander stated he does not believe it was during his tenure as a member of Congress.

Mr. Garton asked the location of the wetlands Mr. Melander referred to, and Mr. Melander stated the information provided to their office was that they are by Lavender Drive and they were also provided with documented incidents of flooding that impacted six or seven houses. Mr. Garton stated the wetlands are not on the subject property, and agreed that they are not that he is aware of.

Mr. Garton asked where is the stormwater that is effecting Regency at Yardley coming from, but Mr. Melander stated he was not familiar. Mr. Garton stated he does not know if it is coming from the subject property; and Mr. Melander stated based on the information provided to their office, it was deriving from this property. Mr. Garton asked Mr. Melander if he heard the engineer testify that when the project is complete, the stormwater issues will be dealt with on site; and Mr. Melander stated he feels it is important to articulate that they are advocating based on concerns that were brought to their attention, and they are advocating based off the evidence that was provided to their office.

Mr. Garton asked Mr. Melander if he has any direct evidence tonight about the issues he has articulated as to why the Congressman is interested, and Mr. Melander he could provide it from his e-mails. Mr. Garton asked if it Mr. Melander's evidence or evidence from someone else, and Mr. Melander stated it was information provided to their office from constituents that are here.

Mr. Umansky asked Mr. Melander if he can see the site from his residence, and Mr. Melander stated he drives by Regency almost every day. Mr. Umansky stated he was asked if he can see the site from his residence, and Mr. Melander stated he does not know. Mr. Umansky asked Mr. Melander if he hears any noise from the site or traffic from the site where he lives. Mr. Melander stated it is important to note that he is here on behalf of the Congressman advocating concerns that were provided to their office. Mr. Umansky asked that Mr. Melander answer his question if can hear noise from the site from where he lives, and Mr. Melander stated he does not.

Mr. Umansky asked how many residents reached out to the office, and Mr. Melander stated it was about a dozen.

Mr. Umansky asked Mr. Melander what environmental impacts are at stake; and Mr. Melander stated the information that was provided to their office was that there are potential existing wetlands in the region, and in addition there are houses that have been directly impacted by flooding caused by this area. Mr. Umansky asked if "by this area" he means the subject parcel, and Mr. Melander stated he believes it was the properties that are bordering the parcel.

Mr. Umansky asked if Mr. Melander has a quote to point to where he belittled or said anything negative about the residents. Mr. Melander stated he believes it was Mr. Umansky's first sentence of his statement in the article which was: "The residents don't want this because they just don't want it in their back yard." Mr. Melander stated he believes that was a "callous statement just leading like that says nothing else matters. That is all they care about." Mr. Melander stated his point was that was just a "callous statement". He added that they appreciate the information that has been provided, and we should work together on this.

Mr. Umansky asked Mr. Melander if he feels that all the topics he mentioned should be admitted as part of today's discussion as the Chair said earlier, and he asked if they are Zoning matters. Mr. Melander stated they are Zoning

matters that were brought to their attention from residents, and it is up to the Board to decide whether they should be admitted into evidence or not.

Mr. Dennis O'Sullivan, 71 Lavender Drive, was sworn in and requested Party status. Mr. Garton had no objection to Mr. O'Sullivan having Party status.

Mr. O'Sullivan stated this is not a political issue, and the tone was inappropriate. He stated they reached out to Democrats and Republicans, and the office of Brian Fitzpatrick gave them time and was willing to engage with them.

Mr. O'Sullivan stated the proposed project is going up less than 100' from where he sleeps. He thanked Mr. Melander from Congressman Fitzpatrick's office for being here tonight and also the Congressman himself for engaging with them and offering assistance. Mr. O'Sullivan stated he agrees with Mr. Nemeroff and Mr. Melander and urges the Zoning Hearing Board to deny the Variance request as they do not meet the Zoning requirements that at one time were put into place for good reason. He stated if the Board is not in a position to deny the Variance requests, sufficient time must be allotted for thorough and exhaustive studies across multiple dimensions that affect the quality of life and the public health and safety for hundreds of existing residents who live in the area. He stated he has confidence in the Zoning Board and knows that they will be guided by sound logic and the greater good.

Mr. Umansky asked Mr. O'Sullivan who politicized this, and Mr. O'Sullivan got the tone that when Mr. Melander spoke it became a political issue. Mr. Umansky stated it is right of Mr. O'Sullivan and all of the residents to ask the Board to deny the Variances. He stated there are by-right options for this parcel, and he asked Mr. O'Sullivan if how he would treat a by-right Application as it would still be a development with construction vehicles but no Zoning forum. Mr. Umansky stated he has had discussions with Mr. O'Sullivan many times, and he asked Mr. O'Sullivan if it is his position that he is opposing the 16 homes because they are all attached or is it is position that he does not want any construction on the site.

Mr. O'Sullivan stated he does not feel he could be convinced that building anything within 100' from where he sleeps is going to be good for his quality of life or minimize the amount of traffic in the area. He asked how they know where the water is coming from. He stated he knows that the parcel they want to develop is 10' higher than his home and water runs downhill. Mr. O'Sullivan stated they are "crammed in as it is like sardines," and they cannot make a left out of their own development on Big Oak Road. He stated

another 15 or 16 townhomes will be another 30 cars plus guests, and that will not help their traffic congestion. He stated they are the most-congested area in the Township. He stated everyone comes through where they live to get to Home Depot and Dick's Sporting Goods. He stated developing this property is not in the greater good. He stated they do not meet the current Zoning requirements, and the Variances should be denied.

Mr. Umansky asked if Mr. O'Sullivan's position is that there should be no construction whatsoever, and Mr. O'Sullivan stated that is incorrect. He added that when they met with Mr. Umansky and Mr. Garton at his office, Mr. Umansky "insinuated that they would be hearing small children scream because they would put up a day care center." Mr. Garton stated he is not disagreeing as they said that would be an option. Mr. O'Sullivan stated they said that was their "Plan B." Mr. O'Sullivan stated a day care center would be closed on weekends, and they close at night. He stated when he is on his back deck, there would be no one on their back deck "waving at him." He stated he is not sure whether a day care center is better than 16 townhomes.

Mr. Umansky stated Mr. O'Sullivan had indicated that his home was 10' lower than the subject property, and Mr. O'Sullivan agreed. Mr. Umansky stated there is a berm there; however, Mr. O'Sullivan disagreed. Mr. Umansky stated Mr. O'Sullivan's home has a lower topography and lower elevation than the subject property, and Mr. O'Sullivan agreed. Mr. Umansky asked if he knows if that was created by Toll or natural, but Mr. O'Sullivan stated he did not know. Mr. Umansky asked if he had not proposed a plan where they would put up whatever buffering the residents would like to screen off any view they would have, and they would be looking at flowers and trees; and Mr. O'Sullivan agreed.

Mr. Umansky asked with respect to construction, noise, dust, etc. did he not propose putting up landscape buffering, fencing, and screening in the beginning of the project which is not how things are done to try to alleviate the issue for the neighbors; and Mr. O'Sullivan agreed.

Mr. Steven Young, 67 Lavender Drive, was sworn in.

Mr. Young stated his home is on the south side contiguous to the proposed project. He stated his property and back deck are situated 20' from the development in question. He stated he had signed the Petition which asked for a delay in the vote. He stated his primary reason for signing the Petition

was to make sure that there was enough time so that all Land Development issues and open space possibilities can be fully researched; and he understands that not all of those are before the Zoning Hearing Board tonight.

Mr. Young asked that the Board deny the Mixed-Use and total units Variance requests since neither adhere to the Zoning requirements that the Zoning Hearing Board put into place. He stated he feels that the Trinity Plan offers nothing to suggest that a Variance should be approved by the Board and does not consider any possible development in conformity with the provisions of the Zoning Ordinance currently in place. He stated he feels it is strictly a representation of a self-inflicted hardship that was created by the buyer/developer/builder as opposed to an honest attempt to create a financially-feasible project that meets LMT's Zoning requirements. He stated he believes that approval of such an Application would set a dangerous precedent for this and future developers who might then routinely come before the Zoning Hearing Board and apply for out-of-scope plans. Mr. Young stated there are a lot of other issues that are important, but they do not pertain to the Variance request. He asked that the Board be guided by their commitment to good public stewardship and ethical leadership by denying these Variances and that they support stated Township policy and our inherent community values rather than upsetting the quality of life for hundreds of current residents.

Mr. Dougherty asked Mr. Young if he would like Party to this matter, and Mr. Young stated he would like to be a Party to these proceedings. Mr. Garton stated he had no objection to Mr. Young having Party status.

Mr. Stephen Cargo, 35 Fern Drive, was sworn in.

Mr. Cargo stated he would like to provide documents which include photographs of the drainage issues behind the homes on Lavender Drive. He stated the documents also include a plot showing the wetlands area that were referenced earlier in the discussion.

Mr. Garton stated he objects to the wetlands delineation as Mr. Cargo is not an expert. Mr. Cargo stated it is not his testimony, and it is a document that was formally evaluated. Mr. Garton stated it would need to be authenticated.

Mr. Cargo stated he would like to pass it out to the Board; however, Mr. Garton objected.

Mr. Flager asked Mr. McLoone if any part of the property is in the wetlands or the wetlands buffer. Mr. McLoone stated looking at the Bucks County Parcel viewer, which is their information not the Township's, there does not appear to be any wetlands on the developer's property.

Mr. McLoone asked Mr. Cargo if he is referring to the green area on the document he has, and Mr. Cargo agreed. Mr. McLoone stated that is on Regency and is not on the Applicant's property. Mr. Cargo stated he understands that, and he was not claiming that it was on the Applicant's property.

Mr. Garton stated he does not see the relevance of wetlands on Regency, and he continued his objection.

Mr. McLoone stated he also does not know the efficacy of the data for the wetlands, and he does not know if it was determined by the Army Corps of Engineers.

Mr. Dougherty stated he would like the information to be distributed; but because it is not on the parcel, they will not enter it into the Record. He stated he understands that the point Mr. Cargo is trying to make is there are wetlands on Regency, and they are going to try to correlate it to the development; and Mr. Cargo agreed. Mr. Cargo added one of the areas that is shown as a wetlands is the back yards now of several of the people who have spoken. He stated it is on the back of the Lavender Drive properties.

Mr. Dougherty advised Mr. Garton that this is a neighbor indicating concern about wet yards. Mr. Garton stated whatever weight the Board wants to provide it, he is not going any further than his objection he has made.

Mr. Cargo stated in the package provided there is a diagram showing the wetlands as he described. He stated one of the areas is next to his home, and it is a drainage basin/catch basin that is supposed to drain after 72 hours of rain. He stated it does not drain because the soil in this area is all clay. He stated the photos of the standing water behind the homes on Lavender are also there because the water does not go into the ground because it is clay, and clay will not absorb water.

Mr. Garton stated the project where Mr. Cargo lives was built by Toll Bros., and Mr. Cargo agreed. Mr. Garton stated they designed the stormwater system, and Mr. Cargo agreed but added that it does not work. Mr. Garton asked why that is his client's problem. Mr. Cargo stated the issue is the lack

of ability for the land to drain water. Mr. Garton stated it was heard that they will comply with the Township's Ordinances. Mr. Cargo stated Toll said the same thing. Mr. Garton stated that is not his client's problem. Mr. Cargo stated they will not necessarily do it any better than Toll.

Mr. Umansky asked Mr. Cargo if Toll's engineers designed the project perfectly and within in all required Codes, does he feel that there is any chance that it might have been constructed incorrectly or something was missed. Mr. Cargo stated last year Toll did a remediation project on the drainage basins, and they spent around \$1 million on that work which included participation by the Township in the Agreement of the Plans. He stated those Plans have failed, and water does not drain from the basin next to him; and it is one of the photos that he distributed. He stated currently it is worse than in the photos, and it is a "cesspool." He stated it is totally "undesirable."

Mr. Cargo stated with regard to the value differential between the homes, it was noted that one home recently sold for \$1,150 million. He stated that home is a center home, and the content of the home was upscale. He stated the owner paid about \$900,000 two or three years ago to buy it from Toll, and the value has gone up to \$1,150 million. He stated he believes other homes on Lavender have even higher values. He stated there is a home on the corner of Lavender and Fern that was sold by Toll for \$1 million. He stated since then the owners completely finished their basement and added molding everywhere; and he feels they have added at least \$200,000 to \$300,000 to the home. He stated the house next to that home sold for \$1,150 million without all of the upgrades. He stated he feels the homes along the back side of Lavender that are adjacent to the proposed project have a value of at least \$1 million.

Mr. Cargo stated with regard to the historical home on the property, the owner and builder of that home was the Satterthwaite family; and that family was one of the original developers of the area. He stated that home was one of their major homestead houses. He stated the family was very wealthy, and he believes that they owned the property that is now Five Mile Woods. He stated the house is referenced in a Will as already being occupied; and although he does not recall the date of the Will, he feels that there is strong evidence that the house was built around 1790.

Mr. Umansky asked Mr. Thakkar if after borings and soil testing is done, if there are indications of potentially poor drainage, are there ways to engineer around that. Mr. Thakkar stated the project will require an NPDES Permit; and as part of that Permit, you have to design, build, and Certify it to the State standards. He stated the Certification would be observed by a professional engineer/geo-technical engineer and/or the Township rep. He stated the Township engineer will come out and inspect it because stormwater facilities are considered critical facilities; and they are different from storm pipes or inlets, and they are given more importance in the Permitting process from the Federal Permit (NPDES Permit).

Mr. Cargo stated when Toll attempted to remediate the drainage basins they included the Township engineer and other consulting engineers. He stated they had a Plan, but the Plan is not adequate because the soil will not drain. Mr. Thakkar stated one specific facility failing does not indicate that the entire area is not ideal for stormwater. He also stated in the DEP Ordinances there are provisions for putting stormwater facilities where the soil is not conducive, and they are called managed-release concepts; and they are routinely approved by DEP. He stated having a bad soil does not mean that you have to stop the development. He stated DEP has on their books that if there is a very clay soil, there are ways around it to engineer it and go through the Permitting process; and those facilities are built and operate. He stated he feels they are generalizing one particular stormwater facility that may not have been designed or constructed properly, and he does not feel they can generalize everything and tie it to the one facility that is failing.

Mr. Cargo stated while he understands Mr. Thakkar's comments, the engineers and Toll went through the design and build process, and they spent a lot of money; and it does not work.

Mr. Umansky asked Mr. Cargo with regard to the pricing of the homes, if he knows the sale prices of most recent five to six homes sold in his community. Mr. Cargo stated he was referencing the homes on Lavender that are adjacent to the proposed development; but he knows that there are other homes that have sold for lower values. He stated the homes that are adjacent to the proposed development were charged significant lot premiums by Toll, and he understands some of those premiums were as much as \$50,000. He stated the value of the homes along the back of Lavender is substantially more than many of the homes within Regency at Yardley, and substantially more than the proposed sale prices Mr. Umansky referenced.

Mr. Umansky asked Mr. Cargo if he lives at 35 Fern, and Mr. Cargo agreed. Mr. Umansky asked Mr. Cargo how far he is from the subject property, and Mr. Cargo stated he is across the street. Mr. Umansky asked Mr. Cargo if there is a home for sale next to him; and Mr. Cargo stated there is a home two doors down from him that is for sale for \$750,000. Mr. Umansky asked the size of that home, and Mr. Cargo stated it is about 2,000 square feet. Mr. Umansky stated it is for sale for \$750,000 which was his indicated price, and it is 1,966 square feet which is a little bit under their indicated property. Mr. Cargo stated that home does not have the features that he is talking about that the homes along the back of Lavender have. He stated that home does not have a basement.

Mr. Cargo stated he would like to be Party to the proceedings. Mr. Garton stated he has no objection to Mr. Cargo having Party status.

Mr. Flager asked Mr. Cargo if he signed the Petition, and Mr. Cargo stated he did.

Mr. Dougherty asked Mr. McLoone to show the Site Map just provided by Mr. Cargo. He asked Mr. McLoone if those homes were built in the wetlands since that is what it looks like; however, Mr. McLoone stated he is not sure.

Mr. James R. Majewski, Lower Makefield Community Development Director, was sworn in.

Mr. Majewski stated with regard to wetlands at Regency at Yardley, where the homes are built were not classified to be wetlands when the site was developed. He stated the developer had a wetlands delineation done, a report prepared, and testing done; and that was all approved by the Army Corps of Engineers at the time of the development. He stated there are wetlands on the site overall, but those areas are areas that are not built upon for the most part.

Mr. Solor stated he believes that there are a couple of managed-released stormwater facilities in the Dobry Road south side area. Mr. Majewski agreed that was at the assisted-living facility. Mr. Majewski stated the wetlands information that was obtained from the County is from Wetlands Inventory maps that were prepared a number of years ago; however, as he noted a wetlands delineation was done and approved by the Army Corps of Engineers at the time of the Regency development. He reviewed the process that is done on a wetlands delineation, and the Applicant for this project would have to do this on their site to confirm the absence or presence of wetlands.

Mr. Cargo stated two of the wetland areas shown on the map are now drainage basins that do not drain. He stated the two green areas on the left side are drainage basins, and one of them is the one he provided a phot of which is next to his home and does not drain. He stated the other one does not drain either. He stated the third area highlighted in green is consistent with the photos he provided of water in people's back yards.

Mr. Flager stated while the packet is not being admitted due to the objection, it is being marked for identification purposes as Cargo-1.

Ms. Blundi noted the picture of the eagles, and she asked who took that picture. Ms. Blundi stated someone in the audience has stated that the picture of the two bald eagles was taken by someone in the audience, and they have observed other birds around the area.

Mr. David Nashick, 55 Lavender Drive, was sworn in.

Mr. Nashick stated he faces the farmhouse. He stated the eagles are there almost daily. He stated there are also fox, deer, hawks, and owls.

Public Comment was closed at this time.

Mr. Majewski stated the map that is on the County's Website is not from the Army Corps of Engineers, rather it is the National Wetlands Inventory from the U. S. Fish and Wildlife Service.

Mr. Solor asked Mr. McLoone what would the impervious surface limits be for the property under all the "use-right categories." Mr. Solor stated what they are proposing is 42%. Mr. McLoone stated it is 60% site-wide for C-3.

Mr. Dougherty stated Mr. Skrincosky had stated that Bucks County has a Comprehensive Plan which they approved in 2024. Mr. Dougherty stated LMT has a 2019 Comprehensive Plan which specified that age-qualified would make the most sense for this parcel. Mr. Dougherty stated the Zoning Hearing Board did not participate in that Comprehensive Plan, and they do not play a role in that. He stated the Zoning Hearing Board is an independent body.

Mr. Dougherty stated he feels that they always look at the highest and best use; and of all the uses that were listed, he feels what is proposed is the highest and best use which means that it is the most maximumly-productive use for this lot. He stated the owner is able to sell this lot for the most money

because this use will yield the most money. He stated that does not mean that the Board just grants a Variance for it. He stated Mr. Umansky had asked Mr. O'Sullivan what he would do if there was a by-right use. Mr. Dougherty stated an auto body shop could be put there that would not need a Variance, and the residents would not have a forum other than possibly to sue at their own expense.

Mr. Dougherty stated he feels what is proposed makes sense, but there is a lot of opposition. He stated he would be in favor of 15 townhomes which would eliminate one of the Variances. Mr. Dougherty stated he feels the project conforms with Regency at Yardley which has the same Variance that would be remaining which is that they have a skewed attached unit ratio. Mr. Dougherty stated the property owner has a right to develop the lot; and if they are asking for a Variance that already exists in the adjacent parcel "times ten," he is fine with that.

Mr. Solor stated he agrees with Mr. Dougherty but feels they could also incorporate a Condition limiting the impervious to less than 60% which would be better than any of the by-right uses on the property. Mr. Dougherty stated if someone were to do a Commercial build, they could max out the 60%. Mr. Solor stated he is proposing to incorporate as part of the approval of the Variance restricting the impervious to 45% which would allow for some additional build-out of the houses over time, but would be 25% less impervious than what would be allowed for the by-right uses.

Mr. Dougherty asked what is the impervious proposed, and Mr. Thakkar stated he believes that the allowable under Commercial is 65%. Mr. Dougherty stated 60% is shown on the Plan. Mr. Thakkar stated that is for the age-restricted product. Mr. Solor stated age-restricted would be less impervious than other by-right uses. Mr. Dougherty stated they are at 42%, and he asked if the Condition could be capping them at 50% impervious; and Mr. Solor stated he feels that would be more than adequate. He stated he was going to suggest 45% or 46% which would be enough for people to build porches, patios, etc.

Mr. McLoone stated normally they are given an additional 3% inclusive of the developer's so that you can add an improvement to your property that is impervious.

Mr. Dougherty stated Mr. Umansky had asked Mr. O'Sullivan if he had not offered to build a landscape buffer, and he asked to see the pictures of this. Exhibit A-2 was shown. Mr. Dougherty asked Mr. Umansky if he would be willing to build what is shown in the Exhibit along the back property line. Mr. Dougherty stated that could be made a Condition of the approval if Mr. Umansky is willing to do that. Mr. Umansky stated that he did not specify that he would plant 20' trees, but he would be willing to a planting up to a certain height limit.

Mr. Flager asked if there is any other proposed landscaping besides the buffer line on the property. Mr. Garton stated there will be as part of the Land Development Application for the Subdivision.

Mr. Schwartz stated the Applicant is not asking for a Variance that has to do with impervious surface; and while stormwater management is critical to the project, they are not asking for a Variance for that so there is nothing the Zoning Hearing Board needs to do other than Mr. Solor's request to put on a limit to the impervious surface, which he is in favor of.

Mr. Schwartz stated with regard to open space and whether the existing home is historically-significant or not is not within the Zoning Hearing Board's purview, and that can be addressed when it goes to the Board of Supervisors for approval.

Ms. Reiss stated her first concern was the house, but that is the Board of Supervisors' purview; and the Zoning Hearing Board has no way to tell them they have to keep the house. She stated she would like to see one less unit which would provide more space and control water a little bit more, and that would eliminate one of the Variances. Mr. Dougherty stated he believes it gets them close to by-right.

Mr. Dougherty stated the neighbors also have a skewed ratio so he feels what is being discussed would be fair. Mr. Schwartz asked Mr. Umansky if he has an issue with 15 units versus 16. Mr. Umansky asked if the decision could be qualified as 15 new homes in case they come to an agreement to keep the existing home as number 16. Mr. Dougherty stated he would not have a problem with that. Mr. Flager stated any approval would specifically state the construction of 15 new homes. Mr. Solor stated he would be in favor of this as well.

Mr. McVan stated he feels what is proposed is the best use of the property. He stated he feels Toll Bros. may have let on that the property was never going to be developed, but that has nothing to do with the Zoning Hearing Board.

Ms. Blundi stated when they are talking about the impervious space ratio, she wants to make sure that will not impact their obligation to follow the recently-passed progressive/aggressive stormwater management structure. Mr. Solor stated they would still be required to follow that.

Mr. Umansky stated Mr. Thakkar has asked if the Board could give them leeway to go to 50% although they will do what they can to go below it as there is a concern that there may be some items that could cause them to go above 45%. Mr. Garton stated if they were to keep the old house, there would be additional impervious. The Board did not have an issue with going to 50% impervious.

Mr. Solor moved and Mr. Schwartz seconded to approve the Appeal for the Variance to #200-47A.3.a regarding the mix of dwelling units subject to incorporation of the landscape buffer as presented but with 6' high plantings and 50% maximum impervious, and a maximum of 15 new dwelling units provided with no more than 1 existing unit and 15 new dwelling units.

Public Comment was accepted on the Motion.

Mr. Mark Paroly, 321 Grant Way, was sworn in.

Mr. Paroly stated he heard 6' for the height of the buffer. Mr. Solor stated that was for planting purposes. Mr. Paroly stated arborvitae come in different sizes and different growth periods, and it should be sufficient with that 6' planting so that they grow. Mr. Dougherty stated he is looking for a species that has the ability to grow. Ms. Blundi stated there was an issue on the Villas side at Regency. She stated some of those residents believed that the land behind them would not be developed. She stated the giant arborvitae is apparently deer resistant and grows quickly.

Mr. Solor moved, Mr. Schwartz seconded and it was unanimously carried to approve the Appeal for #200-47A.3.a for change in the mix of dwelling unit types and to allow for 15 new attached dwelling units and the one existing unit to possibly be maintained subject to the incorporation of the landscape buffer as presented but with 6' minimum plantings that will grow to sufficient height subject to approval by the Township engineer, and with a reduction in the maximum impervious coverage for the property to 50%.

Mr. Dougherty thanked everyone for coming to the meeting and that they recognize that they tried to achieve a compromise tonight. A number of people called out that they did not recognize this.

OTHER BUSINESS

Mr. McLoone reviewed upcoming Agenda items.

Given that there were no Appeals scheduled for September 2, Mr. Schwartz moved, Ms. Reiss seconded, and it was unanimously carried to cancel the September 2 meeting.

Mr. Dougherty stated as discussed in the past, something needs to be done about replacing the Alternates who are never available. Ms. Blundi stated the Board is aware of the needs of the Zoning Hearing Board and interviews have been conducted for a number of Board vacancies. Ms. Carlton stated she brings the request from the Zoning Hearing Board often that they are in need of finding Alternates and Board replacements. She stated she understands that hopefully decisions will be made within this month.

There being no further business, Mr. Schwartz moved, Ms. Reiss seconded and it was unanimously carried to adjourn the meeting at 10:05 p.m.

Respectfully Submitted,

Christian Schwartz, Secretary