

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – MARCH 15, 2011

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on March 15, 2011. Chairman Bamburak called the meeting to order at 7:00 p.m.

Those present:

Zoning Hearing Board: Paul Bamburak, Chairman
Gregory J. Smith, Vice Chairman
Jerry Gruen, Secretary
Keith DosSantos, Member
Anthony Zamparelli, Member
James McCartney, Alternate Member (not voting)

Others: Robert Habgood, Code Enforcement Officer
James Esposito, Township Solicitor
James Majewski, Township Engineer (left meeting in progress)
Barbara Kirk, Zoning Hearing Board Solicitor
Dan McLaughlin, Supervisor Liaison (joined meeting in progress)

APPEAL #11-1582 – PAUL BELLEZZA

Mr. Paul Bellezza was sworn in. The Application submitted was marked as Exhibit A-1. Exhibit A-2 is the Site Plan for the property. Notice of the Hearing was published in the Yardley News, and the Proof of Publication was marked as Exhibit B-1. The property was posted, and that Posting was marked as Exhibit B-2. Notice of the Hearing was sent to adjacent residents and other parties in accordance with the Ordinance, and the notice of the mailing with the addresses was marked as Exhibit B-3.

Mr. Bellezza stated he wants to put a shed in his back yard. He stated he marked it as a “garage” on the Plan, but it is actually a shed. He showed a picture of the shed he would like to install. He stated they need additional storage. He stated they are requesting a Variance for impervious surface.

Mr. Bamburak asked the amount of the existing impervious surface and how much is he requesting. Mr. Bellezza stated he did the calculations the best he could and determined that they are already over the 18% permitted impervious surface by slightly more than 2%. He stated he will need an additional 2% which will take him to 21.2%. Mr. Bamburak

asked if Mr. Habgood reviewed the calculations, and Mr. Habgood stated he did have a discrepancy with the lot size. He stated on the information submitted, the Applicant indicated the lot size was 16,000 square feet, and he feels it is closer to 16,900 square feet, and this would lower the percentage. Mr. Bellezza stated he showed the lot as a rectangle but it is a corner property so it is irregular. He stated it was difficult to take measurements. Mr. Habgood stated he feels they would need 20.2% total. Mr. Majewski was asked his opinion, and he stated in order to be conservative, he would prefer they go with 16,000 square foot lot size.

Mr. Bamburak asked about the setbacks from the property line, and Mr. Habgood stated they meet the side yard requirements.

Mr. Gruen stated he lives nearby and some of the neighbors approached him about this, but they had no objections. Mr. Gruen stated he did talk to Mr. Bellezza who indicated that he was going to put 6" to 1' of gravel under the shed and go past the shed so that all the water that will come off the roof will stay on the property. Mr. Bamburak noted that Mr. Gruen was one of the parties who received Notice of this matter.

Ms. Kirk asked Mr. Bellezza the size of the proposed shed; and he stated it will be no larger than 16' by 20', and it may only be 12' by 16'. Ms. Kirk asked the number of stories, and Mr. Bellezza stated it is one story. Ms. Kirk asked if there will be electric or plumbing connections, and Mr. Bellezza stated there will not. Ms. Kirk asked if there will be any access to the shed from the driveway, and Mr. Bellezza stated there will not.

The Township was not participating in this matter, and there was no other testimony. Testimony was closed.

Mr. Zamparelli moved, Mr. Gruen seconded and it was unanimously carried to grant the Variance to increase impervious surface to 21.2% for the installation of a shed.

APPEAL #11-1583 – DEAN & KAREN JEFFERYS

Ms. Karen Jefferys was sworn in. The Application submitted was marked as Exhibit A-1 and includes two consents by neighbors. Exhibit A-2 is two-pages of a fence specification. Exhibit A-3 is a Construction Detail Plan. Exhibit A-4 is a smaller Site Plan for the property. Notice of the Hearing was published in the Yardley News, and the Proof of Publication was marked as Exhibit B-1. Notice was also posted at the property, and Proof of Posting was marked as Exhibit B-2. Notice of the Hearing was mailed to property owners in accordance with the Ordinance, and a copy of that letter with the addresses was marked as Exhibit B-3.

Ms. Jefferys stated they would like to construct a fence for the purpose of enclosing the pool which is currently under construction. She stated they want to put the fence in the easement in the back of the property and connect it to the neighbor's fence so there is continuity. She stated her neighbors have a pool as well. The fence will be exactly the same as the neighbor's fence. She showed a picture of the proposed fence which will be 5' to 6' high.

Mr. Bamburak asked if the neighbor has any problem with tying into their fence; and Ms. Jefferys stated they do not have a problem, and they did submit a letter to the Township

Mr. Bamburak asked the type of easement, and Mr. Majewski stated it is a storm drainage easement, and there are no underground utilities. He stated he feels they should place the usual Condition regarding fences over an easement. Mr. Bamburak stated typically they would condition the granting of the Variance that the Applicant would agree that if access to the easement is required by the Township for any kind of would, the Applicant would remove and replace it at their expense. He stated they also ask that there be a small gap at the bottom of the fence so that water flow is not restricted. Ms. Jefferys stated she would agree to both of these Conditions.

Mr. Esposito stated the Township is not participating in this matter. There was no one in the public wishing to comment, and the testimony was closed.

Mr. McLaughlin joined the meeting at this time.

Mr. Gruen moved, Mr. DosSantos seconded and it was unanimously carried to grant the request with the Condition that if any work needs to be done in the drainage easement it is the responsibility of the homeowner to remove and replace (if they desire) the fence and that there should be a minimum 2" clearance at the bottom of the fence.

APPEAL #11-1584 – FIRST BAPTIST CHURCH OF NEWTOWN, INC. t/a GRACE POINT

Mr. Don Marshall, attorney, was present with Mr. Glen Ely, Mr. Tom Hanna, engineer, and Mr. David Lewis who were sworn in. The Application submitted was marked as Exhibit A-1. Attached was a Sketch Plan dated 11/29/10, and this was marked as Exhibit A-2. Notice of the Hearing was published in the Yardley News, and Proof of Publication was marked as Exhibit B-1. The property was posted, and the Proof of Posting was marked as Exhibit B-2. Notices were mailed to residents in accordance with the Ordinance, and a copy of that Notice letter with the mailing addresses was marked as Exhibit B-3. Ms. Kirk stated this Applicant has been before the Zoning Hearing Board on various occasions, and the Board has been provided a copy of a prior Zoning Decision

dated 2/18/92 regarding the grant of the Special Exception for the Church; and that Decision was marked as Exhibit B-4. She stated on 5/16/00, the Church was granted a Variance to increase impervious surface coverage to 19.9%, and that Board Decision was marked as Exhibit B-5. She stated the Applicant was also before the Zoning Hearing Board on 4/18/06 requesting Variances for two signs, and that Decision was marked as Exhibit B-6.

Mr. Marshall stated the Applicant has an existing facility located at 592 Washington Crossing Road at the intersection of Route 532 and Stoopeville Road at the outer edge of the Township where Upper Makefield, Newtown, and Lower Makefield Township all converge. He stated the Tax Parcel is 20-1-1, and it is a 19.51 acre parcel Zoned R-1 Residential. He stated Exhibit B-4 was a Zoning Hearing Board Decision that was granted for the use of the property for a church. He stated the property is currently serviced by public water. He stated there have been stub lines run to the property, and part of this project will include connection to public sewer. He stated currently they have an on-lot system. He stated there has been approved for this project a 36,000 multi-purpose church building and a future 12,500 square foot sanctuary addition which has not been built but is still intended to be built. He stated the Zoning Hearing Board Decision marked as Exhibit B-5 was a Variance to allow impervious coverage up to 19.9% which included the sanctuary addition which has not yet been built.

Mr. Marshall stated they are present this evening because the client has found that the parking is inadequate. He stated currently they have 272 parking spaces, and they are proposing to increase this to 499 parking spaces. Mr. Marshall stated the addition and footprint of the building are not proposed to be changed by this Application.

Mr. Marshall stated they have had discussions with the Zoning Hearing Board solicitor, and they will need to amend the Application as when the Plan was submitted, the Township engineer found that an additional Variance would be needed to Section 200-51.B5A of the Ordinance which is the natural resource protection provision that deals with steep slopes. He stated the slopes that they will disturb are the slopes of the existing detention basin, and there is nothing natural about them; but a technical reading of the Ordinance would lead one to conclude that a Variance is needed from that. He stated they will present testimony about the necessity of disturbing these because they intend to completely remove the existing basin and move it to a different location, and this involves disturbing the slope of the side of the current basin.

Ms. Kirk asked Mr. Marshall to clarify the classification of steep slopes; and Mr. Marshall stated there are requirements under the Ordinance for 8% to 15% slopes that allow disturbance of up to 50%, and they are seeing a Variance to allow disturbance of up to 85% of those slopes. He stated they will put in a Exhibit that shows the location. He stated there is a second portion that deals with slopes of 15% to 25%, and this allows up to 30% to be disturbed; and they wish to disturb 90% of those slopes.

Mr. Marshall called Mr. Ely who stated he is a member of the Church and is the Chairperson of the expansion team. Mr. Ely stated they need to solve the current parking problem they have with an eye toward the eventual expansion. Mr. Marshall showed Mr. Ely Exhibit A-2, and Mr. Ely identified the proposed parking expansion shown in the heavier line. He stated they wish to go to 499 parking spaces, and currently there are 272 parking spaces. Mr. Marshall asked what is necessitating the expansion. Mr. Ely stated currently they have a 400 seat sanctuary, and within their Church they have three different services and they promote participation in more than one service. He stated the end result is that they are at a point where they exceed the current parking. Mr. Ely stated they have had to set up an off-site system whereby a neighboring business has allowed them to do overflow parking during the bulk of their ministry season from September until the beginning of the summer, and they have to run shuttles to meet the current needs for parking.

Mr. Marshall stated the number of spaces is not a Zoning issue but is a physical need, and Mr. Ely agreed. Mr. Marshall stated the Plan does not currently propose expansion of the existing building facility, and Mr. Ely agreed. He stated their intent is to solve the parking problem, and once solved, move forward with an expansion in the second phase. He stated when they initially built the property in the early 2000s, it was intended to be a phased construction – first the 400 seat family life center with associated classrooms and a second phase that would finish out the classrooms and add a separate larger, independent sanctuary. Mr. Marshall stated the Plan shows this future expansion, and Mr. Ely agreed; and he added that it is still the intention to do this some day.

Mr. Marshall stated they do not have the ability to park on the street since Stoopville Road and Washington Crossing Road are both busy roads, and Mr. Ely agreed.

Mr. Marshall asked Mr. Ely if he agrees that the current arrangement using shuttles is not the best solution, and Mr. Ely agreed that it is a problem and a detriment to expansion.

Mr. Marshall asked about the proposed intention to connect to public sewers, and Mr. Ely stated they are pursuing this with the appropriate engineer. He stated they have run some underground piping in preparation for this, and their intent is as they complete the parking to likewise complete a tie in to public sewer. Mr. Ely stated they currently have an on-site septic system, and it is shown on the Plan to be abandoned in the future.

Mr. Marshall stated he understands that it is necessary to take the existing storm drainage facilities and move them in an easterly direction to accommodate the additional parking, and Mr. Ely agreed.

Mr. Marshall stated the engineer will discuss pervious paving for this project, and he asked Mr. Ely if the Church is willing to do pervious paving; and Mr. Ely stated they are. Mr. Marshall stated the Zoning Hearing Board has traditionally made it a Condition of Approval that the Applicant enter into a formal Maintenance Agreement with the Township to ensure the workability of the pervious pavement going forward, and he asked if the Church is willing to enter into such an Agreement with the Township; and Mr. Ely stated they are.

Mr. Ely stated they are currently struggling with parking and they contemplate the problem getting worse as they move forward with the expansion so they need to solve the parking problem.

Mr. Marshall marked as Exhibit A-3 a letter to the Lower Makefield Township Manager dated 1/25/11 regarding the Church's needs. Mr. Marshall stated as a result of the letter, representatives of the Church met with the Board of Supervisors and reviewed the project. Mr. Ely stated the issue of pervious paving was discussed at that meeting, and at that meeting the Church agreed that they would utilize pervious paving for the project. Mr. Marshall asked Mr. Ely if it is his understanding that if appropriate Conditions are placed on any grant of relief, the Township is not in opposition to the Application; and Mr. Ely stated this is his understanding.

Mr. DosSantos asked how they determined 499 was the correct number of parking spaces, and Mr. Ely stated the Elders considered that with a 400 seat sanctuary, they have 272 spaces which is insufficient. When they go to 650 seat, this would be approximately a 62.5% increase, and they took 272 and multiplied it by 1.62 which would be approximately fifty spaces less than the 499. He stated given that they currently do not have sufficient parking at that ratio for 400, the Elders felt 499 would be the appropriate number. Mr. Ely stated when the Church was originally built their attendance was typically in the low 500s, and they have grown to the point where they are averaging close to 800. Mr. DosSantos asked if they anticipate asking for additional Variances for parking once the sanctuary is built; and Mr. Ely stated they do not, and the intent is that this request would solve the parking problem now and also for the future expansion.

Mr. Esposito stated the Township is participating in this matter.

Ms. Kirk asked if they are proposing an additional 650 seats in the future sanctuary building; and Mr. Ely stated the intent is that they will have a new sanctuary which will have 650 seats, and the family life center which is being used now would no longer be used as a sanctuary. Ms. Kirk asked if the Board were inclined to grant the Variance request, would the Church agree to a Condition that stormwater management facilities would be installed subject to approval by the Township and Township engineer; and Mr. Ely stated they would agree to this.

Mr. David Lewis was called and stated he is a member of the Church and also a member of the staff in the capacity of Administrator. Mr. Lewis stated he recently took photographs of the existing stormwater management facilities. A packet of nine photographs along with a site map identifying the location for each photo was marked as Exhibit A-4. Mr. Lewis stated the photographs were taken on 3/11/11 at 11:00 a.m. which was the day after there was a heavy rain the previous evening. The purpose was to show to the Board that the detention facility works and has not overflowed.

Mr. Marshall asked Mr. Lewis if he is aware that if the project is approved, a new type of detention facility is intended to be installed; and Mr. Lewis stated he is aware of this. Mr. Marshall stated Mr. Ely had indicated that the Church would agree that any detention facilities would meet Township Ordinance and be subject to review by the Township engineer, and Mr. Lewis stated this is satisfactory to the Church.

Mr. Tom Hanna was called and stated he is an engineer with Gilmore & Associates who prepared the Plan that has been marked as Exhibit A-2. Mr. Marshall stated he had previously discussed an Amendment to the Application regarding steep slopes. Exhibit A-5 was marked which is the steep slope summary and Exhibit A-5a is the Plan that goes with Exhibit A-5. Mr. Hanna stated Exhibit A-5a is the Sketch Plan with the slopes added on; and the slopes shown on the Plan are shaded with the lighter shading being the 8% to 15% slopes, and the darker shading being the 15% to 25%.

Mr. Marshall asked that Mr. Hanna indicate where the disturbances of the slopes occur. Mr. Hanna stated most of the slopes are within the existing detention basin which is close to the intersection of Stoopville and Washington Crossing Road on the easterly side of the property. Mr. Hanna stated there are also some slopes surrounding the existing sand mound for the septic system. He stated there are also some slopes to the western property line at the rear of the Church toward the back parking lot, and these slopes were created when the Church was built and they formed a recreation area in the back of the Church. Mr. Marshall stated he assumes that the areas that are marked are not naturally-occurring slopes and all relate to the manmade features that were put on the property when it was originally developed, and Mr. Hanna agreed.

Mr. Marshall noted the 8% to 15% area which is the area which is lightly shaded, and stated the Ordinance allows a 50% disturbance under Section 200-51B5A. Mr. Ely stated they are proposing to disturb approximately 85% of those slopes or 1.2 acres. In the 15% to 25% slope category, the requirements allows disturbance of up to 30%, and Mr. Hanna stated they wish to disturb approximately 90% or .58 acres. These are predominantly in the detention basin and the septic system which is to be abandoned. Mr. Marshall stated there are no slopes greater than 25% which is the third category in the Ordinance, and Mr. Hanna agreed. Mr. Marshall stated the disturbances occurring are not only for the building of the parking but also to put in a new detention basin and remove the existing septic system, and Mr. Hanna agreed.

Mr. DosSantos stated in the 15% to 25% category, they are looking to disturb 90% which is 60% more than is allowed; and a lot of that will be around what will be the abandoned septic area. He asked how much of the request is related to the septic area, and Mr. Hanna estimated it to be 30%.

Mr. Marshall asked Mr. Hanna to describe the proposed drainage facilities, and Mr. Hanna stated they propose to move the existing detention basin toward the east. In addition they are entertaining the use of porous paving for certain portions of the parking lot toward the east and west toward the rear of the Church. He showed these locations on the Plan. He stated incorporated with the porous paving would be a stone reservoir which would be underneath the parking lot that would act as a detention facility. He stated there was some preliminary soil testing done to look at the possibility of infiltration; and while some of those results were marginal, they would be able to infiltrate some of the stormwater.

Mr. Marshall asked Mr. Hanna if he is confident that if the project were approved that the detention facilities on the property would meet the Township requirements under Land Development for stormwater management, and Mr. Hanna agreed.

Mr. Marshall asked about the maintenance required for pervious parking so that it does not become clogged. Mr. Hanna stated the literature suggests annual or semi-annual vacuuming. He stated at his facility, they have had this for ten years; and he does not feel that it has ever been vacuumed. He stated with routine maintenance he feels this facility will work. Mr. Gruen asked how they determine that it is functioning, and Mr. Hanna stated it would have water going through. Mr. Gruen asked how they would know since in a 1" rain event, the water runs off the surface; and they do not know if it went down. Mr. Hanna stated you can do testing, and they have done this on their facilities and taken hoses and have seen that the water dissipates into the asphalt.

Mr. Marshall asked about the topography, and Mr. Hanna stated with the exception of the manmade slopes they have been discussing, it is relatively flat. He stated the parking facilities proposed would be similar to what is existing.

Ms. Kirk asked what they would use for the pervious paving, and Mr. Hanna stated it would be porous asphalt paving which would look like conventional asphalt. He reviewed the process used to make porous paving.

Mr. Gruen asked how much gravel they will be using, and Mr. Hanna stated it would depend on how much storage they need. He stated they could also use piping along with stone that would give a higher void ratio and more storage capacity. Mr. Marshall stated the porous paving is allowing the water to get to the stormwater management facility. He stated they will do some traditional detention as well as the facilities under the parking along with infiltration to the extent possible. Mr. Gruen stated if they do not have good percolation underneath, the water will just sit there. He stated they have indicated they may also use pipes under the gravel which will lead to the detention basin, and Mr. Hanna agreed this is correct if there is no potential for percolation on the site. He stated he feels the systems will be interconnected, but they have not yet gone through the detailed design.

Mr. Gruen asked about the sewer connection, and Mr. Hanna showed on the Plan the residential community that was constructed across the street. He stated a gravity lateral was extended onto the Church's side of Washington Crossing Road, and they will pump down to the lateral underneath Washington Crossing Road. He stated he does feel that they will need to have a pump. Mr. Gruen asked what assurances they have that they will tie up to the sewer system, and Mr. Marshall stated they could not proceed with the parking project proposed without removing the existing septic system. Ms. Kirk asked if they would agree to a Condition that the connection to public sewer is part of any Approval, and Mr. Marshall agreed.

Mr. Marshall asked Mr. Hanna if he has done the mathematical calculation of what the impervious coverage would be on the project if the pervious paving were considered impervious, and Mr. Hanna stated it would be 29.5%. Mr. Marshall stated the requirements under the Ordinance are 17%, but the project currently has a Variance allowing it to go 19.9%. Mr. Marshall asked if Mr. Hanna did the mathematical calculation if the pervious paving where it is proposed were not considered impervious, and Mr. Hanna stated he did and the impervious coverage would be 21.1% effective. Mr. Hanna noted the areas on the plan that are being considered for use of the pervious pavement.

Mr. Zamparelli stated they discussed the maintenance of the pervious paving, and he asked Mr. Majewski if he agrees with Mr. Hanna's assessment that there would not be a major problem if there was a lack of maintenance. Mr. Majewski stated it does take a lot to clog the porous beds with sediment.

Mr. Bamburak asked if the Township has a plan to amend the Ordinance regarding the pervious paving. Mr. Majewski stated they have not allowed porous paving to be classified the same as grass since someone could pave over their entire yard in porous paving which would result in a "sea of blacktop," and this is not something the Township would find desirable.

Mr. Gruen asked what would happen to the pervious surface in the winter when there is very cold weather followed by a rain storm. Mr. Majewski stated unless there is ice, water will go down into the beds; and to the extent that the ground is not frozen, it will slowly percolate. He stated this is the same as grass in the middle of winter and there would not be infiltration, and water would run off in a heavy rain if the grass were frozen. He stated the pervious paving actually functions a little better than grass. Mr. DosSantos stated he would also assume that since it is a parking lot, it would be cleared of ice and snow.

Mr. Marshall stated in the Board's Decision marked as Exhibit B-5, the Board found that there was some unique physical circumstances with this property occasioned by the extensive road frontages on both 532 and Stoopville Road with 1,418 running feet on Washington Cross Road and 1,298 running feet on Stoopville Road; and that because impervious coverage is determined by netting out the ultimate right-of-way, there was 45 feet width of grass along Washington Crossing Road and 28 feet width of grass along Stoopville Road that were not impervious which totaled 154 square feet of additional grass on the property. Mr. Marshall stated if this were put back into the impervious calculations, it would reduce the impervious coverage by 11.78%, and Mr. Hanna agreed.

Mr. Marshall stated the Board also made a Finding that the Applicant originally had more ground but dedicated a portion of it for the Stoopville intersection so that the street light improvements could be made, and Mr. Hanna stated he is aware of this. Mr. Marshall stated this Applicant also transferred 1.5 acres to the Water Company to create the public water system that is located in this part of the Township and the tower that is immediately next door, and Mr. Hanna agreed. Mr. Marshall stated these changes changed the amount of land that the mathematics were based on when they originally purchased the property for Church use, and Mr. Hanna agreed.

Mr. Gruen stated that Decision was not a unanimous Decision, and he believes it was a three to two vote.

Mr. Gruen asked if they have done any environmental studies and asked if it has been submitted to the Township's Environmental Advisory Council. Mr. Gruen stated he would like to know the effect their proposal will have on the wetlands and everything around it. Mr. Marshall stated they have not done an environmental study, but this could be a Condition of Approval. Mr. Gruen stated before he approves this, he would like to see the environmental study and not just have a Condition to do it since it could come out negative, and it would already have been approved. He stated he would like to have the project submitted to the Environmental Advisory Council and see their recommendations. Mr. Gruen stated they are requesting a major change and a 50% increase in the impervious surface. He stated he is in favor of using the pervious paving, but he is concerned about all the wetlands surrounding the property. Mr. Marshall stated he does not know where these wetlands are located. Mr. Gruen noted the buffer zone.

Mr. Marshall stated this is the back left corner, and he asked Mr. Hanna if they are draining in that direction. Mr. Hanna stated the improvement of the parking area to the west with the porous paving will have the effect of allowing any water that is hitting that parking lot to infiltrate into the ground similar to what it does now and probably even more efficiently than it does now. He stated the beds to be constructed underneath of the parking facility are flat. He stated currently there is a little slope in the grass area and rainwater runs off at a faster rate, and there is less opportunity to infiltrate than if it is sitting in a flat stormwater bed underneath the parking area. Mr. Gruen stated he would still like to hear from the EAC and get their input.

Mr. Majewski left the meeting at this time.

Ms. Kirk asked the size of the detention basin which is being modified, and Mr. Hanna stated they have not yet gone through the final design. He feels it will be a similar shape to what it is now, but will be moved closer to the intersection of Stoopville and Washington Crossing Road. Ms. Kirk asked the current size of the basin, and Mr. Hanna stated currently it is 270' in a north/south direction to 260' in an east/west direction; but it is an oval shape. Ms. Kirk asked if the Applicant would agree to a Condition that if the Board were inclined to grant the Variances, that the modified detention basin shall not be in a size less than what presently exists. Mr. Marshall stated he feels the Condition should be that the stormwater facilities will meet Township Ordinances regarding stormwater requirements of the Land Development Ordinance. Ms. Kirk stated the Condition would then be subject to the approval of the Township and Township engineer, and Mr. Marshall stated he feels this would be an appropriate Condition.

Mr. Smith asked if there was a request for a Variance to wetlands disturbance, and Mr. Marshall stated they did not request this. It is only impervious surface and steep slopes. He stated steep slopes are a sub category under resource protection.

Mr. Esposito stated they indicated that the effective impervious ratio was 21.1%, and he feels there should be a Condition that it could not be greater than this. Mr. Marshall stated they would agree to this. Mr. Esposito also asked if they considered any other type of porous paving systems such as grass pavers since a lot of blacktop is being added on, and a grass paver system could improve the look. Mr. Marshall stated while they did consider this, their preference is the porous paving noting that it is difficult for women to walk in high heels on grass pavers.

Mr. Marshall stated he has the Lutheran Church of the Resurrection Decision by the Zoning Hearing Board and the Court Approval of that Decision when it was Appealed by protestants. He stated it does have language that is being discussed by Mr. Esposito. Ms. Kirk agreed to accept it for purposes of writing a Decision, but it was not marked as an Exhibit.

There was no one in the public wishing to comment on this matter. A short recess was taken at this time. The meeting was reconvened and testimony was closed.

Mr. Gruen moved, Mr. Zamparelli seconded and it was unanimously carried to Grant the Variance request for increased impervious surface coverage and the Amended Application for disturbance of the steep slopes as testified by the engineer subject to:

- 1) Applicant will install pervious pavement like porous asphalt in the parking areas noted to the west and the east on the Site Plan and enter into an Agreement with the Township for maintenance of that paved area subject to the Township's approval;
- 2) The stormwater management facilities will be constructed by the Applicant subject to the approval of the Township;
- 3) Public sewer system must be connected as set forth into the lateral from the Residential area across the street;
- 4) The effective impervious surface ratio as a result of the pervious pavement system being installed shall not be greater than 21.1%. The Motion approves the requested increase in impervious surface to 29.5%.

OTHER BUSINESS

Appeal #10-1558 – Edward M. Bucci & Donna Vagnozzi Bucci Approve Extension

Mr. Gruen moved, Mr. Smith seconded and it was unanimously carried to grant a six-month Extension.

Aria Discussion

Ms. Kirk stated the Judge Remanded the Zoning Application back to the Zoning Hearing Board. At the time the Judge entered his Order for Remand, Aria, through their attorney, filed a Motion for reconsideration and/or clarification. She stated Aria was requesting that the Board members who hear the Remand be limited to the Board members that heard the original Hearings. Secondly that the Remand was dealing with two issues – one of them being the consideration of traffic and traffic congestion and Aria was seeking that no new expert testimony or other evidence regarding traffic be presented. Ms. Kirk stated after a Hearing in front of the Judge last week, the Judge entered an Order denying Aria's request and indicated that the matters to be scheduled in front of the Zoning Hearing Board subject to whatever members are present for those Hearings and it is the Board's discretion to decide what testimony regarding traffic to take.

Ms. Kirk stated Mr. VanLuvanee representing Aria sent a letter to the Township requesting that the Remand Hearing be scheduled any time after April 19.

Ms. Kirk stated there are a variety of people who are involved in this matter.

Mr. Gruen stated he understands the Township has hired a new traffic engineer, and feels they should find out when they would be ready with their testimony. Ms. Kirk stated they need to coordinate scheduling among Aria, the Township, RAFR, and Newtown.

The Board asked that Ms. Kirk coordinate mutually-agreeable dates with the various attorneys. Mr. Habgood noted the scheduled dates for May, June, and July. Ms. Kirk stated if she can get a date coordinated relatively quickly, they may be able to adjust any additional Applications so that Aria is the only item heard on that date.

Mr. Smith reminded the Board that he is recused from that case.

Mr. Habgood stated he understands they will have to do a full re-advertisement of the Remand, and Ms. Kirk agreed.

Mr. Kirk asked that Mr. Habgood make copies of the Judge's Order available to the Board. Ms. Kirk stated members may also want to have copies of the transcripts from the prior Hearings.

There being no further business, Mr. DosSantos moved, Mr. Smith seconded and it was unanimously carried to adjourn the meeting at 8:40 p.m.

Respectfully Submitted,

Jerry Gruen, Secretary