

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – MAY 5, 2026

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on May 5, 2026. Mr. Dougherty called the meeting to order at 7:32 p.m.

Those present:

Zoning Hearing Board: James Dougherty, Chair  
Christian Schwartz, Vice Chair  
Mike McVan, Secretary  
James McCartney, Member  
Peter Solor, Alternate  
Robert Heinz, Alternate (not voting)

Others: Dan McLoone, Planner  
Adam Flager, Zoning Hearing Board Solicitor

Absent: Larry Borda, Zoning Hearing Board Member

APPEAL #Z-26-9 SHUPP/RABE  
Tax Parcel #20-068-030  
1360 JACOB DRIVE, YARDLEY, PA 19067

Mr. Flager stated this matter needs to be re-advertised as there is a Variance required for a fence, and there is a request to Continue the matter to June 2.

There was no one wishing to make public comment on this matter.

Mr. McCartney moved, Mr. Schwartz seconded and it was unanimously carried to Continue the matter to June 2, 2026.

APPEAL #Z-26-10 CARSDALE  
Tax Parcel #20-037-037  
572 KINGS ROAD, YARDLEY, PA 19067

Mr. Devin Carsdale and Ms. Alicia Carsdale 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. Carsdale stated they have lived in the home for 9 years at the corner of Kings and Queens. He stated the hardship for the Variance they are requesting is due to the lot dimension as it is rectangular in nature since it sits on the corner of Kings and Queens, and they have a very shallow back yard. He stated they have a rear sliding glass door in the back that faces an existing deck, and they want to swap out that deck for the sunroom that they are looking to build. He stated if they were to build it on the north-facing side which has more space, it would be cost-prohibitive. He stated an additional hardship is that this part of Edgewood was built in 1962, and the end of their house to the rear setback is less than 50' feet. He stated they have done extensive landscaping since they moved there, and there is no water concern. He stated there is an existing deck footprint that they will be replacing, and there will be a marginal increase in impervious surface in the design that they have created.

Mr. Solor asked Mr. McLoone if this deck was over grade so that it counted as pervious or was it impervious before. Mr. McLoone stated he understands that for decks in the Township as long as there is grass underneath it is pervious. He added that the existing deck is an exception to the rear yard setback because it is not fully enclosed; and since they are fully enclosing it, they need the rear yard setback Variance.

Mr. Schwartz asked if they have a plan as to how they are going to mitigate the 2.9% over the 18%. He stated he does not see any infiltration trenches, French drains, or dry wells. Mr. Carsdale stated they have spent a lot of time and money over the last 8 years on the landscaping including river birches which are thirsty trees. He stated he has a sustainability background, and he is planning next year to build a flower and natural meadow in the northwest corner of the property which would take on any excess rainwater. He stated there will also be gutters and downspouts on the project itself. He stated he would prefer to do that rather than having to dig trenches and be more intrusive. Mr. Schwartz stated trees and growth were previously allowed to help mitigate the rainwater, but they do not live forever, and you do not know what the next homeowner may do. He stated they are now looking for either a trench in the ground or a raingarden which would need to be sized to mitigate for the extra 2.9%, and it would have to go at the time

that the project is done and not done in the future. Mr. Carsdale stated they would look into the raingarden.

Mr. Schwartz asked Mr. Carsdale if they have talked to their neighbors with regard to the setback; and Mr. Carsdale stated they have, and they are present this evening.

Mr. Heinz stated the Board also tries to identify hardship, and he asked Mr. Carsdale asked what is the hardship for the existing space and why it no longer fits in with their plans. Mr. Carsdale stated as he noted earlier, the lot is rectangular; and the way the house is positioned it leaves a very narrow back yard. He stated because the sliding glass door faces the back of the house that would be the most cost-effective way to build the addition without being financially exorbitant. He stated if they went to the north side of the house where there is a little bit more room, it would be much more of an investment to make that possible. He stated as noted earlier they are using the existing footprint of the deck to try to be minimal in terms of the impervious surface coverage. He stated also as noted earlier the house was built in 1962 so there is a bit of original non-conformity with existing Code. Mr. Dougherty stated when the house was built, the developer could have put the house on Queens, and this would not now be an issue.

Mr. Eric McHugh was sworn in. He stated he and his wife are the neighbors to the north, and they would be downstream from any water run-off concerns; and there is nothing existing. He stated they reviewed the plans, and they fully support the project which will add value to the neighborhood. He stated there is a swale between their houses that diverts water away from their house, and they have no concerns about any additional impervious.

Mr. Jeremy Little was sworn in. He stated he and his wife are the neighbors behind them on the short side of their property. He stated they have looked at the plans, and they have no issues with them building on that side of the house. He stated they have put in great landscaping, and they can barely see back there. He stated they have no issues with their plans.

Mr. Schwartz moved, Mr. Solor seconded and it was unanimously carried to approve the Appeal utilizing a raingarden or infiltration trench to mitigate the stormwater effective rate to 18% with the size of the raingarden or infiltration trench subject to Township approval and the engineer and allow the setback as shown in the presentation.

APPEAL #Z-26-8 – MEGINNISS/1 SUTPHIN ROAD  
Tax Parcel #20-042-109  
1 SUTPHIN ROAD, YARDLEY, PA 19067

Mr. Bryce McGuigan, attorney with Begley Carlin, was present.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The prior Decision was marked as Exhibit A-3. The prior Meeting Minutes were marked as Exhibit A-4. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. McGuigan stated he provided a binder to Mr. McLoone shortly before the meeting tonight.

Mr. McGuigan stated present tonight is property owner, Lucy Giagnacova, and Vince Fioravanti, project engineer.

Mr. McGuigan stated the property is 1.67 acres located at 1 Sutphin Road in the R-2 Zoning District. He stated this property was previously before the Board in the summer with a similar proposal; and at that time, it was to subdivide the property so that there would be three units. He stated the only difference is that they were able to incorporate a neighboring parcel that Ms. Giagnacova also owned. He stated due to some complications, they are here to request some modified relief. He stated there is also a separate issue separate from the Subdivision related to a duplex that Ms. Giagnacova has been using on 1 Sutphin for the past 17 years, and she did not realize until recently that it was not a permitted use.

Mr. McGuigan stated with regard to the Subdivision, when they were before the Board last summer, they requested relief related to lot area and impervious surface related to the parcel he noted at the top left of the Plan. He stated last summer Ms. Giagnacova owned that parcel, and the plan was to draw a Lot Line at a location he showed on the Plan, and take that additional property area and put it onto the property at the top right which he showed on the Plan which is currently undeveloped. He stated the point was to take the shaded green parcel which is 1 Sutphin and subdivide it to create a buildable lot at a location on the top right that he showed on the Plan. He stated as existing there are two homes on the one oversized parcel – the main home at the bottom which is a historic structure from about 1895 and the home

to the left which is a newer construction. He stated their plan last summer was to subdivide, use additional lot area on the top lot, and even off the lots and make an additional buildable lot that would be compliant with Zoning. He stated the Zoning Hearing Board granted relief, and they moved forward with the Subdivision and Lot Line change process.

Mr. McGuigan stated unfortunately Ms. Giagnacova, without talking to the attorney or the engineer, listed and sold the property on the top left to a third party who is now living there. He stated the issue is that the Subdivision was not done at that time, and Ms. Giagnacova was under the misconception that because she sold it, it did not mean that the Subdivision could not continue; and that was incorrect. He stated since that time, they have had discussions with the new property owner to see what could be done about getting the portion of the property back that was subject to the Subdivision and Lot Line change; however, the property owner was not interested in having that discussion.

Mr. McGuigan stated the result of this is that Ms. Giagnacova had to spend more money on the attorney and engineer to re-design the Plan and find a way to re-configure the property lines so that it could be subdivided and create another compliant lot although they cannot use the separately owned and maintained lot as part of the process. He stated the Plan would still be to take 1 Sutphin and subdivide it to create Lot #2. He stated Lot #1 is the existing home, and Lot #3 would be an oversized Lot which is the original 1 Sutphin home. He stated there are three lots that are all above the minimum for the R-2 District, and they are all above the minimum width. He stated there are also no impervious surface concerns.

Mr. McGuigan stated there is one Zoning concern which is the rear yard setback. He stated this relates to Lot #3 which is still a triple-frontage lot and will be more than double the size of the lot minimum. He stated because it is triple frontage, it does not have the standard rear yard/side yard for a typical lot. He stated the existing home now falls within the rear yard setback, and he noted on the Plan the portion of the home that falls within the rear yard setback. He stated they are requesting a rear yard setback Variance to allow a 22.1' rear yard for the existing structure at 1 Sutphin Road. He stated it does not relate to the new construction as that will be Zoning compliant. Mr. McGuigan stated while the prior Plan had some slightly straighter lines, this Plan is actually more specifically compliant with Zoning because on the prior Plan the top lot was technically undersized and was also non-compliant with impervious surface. He stated now all of the lots are compliant with respect to size, and there are no impervious surface Variances.

Mr. McGuigan stated the reason they are present is because a mistake was made with regard to other lot that is no longer a part of this Subdivision; however, Ms. Giagnacova did not benefit from, and had she waited a few months she would have been able to sell the parcel, and she would not have had to spend money on the engineer to re-survey and re-design Plans and have the attorney come back to the Zoning Hearing Board.

Mr. McGuigan stated the second part of the project is with regard to the duplex. He noted the original 1 Sutphin home was built around 1895. He stated Ms. Giagnacova and her husband, Albert, purchased the property in 2009; and when they purchased it there was already existing improvements that divided the home into two units. He stated they understand that two sisters previously lived there – one in one half and one in the other. The property was not rented out so it was technically a one-family home, but the family was using it in that way. He stated when the Giagnacovas purchased the property, they mistakenly thought it was a two-unit property, and they could rent it out; and that is what they did for 17 years. He stated more recently there was a tenant issue, and the tenant called the Township. Mr. Kirk came out to the property and advised that they could not have this use, and he issued a Notice of Violation in February of this year. Mr. McGuigan stated that was the first time that Mr. and Mrs. Giagnacova realized that this was not an approved use. He stated they were able to remove the one tenant so that the house is now compliant in that only one family is living there; however, there are still two separate units.

Mr. McGuigan stated they are requesting a Use Variance to allow the existing duplex to remain on the property. He stated there is a Side A and a Side B, and each side has its own separate entrances and exits to the building. He stated Side A has two, and Side B has three. He stated it is not possible to go from one unit into the other at any point. He stated they each have their own separate driveway. He stated each unit has 4 bedrooms. Unit A has 2 ½ baths and Unit B has 3 ½ baths. He stated there is also one kitchen in each unit.

Mr. McGuigan stated if Mr. and Mrs. Giagnacova had to spend the funds to remove all of the walls separating the building it would be costly and difficult given that it is a historic 1890 house. He stated it would then result in a home with 8 bedrooms, 7 bathrooms, 5 entrances/exits, 2 driveways and 2 kitchens which would not resemble other homes in the area.

Mr. McGuigan stated the lot is a double lot at 33,000 square feet where the lot minimum is 16,500. He stated they would not be adding any density to the R-2 District. He stated this is a condition that has existed for multiple decades, and they are asking for a Use relief to legalize it. He added that there are no parking issues as there is ample parking. He stated the only other change they are making is to remove another structure so the impervious will actually go down.

Mr. Flager stated the Plan is different from the original Plan, and Mr. McGuigan stated this Plan is a rendered version of the Plan that they filed.

The binder provided by Mr. McGuigan was marked as Exhibit A-5. The Plan just referred to by Mr. McGuigan was marked as A-5 – 1.

Mr. Vince Fioravanti was sworn in.

Mr. Fioravanti stated his office is in Southampton, PA, and he has been before the Board many times. He stated they have been in business for about 35 years. Mr. Fioravanti was accepted.

Mr. Fioravanti stated his office designed the Plans before the Board tonight as well as the Plans that were before the Board last summer. The Plan is still to subdivide the one parcel into three parcels with one parcel for each home. Mr. Fioravanti stated this is a 1.7 acre tract. He noted Exhibit 5-1 and stated the area shown in green is currently one property. He stated the entire block was subdivided in 1951, and the rest of the community is more rectangular in shape. He stated at the last Hearing when they proposed to subdivide the property, they had more uniform lot shape to match the neighborhood with rectangular lots.

Mr. Fioravanti stated due to the circumstance Mr. McGuigan previously noted, the property he showed on the Plan is no longer part of the Subdivision. He stated they had to increase the size of Lot #2 by moving the property line down further. He stated the result is nice building lots, and it is more compliant than it is in its existing state. He stated with this proposal there will be a separate lot for each dwelling. He stated the non-conforming outbuildings are being removed. He stated after taking down the outbuildings and constructing one dwelling and a driveway, the increase in impervious surface for the entire project is slightly over 1,000 square feet. He stated they were told that the thresholds for stormwater management apply individually so there is a stormwater system that will be built for the new impervious created of about 1,000 square feet. He stated otherwise what is proposed is the same type of project that they had before.

Mr. Fioravanti showed on the Plan the lot line that they had proposed when they were previously before the Board. He stated one of the lots at that time required a Variance for lot size as it was 15,000 square feet. He stated the impervious was also a little over because the lot was 15,000 square feet. He stated those Variances were granted since they were de minimus and resulted in an even lot shape. He stated when they had to modify the proposal, they had to move the lot line south somewhat, and they are Zoning compliant. He stated when there is a lot that is not square or rectangular, the rear yard can be a matter of interpretation. He showed on the Plan what was determined to be the rear lot line, and the 50' rear yard setback would cut through the house. He stated they are therefore requesting a Variance to be able to have a 38.2' rear setback.

Mr. McLoone stated the Application only mentioned 22.1' for Lot 2 and a 38.2 rear setback was never brought to their attention. Mr. McGuigan stated it is his understanding that because this is one parcel, and it is a rear yard Variance, that both would be subsumed under the single Variance request for 22'. He stated there are two separate specific areas where they need the rear yard Variance, but it is one Variance for one property. He stated they would be glad to amend the Application to make it more clear, but they do not feel there is an issue with advertisement.

Mr. Dougherty stated they need three different relief matters, but the Application only mentioned two items of relief.

Mr. McGuigan stated the lot line separating Lot 1 and Lot 3 did not materially change from last summer to now, but what changed is the line separately Lot 2 and Lot 3 as it has been dropped. He noted which lines were considered to be rear and side yards. He stated it seems that there has been some confusion; and to the extent required, they would like to amend to add a second Variance from the same Section.

Mr. Dougherty asked Mr. McLoone if either of the diagonal setbacks are considered rear setbacks. Mr. McLoone stated he did have a discussion with someone from the Applicant's attorney's office about this, and the only thing that was mentioned was 22.1. He added that he spoke to Mr. Majewski at that time, and they both felt that they would need a rear yard setback Variance at a location he showed on the Plan where 50 is required; however, nothing was mentioned about Parcel 3 so he did not look into that.

Mr. Fioravanti stated it depends on what you are considering the rear lot line, and there was discussion about what is considered a side yard and rear yard on the lots.

Mr. Flager stated the Public Notice was for 22.1 where 50 is required and the Use Variance. He stated the Applicants could present tonight, Continue the matter, re-advertise, and then vote at one time rather than just voting on the two items that were advertised and have them come back with a new Application for the other. Mr. McGuigan stated he does not feel re-advertisement would be required given how the Notice was worded which requests a rear yard setback of 22.1 instead of 50 and does not say a particular lot and just states “this parcel.” He stated it is one parcel at this time and if they are amending to add relief from that same Section that is less relief, he does not see an issue with regard to jurisdiction.

Mr. Dougherty stated Lot 2 has a jogged rear property line the same as Lot 3 has a jogged rear property line; and since Lot 3 has been identified as a non-conformity, that means Lot 2 would be the same; and for this reason he feels it needs to be re-advertised.

Mr. Flager stated the Public Notice does not specify a specific Lot, and he agrees with Mr. McGuigan that it has been advertised properly for the requested relief. Mr. McLoone asked if it should not have the correct number of 38.2 compared to 22.1, and Mr. Flager stated 22.1 is the maximum relief that they would need and 38.2 would be less relief. Mr. Flager stated if it were 20', it would be deficient. Mr. Flager stated he does not believe this would be an issue with regard to Public Notice as the purpose of Public Notice it to apprise the public of what the requested relief is, and here the Public Notice says 22.1' which they have on one of the areas and the other needing less relief.

Mr. Fioravanti stated this is a minor modification from the prior approval. He stated there are no other issues or reasons why it would be detrimental to the surrounding area or the Township, and he feels it is the minimum relief that would allow them to reasonably proceed with the Subdivision.

Mr. Schwartz asked if all of the utilities are separate in the duplex, and Mr. McGuigan stated Ms. Giagnacova can answer questions specific to the duplex including how it has been used for the past 17 years and how they are proposing to use it going forward.

Mr. Dougherty asked how the sale of the adjacent contiguous property affects Lot #2. Mr. Fioravanti stated the lot size for Lot #2 is 17,927 square feet where the minimum is 16,500 square feet. He added that they had to re-locate the property line further south to offset the area that was lost.

Mr. Dougherty asked Mr. Fioravanti if he had visited the site, and Mr. Fioravanti stated that he had two times. Mr. Dougherty asked if he was aware at the time of the site visits that the one existing dwelling was a two-family dwelling, and Mr. Fioravanti stated he was not. Mr. Dougherty stated he reviewed the Minutes from the meeting when this was previously heard and it is not noted anywhere in the Application as anything other than a house. He stated he feels this was a sin of omission, and the owner knew that she had a two-family dwelling and failed to disclose it in the Application. He stated because the tenant made a complaint a few months ago, Mr. Kirk went out to the property and discovered this.

Mr. McCartney noted the building envelope for Lot 2, and asked if there was any opportunity to move it. Mr. Fioravanti stated they need a 40' front yard setback and a 50' rear yard setback. Mr. McCartney asked the dimensions of the proposed building, and Mr. Fioravanti stated it is 36 by 51. Mr. McCartney asked if there is an opportunity to scale it down in order to get a few more feet in the back. Mr. Fioravanti stated the building could be slid further north, but then they would not have a usable yard. He stated they are compliant in terms of impervious.

Mr. McCartney asked if the Subdivision Plan was "in the works" when the other property was sold, and Mr. McGuigan agreed. Mr. McGuigan stated it was being reviewed by the Township engineer, and Mr. Fioravanti's office was in the process of making revisions for a re-submission before they went to the Planning Commission. He stated someone from Mr. Fioravanti's office was on the property putting in a survey stake when someone from that house came out and "threw the stake back at him and told him to get off of the property."

Mr. McCartney asked if that was part of the Seller Disclosure when the property was sold, and Mr. Fioravanti asked that Ms. Giagnacova be sworn in so that she could answer the question.

Ms. Lucille Giagnacova was sworn in.

Ms. Giagnacova stated she did not mean to be deceitful, and on the Plans it clearly identifies that house as a duplex. Mr. McCartney stated in some markets a duplex could be two side-by-side houses. The Plan that was submitted when

the Applicant was before the Board previously was shown, and it does indicate “duplex.”

Mr. McCartney asked if the Seller Disclosure when the property was sold disclosed that they were undergoing a Minor Subdivision at that time. Ms. Giagnacova stated the address of that property is 1706; and when she sold it, she told them that 45’ was not included. She stated there were pins in, but it “fell through the cracks.” She stated the Lot Line change should have gone through, and it did not happen. She stated she thought it was done, and it was a mistake. Ms. Giagnacova stated the Realtor know that the 45’ was not included, but legally the description did not get changed as the Lot Line change did not go through.

Ms. Giagnacova stated with regard to the duplex, the utilities are all separate.

Mr. Dougherty asked if the assessor is aware that the duplex is a two-family dwelling. Ms. Giagnacova stated she pays one property tax for the entire 2.1 acres. She stated she had asked Mr. Majewski if she could put another house on it and keep it all one parcel; however, he advised that she could not as they do not want “compounds,” and she would have to subdivide which is what she did.

Mr. McCartney stated it seems that this property has been advertised several times on the MLS for rent. He asked if there was something the Applicant needed to do for a rental application, and Mr. McLoone stated there nothing that he is aware of. He stated if It were a VRBO or Airbnb that does need to be registered with the Township.

Mr. McCartney asked Ms. Giagnacova if they ever questioned the legality of the house being set up as a two-family dwelling. Ms. Giagnacova stated the Sutphin Road house was built in 1895 and two sisters lived there “forever,” and one of their sons lived in the other house on Makefield which was built in 1942. She stated it was like a family compound. She stated the Realtor told them it had always been lived in by two families in the house.

Mr. McCartney stated he feels that two families with an ADU (accessory dwelling unit) is different from an income-producing property. Ms. Giagnacova stated she was not aware of that. Mr. McCartney stated there are specific rules about accessory dwelling units in certain Zoning with a checklist as to what the actual definition is; however, it was advertised a number of times on the MLS for income-producing purposes. Mr. McCartney stated if it is not legal, they need to consider how they are going to move forward.

Ms. Giagnacova stated she would like to make it legal adding that she was not aware that it was not legal. She stated when she bought it 18 years ago, the Realtor, who is now deceased, advised that her that she had six building lots, and they believed him.

Ms. Carlton, Township solicitor, stated she does not have explicit direction from the Board of Supervisors and will do what was done before which was to participate but not oppose. She stated she believes the line separating what was Lot #4 which is now Lot #2 has to be considered a rear yard consistent with the rear yard that is designated for Lot #3. Mr. Dougherty stated he agrees. He stated it is an unimproved lot that they are now approving, and he asked if she is aware of that; and Ms. Carlton agreed. Mr. Dougherty stated if they develop like this in the future, there will be a new Application for a Variance, and Ms. Carlton agreed. Ms. Carlton stated she believes that it is two Variances they are looking at and not three. She stated 22.1 is clearly indicated on the Plans. She stated she feels this will have to come back to the Zoning Hearing Board again unless they scale down the size of the house, move it, etc.

Ms. Carlton stated from the testimony she feels the building lot size is correct and meets the Township minimum requirements, and the impervious surface area is fine.

Ms. Carlton stated with regard to the duplex issue, the old plans from when the Applicant was last before the Board of Supervisors clearly state “duplex,” and clearly show two driveways. She stated if the Use Variance is granted Ms. Giagnacova will be in compliance and can abide by the Township rules and regulations with regard to rental properties. She stated she believes the Applicant will be before the Zoning Hearing Board again with regard to the newly-created Lot #2.

Mr. Heinz noted the existing garage currently on proposed Lot #3, and he asked if that will be rented out as part of the duplex. Ms. Giagnacova stated she uses the garage for storage. She stated when they first rented it, each half had one bay; but she then started using it herself for storage. Mr. Heinz stated there are also some sheds and a barn that are shown as being removed, and Ms. Giagnacova agreed. Mr. Heinz noted the shed at the corner of Fayette and Sutphin, and he asked if that is being removed as well; and Ms. Giagnacova stated that will come down along with a shed behind the barn that is coming down.

Ms. Giagnacova stated there is also a “his and hers” outhouse which she preserved, and she would like to preserve that as long as it is not a problem. Mr. Heinz asked if it is on public sewer; and Ms. Giagnacova stated there is no water or sewer to it, and they moved it from somewhere else on the property. Mr. Heinz asked if the rest of the property has public sewer, and Ms. Giagnacova agreed. Mr. Heinz asked if it is possible to have a “usable outhouse,” and Mr. Dougherty stated it is “decorative.”

Mr. Flager explained that Party Status provide the opportunity to question the witnesses, present evidence, and preserve any Appellant rights. He stated generally anyone who gets Public Notice from the Township would qualify. He stated if you are outside of that you would have to make argument as to why your property is effected despite the fact that you are not on the list.

Ms. Penny Luca, 5 Fayette, was sworn in. She stated she is next to Lot #2. She stated when she saw the original setback, the way it was with the fence, she was “appalled;” however, seeing that it has been moved down, she has no problem. Ms. Luca stated with regard to cleaning up the lot, there are huge, overgrown trees along the property line between her home and the Applicant’s lot that are growing into her trees on her side of the property and vines growing up that are choking out the trees. Ms. Giagnacova stated she did not know that they were her trees, and she will have to look into that. She stated she understands that Ms. Luca would like the vines taken out and that the trees be trimmed, and Ms. Giagnacova agreed to take care of that.

Ms. Luca asked if the proposed property will also be a rental. Ms. Giagnacova stated her intention is to sell Lot #1, the house on Makefield Road; and a builder is interested in purchasing Lot #2 and building a ranch home which will be for sale, and there will not be renters.

Mr. Ken Rose was sworn in. He stated his questions were about drainage and impervious; but he now sees that the house will be away from his property line, and he feels his questions were answered earlier.

Ms. Mary Jo Conley was sworn in. Ms. Conley stated a lot of her questions were answered regarding the location of the dwelling that is going in and that it was not going to be a rental. She stated she is concerned about the number of outbuildings on the property, and Ms. Giagnacova had indicated that three out of four of them were coming down and that there was an outhouse.

Ms. Giagnacova stated she wanted to keep the outhouse, but if she has to take it down, she will. She stated there are two sheds on the property, one of which Ms. Conley's husband "cannot stand" that is right behind the barn. Ms. Conley stated her husband is deceased. Ms. Giagnacova asked Ms. Conley if she is at 102 Sutphin, and Ms. Conley agreed; and Ms. Giagnacova stated she has the "right person." Ms. Giagnacova stated at the corner of Sutphin and Fayette is a little shed and also behind the barn. Ms. Conley stated there is one on Lot #1 and a couple on Lot #2. Ms. Giagnacova stated there is one on Lot #3, one on Lot #2 plus there is a chicken coop on Lot #2 that is coming down.

Ms. Conley stated it was mentioned about the distance from Fayette Drive where the building is back which was 40', and she asked if that should be 40' from the street. Mr. McGuigan stated the front yard setback off of Fayette is 40'. Mr. Flager stated the front yard is 40' and the rear yard is 50'.

Ms. Luca stated asked if anything is allowed to be built between the dwelling and her home (Lot #2). Mr. Dougherty stated it was noted that a builder will be building a home. Ms. Luca stated she understands there will be a home. Mr. McLoone stated they would need a separate Permit if they were going to build a garage, shed, fence, patio, etc. He stated improvements are allowed.

Mr. McGuigan stated if there is a concern about there being a large structure there, Lot #2 is proposed to have 16% impervious with 18% being the maximum so there would be a limitation in terms of the size and scope of anything that could go there.

Mr. Dougherty stated he feels that there should be timelines on when the outbuildings that are supposed to be taken down are going to be taken down. Mr. McGuigan stated while they have not discussed that specifically with their client and it is unfortunate that they have had to come back before the Zoning Hearing Board, they are now fairly far along in the Subdivision process although changes had to be made because of the change in the scope of the Plans. He stated the Township engineer has already reviewed a fair amount of this, and it should not take too much longer for the Subdivision. He asked Ms. Giagnacova if in the interim if the Board is indicating that they want to put in an addition timeline to make sure the process is sped up in terms of the demo work, would she have any opposition; and Ms. Giagnacova stated she would not. She added that since the builder will have excavation equipment there, he offered to take down the outbuildings, and she agreed that he could do that. Mr. Dougherty asked if it would be reasonable that this be done

three months from the Board's written Decision, and Mr. McGuigan and Ms. Giagnacova indicated they felt that was reasonable.

Mr. McCartney asked if the Motion includes everything that is in the Application or if there are things that can be excluded specifically the use of a two-family dwelling in the Zoning that it is currently in. Mr. Flager stated they can make a Motion approving or denying any of all of the relief.

There was discussion whether or not to vote on Lot #2 at this time since there is not an improvement there at this time. Mr. Solor stated it is a Variance so that they can construct. Mr. Dougherty stated it was his impression, and he believes it was Ms. Carlton's as well, that when they came back in front of the Zoning Hearing Board to develop that lot at that time they may need to ask for a Variance. Mr. Flager stated the issue was whether they had properly advertised for Lot #3. He stated Lot #2's measurement is 22.1' which was advertised. Mr. Solor stated that is a larger request than the 38.2'. Mr. McGuigan stated their formal request tonight is for two rear yard setback Variances, one at 22.1' and one at 38.2' as well as the Use Variance to allow the continued use of the duplex. Ms. Carlton stated that would be consistent with what the neighbors have just stated as they asked questions and testified about the house on Lot #2 since there is a rendering of a house to be constructed, and she had been under the impression that it was a rendering of a house and not necessarily in this exact location. She stated she does not feel that they would need to re-advertise. She stated as long as the owner of the new parcel, which had been Lot #4, was notified of this, and does not have an objection, and while this is self-inflicted hardship, the Township is fine with the 22.1' yard setback to the rear yard on Lot #2 and 38.2' on Lot #3 and the Use Variance for the duplex.

Mr. Solor moved and Mr. Schwartz seconded to approve the Variance for a 22.1' setback for Lot #2 and a 38.2' setback for Lot #3 with the Condition that the demolition of the outbuildings occur within three months from the written Decision. Motion carried unanimously.

Mr. Dougherty moved and Mr. Schwartz seconded to approve the Variance request to Ordinance 200-20A.2 for a Use Variance to permit an existing non-conforming, two-family dwelling in the R-2 Zoning District where single-family, detached dwellings are permitted.

Mr. McCartney stated he has no problem with the dwelling being what it was for many years when it was family; however, allowing two to four family

income-producing properties in R-2 Zoning will open Pandora's Box in Lower Makefield. He stated he recognizes that it is case-by-case; however, he feels it was set up specifically for family use, and when it becomes income-producing it changes the dynamic of what it is. He stated there are no inspections for these types of properties, and he does not know if the Township is exposed if something happens from an insurance or legal standpoint.

Mr. Dougherty stated he feels the Applicant has a true hardship. He stated he agrees that it was an accessory dwelling even though it does not appear that one of the units is subordinate to the other. He stated typically for an accessory dwelling you have the main dwelling and a subordinate dwelling; however, the Applicant appears to have bought a house, and it was not disclosed to her that it was an illegal use. He stated she assumed it could be a rental unit which he feels is a legitimate hardship.

Mr. Schwartz stated he believes that there is an inspection process for rentals although it does not seem like it for duplexes. He stated there are rental apartments, etc. all over the Township. Mr. McLoone stated the Township does not do Residential U & Os. Mr. Schwartz asked if they respond to residents' complaints in a rental, and Mr. McLoone stated they do if it is a Code violation. Mr. McCartney stated it sounds like the tenant calling for a Code violation in this case was the only way the Township found out about this. Ms. Giagnacova stated she had Mr. Kirk come out to the property and he told her that any tenant who wants to break a Lease calls him and tries to find something wrong with the property. She stated she had Mr. Kirk inspect the property, and he found nothing wrong with it.

Mr. McGuigan stated he understands the concerns globally with regard to rental units; however, whether this is one unit or two, if Ms. Giagnacova were still renting it, the same concerns would apply, and this just relates to a request for relief to allow the existing configuration of the home and the home's existing use to remain.

Mr. McCartney stated he feels we are within our rates to allow it to remain a duplex but put constraints on it being specifically for family use. Mr. Flager stated the Board can place reasonable Conditions on any Variance approval. Mr. McCartney stated he is not requiring them to take out the second kitchen and walls to make it an eight-bedroom, seven-bathroom house; but he is saying they cannot make it income-producing since it is not legal in R-2. He stated he does not know that there is another R-2 property that has this. He stated if the Board has granted in-law suites in the past with egress separate

from the house, and the Township found out that the Applicants were turning them into rental properties, we would have this same issue which is why he feels it is opening Pandora's Box by approving this.

Mr. Flager stated there have been some issues with accessory structures and detached garages; and in the approval it was indicated that they could not have dwelling units, etc. to prevent exactly what Mr. McCartney is referring to. Mr. Flager stated this building is unique in that it is basically two, full-size homes.

Mr. Schwartz stated he lives in a neighborhood that has single and townhome rentals, and the townhomes are surrounded by homes on both sides. He stated he does not see any difference in this situation. Mr. McCartney stated those townhomes are parcels, and they have lot lines and are individual single-family homes. Mr. Schwartz stated their lot line is their neighbor's wall. Mr. McCartney asked what if someone converted a walk-out basement unit in Yardley Corners as an accessory unit and rented it out. Mr. Schwartz stated that would be extreme. Mr. McCartney stated it is a two-family dwelling within R-2 Zoning. Mr. Schwartz stated the Applicant is asking that it remain as it has been. Mr. McCartney stated he believes it can remain as it is but put a restriction on rental income. Mr. Schwartz stated he does not agree with that part.

Mr. Dougherty stated if the Township had a U & O at the time Ms. Giagnacova bought the property 18 years ago, this would have been known at that time. Mr. Schwartz stated in this case for 17 years it was believed to be available for rental. He stated she did not buy it with the intention that family would be living with her. He added that if someone were to come before the Board now wanting to convert, that is where the Board would stop them. Mr. McCartney stated he disagrees since Ms. Giagnacova knew what historically the use of the property was and that two sisters lived there. Ms. Giagnacova stated technically you could rent any house that you buy.

Mr. Dougherty stated Mr. McGuigan had indicated earlier that Ms. Giagnacova is not necessarily sophisticated when it comes to Zoning and Land Use as evidenced by what she did with Lot #4.

Mr. McCartney stated if another tenant comes to the Township with an issue, what will the Township's recourse be. Mr. Dougherty stated that would be a Civil matter. Mr. Schwartz stated that would relate to the verbiage that is in the Lease Agreement. Mr. McCartney stated he would rather not approve it; and if the Board approves this, it is saying that it is legal for her to do it.

Mr. McCartney moved to Amend the Motion to acknowledge the use of a two-family dwelling in R-2; however, specifically used for family only and not for income-producing. Motion died for lack of a Second.

Original Motion carried with Mr. McCartney opposed.

#### CANCEL MAY 18 MEETING

Mr. Flager stated there are no Agenda items for the next scheduled Zoning Hearing Board meeting.

Mr. Schwartz moved, Mr. Dougherty seconded and it was unanimously carried to cancel the May 18, 2026 meeting.

#### OTHER BUSINESS

Mr. Flager noted that tonight will be Mr. Solor's last meeting, and he was thanked for his service to the Township over the years. Mr. McLoone and other Board members also thanked Mr. Solor for his service.

Mr. Flager stated Mr. Dougherty may participate in the next meeting of the Board scheduled for June 2 which is the date that his term expires. Mr. Dougherty stated there should be a vote on Board position that night. The Board of Supervisors has been advised that there will be the need to appoint someone to the Zoning Hearing Board.

There being no further business, Mr. Schwartz moved, Mr. Solor seconded and it was unanimously carried to adjourn the meeting at 9:20 p.m.

Respectfully Submitted,

Mike McVan, Secretary

