

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – DECEMBER 6, 2011

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on December 6, 2011. Chairman Bamburak called the meeting to order at 7:15 p.m. Mr. Bamburak stated there are only four members present this evening, and if there is a tie vote, the Applicant will lose; so those wishing for a Continuance until there is a full Board of five should make this request known to the Board this evening when their Application is called.

Those present:

Zoning Hearing Board:        Paul Bamburak, Chairman  
   Gregory J. Smith, Vice Chairman  
   Anthony Zamparelli, Member  
   Mark Moffa, Alternate Member

Others:                             Robert Habgood, Code Enforcement Officer  
   John Koopman, Township Solicitor (joined meeting in  
   progress)  
   David Truelove, Township Solicitor (joined meeting in  
   progress, left meeting in progress)  
   James Majewski, Township Engineer  
   Barbara Kirk, Zoning Hearing Board Solicitor

Absent:                             Jerry Gruen, Zoning Hearing Board Secretary  
   Keith DosSantos, Zoning Hearing Board Member  
   Dan McLaughlin, Supervisor Liaison

APPEAL #11-1604 – JULIE AND WES SCHEIRING

Ms. Kirk stated this matter has been continued several times with the initial Application being heard on 8/2/11. She stated a number of residents obtained Party Status including John and Amy Hoffman. Ms. Kirk stated Mr. Hoffman sent a letter to her attention indicating that he is not available to attend this evening's Hearing as he is out of the Country on business; and since he would like to be present to participate, he asked that the matter be continued until the Board's meeting in January. Ms. Kirk stated she sent a copy of this letter to Mr. Murphy, attorney for the Scheirings; and he had no opposition to the request for a continuance. A copy of the letter from Mr. Hoffman was marked as Exhibit JH-2 as he had previously submitted Exhibits to the Board.

There was further discussion on the date of the continuance, and it was agreed to continue the matter to the meeting to be held on February 7 as the second meeting of each month has been reserved for the Aria Hospital matter.

Mr. Smith moved, Mr. Zamparelli seconded and it was unanimously carried that the request for a Continuance be granted to February 7, 2011.

Ms. Kirk apologized for any other interested residents who may be present this evening adding that she spoke to Ms. Hoffman indicating that she felt the Board would grant the request for Continuance but could not state so definitively.

#### APPEAL #11-1611 – MICHAEL MASTERSON

Mr. Michael Masterson was present.

Mr. Bamburak stated this matter is continued from 11/1/11, and the Board had asked Mr. Masterson to bring back a map that was more legible.

Ms. Kirk stated this matter was last before the Board on 11/1/11; and at that time, the Exhibits that were submitted included the Application, the Plot Plan for the property, and the Board's Exhibits regarding publication, posting, and mailing. Ms. Kirk stated that Mr. Masterson is now providing an enlarged Plan, and this was marked as Exhibit A-3 and is a detailed Site Plan. Ms. Kirk stated the issue before the Board was they did not have the specific calculations necessary to determine the amount as to the rear yard setback. She stated the Applicant is seeking to construct a new deck and patio. Under the Code a 25' rear yard setback is required. She stated at the last meeting, there were not specific dimensions provided as to the setback being proposed.

Mr. Masterson stated they need to replace the fence and deck and they also wanted to enlarge the deck. He stated the patio will address a water issue they have in the rear yard as currently the water just sits on top of the grass. Mr. Bamburak asked where the water will go; and Mr. Masterson stated he has met with the contractor several times, and he assured him that the water will drain. Mr. Masterson stated there will be a 3' bed around the patio, and he will also construct the patio in such a way that the patio will be able to drain. Mr. Masterson stated they are unable to maintain the property with the existing conditions because it is so wet.

Mr. Majewski stated when they submit the Permit Application, they will have to provide full details on what they are proposing. Mr. Habgood stated there are no impervious surface issues.

Mr. Bamburak asked if the replacement deck will be the same dimensions as the existing deck, and Mr. Masterson stated the new deck will go out to the end of the house so it is a little longer.

Mr. Smith stated they are asking for a 3' setback as opposed to the 25' setback required by Code.

Mr. Habgood stated they are proposing a raised deck, and the patio is underneath part of the deck and extend out past the deck.

Mr. Masterson stated the deck is a 16' setback, and currently it is 18' from the rear yard.

Mr. Moffa asked where they have water issues, and Mr. Masterson stated it is where the patio will be and underneath the deck, and the whole back yard retains a lot of water. He stated the way the land is pitched, he is at the lowest point, and all the water comes to his yard. Mr. Moffa asked what is behind their property, and Mr. Masterson stated it is common open space.

Mr. Habgood stated the patio also counts so if the Board agrees to grant the Variance it would be for a 3' setback for the patio and a 16' setback for the deck. He stated the existing deck is an existing non-conformity.

There was no one to speak to this matter, and the testimony was closed.

Mr. Smith moved, Mr. Zamparelli seconded and it was unanimously carried to grant the Variance as set forth in Exhibit A-3.

#### APPEAL #11-1612 – WELLS FARGO BANK, N.A.

Mr. Edward Murphy, attorney was present. Ms. Kirk stated Mr. Murphy submitted a letter of 10/14/11 requesting that the Application be carried to tonight's Hearing, and this was marked Exhibit A-1. The Application submitted was marked as Exhibit A-2. Exhibit A-3 is a Plan that was provided with the Application. Proof of Publication in the Yardley News was marked as Exhibit B-1. A copy of the Notice of Posting was marked as Exhibit B-2. A copy of the letter with attachments provided by the Board's secretary showing that notices were sent to adjacent property owners as required was marked as Exhibit B-3. Ms. Kirk stated she had also asked Mr. Habgood to provide a copy of the Findings of Fact, Decision, and Order that had been issued by the Zoning Hearing Board in 1984 in the Application of James J. McCaffrey which is referenced in the Application tonight; and this Decision was marked as Exhibit B-4.

Kurt Shaffer, attorney representing PDSI owner of the adjacent Lower Makefield Shopping Center, requested Party status. Mr. Shaffer stated they share a common drive. Mr. Murphy had no objection to the request for Party status.

Mr. Murphy stated Wells Fargo is proposing to make minor modifications at the existing branch bank located at the Edgewood Village Shopping Center. He stated they are requesting several Variances one being an encroachment into the front yard, one with regard to the number of cars permitted to stack in the relocated drive-through, and the last is an extension of hours associated with the ATM located in the vestibule.

Mr. Scott Mill, Project Engineer, was sworn in. Mr. Mill stated he prepared the Plan which accompanied the Application shown as Exhibit A-3. Mr. Mill stated the branch is located at the corner closest to the intersection of Stony Hill and Heacock Roads. The branch has been in existence since the inception of the shopping center more than twenty-five years ago.

Mr. Mill noted Exhibit A-3 and showed on the left side of the Plan the existing drive-up and the right side of the Plan which shows the proposed drive-up. He stated there are additions proposed on three sides which he showed on the Plan. Mr. Murphy stated the Application indicates that the total increase in square footage is approximately 1,200 square feet, and Mr. Mill agreed. Mr. Murphy stated despite the proposed increases, the overall impervious associated with this element of the shopping center will actually decrease; and Mr. Mill agreed. Mr. Mill stated with the proposed expansion to the south closer to Stony Hill Road, the proposed building would encroach into what is currently the drive-through lane, and there is no feasible way to bring those lanes down to the south closer to Stony Hill Road as there is an existing stormwater basin, trees, and storm pipes. He stated they therefore propose to relocate the drive-through lanes to the location he showed on the plan on the right side, and they take access from the eastern end of the existing parking lot closer to Heacock Road and then come down through the drive-through. He stated by doing that in conjunction with the proposed building addition, it will actually result in a decrease in impervious surface by 432 square feet.

Mr. Murphy stated in their Application they translated this to approximately .2% of a decrease, and Mr. Mill agreed.

Mr. Murphy stated the first item of relief they are seeking is a proposed reduction in the front yard setback. Mr. Mill showed on the Plan the area of the front yard setback that will be impacted by the addition. He stated it will be 87.46' from the right-of-way where 100' is required. Mr. Murphy stated the 100' setback is required is because it is corner lot in a special setback. Mr. Murphy stated the area of encroachment Mr. Mill showed is already impervious today, and Mr. Mill agreed that it is for the most part although there is a small strip of grass. Mr. Murphy stated the addition that will encroach into the front is largely an area that is blacktop already, and Mr. Mill agreed.

Ms. Kirk stated according to the Application there were two requests for front yard setback one dealing with Stony Hill and the other dealing with Heacock. Mr. Mill showed the location of the addition setback from Heacock. The requirement is 100', and the net resulting Variance on the Heacock Road side would be 4.97'.

Mr. Truelove joined the meeting at this time.

Mr. Murphy stated the second item of relief involves a provision of the Ordinance that requires a certain number of cars to be stacked when they are approaching the drive-through, and Mr. Mill agreed. Mr. Mill stated the Ordinance requirement is that for every drive-up teller window, you have to provide six stacking spaces.

Exhibit A-4 was marked which is a template of what they are proposing with regard to the stacking lanes dated 12/6/11. Mr. Mill stated this represents the proposed additions to the Bank as well as the relocated drive-through aisles for the drive-through windows.

Mr. Murphy stated it appears that one of the three drive-through lanes would accommodate six cars, but two of them would only permit five cars to stack so the relief they are seeking is for two of the three drive-through lanes; and Mr. Mill agreed.

Mr. Murphy stated this relief has been previously granted by the Board within the last six to eight months for the soon to be opened First Federal Bank in the Village of Edgewood in order to minimize impervious surface.

Mr. Zamparelli stated he is concerned that if there are more cars, they could encroach on the parking lot. He is also concerned that all three windows may not be open at one time. Mr. Mill stated part of the concern they had with the existing configuration was the funnel effect where for quite a distance as you enter into the aisle only one car can gain entry. Mr. Zamparelli asked the total amount of vehicles that could stack on the existing Plan with the funneling, and Mr. Mill stated they came up with approximately eleven cars. Mr. Zamparelli stated if they had eleven cars stacked on the new configuration with only one window open, it would encroach on the parking lot. Mr. Mill stated even if only one or two windows were open, it does not mean that the lanes would be shut; and there would be room for other cars. Mr. Zamparelli asked if the parking lot is just for the bank, and Mr. Mill stated there is no designation specifically for one use. Mr. Murphy agreed and added that when the Plan was originally approved in 1984, there was no separate calculation made and parking is available to any tenant.

Mr. Smith stated during the discussion of the other bank where the Board agreed to a reduction in the stacking, that Applicant discussed how banking has changed; and Mr. Smith asked how banking habits have changed since 1984. Mr. Murphy stated he has another Witness who can answer this.

Mr. Truelove stated the Township is participating but only as to the issue dealing with the request for an expansion of time for the ATM.

Mr. Moffa asked how cars access the parking lot, and Mr. Mill showed on the Plan the main access off of Heacock Road. Mr. Mill stated there is a connection to the adjoining shopping center where cars could freely flow back and forth. He stated this is along the property line adjacent to Heacock Road approximately halfway along the property from the intersection of Stony Hill Road.

Mr. Moffa asked the purpose of the structure that is encroaching on the Heacock Road side, and Mr. Murphy stated the project architect will testify to this.

Ms. Kirk stated Mr. Mill indicated that the building square footage will be expanded by approximately 1,215 square feet, and Mr. Mill agreed. He stated the total square footage of the bank after the addition is added will be 3,661 square feet.

Mr. Shaffer asked the width of the stacking lane, and Mr. Mill stated it is approximately 30'. Mr. Shaffer asked if there are any proposed signalization or information board to let drivers know that one or more of the teller lanes are closed, but Mr. Mill stated he could not answer this. Mr. Shaffer stated the current drive-through aisle starts narrow and then widens, and he asked how many cars can be stacked there now; and Mr. Mill stated they calculated eleven.

Mr. Vincent Wolk, project architect, was sworn in and stated he has done over 400 branch banks for various clients and 200 for Wells Fargo. He stated he was involved in the preparation of the Plans being discussed this evening, and the preparation of the Zoning Hearing Application. Mr. Wolk stated he heard Mr. Murphy's remarks and Mr. Mill's testimony and questions raised by the Board about the additions. Mr. Wolk showed a Plan entitled "Proposed First Floor Plan" dated 8/31/11, and this was marked as Exhibit A-5. Mr. Wolk showed on the Plan the proposed addition in the front along Heacock which is to expand the vault. He stated they are closing the other branch bank in the area, and they need to move the safe deposit boxes from that branch over to this branch. He stated this is a small addition that will encroach slightly more than 4' into the 100' foot front yard setback adjacent to Heacock Road.

Mr. Wolk stated the second addition is at the entry on the inside portion of the mall facing the mall, and they have expanded the vestibule and created a new ATM and cash room. He stated in order to make room in the vault, they had to take the cash room out of the vault and create a separate area for the safe which is why this addition was created.

Mr. Wolk stated the last addition is the largest. He stated it is for an expanded platform as they will add four people to the branch, and they are also adding an accessible restroom. He stated for this addition, they need relief from the front yard setback adjacent to Stony Hill Road.

Mr. Wolk stated these additions are being proposed because they are merging the other branch into it, and the Wells Fargo model requires this number of platform station.

Mr. Murphy stated he understands Mr. Wolk was also actively involved in the drive-through design, and Mr. Wolk agreed. Mr. Murphy noted the questions raised about the existing configuration and the appropriateness of the access from the existing parking lot on the re-design; and he asked Mr. Wolk to speak to these issues. Mr. Wolk stated there was a question about there being only one lane opened; however, he stated there would always be two lanes opened since one teller handles two lanes. He stated they like the proposed flow better since people coming into the parking lot will be able to see what is occurring at the drive-through adding that currently they are wrapping around the building, and you do not know how many customers are in line. He stated with the new proposal, if you see there is a line, you could park and go inside. He stated there will be signalization on the canopy itself indicating whether it is open or closed.

An architectural rendering was shown, and this was marked as Exhibit A-6. Mr. Wolk stated this shows four colored renderings of the east, west, north, and south elevations and is entitled, "Proposed Elevations." Mr. Wolk stated they are trying to make it look as if there were never any additions added, and it will all look the same as the existing building.

Mr. Wolk noted on Exhibit A-5, the location of the existing ATM. Mr. Murphy stated the existing vestibule is proposed to be expanded as part of the new Plan, and with the expansion of the vestibule, they have changed the location of the existing ATM; and Mr. Wolk agreed and added the ATM will be moving across the vestibule into the new addition. He stated currently there is a covered walk in that area, and this will be in filled, and the ATM/cash room will be added. Mr. Murphy stated currently the ATM is in an enclosed space, and with the proposed expansion, the ATM would still be in an enclosed space; and Mr. Wolk agreed.

Mr. Moffa asked how people will walk up to the ATM. He stated it appears that they will have to cross the drive-through lane to get to the Bank. Mr. Wolk stated there is existing parking on the left which he showed on Exhibit A-3. He stated most of those spaces are empty now for the most part.

Mr. Murphy stated Mr. Smith had asked how banking habits have changed over time. Mr. Wolk stated with the advent of on-line banking, the number of trips to the bank itself has been reduced. He stated you also do not need a teller with the services now available at the ATM. Mr. Murphy stated this was similar testimony offered by the First Federal representatives during the course of that Application; and over the last generation, banking habits have changed dramatically.

Mr. Shaffer stated Mr. Wolk testified that there was going to be signalization on the canopy, and he asked if there would be any signalization further back on the drive aisle; and Mr. Wolk stated there will not. Mr. Shaffer stated it appears that the shopping center is losing two parking stalls to create the drive aisle, and he asked what the count will be if this is approved. Mr. Murphy stated they still comply with the overall parking requirements for the shopping center, and the parking calculation is depicted on Exhibit A-3. Mr. Shaffer asked Mr. Wolk if trips to the drive-through have also decreased, and Mr. Wolk agreed that this is true for both drive-in and walk-in traffic.

Mr. Truelove asked Mr. Wolk if he is familiar with any other Wells Fargo branches in a three to five mile radius other than the one that is to be closed; and Mr. Wolk stated he understands there is also one in Morrisville. Mr. Truelove stated there is a walk-up ATM at the Morrisville location which is exterior, and Mr. Wolk agreed. Mr. Truelove asked if they are available twenty-four hours, and Mr. Wolk agreed. Mr. Wolk stated these two branches have the only ATMs that are not open twenty-four hours in the whole region. Mr. Truelove asked if this includes the ATM in Yardley Borough, and Mr. Wolk agreed and added that is a drive-up ATM and it is open twenty-four hours. Mr. Wolk stated most branches are equipped with two – a drive-up and a walk-up.

Mr. Bamburak asked the existing hours for the ATM, and Mr. Murphy stated they are based on the prior Zoning Hearing Board Decision and they are limited to the hours of the Shopping Center. Ms. Kirk asked if this is 8 a.m. to 9 p.m. Monday through Saturday and 10:00 a.m. to 6:00 p.m. on Sunday, and Mr. Murphy stated this is correct to the best of his knowledge. Ms. Kirk asked if any of the occupants or lessees of the Shopping Center have sought modification of the operational hours, and Mr. Murphy stated Mr. McCaffrey will testify to this.

Mr. James McCaffrey was sworn in and stated he is the owner of the Edgewood Village Shopping Center and the principal tenant of the Shopping Center which is McCaffrey's Market. Mr. McCaffrey stated he has been the owner of the Shopping Center since its inception when it was first approved in 1984. He was also the Applicant at the time of the Application in 1989 when certain relief was granted by the Zoning Hearing Board in connection with the construction of the site. Mr. McCaffrey stated there were Conditions placed on that approval as to hours of operation. Mr. Murphy stated Mr. McCaffrey was an active participant in those approvals, and Mr. McCaffrey agreed.

Mr. Murphy asked Mr. McCaffrey to describe what thought process went behind the Township's imposition of the Condition from which relief is being sought tonight which was to limit the hours of the ATM machine that was in the vestibule in the original branch bank. Mr. McCaffrey stated the Edgewood Village Shopping Center was the first Commercial development approved by Lower Makefield Township in fifty years when they sought the Variances from the Zoning Hearing Board. Mr. McCaffrey stated at that time the Township had major concerns about putting a Commercial development across the street from Rose Hollow and Heacock Meadows. He stated at the time there was concern about the lighting of the Shopping Center and how that would effect the Residential area as well as the operation of the Center itself and the hours of operation. He stated at that time he had shared in those concerns and wanted to be part of the community and they agreed to restrict themselves as well from twenty-four hour operations. He stated since that Approval process in 1984, they have been back before the Zoning Hearing Board at least three times seeking relief from the hours of operation; and in each case, it was granted and extended.

Mr. Murphy stated one particular Application was a Board Decision of 6/2/87 when certain hours were permitted to be expanded, but the ATM hours were continued to be limited; and Mr. McCaffrey agreed. Mr. Murphy asked what the concern of the Township was twenty-five years ago as to why they were unwilling to permit the ATM device to be open longer; and Mr. McCaffrey stated he believes it was for safety/security reasons, but since then being on the premises almost every day himself, they have never had a problem and safety is not an issue. Mr. Murphy stated twenty-five years ago, the ATM was a relatively new invention, and people were uncertain as to how it might work and the potential pitfalls; and Mr. McCaffrey agreed.

Mr. Murphy stated Mr. McCaffrey indicated he is an active, on-site owner; and Mr. McCaffrey agreed. Mr. Murphy stated he has indicated in the past that he has received multiple requests from his own patrons inquiring as to why the hours are not more flexible, and Mr. McCaffrey stated he does get numerous requests as to why the bank itself is restricted. He added they "chase" their customers/residents out of the community to access such a convenience. Mr. McCaffrey stated while he does not feel it will be used a lot at night, there would be times when the residents would like to use the local ATM but must travel outside of the community to get access to cash. Mr. Murphy asked Mr. McCaffrey if he is aware of any other competitors in the area that have such a limit on the hours of operation, and Mr. McCaffrey stated he is not aware of any.

Mr. Zamparelli asked if the limitation on the ATM at this time are the same as the hours of the Shopping Center; and Mr. McCaffrey stated the super market closes at 10:00 p.m. but he believes the pizza shop stays open until 11:00. Mr. Zamparelli asked if this means the ATM is open until 11:00 p.m., and Mr. Murphy stated he feels the Bank operates in accordance with the hours of McCaffrey's. Mr. Murphy stated they are seeking twenty-four operation for the ATM. Ms. Kirk asked the current hours for the ATM, and Mr. McCaffrey stated he believes it is 10:00 p.m. seven days a week. Mr. Murphy stated the request is to expand the hours of operation so that they are permit people to access the ATM twenty-four hours.

Mr. Truelove asked Mr. McCaffrey if this Variance is granted as to hours of operation of the ATM, are they going to seek expanded hours for the supermarket accordingly; and Mr. McCaffrey stated they would not. Mr. Truelove stated that the Giant had asked for relief in 2006 and is open to Midnight every night, although this matter is on Appeal.

Mr. Shaffer stated Mr. Wolk had testified that the purpose of the expansion is because Wells Fargo Bank was going to consolidate branches, and Mr. McCaffrey stated this is his understanding as well. Mr. Shaffer asked if Wells Fargo Bank has indicated to him that without this relief they will seek doing business at this location; and Mr. McCaffrey stated they have not indicated either way.

Mr. Azad Rod was sworn in and stated he is the District Manager for Wells Fargo and covers the Bucks County market. He stated he covers Townships from New Hope south to Morrisville, and there are ten stores. Mr. Murphy asked Mr. Rod if he is aware of any other of his branch banks in the immediate area that have any limitations on hours of the ATM, and Mr. Rod stated he is not.

Mr. Murphy asked Mr. Rod to describe the goal of Wells Fargo as it relates to services to their customers. Mr. Rod stated their goal is to make banking convenient for their customers, and they have had numerous inquires as to why there are limitations on the ATM access. He stated this is creating an inconvenience to Wells Fargo to fulfill the vision of their company.

Mr. Murphy stated ATM use has changed dramatically since its inception twenty-five years ago, and it can now provide many more banking services; and Mr. Rod agreed.

Mr. Murphy asked if he is aware of the ten stores he manages if there have been security or other types of issues associated with the use of the ATM, and Mr. Rod stated he is not.

Mr. Murphy asked if there is any reason that he feels there should be any limitation on the hours of operation, and Mr. Rod stated there is not.

Mr. Truelove stated there is an ATM in Morrisville but it is inside the store itself, and Mr. Rod agreed. Mr. Truelove stated there is also a drive-up ATM outside, and Mr. Rod agreed. Mr. Truelove asked if there are any limitation on the drive-up ATM, and Mr. Rod stated there is not.

Ms. Kirk asked if there is any intention by the Bank to have a drive-up ATM or will this strictly be within an enclosed area, and Mr. Wolk stated currently there is no intention to have a drive-up ATM. He stated this is based on transactions; and in closing the other store, they take into account that ATM and this ATM, and the number of transactions do not warrant a second ATM by the Wells Fargo model. Mr. Truelove stated the branch that closing nearby has both a drive-up and a walk-up ATM, and Mr. Wolk agreed.

Mr. Murphy asked that his Exhibit be moved for admission.

There was no further public comment, and the Testimony was closed.

Mr. Zamparelli moved, Mr. Smith seconded and it was unanimously carried to grant the Setback Variance as indicated on the Plan submitted, to grant the relief to allow the ATM to be open 24 hours a day, and to allow the relief of stacking from six cars to five.

Mr. Truelove left the meeting at this time.

A short recess was taken at this time.

#### APPEAL #11-1614 – TOLL PA XV, L.P.

Mr. Edward Murphy, attorney, was present and stated he would like to offer a summary of the Testimony and present his Exhibits and then ask his client to affirm.

Exhibit A-1 is the letter dated 10/14/11 from Mr. Murphy asking for a continuance to today's Hearing. Exhibit A-2 is the Application. Exhibit A-3 is a copy of the three-page Site Plan for the property. Exhibit B-1 is the Proof of Publication of notice of the initial Hearing in the Yardley News. Exhibit B-2 is a copy of the Posting for the Hearing at the subject property. Exhibit B-3 is the Proof of Mailing with a list of adjacent property owners.

Mr. Murphy stated Toll Bros. is the owner of a sixty-six acre property on Oxford Valley Road which is under construction for the Regency at Yardley age-qualified community. He stated this community is a community of single-family homes.

Mr. Murphy stated they were previously before the Board to obtain relief for some temporary sale signs, and this evening's Application is for permanent entrance signs that would flank the north and south entrances to the community entrance off of Oxford Valley Road. Mr. Murphy stated Exhibit A-3 shows colored renderings of the proposed permanent signage. He stated the signs are set back from both the curb line and the ultimate right-of-way of Oxford Valley Road. He stated from the curb line, the signs are set back approximately 20' and at its closest point at the south entrance, it is approximately 10' to 11' from the ultimate right-of-way line. Mr. Murphy stated neither sign poses any risk of intrusion into the minimum sight distance triangle for vehicles traveling either north or south on Oxford Valley Road; but because of their configuration as depicted on Exhibit A-3 certain relief has been sought from the signage requirements of the Ordinance.

Mr. Murphy stated relief is sought to permit the size of the single-sided sign to be 81.1 square feet as opposed to the 32 square feet that is permitted. Mr. Murphy stated they have counted in that calculation not only the script portion of the sign but also the insignias that are on the individual pillars and the total of that square footage includes all of the individual elements which the renderings depict.

Mr. Murphy stated the other issue involves the height of the sign. He stated under the Ordinance you can only have a 4 ½' high sign. He stated the sign extends a distance and has different elements – the pillars and the script inside the pillars as well. He stated at its tallest point at the cap of the top of the pillars, they are proposing that the sign would be 7'10". He stated because it is setback a distance from the curb line of Oxford Valley Road, given the size and the scale of the community, they feel the signage is appropriate and quite attractive.

Mr. Keith Rattigan was sworn in and stated he is employed by Toll Bros. as Senior Project Manager in charge of Regency at Yardley. He prepared the Application and is familiar with the signage being proposed; and he agrees with the summary provided by Mr. Murphy.

Mr. Bamburak stated the stone wall is huge, but it appears the sign itself is the only issue that requires relief; and Mr. Murphy agreed.

There was no one present in the public to speak to this issue, and the Testimony was closed.

Mr. Zamparelli moved and Mr. Moffa seconded to grant the relief requested as proposed on Exhibit A-3. Motion carried with Mr. Smith opposed.

APPEAL #11-1615 – CHRISTY LAZZARINO

Ms. Christy Lazzarino and Mr. Leonard Lazzarino were sworn in. Mr. Bamburak reminded the Applicants that in the event of a tie vote, they would lose their Appeal; and they could request a Continuance this evening until a time where there would be five Board members present. The Applicants indicated they would like to proceed.

The Application submitted was marked as Exhibit A-1. A letter included with the Application as prepared by the Applicant to Mr. Habgood dated 10/10/11 was marked as Exhibit A-2. The Site Plan submitted was marked as Exhibit A-3. Notice of tonight's Hearing was published in the Yardley News, and the 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 of the Hearing were mailed to adjacent property owners in accordance with the Ordinance, and a copy of the letter with the list of those receiving the notice was marked as Exhibit B-3.

Ms. Lazzarino stated she submitted an Application to keep five chickens on her property along with a coop to house them. She currently has the chickens and the coop. Mr. Bamburak asked how they found out they needed a Variance, and Ms. Lazzarino stated it came to their attention when they got a letter in the mail.

Ms. Kirk stated this is a request for a Variance to Section 200-69A.(11)(a) which states: "The keeping of livestock in any Residential District must maintain a minimum net lot area of five acres." She stated Sub-Section C of that same Provision of the Code states: "Any accessory structure or housing for the keeping of livestock may only be kept in the side or rear yard and shall not be closer than 50' to the property line." Ms. Kirk stated based upon the Site Plan provided, it appears that the proposed coop is situate on the opposite side of the tree adjacent to a rear yard shed along the property line itself, and the property is a little more than a third acre in size and therefore does not meet the five acre minimum net lot area.

Mr. Bamburak asked if she had any idea that there were Ordinances about keeping livestock in a Residential neighborhood, and Ms. Lazzarino stated she purchased the five chickens as pets and did not have any idea there was a Variance required since she was keeping them as pets and not as livestock. Mr. Bamburak stated they are all hens and there are no roosters, and Ms. Lazzarino agreed.

Ms. Lazzarino provided pictures of the hens and the coop. This four page document which was marked as Exhibit A-4 includes photos as identified by the Applicant. Ms. Lazzarino stated the photos show her children with the hens and the shed and coop which is the smaller structure. She stated there is also a close-up photo of the coop and how the area around it is maintained. She stated there is also a picture of the front of the house showing that you cannot see the coop from the front of the house. There is also a

close-up view of the driveway and past the fence you can see the shed, but the coop is behind it and cannot be seen from the front of the property. Ms. Lazzarino stated the last picture is a view from her neighbor's back yard who are next door to them and it shows the shed and coop closest to those neighbor's property.

Mr. Bamburak asked if the hens spend most of their time in the coop, and Ms. Lazzarino stated they are allowed to roam in the back yard during the day. She stated they go in the coop at night and to lay eggs. Mr. Bamburak asked if the fence constructed in such a way that then cannot get out; and Mr. Lazzarino agreed and added they have chicken wire, and the fence is 5' high. Mr. Bamburak asked if hens can jump or fly that high; and

Ms. Lazzarino stated they have found that they can fly, and they have been able to jump on top of the fence and get out to the front yard. She stated they have remedied this situation by taking them to a veterinarian and had their wings clipped to prevent them from flying. Ms. Lazzarino stated she does have letters from the veterinarian that she sees for her other pets indicating that he knows they take very good care of their animals; and she also has a letter from the veterinarian who clipped their wings. Ms. Lazzarino stated since having their wings clipped, they have not been able to get out of the yard. Mr. Bamburak asked how long ago they clipped their wings, and Ms. Lazzarino stated it was on November 28, 2011. She stated they will need to have this done every six months.

Mr. Bamburak asked what the neighbors have had to say about this request, and Ms. Lazzarino stated they have six letters from neighbors who have all indicated that they keep their property meticulous and have no problems with the chickens on the property. Ms. Lazzarino submitted the letters to the Board.

Ms. Kirk stated one of the letters was sent via e-mail from Mr. Accarda, and this was marked as Exhibit A-5. A packet of five other letters provided by the Applicant were marked as Exhibit A-6.

Mr. Bamburak asked if they have any intention of increasing that amount of chickens being kept, and Ms. Lazzarino stated they do not. Mr. Bamburak asked if they continue to maintain this number, and Ms. Lazzarino stated chickens have a lifespan of eight to ten years.

Mr. Moffa asked how you order chickens, and Ms. Lazzarino described how this is done on-line as well as the location of a market in Doylestown. She stated hers came from an on-line hatchery called My Pet Chicken.com. and were from New Jersey. Mr. Bamburak asked how they are delivered, and Ms. Lazzarino stated they came in the mail. Mr. Moffa stated he understands that her intention was that her children would raise them as pets, and Ms. Lazzarino agreed. She stated they have names and are part of their "pet family." Mr. Moffa asked if there are issues that need to be addressed as far as diseases,

salmonella, etc. and Ms. Lazzarino stated you have to take care of them just as you would any pet. She stated they clean the coop weekly and the yard daily. She reviewed the procedures they follow to keep the coop clean and the chickens in good health. Mr. Moffa asked if they built the coop, and Ms. Lazzarino stated they purchased the coop. Mr. Moffa stated since they just had the chickens to the veterinarian he assumes they got a “clean bill of health,” and Ms. Lazzarino stated this is correct.

Ms. Kirk asked about the size and height of the coop. Mr. Lazzarino stated the coop is smaller than the shed and is approximately 6’ in length and 4’ in height. The coop has three openings and latches to lock the chickens in and protect them from predators. Ms. Kirk asked how close the coop is to the property line, and Mr. Lazzarino stated currently is it 2’ off the property line. Mr. Habgood stated he has been to the property; and while he is not sure where the property line is, the coop is in close proximity to the existing fence.

Mr. Bamburak stated the Board did receive two letter anonymously from individuals who were not in favor of the chickens. He stated one did note that the chickens were in the front yard, but this has apparently been remedied. Mr. Bamburak stated that individual also expressed concern that other neighbors may now want a rooster or a goat.

Mr. Bamburak stated approximately one year ago the Board did grant a Variance for a situation similar to this; and the second letter received by the Board references that Approval and asked that if this Variance were to be approved that the Board attach the same Conditions. Mr. Bamburak stated the previous case had an issue with the location of the coop. He stated they also had a Condition that there be no roosters, and in that case there was to be a maximum of four hens since that was the number they had. The Variance was also personal and expired on the sale of the property.

Ms. Justine Seman, 1259 Yale Drive, stated she did not know the chickens were there, and she was happy to see them. She stated they do eat ticks so there are benefits. She stated they make no noise.

Ms. Kim Fuller stated she lives two doors away and has always known the Lazzarinis to take great care of their property, and she knows that they take great care of their pets. She stated she has no problem with this request.

Mr. Mike Accarda stated he also has no problem.

Mr. Smith noted the neighbors’ yard which is closest to the chicken coop, and he asked if they have heard from them. Mr. Lazzarino stated they discussed this with them prior to getting the chickens and they were in favor. He stated they did not write a letter, however. Mr. Smith asked about the other properties in that corner, and Mr. Larrazino stated they back up to the old Scammel’s property, but the neighbors on the other side did write a letter.

Ms. Dawn Singer stated these chickens are their pets, and they follow them around. She stated her daughter babysits for this family, and the chickens are very well behaved.

There being no further public comment, Testimony was closed.

Mr. Smith moved, Mr. Moffa seconded and it was unanimously carried that the Variance be granted as requested with the following Conditions:

- 1) They can only have hens – no roosters
- 2) The maximum number of hens they can have is five
- 3) The Variance runs with this owner only
- 4) The Applicant continue to do what is necessary to keep the chickens confined to the back yard
- 5) Breeding is restricted.

APPEAL #11-617 – SRIG, LLC.

The Application submitted was marked as Exhibit A-1. A signed letter of authorization from the owners of the property to the Applicant who is the contractor was marked as Exhibit A-2. A copy of a Building Permit Rejection Notice issued by the Township to the property owners was marked as Exhibit A-3. A copy of the Deed verifying ownership of the property was marked as Exhibit A-4. A single sheet of the impervious surface calculations was marked as Exhibit A-5. The Plan of the Lot for the subject property prepared by Tri-State Engineers was marked as Exhibit A-6. A Site Plan entitled, "Property Diagram," was marked as Exhibit A-7. Tonight's Hearing was published in the Yardley News, and the Proof of Publication was marked as Exhibit B-1. The property was posted with Notice of tonight's Hearing, and a copy of that Posting was marked as Exhibit B-2. In accordance with the Zoning Ordinance, Notices were mailed to adjacent residents, and a copy of that letter with the listing of those addresses was marked as Exhibit B-3.

Mr. Rick Yeager, contractor, was present with John Sweet and Kristin Sweet, the property owners, and all were sworn in.

Mr. Yeager stated the Application was rejected because of a rear yard setback issue. He stated the property is unusually-shaped.

Ms. Kirk stated they have this is a request for impervious surface. Ms. Kirk stated her review of the Application shows that the property consists of approximately 16,117 square feet. It is a Residential property that houses a single-family home. She stated the Applicants are seeking to construct an enclosure at the property, and this will be in the

rear of the property. As a result of that enclosure they exceed the permitted impervious coverage that is allowed. She stated the Code requires for properties of this size that it be an 18% maximum impervious surface coverage; and based on calculations provided with the Application, the current impervious surface is at 21.07% and with the enclosed porch area as proposed, the impervious surface will increase to 22.29%.

Mr. Habgood stated he was not able to get an accurate determination of the lot size because the two Site Plans submitted (Exhibit A-6 and Exhibit A-7) do not match. He stated the front of their property is a radius, and the rear of their property is not straight. Mr. Bamburak stated apparently the Application is for a de minimus increase of .22%; and Mr. Habgood stated he is not sure of what the lot size is in order to make this determination. Ms. Kirk stated it would actually be an increase of 1.22%.

Mr. Smith stated they could agree to allow an increase in the amount of impervious surface of 196 square feet and they would not therefore have to deal with percentages or the lot size. It was noted that this is a new structure and will be a porch enclosure.

Ms. Kirk stated the proposed porch enclosure will be 196 square feet, and Mr. Yeager agreed. Ms. Kirk asked the dimensions of the enclosure, and Mr. Yeager stated it is 14' by 14'. Ms. Kirk asked the purpose of the proposed porch enclosure, and Mr. Yeager stated it would be to provide for enjoyment of the outside without bugs, rain, etc. It is a glass enclosure with a solid roof.

Mr. Moffa asked if they propose to do anything to offset the additional impervious surface as far as drainage around the area, and Mr. Yeager stated nothing has been planned other than gutters and downspouts. Mr. Moffa stated he is concerned because the property is currently over the impervious surface, and they are now going to increase that amount, and he is concerned about any potential water issues. Mr. Yeager stated this property does back up to open ground that is unbuildable so there is plenty of adjacent water run off drainage area.

Mr. Smith stated they also have letters from the neighbors on both sites indicating that they do not have an objection.

Mr. Bamburak stated the Zoning Hearing Board is also limited as to what they can require with regard to specific mitigation measures; and Ms. Kirk agreed indicating that there is now a Stormwater Management Ordinance that is to be enacted by Townships that enforce what type of stormwater management measures need to be taken depending upon the size of the proposed construction. She stated she has advised the Board that they not make specific demands in light of that Statewide mandate that has to be adopted by all of the Townships. Mr. Moffa stated while they could not make a specific demand, he feels he could take under consideration that this Plan includes no additional remediation; and Ms. Kirk agreed.

Ms. Kirk asked if they have construction any other buildings, structures, or impervious surface areas on the property, and Mr. Sweet stated they did put up a fence. Mr. Moffa asked if there are Permits on file for the fence, and Mr. Sweet stated there are. Mr. Habgood stated he did not check on that.

Mr. Smith stated any additional structures they may wish to build on the property would require them to come before the Zoning Hearing Board for additional approval of a Variance for additional impervious surface, and Mr. Sweet agreed.

Mr. Sweet provided letters from the neighbors this evening. Ms. Kirk stated there was a letter submitted from Richard and Katherine Bender, and it was noted they are present this evening.

Mr. Rich Bender and Ms. Katherine Bender, 871 Kilby Drive, were present. Mr. Bender stated they live next door and they have no objection to this request.

Mr. Michael Stepnowski, 883 Kilby Drive, stated he is on the other side of the property, and he has no objection. He stated behind their property is preserved open space which includes a pond, and the area is inundated with mosquitoes; and he feels this proposed structure is very necessary.

Mr. Moffa asked if there are issues with water management on the property currently, and Mr. Sweet stated the preserved land is wet behind their yard.

Testimony was closed.

Mr. Zamparelli moved, Mr. Smith seconded and it was unanimously carried to grant an increase in impervious surface to allow for an additional 196 square feet for construction of the enclosed porch..

#### APPEAL #11-1618 – JOANN KUNG

The Application submitted was marked as Exhibit A-1. A Site Plan showing the existing conditions was marked as Exhibit A-2. A Site Plan showing the proposed conditions was marked as Exhibit A-3. Notice of tonight's 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 adjacent property owners in accordance with the Zoning Ordinance, and a copy of the letter with the listing of those notified was marked as Exhibit B-3.

Ms. Joann Kung was sworn in.

Mr. Bamburak stated it appears she wants to expand her driveway and walkway by 443 square feet additional impervious surface. Ms. Kung stated she wants to increase the driveway so that she has parking for an extra car without obstructing a car parked in the garage from pulling out.

Mr. Bamburak stated there is normally a sheet showing the calculation for existing impervious surface and what they are proposing and this was not part of the Application. Mr. Habgood stated he did do calculations and what he was able to determine that 18.2% is existing, and with the proposed increase of 443 square feet, it would bring it to 20.7%. Ms. Kung agreed to these calculations.

Mr. Bamburak expressed concern with the drawing provided by the Applicant, and he asked Mr. Habgood if they would be able to work with this. Mr. Habgood stated the driveway would be inspected by Public Works and the walkway would be done by the Building Department. He stated the Township could work with the Site Plan submitted.

Ms. Kirk asked if Ms. Kung if she has made any other additions or built any other structures on the property, and Ms. Kung stated they have not.

There was no one present to speak to this Application, and the Testimony was closed.

Mr. Zamparelli moved, Mr. Smith seconded and it was unanimously carried to grant an increase of impervious surface of 443 square feet.

Mr. Koopman joined the meeting at this time.

A short recess was taken at this time to address a concern of a prior Applicant.

#### APPEAL #11-1616 – MARTINA B. WARREN

The Application submitted was marked as Exhibit A-1. An As-Built Plan submitted was marked as Exhibit A-2. An additional As-Built Plan including a hand-written note on it was marked as Exhibit A-3. A letter issued by a Doctor for one of the occupants of the property was marked as Exhibit A-4. Also submitted was four pages of a Blue Cross/Blue Shield Explanation/Statement of Benefits for one of the occupants, and this was marked as Exhibit A-5. Notice of the Hearing was published in the Yardley News and the Proof of Publication was marked as Exhibit B-1. Proof of Posting at the property was marked as Exhibit B-2. Notices were mailed to adjacent property owners in accordance with the Zoning Code, and a copy of the letter with a listing of the owners was marked as Exhibit B-3.

Ms. Kirk stated the Board also received a memorandum issued by the Director of Zoning, Inspection, and Planning dated 11/15/11 with accompanying materials that set forth the recommendations of the Township Planning Commission upon review of the Application; and all of these documents were collectively marked as Exhibit B-4.

Ms. Martina Warren was sworn in. Mr. Bamburak asked that she tell the Board about her Application. Ms. Warren stated she would like to continue from last time she was here, and she is looking for an Application because the State approved from the Secretary of Health and Welfare. Ms. Kirk stated Ms. Warren has indicated that she is continuing from the last time she was here, and asked what she was referring to; and Ms. Warren stated from the last meeting that was held at the Township. Mr. Bamburak stated that was the Planning Commission, and this is now the Zoning Hearing Board which is totally different. Mr. Bamburak stated she should review her Application and she should start fresh and give the Board the information she feels they need.

Ms. Warren stated since her first time in Yardley, Pennsylvania she was a Jaycettes and in the Morrisville Women's Club in the 1970s. She stated she went to Harrisburg and in 1985 put in the Treasury Department Day Care system on a volunteer basis. She stated she worked with Mr. Nuzzolo in putting in Edgewood School and the entire pilot program for Oxford Valley School Day Care before and after School. She stated she is saying this because of the attitude of the neighbors.

Mr. Bamburak stated this is an Application and she needs to present her Application.

Ms. Kirk stated based on the documentation that was submitted to the Board, the Applicant is seeking a Special Exception under Section 200-43B(7) of the Zoning Ordinance to permit boarders at the property. Ms. Kirk stated as she understands it this is so that there can be certain caregivers to live at the property to care for two of the occupants who suffer from significant medical conditions. Ms. Kirk stated as required by a Special Exception, the Applicant must go to the standards set forth in Section 200-98 of the Code which itemizes specific standards she needs to prove to the Board for a Special Exception. In addition Section 200-69A(3) sets forth standards for Accessory Uses at the property which would include boarding; and there are five Conditions there which she would need to prove to the Board as to whether or not she can meet those Conditions or if she cannot, why not. Ms. Kirk advised Ms. Warren that this what she needs to focus on.

Ms. Warren stated she has three children and her oldest, Derrick, has brain injury due to four environmental illnesses not taught in any medical school in the United States. She stated these diseases were contacted in the environment in Yardley, Pennsylvania since they came from Harrisburg in 1986. Ms. Warren stated they are now in his brain, and he

has acquired brain injury. She stated she is part of the Acquired Brain Injury Association. She stated she has also met with the Physician General of the State of Pennsylvania in the 1990's and had a support group at Aria Hospital.

Ms. Kirk asked Ms. Warren how old her son is, and Ms. Warren stated he is thirty-six. Ms. Kirk asked Ms. Warren what limitations he has as a result of the brain injury. Ms. Warren stated he has cognitive difficulties which are documented by at least seven neur/psych testings. He has been in two brain injury programs – one at Moss Rehab and the other in Charlotte, North Carolina. Ms. Kirk asked about his daily care and how he is limited in handling this for himself. Ms. Warren stated he is on a sleep apnea machine, he has torn ligaments from tendons in his left leg, he has a contusion to his toe, and severe back problems due to the torn tendons up to his L4, L5, S1 which is the lower back. Ms. Kirk asked if he can care for himself, and Ms. Warren stated he cannot. Ms. Kirk asked what he needs for his care. Ms. Warren stated he has had people there for the last two years seventy-seven hours per week, and they do his washing, do his clothing, taking him to the doctors, and almost every day he goes to the doctors.

Ms. Kirk stated the Application indicates that there is someone else living at the house who has a significant injury, and Ms. Warren stated that is herself. Ms. Kirk asked the nature of her illness, and Ms. Warren stated she has had fourteen surgeries. She stated she used to work for the Auditor General and she was in the Roads Department and covered most of the Counties on the Eastern side through Harrisburg. Ms. Kirk asked Ms. Warren the nature of her injuries that prevent her from caring for herself; and Ms. Warren stated she has five torn nerves in her left shoulder, a disconnected right shoulder, three torn nerves in her right shoulder, and there is no attachment from tendons to muscle on the right. Ms. Kirk asked what care she requires for herself, and Ms. Warren stated she is on medication and is twelve years overdue for surgery because of a car accident in Wilkes Barre Pennsylvania for the Auditor General. She stated there will be fusion from C2 to T2. She stated she could become a paraplegic. Ms. Kirk asked if she is able to care for herself at the present time, and Ms. Warren stated she is not 100%. Ms. Kirk asked if she can take care of her daily needs as to washing and dressing, and Ms. Warren stated she cannot 100%. Ms. Kirk asked her if she needs care for that, and Ms. Warren stated it is hard to manage. She stated the brain injury waiver is for her son only and not for herself. Ms. Kirk stated the request that she has for tonight has to do with her son's care, and Ms. Warren agreed.

Ms. Kirk stated that based on the Application she is asking that a State provider reside at the property, and Ms. Warren stated this is correct 24/7.

Mr. Koopman stated he is present on behalf of the Township who wishes to be a Party. He stated it is his understanding that the Application seeks approval for boarders and is not a request for caregivers. He stated this was the presentation made at the Planning Commission meeting. He stated it may be that there is a need for caregivers to take care

of her son, but this was not the request as was ultimately determined at the Planning Commission meeting; and the request is for boarders who would live and reside on the premises and pay Ms. Warren for the room and board. He stated the testimony was that because of her son's condition and her condition, she needs additional income.

Ms. Kirk stated she is asking questions of the Applicant based on the specific information provided in the Application. She stated based on the information in the Application it states that "there are two adult disabled persons with hardship, medical, and financial needs, an adult son who is brain injured needs caregivers daily, variable hours, seven days a week due to catastrophe, medical illness, and mother's disabilities and inability to work." Ms. Kirk stated it lists the Pennsylvania provider will be Vital Support workers from a facility in Philadelphia. Ms. Kirk asked Ms. Warren if she is reading the Application correctly, and Ms. Warren stated that was the case, but it has now changed. Ms. Kirk asked Ms. Warren what she is asking for that has changed from the time the Application was submitted. Ms. Warren stated the contractor/sub-contractor from the State under long-term limit is now going to be Interim at Oxford Valley Mall. She stated the case management is Infinite, and they are out of Bustleton Pike, Philadelphia.

Ms. Kirk asked if someone will live at her house to provide care, and Ms. Warren stated there will be people overnight. She stated the people will be there 24/7.

Mr. Koopman stated she is also asking for boarders, and Ms. Warren agreed she was possibly for financial reasons. Mr. Koopman stated the Application also asks for boarders under the Ordinance. He stated the Application is far from clear, but the Application requests a Special Exception under 200-24B(7) which is for boarders. Mr. Koopman stated he does not feel the Township would be participating if the issue was Ms. Warren just needed someone to come in and provide care for her son. He stated their understanding is she is applying for boarders as that term is defined in the Ordinance and not caregivers for her son.

Ms. Kirk stated this is what she was trying to determine because the Application's description of what is being sought says it is a medical caregiver for an ill occupant, but the Section cited deals with boarding; and she was trying to determine what Ms. Warren was asking for.

Mr. Koopman stated at the Planning Commission meeting they did eventually get to a point where Ms. Warren indicated that what she wanted was the approval from the Zoning Hearing Board for boarders in the traditional sense of someone who boards at the home and pays a fee to her in compensation for being permitted to board there.

Mr. Bamburak asked Ms. Warren if this is correct, and Ms. Warren stated at this point it is correct. Mr. Bamburak stated she is asking for a Special Exception for boarders – people who will pay to live at the house who will not be official caregivers supplied by one of these agencies. Ms. Warren stated they may be. Mr. Bamburak stated if someone needs care 24/7, caregivers can come and go all day as caregivers, but they would not maintain that as their residence. Ms. Warren stated they may have to sleep there.

Mr. Bamburak stated this is different if they are a caregiver, but what she is proposing is that people would pay her to live in her home; and Ms. Warren stated this is correct in the future.

Ms. Warren stated she admits that there have been some in the past; and because of her disability someone has to watch her son because he wanders. She stated it cost from one insurance alone \$118,000, and \$424,000; and she has all of the documentation. She stated her costs one year were \$42,000, and she is not working.

Mr. Bamburak stated the issue is not the medical bills, and the issue is that she is looking to use the property as a boarding house where people will pay her to live there. Ms. Warren stated they would have to be professionals. Mr. Bamburak asked what kind of professionals, and Ms. Warren stated they would have to be screened at this point. Mr. Bamburak stated they would not necessarily be doctors she would be renting to who would be providing care, and Ms. Warren stated they may be as they have been in the past. Mr. Bamburak stated the point is that she is asking for boarders, and Ms. Warren stated for this future this is correct. Mr. Bamburak stated it would have to be in the future since she does not have permission to do so at the current time, and Ms. Warren agreed.

Mr. Bamburak stated they recognize that her son needs medical care 24/7, and this is not for the Board to debate. He stated the issue is the boarders she is looking to have there solely for the purpose of income. Ms. Warren stated it would be income or exchange. Mr. Bamburak stated they are considering this as income.

Ms. Warren stated in 1986 when she did work and traveled and had her sick son, she had student teachers at her home. Mr. Bamburak stated that was in 1986 and they are not going back and discussing that. Ms. Warren stated she would have boarders for pay as long as they were screened. Mr. Bamburak stated this would be up to Ms. Warren to establish whatever requirements she would have for these boarders.

Ms. Kirk asked how many boarders she is requesting to be able to have at the property, and Ms. Warren stated she would request two in the future. Mr. Bamburak stated she keeps saying “in the future,” and he asked if there is something happening currently at the property in terms of boarders; and Ms. Warren stated her cousin is there and this was written into the document. She stated he is a teacher at Trenton High School.

Mr. Bamburak stated she therefore has one person living in the house as a boarder, and Ms. Warren agreed.

Ms. Kirk asked how many rooms she has at the home, and Ms. Warren stated she has four bedrooms and two bathrooms up; and her son is on the first floor because of his limitations and torn ligaments to his leg and because he sometimes has a boot cast. He is on the first level with a powder room. Ms. Kirk stated there are four bedrooms and two bathrooms on the second floor, and Ms. Warren agreed. Ms. Warren stated the basement was finished in 1986 and she dealt directly with the Vice President of Realty for all sixty-seven homes in Yardley Oaks punch list and some of their personnel did some of the work in her basement. Ms. Warren stated the basement is 1,300 square feet. Ms. Warren stated at the time she was dealing with the Township with Mr. Dillon and the solicitor and there were meetings at her house with Realty Engineering, the builders of Yardley Oaks and several other developments.

Ms. Kirk stated the focus should be on what she is asking for now and not what happened in the past. Ms. Kirk asked where would the proposed boarders occupy; and Ms. Warren stated it would be the bedrooms on the second floor. She stated there is no heat in the basement. Ms. Warren stated her son took over the living room, and she put door on the living room and many of the houses have that in Yardley Oaks.

Ms. Kirk asked what the boarders would use for cooking, and Ms. Warren stated they would use her one kitchen where she has microwaves. This is on the first floor. Mr. Koopman asked if there is any other kitchen, and Ms. Warren stated downstairs there is a galley, but it does not have any appliances. She stated Mr. Habgood went through the property last week. She stated there is no stove or anything. She stated it was her kids' party room. She stated her youngest is a doctor right now and her daughter teaches special needs children.

Ms. Kirk asked Ms Warren if she owns the property, and Ms. Warren stated not full and outright. She stated her ex-husband has his condominium investment property in Makefield Glen so she does not own the home outright. Ms. Kirk asked if her ex-husband is aware of this Application, and Ms. Warren stated he is. Ms. Warren stated he is a Federal employee of the EPA in Philadelphia.

Ms. Kirk asked Ms. Warren to tell the Board what she intends to do to acquire the boarders. Ms. Warren stated at this point she will probably recruit background checks in hospitals and nursing schools because her son is always in need of care. Ms. Warren stated she was in nursing for a year before she had to drop out. Ms. Warren stated she has two other Degrees. Ms. Warren stated she would use firms that basically have IT people from other Countries. She stated the reason for this is because her daughter-in-law is a nurse practitioner, and she is Chinese-American. Ms. Warren stated she has always had people of different Nationalities in her house, visiting, etc.

Mr. Bamburak stated the Applicant indicated she would like to have two boarders, and he asked what has to be proven in a Special Exception case. Ms. Kirk stated the minimum net lot area must be 16,000 square feet. Ms. Kirk asked Ms. Warren the size of the house, and Ms. Warren stated including the finished basement it is over 3,000. Ms. Kirk stated she is asking about the lot size, and Ms. Warren stated it is 18,000. Ms. Warren stated the house is approximately 2,700 square feet on the first and second floor and 1,300 in the finished basement.

Ms. Kirk asked Ms. Warren if she is going to construct any additional rooms for the purpose of boarders at the property, and Ms. Warren stated she is not.

Ms. Kirk stated all of the proposed boarders will live in the main house, and Ms. Warren agreed. Ms. Kirk asked Ms. Warren if she has any accessory buildings or structures at the property, and Ms. Warren stated there is a dilapidated shed. Ms. Kirk stated she assumes the shed is used for storage only, and is not livable space; and Ms. Warren stated it is for storage of a snow blower and lawn mowers.

Ms. Kirk stated she will not have separate cooking facilities, and Ms. Warren stated she will not.

Ms. Kirk stated she is a full-time resident of the property, and Ms. Warren stated she is except when she travels with her son for medical reasons.

Ms. Kirk stated as far as the Special Exception standards, Ms. Warren needs to provide information to the Board that this “use conforms with the spirit, purpose and intent of the Township’s Comprehensive Plan.” Ms. Warren stated she believes that she has accomplished that in working with Mr. Nuzzolo, Superintendent, in the past. She stated she also spoke to him this past week with regard to the accomplishments they had done in the Lower Makefield Township School District.

Mr. Bamburak stated this does not relate to how her plan of having this as a boarding house corresponds with the Township’s Comprehensive Master Plan. He asked Ms. Warren if she is familiar with this document, and Ms. Warren stated she has not seen the Plan in years because she was living in Charlotte for a number of years.

Mr. Bamburak stated her proposal has to correspond with the objectives laid out in the Comprehensive Master Plan, and since she did not look at it, she would not know if the Township has any idea that they would like to have boarders in this kind of neighborhood. Ms. Warren stated she understands the neighborhood since she was there in 1986. Mr. Bamburak stated they are discussing the document as it is today, and Ms. Warren stated she does not have a copy of the scope and she would like to get a copy of this. Mr. Bamburak asked that she request a copy from the Township or she could also get it from the Township Website. Ms. Warren stated her computers are down.

Ms. Kirk stated she needs to show that the proposed location of the use is suitable with respect to effects on traffic and with respect to adequate access arrangements to protect major streets and highways from undue congestion and hazard. Ms. Warren stated she is on a corner, and she has a four-car driveway at this point. She stated there is at least 105' in front of her house, and possibly 100' on the side.

Ms. Kirk stated there needs to be adequate sanitation and public safety provisions. Mr. Kirk asked if she has public water and sewer at the property, and Ms. Warren stated she does. Mr. Bamburak asked if the prospective boarders would be required to keep their own bedrooms clean, and Ms. Warren stated they are and there is plenty of equipment. Mr. Bamburak asked where they would dispose of their trash, and Ms. Warren stated it is maintained. She stated they would take it to the trash can and put it out to the curb; and sometimes this is done by her son. She stated the trash cans are outside in the main area on a side area which you cannot see from the street.

Ms. Kirk asked what effects the proposed boarding will have on the neighborhood. Ms. Warren stated in the past apparently they were not the kind of people the neighbors would have liked; however, in the future since she is now scanning her network and is in the area as opposed to being in North Carolina, she hopes to build a network of professionals. She stated she has a sister in Jamison who is a computer expert and has her own company, and her other sister in Florida works for Nassau as a computer expert and will be moving back.

Ms. Kirk asked Ms. Warren if there is anything else she would like to tell the Board as to why her request for a Special Exception should be granted. Ms. Warren stated with loss of employment due to injury, she has maintained contacts with multiple contacts even in North Carolina working with the disabled; and they are putting in special services for parents with autistic children in Churches, and she has had the "iron curtain" pulled back and you see people with neuro/psych entomology from environmental illnesses. She stated it is medically induced. Mr. Bamburak stated she needs to focus on the property, and the question is why should she be granted the Special Exception and how it will not effect the neighborhood.

Ms. Warren stated she started the first progressive dinner in Yardley Oaks, and she is trying to keep a low profile because she is on the road a lot with her son and she has to go to Baltimore – Johns Hopkins soon and will be at Presbyterian. Mr. Bamburak stated the boarders will then be left in the house without her supervision, and Ms. Warren stated her cousin is there. Mr. Bamburak stated she is the property owner, and she is the one who is responsible; and Ms. Warren agreed.

Mr. Bamburak stated he understands that she has done a lot of wonderful things, but she needs to confine her comments to the property.

Mr. Bamburak announced that the Board normally has a curfew of 10:00 p.m.

Mr. Koopman stated he has a number of questions and he feels the residents have testimony and questions as well. He understands that an attorney is also present who may be acting on behalf of some of the neighbors who are opposed to the Application. Mr. Koopman stated he estimates that he would have approximately one half hour of cross-examination and then the residents will probably wish to speak so he does not feel they will be able to complete the Hearing before 11:00; and Mr. Bamburak stated he feels they will have to continue this Hearing to another night.

Ms. Warren stated the reason the attorney is here is probably with regard to the last meeting. She stated her son hemorrhaged for four to five hours due to the fact of neighbors and his brain injury.

After discussion Mr. Bamburak stated the Board has agreed to listen to public comment at this time as they understand there is a lot of information the public would like to present so they will do this first as opposed to having Mr. Koopman cross examine at this time, and Mr. Koopman stated he had no objection to this. Mr. Bamburak asked that those speaking eliminate repetitious comments as the Board understands that there are a lot of strong feelings. Ms. Kirk stated having public comment will give the residents an opportunity to speak at this time so that if they chose not to come to the next Hearing, they would not have to do so.

Mr. Neil McKeon, 1474 Overlook Road, was sworn in and requested Party Status. Mr. McKeon stated he is speaking on behalf of a number of people that feel this Application has been misrepresented. He stated this is not for her son's medical needs, but is to create income for the family. He stated they have dealt with this for over two years where there have been multiple boarders. He stated they have Craig's List advertisements from the last two years. He stated copies were provided to the Township, and Mr. Smith stated they were included in their packet. Mr. McKeon stated it superficially asks for up to eight boarders for this property, so when they were told that there are four bedrooms and one additional bedroom on the main floor, what was omitted is that there are three additional bedrooms that were built in the basement. He stated there was also a bathroom facility built in the basement as well as dining facilities built in the basement. He stated this was all admitted to at the Planning Commission meeting.

Mr. McKeon stated the neighbors have public safety concerns. He stated the Craig's Lists advertisements show that they are requesting people who are working full-time so obviously it would not be someone coming in to provide medical assistance. He stated the advertisement is asking for transient people to come and board in this property.

He stated the property is also the location of three different school buses, and he does not want his children standing on a school bus stop where there could be up to eight transient people living. He stated he does not know whether these people are properly registered so they can identify if there are any issues with them. He stated he was notified by another resident in the neighborhood that he was able to identify one of the tenants who has an extensive criminal record, and these are the types of people that are residing at the property. Ms. Warren stated they are not.

Mr. McKeon stated in terms of the overall wellbeing of the neighborhood, they have provided pictures of how tenants were parking in the street with commercial vehicles. He stated they have also seen people passed out in the front yard, and there have been multiple Police incidents at this house. He stated this past year, they have noticed at least six to eight Police incidents at this property. He stated this is not a request to have two boarders stay there, but is a request to run a boarding house in a Residential neighborhood; and they have turned a four-bedroom house into an eight-bedroom boarding house. He stated he feels it has been misrepresented, and he wanted to make sure that the Board understood what has occurred and what will probably continue to occur.

Mr. McKeon asked that the Board not only deny the Special Exception but also identify some ways that this can be enforced since the neighbors have been identifying this as an issue for at least six months, and nothing has been done.

Ms. Warren stated there are two cars in the driveway.

Mr. Moffa asked Mr. McKeon if he witnessed any of these Police incidents; and Mr. McKeon stated he has. Mr. McKeon stated one of his neighbors had called the Police because of a domestic incident within the street in front of the property. He stated the most recent incident was when Ms. Warren and her son went to one of his neighbors' houses the night of the last meeting at 12:30 a.m. and Ms. Warren was stating that they were "killing her son" because of the stress or trauma the neighbors were creating in the neighborhood.

Mr. Moffa asked what the effect is on the neighborhood of having the boarders. Mr. McKeon stated they have safety concerns as he has three young children, and he is concerned with having people who are probably not registered in the way they should be. He stated in terms of property values, he feels that having a boarding house three houses down from his house will devalue the value of his property. He stated he is most concerned with having a transient boarding population in that house.

Mr. Doug Behan, 1491 Overlook Road, was sworn in and requested Party Status. Mr. Behan stated he lives next door to the Applicant. He stated they all feel very strongly about this. He stated they have been tolerant of this property for several years. He stated there have been boarders living there, and this is a business. He stated it got out of hand, and they have not been good stewards of this property. He stated the property is in disrepair, and there have been some very strange people living there. He stated there have been animal enclosures full of dogs and cats built next to his home. He stated there has been a long series of mismanagement of this property. He stated if there was permission given to have boarders again, it would go back to that condition. He stated this has already severely effected their quality of life. Mr. Behan stated there are cars all over the street, and there have been drunken incidents outside. He stated he has talked to some of the tenants who have been living there, and they have been living in the basement, and he was told there is a kitchen down there. Mr. Behan stated they have also talked about the house inside being a “mess,” with garbage and hoarding. Mr. Behan stated there has been no noticeable garbage collection at the property for years. Mr. Behan stated what he has been told and what he has witnessed is that garbage is being carried out in the vehicles in the middle of the night and being brought somewhere. He stated there is no street collection at this point.

Mr. Behan stated he agrees that there are probably physical and mental health issues in this family and the need for income is real, but to have this become a business would be very detrimental to the community; and this is not a good precedent to set.

Ms. Warren stated she wants to address something regarding income, and Mr. Bamburak stated the issue is not income, it is whether a boarding house is allowed. Ms. Warren showed paperwork from Interim Healthcare of Lower Bucks. Mr. Bamburak stated they do not need to hear testimony about her income. Ms. Warren stated this is \$100,000 paid by the State. Mr. Bamburak stated the issue is not about money. Ms. Warren stated it is to provide twenty-four hour care which is required. Ms. Kirk stated that is not what the Application is about.

Ms. Karen Merrigan, 1482 Overlook Road, was sworn in and requested Party Status. She stated she wanted to make sure that the Board was in possession of the packet that they gave to both the Planning Commission and the Township Supervisors which included the original complaint dated 7/11 which outlines a lot of their safety concerns. She stated the complaint was filed at the height of the tenant issues which have since subsided.

Ms. Merrigan stated this week Derrick Warren distributed in their neighborhood a card showing that he is operating a business for snow removal, and she asked that this be entered into the record because she feels this contradicts some of Ms. Warren's testimony about medical issues. Ms. Warren asked Ms. Merrigan if she has dealt with a brain-injury; however, Mr. Bamburak stated Ms. Warren cannot cross-examine Ms. Merrigan at this time as this is Public Comment. Ms. Warren stated her son has brain injury. Mr. Bamburak stated that is not what this Hearing is about.

Ms. Kirk stated she has been handed a business card that says, "Derrick L. Warren Rick's Snow Removal;" and this was marked as Exhibit KM-1.

Ms. Warren asked that a gentleman that knows her son be permitted to come in, and Mr. Bamburak stated currently they are doing Public Comment. Ms. Warren stated that basically he knows her son.

Ms. Merrigan stated she wants to make sure the Board has the packet she referred to. Ms. Kirk stated Exhibit B-4 is the memo issued by Nancy Frick to the Zoning Hearing Board as to the Planning Commission's recommendation which includes a three-page letter signed by various neighbors that was directed to the Planning Commission. She stated with that is a two-page document entitled, "Petition Opposing the Granting of a Special Exception for 1499 Overlook Road." Ms. Kirk stated a copy of the Application was enclosed with a copy of the Site Plan. She stated there was also a multi-page letter starting out with, "We are seven families in the Yardley Oaks Development. We are writing to express concerns regarding this property owned by Ms. Warren." There is also a letter from Ms. Warren to the Township directed to Mr. Habgood in response to his letter of July 15. There is also a copy of a letter issued to Ms. Warren dated August 8, 2011 by the Township regarding the request for a Special Exception. There is also a letter dated September 12, 2011 to Ms. Warren from the Township with respect to information or notice regarding the Application for boarders, and a requirement that she needs to come to the Zoning Hearing Board. There is another letter dated September 22, 2011 from the Township to Ms. Warren as written confirmation of a telephone call that occurred. There is also a letter dated October 17, 2011 from the Township to Ms. Warren regarding a prior notice and a subsequent letter sent to her about using the property as a boarding house. There are copies of two photos and what appears to be a variety of print-outs from various Websites referencing the property and what appears to be advertisements for house sharing. There is also a copy of the pertinent Section of the Township Code with respect to uses permitted in the R-3 Residential District where the property is located.

Mr. Eric Knight, 239 Emerald Drive, was sworn in. Mr. Knight stated he would like to speak to the quality of the tenants and the concern for the safety of the neighborhood. Mr. Knight stated he was able to pull records up for one of the tenants that was living at the property in September, 2011 and their criminal history consisted of weapons possession, false imprisonment, and assault with a firearm. Mr. Bamburak asked how he obtained this, and Mr. Knight stated it was public record.

Ms. Warren asked for the name of the person. Ms. Kirk stated since this is a matter of public record, it was for a person who was identified as Robert Andrew Lens. Ms. Kirk stated this is a twenty-three page document, and it was marked as Exhibit EK-1. Ms. Warren stated Dr. Lens lived in New Hope, PA and Chalfont and then Feasterville. She stated he is currently in Philadelphia. She stated he is a Doctor of Psychiatry from California.

Mr. Bamburak asked Mr. Knight how he knows this person lived in this house, and Mr. Knight stated it is based on the public record and it listed that address as his residence. Ms. Warren stated he was not there, he was just having his mail sent there. She stated she is also testifying in Court in Doylestown regarding two elderly women regarding Dr. Lens.

Ms. Ann Gerrity, 1459 Overlook Road, was sworn in and stated she has lived in the neighborhood as long as Martie has, and the property has been in disarray many, many times. She also does not understand why a single-family home has three mailboxes. Ms. Warren stated she has permission for this from back in 2000. Ms. Gerrity stated the property has been in disarray, the grass has not been cut, and it is bringing down the property values.

The public comment was closed.

Mr. Bamburak stated given the late hour, they will have to continue this matter. It was noted the next meeting of the Zoning Hearing Board will be Wednesday, January 4, and Ms. Warren was asked if she could return at that time; however, Ms. Warren stated she was not sure because of her son's calendar. Mr. Bamburak stated the next available date following that would be February 7. Ms. Warren stated she does not know at this time if she would be available then either. Mr. McKeon stated there is concern that this situation is going to continue. He stated there is currently a boarder at the property. Mr. Bamburak stated they have to take all of the testimony, and attorneys want to ask questions as well. He stated they want to bring the cases to a close as soon as possible, but they need to follow the process. Mr. Bamburak stated he appreciates that Ms. Warren has medical emergencies and it is difficult to plan, but they have to continue this to a date certain. It was agreed to continue the matter to the date certain of January 4; and if they do not hear from the Applicant with a written request for a continuance, they will proceed with the Hearing on that date.

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Mr. Smith moved, Mr. Zamparelli seconded and it was unanimously carried to Continue the matter to January 4, 2012.

There being no further business, Mr. Smith moved, Mr. Zamparelli seconded and it was unanimously carried to adjourn the meeting at 10:25 p.m.

Respectfully Submitted,

Paul Bamburak, Chairman