TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – OCTOBER 20, 2026

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on October 20, 2026. Mr. Schwartz called the meeting to order at 7:33 p.m.

Those present:

Zoning Hearing Board:	Christian Schwartz, Chair
	Mike McVan, Secretary
	Larry Borda, Member
	Robert Heinz, Member
	Tony Zamparelli, Alternate Member
Others:	Dan McLoone, Planner
	Adam Flager, Zoning Hearing Board Solicitor
Absent:	James McCartney, Zoning Hearing Board Vice Chair

APPEAL #Z-26-28 – HESSING
TAX PARCEL #20-049-131
235 VALLEY DRIVE, YARDLEY, PA 19067

Mr. Schwartz stated they have requested a Continuance to November 17, 2026.

Mr. McVan moved, Mr. Heinz seconded and it was unanimously carried to Continue to November 17, 2026.

APPEAL #Z-26-21 – SRA HOME PRODUCTS/ZUBAIR
TAX PARCEL #20-024-055
641 FOX HOLLOW DRIVE, YARDLEY, PA 19067
(Continued from 10/6/26)

Mr. Thomas Mazza, project manager, and Mr. Khurram Zubair, homeowner, were sworn in.

Mr. Schwartz stated the Board previously had questions about the impervious surface, and that has now been calculated; and re-advertisement has taken place and includes the impervious surface issue as well as what was originally requested which was the rear yard setback.

Mr. Mazza stated they are still looking to build a 14' by 20' three-season sunroom off the back of the house. He stated a 50' setback is required, and they are requesting a 26'7" setback. He stated they are also requesting to increase the impervious surface from 32.3% to 33.7% where 18% is allowable.

Mr. Schwartz stated there are two numbers on the Site Plan on the rear yard setback, one from the corner of the house, and one from the corner of the sun-room; and he asked if they are the same. Mr. Mazza stated they are, and they are not going to go past the 26'7". He stated on the other corner, they are not going to project past the existing house setback.

Mr. Schwartz asked what they propose to do to take care of the overage on the impervious surface. Mr. Mazza stated they are proposing two 55-gallon rain barrels on the corners of the sunroom which should offset the square footage for the sunroom addition. Mr. Schwartz stated the Board has recently declined to accept rain barrels and live vegetation, other than rain gardens, as sustainable methods to handle impervious surface mitigation.

Mr. Mazza stated in addition to the rain barrels, they were planning to direct water coming out of both downspouts toward the original swale to the right side on the survey, which should take care of the overflow water coming from the roof. Mr. Schwartz asked if this is on the property Deed, and Mr. Mazza agreed. Mr. Schwartz stated he assumes that drains out to the street and the storm sewer system, and Mr. Mazza agreed. Mr. Schwartz stated the 18% set per Code is intended to not overflow the storm system or the streets with too much of the rain run-off from the property, and the hope is to keep anything over the 18% on the property itself with infiltration trenches, dry wells, and rain gardens. Mr. Schwartz asked Mr. Mazza if he discussed this with Mr. Zubair; and Mr. Mazza stated he did not discuss that with Mr. Zubair, and that would be up to the homeowner if he wanted to do that.

Mr. Mazza stated this is a non-conforming condition with the small lot, and the way the house is on the property creates issues with setbacks and what can be done with the property. Mr. Schwartz stated the position of the house on the lot and the size of the house itself is not as effected in the non-conforming condition with the impervious surface as is the enormous amount of driveway in the front of the house. Mr. McLoone stated it was shown on the As-Built with the new home.

Mr. Borda asked what they would be reducing the impervious to with the pro-posed rain barrels, and Mr. Mazza stated it would be a reduction of 450 square

but would not get them to 18%. It would just cover what they added with the sunroom. Mr. Borda asked if the swale that was discussed is on top of a drain line that goes into the storm sewer into the street, and Mr. Mazza agreed. Mr. Borda stated he is familiar with the area and it runs constantly so he does not feel dumping it into the swale is a good idea. Mr. Mazza stated he walked the swale two days ago, and it was dry even though there had been substantial rain. Mr. Borda stated it does release it to the street, and it is always wet.

Mr. McVan asked if they would be opposed to adding an infiltration trench that would make up the difference from the 33.7 back to 18. Mr. Mazza stated while he would not be opposed to it, it would require a fairly large pit to get down to 18%; and he is not sure a pit would fit in the back yard. Mr. Schwartz stated it could be broken up into several smaller pits on three of the four corners of the house so that the roof drains go directly to them. He added the one in the front corner where the driveway is he would not assume could be dug up to add a pit; however, the other corners he feels they could put pits there. He agreed there could be a substantial cost to do this, and Mr. Mazza agreed.

Mr. Mazza stated a lot of the houses in the neighborhood are set up the same way, and they are very large homes on very small parcels. He stated he does not feel this particular house and the swale are the problem, and he feels it is the four houses together that are contributing. He stated he believes the water from all four houses is coming down the swale.

Mr. Schwartz stated without adding the sunroom, they are already 14.3% over what the Code allows. He stated they have a large driveway in the front some of which seems unnecessary; and while they are not going to make them they take it out, something needs to be done. He added there has been a big push in the Township over the last few years to reduce stormwater flowing into the streets, storm systems, and creeks because of the flooding it creates. He stated whenever they can the Zoning Hearing Board is doing what they can to reduce the rain run-off and getting it back to Code.

Mr. Heinz asked if they have provided calculations on a swale, and Mr. Mazza stated they have not. Mr. Heinz asked M. Zubair to explain the hardship for his request. Mr. Zubair stated he bought the house in 2000, and they had a deck in back yard; however, family members have breathing and allergy disorders which do not allow them to use it. He stated he wanted to have something that was enclosed, and a number of people in his neighborhood have this type of room. He stated he did not realize it was going to cause a problem.

Mr. Zubair stated when it rains the water goes to the swale, and with the room there will not be any difference to the drainage of the water. He stated when he bought the house he did not realize that his property was draining the water from three other house besides his. He stated all of the water goes through his swale. He stated he has been flooded twice since he bought the house because of that. He stated French drains were put in by the swale, and since then he has been okay.

Mr. Zamparelli stated he understands the non-conformity issue, but he is concerned with the impervious surface. He stated they are significantly over they 18% and rain barrels will not make that much of a difference and are not always maintained. He stated they need to come up with a plan for a dry well.

Mr. Schwartz stated at this point they are at 32.3%; and if the plan is rejected and nothing is done, this does not help the neighborhood or the storm sewer system. He stated while they may not be able to get it to 18%, possibly there could be a plan to get it down to something lower than it is currently.

Mr. Heinz asked the square footage of the house, and Mr. Zubair stated it is about 3,400 square feet. Mr. Heinz asked the square footage of the proposed sunroom, and Mr. McLoone stated it is 280 square feet.

Mr. Heinz asked the allowable setback; and Mr. McLoone stated while it is 50, based on the testimony it seems that they would not be expanding on the existing setback, and he is not sure that a Variance for that would be needed.

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

Ms. Carlton stated the Township is participating, but not opposing; and they would encourage the Board to continue in the general direction they are going which she believes the Township would be inclined to go. She suggested that the homeowner Continue the matter and come back with a plan that is suitable for this large increase in impervious surface area. She stated it is already almost double what is permitted in the area, and there has been a concerted effort over the past years to reduce the stormwater input.

Mr. McVan suggested that they lower the impervious by 8% which would be 24% as opposed to 18%. Mr. Borda stated this would be using an infiltration trench and not rain barrels. Mr. Schwartz stated it does not appear that there are a lot of places to do that, but 24% would be more manageable than 18%, and they could work with the Township engineer on the sizing and placement of infiltration trenches.

Mr. Heinz asked if they are going to take down the existing deck or build the sunroom on the deck, and Mr. Mazza stated they will build a new deck in the same location. Mr. Heinz stated that would mean there is a 280 square foot space that is now available to build a retention pit of some sort, and he asked Mr. McLoone what the calculation would be for the depth of that whole space being a retention pit. Mr. Heinz stated at least the two leaders from the rear of the house could enter into that pit. Mr. Schwartz stated footings would be needed for the sunroom, and he does not know that footings could be put into a retention pit; and Mr. Mazza agreed. Mr. Heinz stated they might be able to configure it so that at least a good portion of it is underneath the space "that they are not using." He recommended that they use a calculation along those lines and Continue this matter.

Mr. Mazza asked if the Board could approve this contingent to meeting the 24% mark. Mr. Schwartz advised Mr. Heinz that if there is agreement on a number, the Applicant could put the pits anywhere on the lot that they can fit them and include the rain leaders into them working with the Township engineer and Mr. McLoone with regard to the sizes and locations.

Mr. Schwartz stated a Continuance would not be needed for them to do that. Mr. Heinz stated he is not happy with 24% although he knows that 18% is a lot to ask.

Mr. Schwartz stated if the Board grants the Variance, it would be valid for two years; but if the homeowner decides it is too expensive, the house would remain at the current 32.3% impervious. Mr. Zamparelli stated the Applicant has not worked with an architect or an engineer to see what they could do and have not provided any calculations. He stated he feels they should be at 18% recognizing that it is an expense. Mr. Mazza stated they would go to an engineer to determine the proper size for the pit to get them to 24%. He stated he feels that would cost between $10,000 and $15,000. Mr. Zamparelli stated he feels they could get to 18%. Mr. McLoone stated to get to 18%, it would be 524 cubic feet of required control volume; and if it were one pit it could be 4 by 8 by 41. Mr. Schwartz stated they could split that into three and put it into three corners of the property. Mr. Schwartz stated it would be good if they could come back with calculations from an engineer telling what could be done.

Mr. Mazza stated there are a lot of trees on the property and it would involve taking down trees to make a pit of the size Mr. McLoone has indicated. Mr. Schwartz stated that is something the engineer would work on.

Mr. Mazza stated it may be that the project becomes so cost prohibitive that the homeowner cancels the project, and there is then no remediation for the water; and Mr. Schwartz agreed.

Mr. McLoone stated due to upcoming lengthy Agendas, the next time this Applicant could come in if the matter were to be Continued would be the first meeting in December. Mr. Massa stated he would prefer that they come back with more details once they consult an engineer; however, Mr. Zubair had indicated that he is more inclined not to do the job at all. Mr. Zubair stated when he was considering the project, he did not think it was going to be a problem since it did not involve any extra space as he was replacing the deck with the room. He stated it is already costing him a lot of money, and they have indicated it is causing problems with the impervious.

Mr. Heinz stated he would accept 22%. Mr. Borda stated he was amenable to 24%, but would also be amenable to 22%.

Mr. Heinz moved and Mr. McVan seconded to approve the Appeal with the increase in the impervious surface to 33.7% and remediated back to 22% with approval of the Township engineer using infiltration trench and tying in rain leaders from at least three of the four down flows from the roof. Motion carried with Mr. Zamparelli opposed.

APPEAL #Z-26-25 – FUNK
TAX PARCEL #20-049-062
329 SHERWOOD DRIVE, YARDLEY, PA 19067

Mr. Andrew Funk was 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. Notice to the neighbors was marked as Exhibit B-3.

Mr. Funk stated he is seeking a Variance for impervious surface in order to install a crushed stone driveway off the existing asphalt driveway which will extend from the end of the driveway to a shed. He stated it is to manage the parking as his driveway is tight and he is looking for extra space in order to park extra vehicles. He stated he proposed to install trees and shrubs on the property line to mitigate, but he now understands there is “push back” lately

so he does not know if that will be acceptable. Mr. Funk stated he has two existing rain leaders that go into infiltration trenches, and he asked if that is taken into account. Mr. Schwartz asked the sizes of the trenches, and Mr. Funk stated he could get "GPR" out there to sense that. Mr. McLoone stated he did the calculations; and if they wanted it to go back to 18%, 235 cubic feet would be needed and it could be roughly 3 by 6 by 33 or it could be split up into different ones.

Mr. Schwartz asked about the shed shown on the drawing, and Mr. Funk stated it is existing. Mr. Schwartz asked what is the 3.3 number next to the shed, and Mr. Funk stated he believes that is the measurement from the property line to the shed. Mr. Schwartz asked the size of the shed, and Mr. Funk stated he believes it is 140 square feet as shown on the impervious calculation.
Mr. Schwartz asked Mr. Funk when he put in the shed, and Mr. Funk stated it was there when they moved in. Mr. Schwartz stated the shed would either need to be moved to 5' from the property line, be removed, or a request for a Variance would be needed to keep it where it is. Mr. Schwartz stated if Mr. Funk wants the shed to stay where it is, it would need to be re-advertised to include a Variance for the shed. Mr. Funk stated the shed has nothing to do with his request for the Variance, and Mr. Schwartz stated they have to correct all of the issues while they are before the Board. Mr. Funk stated he will need to check whether it is 3.3 to the fence or to the property line.

Ms. Dayna Funk was sworn in. She asked if there was a Permit for the shed, and Mr. McLoone stated he could look into that. Mr. Schwartz stated he believes he asked Mr. McLoone about this when the Board first received their packet, and he could not find a Permit for the shed. Ms. Funk stated they just moved into the home in July, and the shed was there. Mr. Schwartz stated that does not change what the Board has to do now. Mr. Schwartz suggested that they Continue the matter and look into the measurements.

Mr. Borda asked if driveways count for setback purposes, and Mr. McLoone stated what they are proposing is up to Code. Mr. Flager asked if the shed's calculations were included with the impervious, and Mr. Funk agreed.

Mr. Heinz stated he understands that they are removing the asphalt driveway and replacing it with crushed stone, and Mr. Funk stated that is incorrect, and as shown on the Site Plan, it is an additional driveway extension off of the existing driveway. He added it is an additional place to put vehicles rather than parking on the street. Mr. Heinz asked if the crushed stone is considered impervious, and Mr. McLoone agreed.

Mr. Borda stated looking at the house in the back on the right-hand side, there are three rectangles, and he asked if they are planting areas. Mr. Funk stated they were existing planters that they had removed.

Ms. Funk asked how often the property is "surveyed for these numbers." She stated they just purchased the property and had some major removal of the invasive bamboo and overgrown weeds, and she asked when was the last time the 18% was surveyed. She stated they received a letter that they were already at 21%. Mr. Schwartz stated the 21% was most likely calculated when the Permit was issued. Mr. McLoone stated the only time the Township has a copy of the survey is when it is required for a Permit. He stated since this has Mr. Funk's name on it, he assumes this was a survey that they paid for, and Ms. Funk agreed. Mr. Heinz stated he thought there was something available on the Stormwater Utility Fee Website that directs people to what their impervious surface is, and Mr. McLoone stated there is.

Mr. Schwartz proposed to Continue the Appeal to December 1. Mr. Funk stated he might just withdraw his Application. Ms. Funk stated their back yard backs up to the drainage ditch, and since their back yard is slanted all of the rainwater is going into the drain that the Township built. Mr. Schwartz stated that would not solve the issue with the shed being too close to the property line, which is still a problem if they decide not to proceed with the project.

Mr. Flager asked Mr. Funk if he indicated that he already had an infiltration trench, and Mr. Funk stated he does. Mr. Flager stated if the matter is Continued, Mr. Funk could determine what the calculations are as he may not need to do as much or any remediation.

Mr. Funk stated he does not feel it is worth Continuing, and he is dropping his Application. Mr. Funk stated he is withdrawing his Application – #Z-26-25

APPEAL #Z-26-26 – DUFFY/RIVER RD J2 LLC
TAX PARCEL #20-047-108-001
0 RIVER ROAD, YARDLEY, PA 19067

Mr. Joseph Smith, River Road LLC, and Mr. Heath Dumack, engineer, 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 Addendum which was attached was marked as Exhibit A-3. The Deed was marked as Exhibit A-4. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Sean Duffy, attorney, provided additional Exhibits.

Mr. Flager marked the Exhibits as follows: He stated Exhibit A-1 will now be the Zoning and Existing Features Plan. The Aerials were marked as Exhibit A-2. The Lay-Out was marked as Exhibit A-3. The January 15, 1991 Decision from the Board of Supervisors was marked as Exhibit A-4. The Application was marked as Exhibit A-5. The Addendum was marked as Exhibit A-6. The Deed was marked as Exhibit A-7.

Mr. Flager stated the Township is opposing this Appeal.

Mr. Heinz asked about the address as the documentation provided says 743 River Road, but the Zoning Hearing Board information for this Appeal says 0 River Road. Mr. Duffy stated he understands that he did not provide in terms of the Addendum an address associated with the property because there is no address associated with the Tax Map parcel. He stated the next-door neighbor is 743 River Road, and contextually that was part of a property back in 1983 when this property was created from a Subdivision.

Mr. Duffy stated the property is a corner lot at the corner of River Road and Black Rock Road. He stated it is constrained by natural resources with a flood-plain and some steep slopes. He stated the Applicant is proposing to develop the property with a single-family detached home. He stated currently there is a barn on the property on the corner of the lot that is about 821 square feet; and there is an Easement over the area of the barn for the neighboring property owners' use at 743 River Road.

Mr. Duffy stated this lot was created pursuant to a Subdivision Plan from 1983. Historically, this area of the Township was designated as R-2, but currently it is zoned R-RP. He stated that is relevant to the relief that they are requesting.

Mr. Duffy stated they are requesting a Variance from Section 200-13 which requires an 80' front yard setback when it abuts a collector road, and they are requesting a 41' setback from Black Rock Road. He stated they are also requesting a Variance from Section 200-13 to allow for an 18.11' side yard setback where 25' is required,

and a Variance from Sections 200-14.A and 200-14.B which limit impervious surface to 10% by the developer and 13% by the property owner to permit impervious surface ratio of 15.29%.

Mr. Duffy stated Exhibit A-4 is a Zoning interpretation from 1991; and based on their review of the Ordinance and this historic Zoning interpretation, lots that were created pre-1987 have a non-conformity under the Zoning Ordinance which permits an impervious surface ratio on a lot of this size of 18%. He stated they are requesting an amendment to the relief that they are requesting; and while they will still keep the Variance for the impervious coverage, they are also requesting an interpretation from the Board as to whether that relief is actually necessary based on the Zoning interpretation and on the Zoning Ordinance itself for the R-2 standards which designates lots for impervious coverage that were created after 1987 versus lots created pre-1987 in this area of the Township.

Mr. Dumack stated he is a Licensed professional engineer and surveyor in Pennsylvania. He has previously testified before Zoning Hearing Boards in Bucks County, and Mr. Dumack was accepted by the Board as an expert in Civil Engineering and Site Design.

Mr. Dumack stated he was retained by the Applicant to prepare the Zoning Plan for the property, and he is familiar with the property and the Lower Makefield Township Zoning Ordinance including the dimensional and resource protection information as it related to the R-RP Zoning District.

Mr. Dumack stated the site net is approximately .73 acres, 31,000 square feet. He stated it is a double-frontage lot, a corner lot, fronting on both Black Rock Road and River Road. He stated it is partially in the floodplain which is shown on the plan as a diagonal line taking out approximately 25% to 30% of usable property toward the corner of River Road and Black Rock. He noted the location of the floodplain on the Existing Features Plan. Mr. Dumack stated the remaining 2/3rds of the site to the west of the Delaware River is uplands.

Mr. Dumack noted the southwest corner where there is an 800 plus/minus square foot barn along with an Access Easement benefiting the neighbor to the south.

Mr. Duffy asked Mr. Dumack what makes this property unique from a site design perspective. Mr. Dumack stated the primary factors are the flood-plains and the 80’ setback from the collector road, Black Rock Road. He noted

an area on the Plan, which based on the 80' special front yard setback from Black Rock Road, is the only developable area based on setbacks for this parcel even though the parcel is 31,000 square feet in size.

Mr. Dumack stated while it is along the Delaware River and has floodplains, they have the ability to build a house with stormwater management controls on site. He stated they did some infiltration testing, and there is a seasonable high water table that is fairly shallow which is why they are proposing such a substantial geometry for a rain garden. Mr. Dumack stated there is high ground-water in the area, and it is not viable to go underground with a substantial bal-last pit system which is common for infill lots like we have.

Mr. Duffy stated the Ordinance requires an 80' setback, and the Plan proposes 41' along Black Road, and he asked Mr. Dumack to explain why this relief is necessary. Mr. Dumack stated they took into account the difference between the legal right-of-way and the ultimate right-of-way which pushes the front yard setback to the extent that they have a 41' setback instead of the 80'.

Mr. Duffy asked if River Road is also a collector road; and Mr. Dumack stated it is, however, it ties in with another Variance that has to do with setback lines being measured from the property line versus the resource protected area. He stated if they were to measure the front yard setback from the floodplain line which is a protected resource, they would not have a building lot.

Mr. Duffy stated they are asking for relief from Section 200-54.C which requires minimum building setback be measured from the limit of resource protected lands. Mr. Duffy stated from the ultimate right-of-way line, they are measuring over 100' off of River Road; and Mr. Dumack agreed. Mr. Duffy stated if they were to measure from the floodplain line, there would be no building envelope for this property; and Mr. Dumack agreed. Mr. Duffy stated the only thing they could technically build here would be a mobile home, and Mr. Dumack stated "if that."

Mr. Duffy stated they are requesting a side yard setback of 18.11' where 25' is required, and they are trying to locate the home in the only viable location where they would have a potential building envelope and Mr. Dumack agreed.

Mr. Duffy stated the Applicant is proposing a building height of 41'2" where 35' is required, and he asked Mr. Dumack why this is necessary and how building height is measured. Mr. Dumack stated this lot, along with others in

the neighborhood, has a fairly high seasonal high water table, and they found groundwater 2' to 3' below grade when they did the soils testing on the site. He stated to install a basement under those conditions is "ridiculous" and would trigger water intrusion for the life of the house. He stated you do not want to build a basement under those conditions so what the architect has proposed based on the site conditions is a walk-up basement level above the seasonal high water table and go up from there. He stated that is why they are asking for a 41' ridge line on the roof instead of the maximum 35. He stated the way you calculate the roof height is based not on finished floor to roof but to average adjacent grade around the perimeter of the house, and that was taken into account based on the proposed grading; and they came up with 41' height to the ridge of the roof. Mr. Duffy noted Exhibit A-3, and he asked Mr. Dumack if that is an accurate depiction of how that is measured; and Mr. Dumack agreed.

Mr. Duffy stated they are also requesting relief for impervious coverage under Sections 200-14.A and 200-14.B. He asked Mr. Dumack to discuss Exhibit A-4. Mr. Dumack stated he would consider this a letter of interpretation from the Township solicitor at the time which referenced a memo from the Township Code Enforcement Officer that Subdivisions or Building Lots that were created prior to 1987 be considered grandfathered in based on the Zoning Ordinance, and that the proposed Zoning for impervious surface, setbacks, etc. should be the R-2 Zoning District which for impervious surface allows for 18% impervious versus the current R-RP Zoning which allow 10% for a builder and 3 extra percent cent or 13% for the homeowner. Mr. Duffy asked if that is consistent with Section 200-23 of the Zoning Ordinance which regulates impervious surface requirements. He stated Section A outlines after 1987 and Subsection B outlines Subdivision pre-1987. After review, Mr. Dumack stated that was correct.

Mr. Duffy asked about the lot size for the subject property; and Mr. Dumack stated they are at approximately 31,000 square feet, so they would be lot size square feet 15,001 or up which gives a maximum impervious surface ratio of 18%. Mr. Duffy asked Mr. Dumack if he is tracking that being the same inter-pretation that the Township gave to the property at 71 Manor that had a Zoning Hearing Board Application before the Board several months ago. Mr. Dumack stated while he does not remember the address, he does remember that project and the answer is yes. Mr. Duffy stated he believes they had upwards of 28% impervious coverage, and Mr. Dumack agreed.

Mr. Duffy asked Mr. Dumack if the Board was not inclined to grant the impervious coverage interpretation that they are compliant with, why relief is necessary from the perspective of having a reasonable use of the property with a usable home in this area. Mr. Dumack stated based on the geometry of the lot, they did some ancillary calculations; and the existing barn in the southwest corner of the building lot is approximately 821 square feet. He stated if you take that square footage out, they would be in compliance and would be at 12.5% to 12.7% impervious.

Mr. Duffy stated he understands that the Applicant would like to take the barn out; however, he cannot because there is an Easement over that corner of the property, and Mr. Dumack agreed.

Mr. Duffy asked if there are steep slopes on the property in addition to flood-plains, and Mr. Dumack agreed. Mr. Dumack stated as you migrate toward River Road, River Road was cut into adjacent grades so there is a drop down, and that is all steep slopes. He stated he would consider it a manmade steep slope and not natural. Mr. Duffy asked if any of the physical circumstances with the property created by the Applicant, and Mr. Dumack stated there were not.

Mr. Duffy asked if the five requested Variances represent the minimum relief necessary to enable reasonable residential use of the property, and Mr. Dumack agreed.

Mr. Duffy noted Exhibit A-2 which includes an aerial view of the property which shows that it is unimproved other than the barn. He stated Page 2 of the Exhibit shows the subject property is marked with a green dot in the corner, and the rest of the neighborhood is also shown. Mr. Duffy asked Mr. Dumack if it is his understanding that the high density in the area was because this was traditionally R-2 Zoning, and Mr. Dumack agreed. Mr. Duffy asked Mr. Dumack if he believes that the proposal is in keeping with the character of the neighborhood, and Mr. Dumack agreed. Mr. Duffy asked Mr. Dumack if he anticipates any adverse impact on the public health, safety, and welfare; and Mr. Dumack stated he does not. Mr. Dumack added that their storm system will be designed for all of the impervious surface and it increases the level of protection in stormwater management than a majority of the houses in the area.

Mr. Duffy asked Mr. Dumack to describe what the stormwater management infrastructure will look like. Mr. Dumack stated depending on the values, they are proposing a rain garden which is basically a shallow depression as shown on the Plan. He stated it has an approximately 4,045 square foot footprint. He stated the intent is to depress the area approximately 1' to 2', and they want to keep at least a 2' separation between the seasonal high water table and the bottom of the basin. He stated it will be heavily landscaped with amended soils added. He stated it will act like a "vegetated bathtub," similar to a retention/detention basin with the idea that you are augmenting the soils so that the water soaks into the vegetation and into the amended soils and is not allowed to go downstream.

Mr. Duffy asked if in all other respects does the Plan comply with the applicable dimensional and use regulations for the R-RP Zoning District, and Mr. Dumack agreed.

Mr. Schwartz noted the trapezoid on the drawing where the building envelope is based on all of the calculations, and he asked if there is a reason why they did not cover the entire trapezoid with building before they impeded on the rest of the distances. Mr. Dumack stated he believes that most of the positioning had more to do with the aesthetics of the house, and he believes that there are windows along the side wall to give a view of the river. He stated you also want to minimize the footprint, and they have designed a number of the house liftings that have occurred on River Road both in Lower Makefield and Yardley Borough; and you want the minimum footprint. He stated while the house itself is outside of the current floodplain, the assumption is that the flood elevations are still changing, and they will eventually expand. He stated you want to minimize the dam action so that there is not heavy impact on a larger scale.

Mr. Schwartz stated the Board has heard Appeals recently that have involved floodplain versus floodway. Mr. Dumack stated the floodway is the primary channel of the River which should be on the other side of River Road and not on this site.

Mr. Borda stated he saw the lot today, and it is "gorgeous." He noted the area where they are proposing to put the house there is currently a large tree that they are taking out. He asked if they factored in the change in impervious surface as a function of taking out that tree and adding the footprint of the house on top of it. Mr. Dumack stated the tree itself is not impervious so from his perspective whether the tree is there or not, the impervious surface does not change. Mr. Borda stated the tree can have a positive impact on the stormwater;

and Mr. Dumack agreed, but added that they did not take that into account. He stated they stopped after their infiltration testing as they needed to know what was going on on the lot before they moved forward with full stormwater design; and based on owner and attorney conversations, the intent was to submit for Zoning first and then move forward with stormwater management per the Grading Plan requirements, which would then be reviewed by the Township engineer.

Mr. Borda asked Mr. Dumack his understanding as to why some of the setbacks are driven by the floodplain analysis. Mr. Dumack asked if he is referring to the setback from the floodplain, and Mr. Borda agreed. Mr. Dumack stated almost every Ordinance in Bucks County has that provision in it that they want the setbacks measured from the resources. He stated normally that is used for larger developments where you want to keep development at a minimum. He stated in this instance it is a single-family home building lot that was already subdivided and already approved by the Township in 1983. He stated it has been a standalone budling lot since 1983.

Mr. Borda asked the same question with respect to the setback required in relation to the collector roads. Mr. Dumack stated typically collector roads are higher traffic volume roads, and the larger setback are intended to keep the homes off the street due to noise, traffic, and hazard impacts. He stated in this instance, they are at the corner of Black Rock and River Road; and while Black Rock is a collector road, he feels that at this location the traffic flow is minimal compared to up the street where Black Rock becomes Edgewood. Mr. Borda stated he disagrees based on walking the site today.

Mr. Borda asked what the neighbor is getting access to with the Easement. Mr. Dumack stated it is an 820 square foot barn. Mr. Borda asked who owns it; and Mr. Dumack stated theoretically his client owns it, but the Easement is for the benefit of the neighbor. He stated that was put in place by the Subdivision in 1983.

Mr. Borda stated there was a heavily dotted line on the Plan overlaying what they are proposing as the building site which was a footprint of what would be allowed under certain circumstances, and it was noted this is the trapezoid. Mr. Dumack stated the trapezoid is the area that is allowed based on current setbacks; however, it does not take into account the setback if they were to honor the floodplain line and say that the front yard setback gets measured from the floodplain line, and they would then not have this trapezoidal shape.

Mr. Borda stated if they ignore the amount of setback required in relation to the floodplain, they could build the trapezoidal footprint, and Mr. Dumack agreed. Mr. Borda asked what would the square footage be, and Mr. Dumack stated he would guess it would be 1,200 to 1,300 square feet. Mr. Borda stated if they went up one floor they would get 2,400 and so on, and Mr. Dumack agreed.

Mr. Borda stated there was reference to R-RP impervious requirements and a distinction between developer and owner, and he asked for clarification. Mr. Dumack stated the Ordinance has two categories – builder and owner; and it has been in the Ordinance for decades. He stated the developer builds a house, and they are allowed a certain amount of impervious. He stated once the homeowner buys the house if they want to add a deck, pool, shed, etc. 3% is the allowable cushion between the developer/builder and the homeowner. In the R-RP Zoning it is 10% for the builder and 13% for the homeowner so there is a 3 point spread. Mr. Borda asked if technically this site is governed by the R-RP; and Mr. Dumack stated this site is grandfathered into the old R-2 which allows 18% with no differentiation between the builder and the homeowner. Mr. Borda stated Mr. Dumack is saying that R-RP does not apply based on the letter from the Township, and Mr. Dumack agreed.

Mr. Heinz asked what could be built on the property, and Mr. Dumack stated he would describe it as a double-wide trailer. Mr. Heinz stated there is popularity in tiny houses being built in this culture, so that is an available option.

Mr. Heinz asked if there are elevations of the building they want to put on the property, and Mr. Heinz was advised that was included in Exhibit A-3. Mr. Heinz stated it shows three-stories with the first story being a split level. Mr. Dumack stated that there is a Concept Plan from the architect and not much more, but the intent is a multi-level design. Mr. Heinz stated the portion that is in the back over top of the garage is the only portion that is above the 33', and Mr. Dumack agreed. Mr. Heinz asked if there is an 8' difference, and Mr. Dumack stated it goes to about 41 so half to two-thirds of the house is under 35. Mr. Heinz stated he felt the requirement was 33; however, he was advised that the requirement is 35.

Mr. McVan asked for clarity on Exhibit A-4, and if this is being considered as fact. Mr. McLoone stated his interpretation from being trained from the previous Zoning Officer is that the Township takes into consideration Exhibit A-4, and because it is an existing Lot of Record before 1987, the R-2 Zoning would apply for the impervious surface. Mr. Duffy noted a previous Appeal that was before the Zoning Hearing Board and it was determined by

the Township engineer that the 29% impervious coverage was permitted under the Zoning interpretation plus Section 200-23.B of the Zoning Ordinance. Mr. McLoone stated that is also his understanding, and he believes it was in the engineer's review letter as well.

Mr. Zamparelli stated he feels the lot is the problem, and the Applicants are well prepared. He stated he does not see anything wrong with the design.

A short recess was taken at this time.

When the meeting was reconvened, Mr. Duffy asked Mr. Dumack what number is the front yard setback from Black Rock Road measuring it from the legal right-of-way line, and Mr. Dumack stated it is 62.56'. Mr. Duffy stated it is actually set back much further from the roadway than the 41' they are requesting relief from reveals, and Mr. Dumack agreed. Mr. Duffy stated the driveway is within the legal right-of-way, and Mr. Dumack agreed.

Mr. Duffy stated there were questions about reasonable use of the property, and they looked at what the building envelope would allow. He asked Mr. Dumack to describe to the Board what the standard is as to what entails reasonable use of the property and minimum relief required to get to that. Mr. Dumack stated they utilized an original survey that was done and pulled Records and References from the Subdivision Plan of Record from 1983. He stated they did the Resource Protection evaluation. He stated the lot cannot be sub-divided, and it is a stand-alone building lot. He stated once the setbacks were outlined to the geometry of the trapezoidal section and the floodplain line was mapped, they looked to see what size of a house could be built on it; and to have the area within the trapezoid only, it would be about a 1,300. square foot footprint. However, the geometry is unusual, and people do not build trapezoidal homes – they build squares and rectangles. He stated they tried to do the best fit. He stated while the rectangle is awkward, to try to fit a regular home with a bump-out garage, sunroom in the back, etc. it "actually looks worse." He stated the relief that they are proposing is realistically minimized.

Mr. Duffy stated in terms of the neighborhood which is now R-RP, historically it was R-2. He stated under the R-2 standards it was much-denser development and smaller lot sizes. Mr. Duffy noted Exhibit A-2, Page 2, and he asked Mr. Dumack if the proposal is consistent with the rest of the neighborhood. Mr. Dumack stated their lot size actually exceeds what most of the neighborhood is. He added that he grew up in the neighborhood, and most of the

lots are half to two-thirds of the size of the subject lot. Mr. Duffy asked about the size of the homes in the neighborhood, and Mr. Dumack stated given the size of the Applicant's lot and the proximity to the River, he feels what they are proposing is the minimum Zoning relief required to get a reasonable use out of the lot.

Mr. Heinz asked the approximate size of the homes on Glenolden, Wendover, and Ardsley Roads. Mr. Dumack stated the homes in the Wendover neighborhood to the north are approximately 3,000 square feet, and he showed that location on. the map. Mr. Heinz stated he believes those homes are 1,500 to 2,000 square. feet. Mr. Duffy stated if those homes were 2,000 square feet, those lots are about one third the size of the subject lot; and Mr. Dumack stated he would say they are about one third to half the size of the lot being developed.

Ms. Carlton asked Mr. Dumack the minimum building lot area for the property under R-RP, and Mr. Dumack stated it is 2.25 acres. Ms. Carlton stated she believes in the Code it states 3 acres. She stated she feels Mr. Dumack was referencing a different portion of the Code, and the minimum building lot for a R-RP lot is 3 acres.

Ms. Carlton stated Mr. Dumack had stated that the setbacks and how they are measured are consistent in most Zoning Ordinance in Bucks County, and Mr. Dumack agreed. Ms. Carlton stated they serve a purpose, and Mr. Dumack agreed. Ms. Carlton asked Mr. Dumack to elaborate what that purpose is. Mr. Dumack stated it is to have a reasonable expectation for yardage and consistency across buildings and homes that are built at different times to give the appearance of consistency across the development and the community.

Ms. Carlton stated the request is to measure not from the Resource Protection but from the legal right-of-way; however, Mr. Dumack stated they are showing it from the ultimate right-of-way. Ms. Carlton stated in this area, the Township has consistently taken into consideration the Resource Protection area, and measurements are taken from that because of the area in which this lot is located, and it does serve a purpose. Mr. Dumack stated the last three Subdivisions he has done in Lower Makefield and two Plot Plans, the measurements were taken from the property line and not the Resource lines; and these were within the last five years. Ms. Carlton stated the Township has been fairly consistent with those measurements since she has been the solicitor for the last two years although she does not know the details of those Applications and why those Variances were granted.

Ms. Carlton stated Exhibit A-4, the 1991 letter from the previous solicitor, Jeffrey Garton, and the 1999 memo was entered into evidence; and that Mr. McLoone testified as to the veracity of those documents. Ms. Carlton stated the Board should understand that these letters do not reference any particular lot or area. She stated the 1999 letter does reference a "particular Appeal." Ms. Carlton acknowledged that this has to do with the impervious surface ratios, and the difference is significant "but not oh so significant," and it goes from 10 to 13 to 18%. She stated there seems to be a "mishmash" of prior standards, R-2 Standards, and the R-RP Standards. She stated this lot in the Residential Resource-Protection area, that should be foremost in every-ones' mind.

Ms. Carlton asked Mr. Dumack to discuss the height Variance recognizing that he indicated it was because no basement could be built in the area because of the high water table. Ms. Carlton asked if it fits in aesthetically. She stated she understands it will be an elevated basement with a walk-out, and Mr. Dumack stated it will be a walk-out or slight walk-up. Ms. Carlton asked if the elevation is consistent with the other properties in the area, and Mr. Dumack stated as you go up and down River Road with some of the more recently-lifted homes, it is consistent. Ms. Carlton asked if those are more on the River side, and Mr. Dumack stated they are predominantly along the River Road frontage both in Lower Makefield and Yardley Borough. Ms. Carlton stated it is not consistent with this area that sits behind this particular property, and Mr. Dumack agreed.

Mr. Duffy stated they are showing a net lot area of 2.25 acres, and Mr. Dumack agreed. Mr. Duffy asked when the lot was created, and Mr. Dumack stated it was 1983. Mr. Duffy stated in 1983 it was designated as R-2 Zoning, and Mr. Dumack agreed. Mr. Duffy asked if at that time was 15,000 square feet the minimum lot area requirement, and Mr. Dumack agreed. Mr. Duffy asked if now that it is R-RP is it now a non-conforming lot as it relates to size, and Mr. Dumack agreed. Mr. Duffy stated they have protected existing non-conformity as it relates to size as to why they have not requested relief; and Mr. Dumack agreed adding that Mr. Smith has done nothing to create a hardship, and the hardship is in the lot itself.

Mr. Duffy stated Ms. Carlton had questions as to why we have Zoning regulations, and he asked Mr. Dumack why we have Variances. Mr. Dumack stated we have them where the Zoning does not necessarily fit the character of the lot. Mr. Duffy stated specifically it has to do with the lot itself, and Mr. Dumack agreed. Mr. Duffy asked what about this property creates a unique hardship that the Applicant would not have reasonable use of the property without the relief that they are requesting. Mr. Dumack stated the hardship is that the

Zoning changed, and it went from R-2 to R-RP which has a much more restrictive set of requirements. He stated taking that into account with Black Rock Road being a collector road and River Road; and while the lot is existing as a buildable, usable lot, the setbacks come close to making it unusable. He stated if you were to measure the setbacks from the Resource-Protected area, the floodplain line, you do not have a viable building lot. Mr. Duffy stated it appears that the Township is in opposition for any reasonable use of the property, and they would not want this property touched at all.

Mr. Duffy stated Ms. Carlton brought up the memo, and Mr. McLoone testified to the veracity of the memo and how it has been applied elsewhere in the Township. Mr. Duffy read the memo into the Record. He asked Mr. Dumack how he would interpret "handle these situations," and he asked if that was referencing a specific Application or was it in general to this specific area of the Township; and Mr. Dumack stated it is in general to this specific area of the Township with these Zoning conditions for Subdivision prior to 1987 in R-RP District which was at one point R-2. Mr. Duffy stated the last sentence in the first paragraph says, "This is consistent with present provision in our Zoning Ordinance." Mr. Duffy stated the solicitor did not make this determination outside of the Zoning Ordinance, and Mr. Dumack agreed. Mr. Duffy cited Section 200-23 Subsection B of the Zoning Ordinance, and he asked Mr. Dumack if that involved properties that were lots created prior to 1987, and Mr. Dumack agreed. Mr. Duffy asked if a reasonable interpretation of B be that is what he is referencing in this specific section of the Ordinance, and Mr. Dumack agreed. Mr. Duffy asked Mr. Dumack if it is his interpretation that we are compliant with the calculations that we are providing, and Mr. Dumack agreed.

Mr. Schwartz stated with regard to the setback from Black Rock Road, how does it line up with all of the over homes along Black Rock Road, and is it consistent; and Mr. Dumack agreed. Mr. Schwartz asked with regard to setback from River Road, how does that align with all the homes up and down River Road, and does it look like the distances in both directions fit the character of those roads, and Mr. Dumack agreed.

Mr. Borda asked Mr. Dumack if he has an understanding of the Residential Resource-Protection District and what it seeks to accomplish. Mr. Dumack stated he feels it is probably there to help protect the River Road frontages and the floodplain from extensive development. He stated this is an existing building lot from 1983, and they are not subdividing or creating ten lots or sixteen townhomes. He stated this is one building lot with one house. Mr. Borda stated it is also sitting in a Residential Resource-Protection District.

Mr. Duffy asked Mr. Dumack if they are touching the floodplain, and Mr. Dumack stated they are not. Mr. Duffy stated while they are disturbing steep slopes, they are within their allowable disturbance; and Mr. Dumack agreed. Mr. Duffy asked if they are actually protecting the natural resources that are currently located on the property consistent with the Ordinance as it is now, and Mr. Dumack stated they are following the spirit and the letter of the law with regard to conservation of resources and resource protection. He stated they are not subdividing and are keeping everything allowable within the Township with the exception of the setbacks.

Mr. Joseph Smith stated he is the managing member of River Rd J2 LLC and is the owner of the property. He stated a Realtor brought the property to his attention and they closed on it about one year ago. Mr. Smith stated they are homebuilders, and they are working on a three-unit subdivision restoring a farmhouse and two new lots on Lindenhurst and Quarry Roads. He stated they are also going to subdivide a five acre lot at 1511 Lindenhurst Road, rehabbing one old house and build one new one. Mr. Duffy asked if one of their goals is to provide good quality homes in Bucks County, and Mr. Smith agreed. He stated he has lived in Bucks County his entire adult life, and he is trying to build houses that match the houses in the area.

Mr. Duffy stated the subject property is unique, and Mr. Smith stated it is because of the River views. Mr. Duffy stated it is also unique because of the natural resource protection, the floodplain on the property, and the steep slopes. Mr. Duffy stated he understand that working on this Plan, Mr. Smith wanted to minimize the relief being requested; and Mr. Smith stated they wanted to build the nicest house they could build that was allowable on the property. Mr. Duffy asked Mr. Smith if it is his opinion that what is proposed is consistent with the general neighborhood of the community, and Mr. Smith stated he believes so. Mr. Duffy asked Mr. Smith if he anticipates any adverse impact to the public health, safety, and welfare regarding this proposals, and Mr. Smith stated he does not. Mr. Smith stated he feels this is a special property, and they want to put a beautiful house on it and have someone enjoy it.

Mr. Heinz asked Mr. Smith if he would be amenable to removing the request for the height Variance, and Mr. Smith stated they could discuss that. Mr. Heinz stated he is not sure what the heights are of the neighboring properties are but he assumes they are conforming to the 35'. Mr. Duffy noted

Mr. Dumack had touched on this with regard to the water table; however, Mr. Heinz stated he is talking about the heights of other homes along River Road.

Mr. Flager asked how much of the area of the house is above 35' and what is on that area since it is not the full length of the house. Mr. Dumack stated the way the geometry of the house looks to him, it seems that it just under half is at 41' where the garage is at the back portion of the house where there is a peaked roof. He stated the rest of the house complies with the 35.

Exhibit A-3, Drawing A-4 and A-3 were reviewed; and while the Board had questions for Mr. Dumack about this Exhibit, Mr. Dumack stated those questions would be better for the architect. Mr. Dumack noted Drawing A-4 and stated the higher roof line is the space over the garages.

Ms. Carlton stated part of the package included a Deed that indicated the property was purchased September, 2025. Ms. Carlton stated Mr. Smith had testified that he is a builder and developer, and Mr. Smith agreed. Ms. Carlton asked Mr. Smith if he was aware of the Zoning designation of the property when he purchased it; and Mr. Smith stated he was told that it was grandfathered in at the time, and he got a survey done. He stated he has worked with Mr. Dumack, and he felt that he would be able to work the Variances through to build on the property. Ms. Carlton asked Mr. Smith if he was aware of the requirements of the Residential Resource Protection Zoning District, and Mr. Smith stated he was not. He added that now he believes that it is a hardship.

Mr. Duffy stated with regard to the height, the Applicant has indicated he is willing, if the Variances are approved, to comply with the 35' requirement.

Mr. Flager asked that those wishing to make public comment to indicate whether they received Public Notice and to indicate if they want to have Party Status. Mr. Flager reviewed what having Party Status involves.

Mr. Duffy stated it is his understanding that those from the public will only get sworn in if they are actually granted Party Status versus making public comment. He stated he understands he would have an opportunity to Object to a request for Party Status. He stated sworn testimony becomes part of the Record which "muddies the water" versus public comment which is general in nature. He stated someone with Party Status providing testimony could be used to dictate the Decision. Mr. Flager stated public comment can

still be taken into consideration in the Decision. Mr. Duffy stated he is objecting

to someone getting sworn in as if they are giving testimony if they are just here to give public comment. Mr. Schwartz stated they find that by swearing in, they are less apt "to make up facts or lies." Mr. Flager stated as a matter of practice if someone is within the Public Notice area, he assumes Mr. Duffy would not be objecting. Mr. Duffy stated he will reserve the objection since there is a different standard if they were to file an Appeal.

Ms. Mary Ann Patton, 69 Black Rock Road, was sworn in.

Ms. Patton stated she received Public Notice and she is requesting Party Status.

Mr. Duffy Objected. He asked if she is the owner of the property, and Ms. Patton stated she is with her husband. Mr. Duffy asked Ms. Patton what specific adverse impact does she have as a result of this Application versus just a general Township resident. Ms. Patton stated one hardship she is concerned about is the retention basin and the depth of the retention basin which is a health and welfare question that she has.

Mr. Duffy stated he preserves the Objection for the Record. Mr. Flager stated Ms. Patton is granted Party Status.

Ms. Patton stated she is grateful Ms. Carlton is here representing the Township. She stated she assumes the Zoning Hearing Board is here to help the residents. She stated she abuts this property. She stated if you going to invest as an LLC and a developer as opposed to a homeowner/property owner, she assumes they would have done their research to find the proper Zoning before purchasing the property. She asked Mr. Smith if he did his research to find out if the Zone was an R-2 or an R-RP. Mr. Smith stated he contacted his attorney, and they did research on it. He stated he thought that there could be a decent-sized house built there because it was almost an acre and a half lot, and he thought it was buildable without any major issues. Ms. Patton asked if he walked the property, and Mr. Smith stated he did many times.

Ms. Patton stated as a property owner of a 300 plus year-old historic home, 69 Black Rock, she takes "liberty with Mr. Smith in her eyes an investor or home flipper," and she does not believe that he is matching the aesthetic of the homes in the area. She stated she 100% disagrees that this has any close proximity to her home or her neighbors who just renovated a historic home.

Ms. Patton stated she is concerned about the retention basin, and asked how deep it can be and how much water will be collected in the basin during bad storms. She asked how her grandchild will be protected from a potential drowning. She stated she is concerned about the retention basin and mosquitos and other infectious disease that comes from animals and rodents that like to live in these types of environments. She asked how she and her grandchildren are going to be protected. She stated she agrees it is a beautiful lot, but "it does not meet the needs of building a McMansion, multiple townhomes, multiple units, or whatever else is going on in Lower Makefield with developing which she feels is called over-development."

Ms. Patton stated they recently received a bill regarding impervious surface; and if they are looking for exemptions, those should be given to all of the other homeowners in Lower Makefield.

Mr. Dumack stated if they are talking about a standard detention/retention basin, it would be a maximum depth of 5', which is in the Township Ordinance. He stated rain gardens are typically much shallower than that, and it would be 1' to 2' with the intent that the amended soils are helping to absorb the water. He stated this is only the first step in the design process; and they still have to submit for a Grading Permit, and have a review by the Township engineer. He stated with regard to the safety and containment of the basin, it is not unusual for a basin of this size to have a split rail fence around it with wire mesh. He stated normally the wire mesh is put on the outside of the fence so that it is not climbable.

Mr. Borda asked the square footage of the basin, and Mr. Dumack stated it is approximately 4,500 square feet. Mr. Schwartz stated the basin is predicated on whether or not it is 13% impervious versus 18% impervious; however, Mr. Dumack stated this was the amount that they felt was necessary based on current impervious surface for what they are proposing. Mr. Flager asked if it is offsetting all of the impervious surface, and Mr. Dumack agreed.

Mr. Borda stated with regard to mosquitos, etc. he understands that at some of the basins and rain gardens, people have installed vegetation. Mr. Dumack stated there are plantings and a fountain could be included if it is a pond since moving water does not allow mosquitos to germinate. Mr. Dumack stated the intent is that the rain garden is naturalized. Mr. Borda asked if the rain garden would hold 1' to 2' of water; and Mr. Dumack stated it is not intended to fill up with water, rather it is intended to capture the impervious surfaces that are on

site, contain that water, and allow it to infiltrate into the ground. He stated part of the infiltration process would also be exfiltration going into the plants, evaporating, and being utilized by the plantings in the basin.

Mr. Andrew Kraus, 6 Glenolden Road, was sworn in.
Mr. Kraus stated he received Notice, and he is seeking Party Status. Mr. Duffy stated he is Objecting to preserve the Record since he has stated no specific adverse impact outside of the typical Township resident.

Mr. Kraus stated he understands that the Notice spoke to three Variances, but he is now hearing that there are five Variances. He stated he understood that all Variances needed to be shared with the Parties of Interest within the Notice period. Mr. Flager stated the Public Notice did include five Variances to three Code Sections, and the Notice was explained to Mr. Kraus.

Mr. Kraus asked if the claim is that they are going for R-2, has the Board been provided with how this structure sits within a building envelope under R-2. Mr. Duffy stated that is not applicable. He added that the R-2 standard that they are requesting an interpretation for is only for impervious coverage. He stated regardless of that, they still have to comply with the R-RP standards as it relates to the setbacks. He stated the building envelope that is being shown on the Plan relates to the setback for R-RP and has nothing to do with impervious coverage.

Mr. Kraus asked if he has the Board's commitment that if they do put in the retaining pit that there will be a fence around it now that they have heard that there will be 1' to 2' of standing water. Mr. Schwartz stated the Board has to hear all of the testimony before they make these decisions.

Mr. Kraus stated he heard earlier that this house conforms to the look and feel of the neighborhood; however, he feels that is a fallacy. He stated driving up the road where this lot will be neighboring, there are brick Colonials and large Tudors. He stated the only place you will see something like they are proposing is about one-half to three-quarters of a mile away where they leveled "something and put up another shoebox."

Mr. Kraus stated there was also a statement made that there are other raised homes in the area, but the raised homes are not in the area and are much further away. He stated he does not feel they are maintaining the look and feel of the neighborhood.

Mr. Richard Patton, 69 Black Rock Road, was sworn in.

Mr. Patton stated he did receive notice and he is requesting Party Status.
Mr. Duffy noted his Objection.

Mr. Patton noted the location of his home on the Plan. He showed where water comes from during floods as well as a depression which fills up with 5' of water during floods. He stated the Applicant's entire property is in the floodplain. Mr. Schwartz asked Mr. McLoone if there is anything in the data base of floodplains that indicates something different from what is shown on the drawing. Mr. McLoone showed the Bucks County Parcel & Floodplain Viewer which shows exactly what the Applicant has shown on their drawing. Mr. Patton stated he feels it will be a problem putting a house on the property.

Mr. Schwartz asked Mr. McLoone if there are any regulations that nothing can be built in the 500-year floodplain since it appears that most of the houses in the neighborhood are in it including Mr. Patton's. Mr. Patton stated his is not. Mr. Schwartz stated what Mr. McLoone is showing indicates that the light purple is the 500-year floodplain, and Mr. Patton's property is in that area as is the Applicant's property. Mr. Patton stated he has witnessed where the water comes; and the Applicant's whole piece of property is a floodplain.

Mr. Patton stated he agrees with Mr. Kraus as to the styles of the houses in the neighborhood do not come close to visually looking like the house they plan to build. He stated the property is beautiful, but if they build a three-story house high, he will not be able to enjoy seeing the River.

Mr. Brian Mooney, 743 River Road, was sworn in.

Mr. Mooney stated he is the adjacent parcel. Mr. Schwartz stated there is a different name listed for 743 River Road, and Mr. Mooney stated that is his husband.

Mr. Mooney stated there was mention about the hardship, and it was noted that they were not fully aware of the Zoning before they bought the property and the limitations that would impose upon them. He stated before they bought the property he received calls from their lawyer, Mr. Smith, and their Realtor trying to convince them to extinguish the Easement, even "somewhat vague threats that they were just going to tear down the barn completely." Mr. Mooney stated he feels that was based on their knowledge of the limitations as to where and what they could build within the existing Code.

Mr. Schwartz asked Mr. Mooney not to go into threats of any kind of that nature, and suggested that he speak to a lawyer about that as that is not something that the Zoning Hearing Board can consider. Mr. Mooney stated it is solely based on the predication that they were not aware of the limitations that they had before they bought the property, and they are now claiming that they have a hardship due to the Easement. He stated he feels that they bought the property with the intention of extinguishing the Easement or potentially getting that area back which would allow them to build something of this size and stature.

Mr. Mooney stated his main concern is with the side yard which they are shrinking from 25' to 18'. He asked what is their plan to mitigate the invasion of privacy into his property with a patio facing his yard. Mr. Smith stated they would probably do a privacy tree line to separate the views of the two properties. Mr. Mooney stated he is also concerned about the height of the property based on the proximity to his property. He stated he feels it will loom higher than any other home on River Road and will invade his privacy as well. He added that as someone who bought an older, historic home and carefully restored it with the intention of preserving the character and heritage of the area especially with regard to preserving the historical façade, he feels the design does not fit within the overall character of the neighborhood.

Mr. Daniel Bornstein, 751 River Road, was sworn in.

Mr. Bornstein stated he is requesting Party Status. Mr. Duffy stated he has the same Objection.

Mr. Bornstein stated there has been discussion about the water issues in the area. He stated obviously it is in a floodplain, but it is more than that. He stated he lives on the corner of River Road and Black Rock Road, and he showed the location of his home on the other side of Black Rock Road on the Plan. He stated when he first bought his home he was dealing with water issues from the start. He showed how the water would flow when it rained adding that it would pool at the end of his driveway on Black Rock Road all the time. He stated in the summer it would invite mosquitos, and in the winter, it would freeze over. He stated he spoke with a number of contractors, and eventually the water destroyed the end of the driveway completely. He stated the puddle at the end of the driveway was there all the time. He stated he eventually spent more than $10,000 to change the grading at the end of the driveway and replace the entire driveway. He stated he is very concerned about the possibility of additional water that may come from this new construction onto his property and also into

the River. He stated he is concerned that Mr. Dumack has indicated that there are certain matters that have not yet been taken into consideration including taking down a number of trees. Mr. Bornstein stated wants to be satisfied that there will not be one drop of water that results from this new construction, which would be deposited either in the River or on neighboring properties like his; and he feels the Board should be satisfied about that as well.

He stated they have been dealing with water problems for years.

Mr. Bornstein stated a comment was made that there is minimal traffic congestion in this area as compared to further up Black Rock Road where it turns to Edgewood Road; however, Mr. Bornstein stated he has lived there thirteen years, and there is congestion there at all hours of the day. He stated it is one of the busier intersections in the Township.

Mr. Bornstein stated with regard to the Height Variance, he is gratified to hear that the Applicant is considering waiving that; however, because he has not affirmatively withdrawn it, he would like to address it. He stated he is aware that there is a high water table; however, he has a basement, and has never had a problem with any water in the basement. He stated his neighbors also have basements and have not reported problems with water either. He stated he feels the new home could have a basement.

Mr. Bornstein stated Mr. Dumack compared this proposal to other houses further up on Black Rock; and while there are some smaller houses on smaller lots further up Black Rock, this property should also be compared to other properties on River Road, and it does not compare to other properties on River Road. He stated compared to other properties on River Road, it is a much smaller lot, and according to the proposed diagram, the house will be much closer to River Road than the other houses on River Road. He stated it will also be much higher according to the diagram compared to the other houses on River Road in that area. He stated further up River Road, north of downtown Yardley, there are some houses that have been elevated because of flood problems in those particular areas, but that is a different neighborhood. He stated each of the houses in this area of River Road are on big parcels of property, set back from the road, and each one architecturally significant and individual. He stated there are not houses crowding the road or crowding each other. He is concerned that this house will be very close to 743 River Road, one of the “true gems” of the Township, and will be very close to Black Rock Road and River Road. He stated it will stand out because that is not what is seen in that part of the Township.

Mr. Bornstein stated even though the neighbors received the letter sent by the Zoning Hearing Board, they did not see the Exhibits which were introduced tonight; and he asked that the Board not approve any of the Variances until all of the interested Parties are given an opportunity to see the Exhibits that were presented tonight. He reiterated that it is particularly important that the Township engineer review this Plan and to satisfy all of the people in the neighborhood and the Board that not one drop of water will be deposited in the River or on neighboring properties. He stated this is an area of the Township where we need to be hyper-vigilant because of the significant water problems we already have; and we should be sure that we will be protected before any of these proposals are approved.

Mr. Schwartz stated this process is just the start, and they will have to go through the Planning Commission next. Mr. McLoone stated they would not go to the Planning Commission, and it would just be a Building Permit. Mr. McLoone added that the Township engineers review all new home Permits; and they would do that if the Zoning Hearing Board grants relief. Mr. Schwartz stated they will review whether too many trees are being taken out, if not enough mitigation for stormwater is done or if the ground does not slope in the correct location, and review the proposed rain garden to make sure that everything will filter toward that; and Mr. McLoone agreed.

Ms. Erica O'Neill, 761 River Road, was sworn in.

Ms. O'Neill on the Plan there is reference to the fact that the owner of the property is responsible for maintaining the rain garden; and if the owner does not maintain it, it will become the responsibility of the Township to maintain it and deal with any issues that may occur, and that they will have an Easement so that they can go in and access it. Ms. O'Neill asked if everyone had to put in a rain garden and Lower Makefield became responsible for all of them, is that a business that the Township wants to get involved in. Mr. Schwartz stated that would be a matter for the Board of Supervisors.

Mr. Duffy stated what that Note is referencing is that when this property is built with the stormwater management infrastructure, they are required to Record and enter into an Agreement with the Township called an Operations & Maintenance Agreement which is a Deed Restriction on the property that says that in perpetuity, the property owner must maintain the stormwater management infrastructure consistent with the Plans that were presented to the Township engineer who reviewed and approved them. He stated if the property owns fails to do so, that Agreement gives the Township the

right to go onto the property and maintain that stormwater management infrastructure; and it also gives them the ability to recoup costs in doing that. He stated this is typical throughout the entirety of the Township for any new build with a stormwater management structure.

Ms. O'Neill stated to the extent that we have properties like this where extensive mitigation has to occur, and since there are owners who do not pay their bills, she does not feel as a taxpayer she would like to pay Lower Make-field Township to do that. Mr. Schwartz stated if the Township had to do that step and maintain it because it was causing a water issue in the neighborhood, they would do it and send a bill to the homeowners; and if the homeowner does not pay, they would go to Court and put a lien on the property. He stated once the house is sold, the Township would get its money back.

Mr. Duffy stated every Municipality across Pennsylvania has this type of Agreement, and it is a tool for the Township to insure compliance. Mr. Heinz stated this would also apply to his home and Ms. O'Neill's home as Township residents.

Ms. O'Neill stated stylistically she agrees with all of the people who commented before her, and the style of the home does not fit in with the neighborhood nor does the height of the home.

Ms. Patton stated she wants to go back on the Record to make sure that they are protected with insuring the safety and welfare. She stated Mr. Smith is not a neighbor, he is a developer, and this is a business. She stated she does not have any recourse as to what is going to take place which will insure the welfare of her family and her home.

Mr. Schwartz stated if the Board votes to allows some of the Variances to go through that include a rain garden, they may work toward it having it "safed off" with a split rail fence with wire mesh around it as was suggested which would be similar to what is done to protect people from swimming pools.

Mr. McVan noted with regard to the side yard setback going to 18', that is technically the back of the house. Mr. Dumack stated when you have a double-frontage lot, the definitions require the rear yard to be the yard furthest from the street; and in this instance River Road is the Road they are to be furthest from. He stated by that orientation you can only have one rear yard so they have two front yards, one rear yard, and one side yard. He stated the side yard is where the proposed patio is. Mr. Borda asked why they are using River Road

and not Black Rock Road, and Mr. Dumack stated by the definitions in the Ordinance, the yard that is furthest away from the frontage from the road is your rear yard. He stated looking at the geometry of the parcel, they have about 424' oriented from the Delaware back; and they have about 159' from Black Rock Road back. He stated further back is the orientation for the rear yard.

Mr. Borda stated he is not sure about the interpretation of the Residential-Resource Protection District.

Mr. Schwartz stated he does not like seeing an area on the Plans that is in the building envelope not used before approving building outside of the building envelope. He asked if they could turn the building clockwise about 80 degrees to get as much of it on the building envelope as possible before going ahead with all of the other setback issues. He stated they are working with the floodplain line where it is now not the potential in the future. Mr. Schwartz stated while a number of the neighbors had issues with the style of the house, the Zoning Hearing Board cannot dictate the style of the home. He stated they can ask that they work more toward appeasing the neighbors to bring it more in line architecturally with what is there. Mr. Schwartz asked that they re-work the drawings to get the building more into the building envelope and maybe change the look of the building to match the neighborhood a little better.

Mr. Duffy stated with regard to turning the building, one issue is that they would be getting closer to River Road. Mr. Schwartz stated it would be in the building envelope. Mr. Dumack stated one of the Variances they are requesting is relief to measure from the property line and not the Resource line. Mr. Schwartz stated they have drawn the trapezoid to represent that. He stated he sees the trapezoid as being the buildable area they have designated if they get the other Variance relief. Mr. Dumack stated they could.

Mr. Flager asked if this would increase any of the Zoning relief since they would have to re-advertise and they may be increasing one Variance at the expense of another. Mr. Schwartz asked that they also look into the architectural style of the home. He also asked that they look into the typical filtration trenches that the Board usually sees as opposed to the rain garden. Mr. Dumack stated while they can look into that again, they have done soil testing on site, and he believes the prior engineer witnessed their work and results. He stated they have a high water table, and the Stormwater Ordinance is very specific that they need certain separation distances between the top of the seasonal high water table and the

bottom of the basin as keeping that separation distance stops water from coming back up. Mr. Dumack stated they can look into it, but it would be really shallow, thin systems. Mr. Schwartz stated he has seen some other rain gardens that had a gravel base below the top level, and they did not have to be as deep as the gravel went a little deeper. Mr. Dumack stated that can be part of what they do when they go in for the Grading Permit.

Mr. McVan stated while he understands it is not by definition, he still feels that where the patio is proposed is the back of the house. Mr. Schwartz stated if he turns it, it would then be the back of the house. Mr. Borda stated he felt there was testimony that the trapezoid did not work because people do not build that way. He stated he seems that they would end up with the "double-wide, mobile-type home" that was discussed before. Mr. Schwartz stated that was based on building it the size of the trapezoid. He added that he is just talking about changing the orientation to cover the trapezoid before going on with the other Variance requests.

Mr. Borda stated he still has problems with the application of the Residential Resource-Protection District and whether or not as worded it precludes almost anything from being built on this lot. Mr. Flager stated if it precludes it, that would be a hardship. Mr. Duffy stated they are still preserving the Variance for that and leaving the interpretation the Board, and the hardship argument still applies for at least the impervious coverage. He noted 71 Manor had the same issue that the Township engineer commented on, and they did not have to seek relief from impervious coverage. Mr. Borda stated he is asking about the legal application of the Protection Act. Mr. Flager stated it would be a non-conforming lot under R-RP.

Mr. Borda stated he has a problem with the very large size of the proposed rain garden which will be 1' to 2' deep and a problem with the going above the 35' limit since he feels it makes is less amenable to the character of the neighbor-hood. He stated while he thinks the architecture of the building is "horren-dous," he does not know that the Board has the ability to address that.

Mr. Schwartz asked Ms. Carlton if the Township Supervisors have a specific concern or remedy in mind for this project, and Ms. Carlton stated they did not give her any specifications on how to address this. She stated they wanted to oppose it for the reasons she stated and the questions that were asked.

Mr. Schwartz moved, Mr. Borda seconded and it was unanimously carried to Continue the matter to December 1, 2026.

APPEAL #Z-26-27 – BOHN-LEHMANN
TAX PARCEL #20-052-003
225 ARBORLEA AVE, YARDLEY, PA 19067

Mr. Rob Wagner, Mr. Greg Lehman, and Ms. Kim Lehman 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. Schwartz stated they are requesting a Variance for impervious surface and a Variance for proposed setback.

Mr. Wagner stated the property is a single-family home with a detached garage. He stated the unique characteristics of the lot create a hardship. He stated while the house is parallel with the street, but the side property lines are all angled like a parallelogram. He stated they are proposing to add a family room out of the back of the house where there is currently a kitchen/ dining room area. He stated on the right side of the house there is an office/ guest suite, and the proposed project there is to create a first-floor primary suite so they are enlarging the existing room a bit and building out toward the front of the house. Mr. Wagner stated with the back family room addition they will be connecting it to the detached garage so where the detached garage as it currently exists meets the requirements for a detached structure, they are attaching it so they are now counting it as part of the principal structure. He stated with the addition for the primary suite, they are extending that a little bit; and both of those in conjunction where they are required to have a 10’ minimum setback with 26’ total, they will end up with 11’11 on the left side, 8’3 on the right side, and their total will be 20’2.

Mr. Wagner stated the additions also add impervious coverage to the lot which bring them to .2% above the maximum they are allowed and equates to about 55 square feet. He stated they are capturing all of the new impervious from both additions with dry wells so there is no change in the impervious coverage in terms of run-off from the property.

Mr. Wagner stated there is a deck off of the back that is being taken down to accommodate the family room; and while that is not impervious as it sits, the structure that is there will be coming out. Mr. Wagner stated from the street

you will not notice much change to the house; and although they have not yet worked out the design of everything on the outside yet, they intend to keep the front part of the addition to line up with the porch so that it looks like it was an enclosed porch structure to accommodate part of that addition.

Mr. Schwartz stated the Site Plan shows on the right side of the house where they are building the proposed suite; and he asked if they are just expanding the existing portion of the house or are they tearing that down and re-building. Mr. Wagner stated they will probably save the foundation and maybe the floor structure and then expand around that.

Mr. Schwartz stated he understands that the dry wells will catch all of the new run-off from both additions, and Mr. Wagner agreed. Mr. Schwartz stated their current impervious is 15.1, and they are going up to 18.1%. He asked if they are planning on bringing it back to 15.1, and Mr. Wagner stated they are. Mr. Wagner stated it might actually be a little bit more depending on how the roof line for the primary suite addition works.

Mr. Schwartz stated this is a very narrow property. He stated the neighbors on either side also have narrow properties but are wider than the Applicants' property. Mr. Schwartz asked if they talked to their neighbors on either side, and Mr. Lehman stated that the neighbors on the right-hand side where the primary suite will be going were contacted even before the notice went out. He stated they are older residents, and they have a great relationship with them. He stated they were shown the Plans and had no issues.

Mr. Schwartz stated the existing detached garage will be connected to the new addition which makes it non-conforming at that point.

Mr. Heinz asked Mr. McLoone if the setback for a detached garage would be 10' because of its side, but now it will be 15' because it is attached. Mr. McLoone stated because they are attaching it to the main structure of the house, it needs to abide by the setbacks for the main dwelling. Mr. Heinz asked if they really need to have it attached. He added that it would be much easier for the Board to grant approval without that Variance. Mr. Lehman stated the goal was to eliminate one of the entrances on the side of the house where they would typically go out; and having that extension of the family room there it made sense to have that breezeway connecting right to it. Mr. Heinz asked if it is going to be a breezeway, and Mr. Wagner stated it is mudroom extension that it connecting to the

garage. He added that the house will look exactly the same from the street and the neighbors on the left will not know that it is attached. Mr. Heinz stated he was trying to save the Board from having to grant another Variance. Mr. Wagner stated they would still need the setback Variance because they are still going to be 8'3 on the right side.

Mr. Borda asked if they spoke to the neighbor on the left as you face the house, and Mr. Lehman stated they have not spoken to them about this. Ms. Lehman stated she reached out to them to let them know they were beginning a project. Mr. Schwartz stated they also received the Notice.

There was no one from the public wishing to make comment at this time. The Township is not participating in this matter.

Mr. McVan moved and Mr. Schwartz seconded to approve the Appeal as written. Motion carried with Mr. Heinz opposed.

OTHER BUSINESS

Mr. Flager stated the Car Wash Appeal will be heard on Monday, November 2, 2026.

Mr. McLoone reviewed Agenda items for upcoming meetings.

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

Respectfully Submitted,

Mike McVan, Secretary