

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – OCTOBER 4, 2011

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on October 4, 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

Others: Robert Habgood, Code Enforcement Officer
 Vince Magyar, Township Solicitor
 James Majewski, Township Engineer (joined meeting in
 progress)
 Barbara Kirk, Zoning Hearing Board Solicitor

Absent: Dan McLaughlin, Supervisor Liaison

APPEAL #06-1372 – PETER ORLOFF AND JOY GRACE

It was noted that Mr. Orloff and Ms. Grace were not present at this time. Mr. Habgood stated they were sent a letter that their Appeal was scheduled for this evening. The matter was tabled at this time.

APPEAL #11-1590 – DARIUSZ CZERNIAK

Ms. Kirk stated they had previously marked documents as Exhibits, and since then they have received a Site Plan for the property at 1173 Temple Drive which was marked as Exhibit A-9.

Mrs. Czerniak was present. Mr. Bamburak stated the Board still has questions about the recently-submitted Plan and asked if a professional prepared it. Mrs. Czerniak stated it was not prepared by a professional, but was prepared by one of her friends. Mr. Bamburak stated it appears there are some things that are missing, and he asked Mrs. Czerniak if she has a sidewalk leading up to the front of the house. Mrs. Czerniak stated she does have a sidewalk, and Mr. Bamburak stated this is not shown on the drawing. Mr. Bamburak stated this is the kind of thing that has to be shown on the

drawing. He stated everything that is on the property has to be on the drawing. Mr. Bamburak stated at the last meeting the Board indicated she would have to hire someone to prepare this as they have been meeting about this matter for months, and they are not getting all the details they need.

Ms. Kirk stated based on the information that has been provided by the Applicant the Board could move forward and render a Decision as opposed to continuing it again. She stated this was originally before the Board on June 7, and carried until July. Because there was an issue as to whether the Applicant had received notice, they carried it until August, and it was continued again until August 16 when additional drawings were submitted.

Mr. Bamburak stated he indicated to the Applicants at the last meeting that they would need to hire someone who knows how to prepare these types of plans as apparently her friend does not know how to do this.

Mr. Gruen asked what is missing. Mr. Bamburak stated there is no sidewalk shown to the front door, and Mrs. Czerniak has indicated that they do have a sidewalk.

Ms. Kirk stated the Board did receive documentation from the Applicant at the last Hearing setting forth calculations as to the lot size, house square footage, driveway, walkways, the patio, and the shed.

Mr. Majewski joined the meeting at this time.

Mr. Habgood stated he did review the information that was most recently submitted, and from what he was able to determine from the information shown on Exhibit A-9 represents 25.9% impervious surface for the property, and the permitted amount is 18%.

Mr. Bamburak stated a driveway addition was added, and they cannot tell from the information submitted how much of the addition caused this overage.

Mr. Gruen asked if they could ask the Building Inspector to go out and check out the property, and Ms. Kirk stated it is not the Board's responsibility to do the calculations for the Applicant as they are the ones requesting the Variance. She stated the Applicant should be prepared to submit all the relevant information for the Board in order for them to make a determination as to whether the Variance should or should not be granted. Mr. Gruen asked how they know what it is accurate unless they have the Building Inspector check it out since so many times they have submitted things that are inaccurate. He stated even if they submit something next month that has the sidewalk, he still does

not have the faith that it is correct. Mr. Bamburak stated the Board is to act on the information that is presented and it indicates in the packet of information to the Applicant that they have to provide enough information for the Board to make a decision. He stated he clearly advised the Applicants at the last Hearing that they needed an accurate Plan, and they already know that the sidewalk is missing on the most recent submission.

Mr. DosSantos stated the sidewalk was shown on the initial drawing, but there were no dimensions. Mr. Bamburak stated they therefore know that the most recent submission is not accurate.

Mr. Bamburak stated currently they are at 25.9% impervious surface not including the sidewalk. He stated there is also no scale on the drawing.

Ms. Kirk stated based on the documentation provided by the Applicant at the last Hearing setting forth the calculations, it came out to almost 29.5% based on the numbers the Applicants themselves provided. Ms. Kirk stated the Application was submitted to the Zoning Hearing Board based on action taken by the Township for the construction of the driveway expansion that led to the overage of impervious surface coverage. She stated the Applicant is seeking a Variance to allow that driveway expansion to remain and increase the impervious surface coverage. She stated it would be within the Board's purview to grant or deny that specific Application; and if there is a denial, the Applicant would be required to remove the extra driveway that was put in without the appropriate Permits or Board approval. She stated the Application specifically dealt with the driveway expansion, and the Application sets forth that the driveway was expanded by 300 square feet.

Mr. Gruen asked Mrs. Czerniak when they purchased the home, and Mrs. Czerniak stated it was purchased eight years ago. Mr. Gruen asked how much they have added and whether it was just the driveway. Mrs. Czerniak stated the driveway is not finished yet; and though they did add some, they could take it off and stay with the original driveway. Mr. Bamburak stated Mr. Gruen was asking if they added anything else besides the driveway. Mr. Bamburak asked if the shed was there when they bought the house, and Mrs. Czerniak stated they added the shed. Mr. Bamburak asked if they obtained a Building Permit for the shed, and Mrs. Czerniak stated she did not. She stated she called the Office and asked if they needed a Permit for the driveway, and they said they did not. Mr. Gruen stated this is true if they are just re-paving it, but if they enlarge or change anything, they need a Permit. Mr. DosSantos asked if they have added anything to the original driveway, and Mrs. Czerniak stated they added a little bit for a basketball court. Mr. Bamburak stated he assumes it is not finished, and it is just stone and not asphalt; and Mrs. Czerniak agreed.

Mr. Bamburak stated he assumes that if the Variance were denied, and that piece were removed, the matter would be moot; and Ms. Kirk agreed. Mr. Bamburak stated they could grant a Variance for 25.5% or not grant the Variance; however, Mr. Gruen stated this is the problem he has because they are not sure whether it is 25% or 29%.

Ms. Kirk stated what is in front of the Board is the Application for increased impervious surface because of the driveway expansion by the Applicant of 300 square feet. She stated the Board could deny the Application as submitted, and then it would be up to the Applicant to restore it back to the correct percentage.

Mr. Gruen stated he has a feeling that these people do not know how to go about this, and Mr. Bamburak stated this is why he asked that they have a professional do it for them. Mr. Gruen stated he would advise them to get a professional as there is mitigation that could be done to mitigate the extra impervious surface. He stated he would like to give them one more Continuance so that they could come with a professional and not a friend. Mr. Bamburak advised Mrs. Czerniak that the Board is still not satisfied with what has been provided. He stated they would have to hire a paid, licensed professional who would draw the map and come to the Zoning Hearing Board with the Applicants and convince them that what has been submitted is correct. Mr. Bamburak stated the Board is trying to do a good job; but without a good map, they do not feel comfortable making a decision. He stated she could request one more continuance and come back with a good map which will require them to pay someone to do, and they should come with the Applicants to the Board to explain the map and hopefully the Board would then have enough information to take a vote.

Mr. Smith stated he sees other issues on the Site Plan that may require additional Variances, Permits, etc.; and he feels even if they come back with an accurate Site plan there will be amendments that will need to be made to the Application. He particularly noted the shed setbacks. Mr. Bamburak stated a professional would provide this information, and agreed they may then have to amend the Application.

Mr. Magyar stated the Township is taking no position in this matter.

Mr. DosSantos moved, Mr. Gruen seconded and it was unanimously carried to continue the matter to November 1 for the Applicant to get the appropriate drawings and come before the Board with the understanding that no additional continuances will be granted.

APPEAL #06-1372 – PETER ORLOFF AND JOY GRACE

Mr. Peter Orloff and Ms. Joy Grace were present and were sworn in.

Ms. Kirk stated she reviewed the documentation that had previously been submitted. She stated there was an Application which was marked as Exhibit A-1 and a Plan submitted that was marked as Exhibit A-2. There was also a letter issued by the Township Manager to Ms. Grace on 5/29/07 setting forth results of a preliminary engineering report, and this letter had been marked as Exhibit A-3. Ms. Kirk stated at one of the meetings there was a report provided from the Natural Resources Conservation Service setting forth detailed plans for the Brock Creek rip rap, and this had been marked as Exhibit A-4. Ms. Kirk stated the Board had labeled a variety of letters from B-1 through B-7 setting forth continuance requests by the Applicant.

Ms. Kirk stated this Application was filed in 2006; and at that time, she was a member of the Zoning Hearing Board and heard part of the Application. She stated she is now the Board's attorney, and she asked if this would cause any issues for the Mr. Orloff or Ms. Grace; and they indicated that this was not of concern.

Ms. Grace stated the last time they were present it was about funding, and her husband had indicated that he was not willing to spend the money. Mr. Orloff stated at that time there was a possibility that he was going to be laid off; and since that time he was laid off from BMS, and the funds are not available to do the work. He stated there has also been a hurricane and a tropical storm which resulted in an inspection and investigation by FEMA as of last Saturday so this complicates the situation.

Ms. Grace stated they need the Township to decide what is the best use of this property and what can be done with it for the community whether it be a park or it gets raised. Mr. Bamburak stated that is not within the purview of the Zoning Hearing Board. Ms. Grace stated she does not know why they are present this evening other than because they have an appointment. She stated she does not have a house so she questions why they would fix the creek.

Ms. Kirk stated in 2006 what prompted the filing of the Application is that at the time there were flooding issues and there was removal of trees on the property with the possibility of removal of additional trees, and this triggered a letter from the Township indicating that they were not permitted to remove the trees or disturb the floodplain where the creek was running. The Township also had concerns at that time that from the trees that were already removed, it would create further erosion along the creek beds; and this prompted the filing of this Application before the Zoning Hearing Board to get approval from the Zoning Hearing Board to allow the Applicants to have removed the trees and the possibility of removing additional trees. Ms. Kirk stated from that

generated a conversation that the Applicants should go to the Bucks County Conservation District to seek assistance in trying to restore the creek beds back to a condition as close to the original before they removed the trees. She stated since then it has been in a holding status.

Ms. Grace stated she did not remove any trees in the creek bed. Ms. Kirk stated they removed trees from within the floodplain, and Ms. Grace agreed. Ms. Grace stated now the floodplain area is full of trees that came down off the eighteen acres of Township land behind them. She stated now there is more trees, more trash, and more debris.

Mr. Bamburak stated they applied for the Variance to get an okay for what they did a number of years ago.

Ms. Kirk stated she would recommend at this point that if there has been natural growth in the floodplain that has replaced those trees and other shrubbery that had been removed, maybe the best course of action is to ask Mr. Orloff and Ms Grace to bring some pictures to show the area where they had done the original clearing and what is there now. She stated the Board may then be able to render its decision based on that. She stated by virtue of the passage of time, things may have been restored back to close to the original condition.

Mr. Orloff agreed to take pictures.

Ms. Kirk told him to take pictures of the sections where they had removed the trees and bring them back to show what the growth looks like now.

Mr. Bamburak asked when they would like to come back before the Board, and Mr. Orloff stated he would like a few months especially since FEMA is now involved.

Ms. Kirk stated they should take the pictures now because with cold weather, the conditions may look different in a few months.

It was agreed to continue the matter to November 15.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to continue the matter to November 15.

APPEAL #11-1604 – JULIE AND WES SCHEIRING

Ms. Kirk stated she received a letter from Mr. Murphy, attorney for the Applicants, dated 9/26/11 requesting that the Application scheduled for tonight's Hearing be continued in that the property owners have hired a project engineer and a project architect to work on the proposed Plans that would possibly resolve some of the issues. Those documents are not yet finished, and they asked that this be carried to the Zoning Board Hearing of November 1 in anticipation that everything will be finished by that time. The letter from Mr. Murphy was marked as Exhibit A-9.

Mr. Smith moved, Mr. DosSantos seconded and it was unanimously carried to continue this matter to November 1, 2011.

APPEAL #11-1606 – PETER AND IRENE TARASOV

Mr. Peter Tarasov was present and was sworn in. Ms. Kirk stated Mr. Tarasov had presented a series of photos that the Board has accepted as Exhibit A-4 showing the area where the shed is located and what the interior of the shed looks like for their personal storage. Ms. Kirk stated the resident next door to Mr. Tarasov had expressed concern about flooding and the way the water pools from the shed area onto his property, and he submitted his own photos showing the height of the shed over the fence and the pooling of water. Ms. Kirk stated at that point the Board recommended that Mr. Tarasov look into potential mitigation by either seepage beds or rain barrels and asked that he speak with his neighbor who had the concerns, Mr. Petrucci. The matter was continued until today's date.

Mr. Gruen stated the Township engineer had also been asked to look at the crushed stone to determine whether it should be counted as impervious surface. Ms. Kirk stated she does not feel this was an issue before the Board as it has been a long-standing policy of the Board that if it is packed gravel, it is considered impervious. Mr. Tarasov was going to consider some mitigation and discuss with Mr. Majewski whether that mitigation plan would be appropriate for this Application. Mr. Habgood stated Mr. Majewski was asked to go out to the property, and he does have an e-mail indicating that at this time the crushed stone would not be considered impervious. Mr. Majewski stated it is clean, loose stone that water can easily penetrate though, it is not compactable, and therefore would not be classified as impervious surface. Ms. Kirk asked for a copy of the e-mail. A copy of this e-mail dated 10/3/11 confirming that the crushed stone is not considered impervious because it does allow for free drainage was marked as Exhibit B-4

Mr. Smith asked if there was an issue as to the height of the shed; and Ms. Kirk stated there had been concern as to the height of the shed, and Mr. Tarasov was supposed to verify this as well.

Mr. Tarasov stated since the last meeting Mr. Majewski did come out to the property and looked at it and determined that the crushed stone is not impervious surface. He stated they received information yesterday to the effect that there are a number of options that could be pursued in order to mitigate the water coming off the shed. He stated Mr. Majewski provided him a detailed manual on what could be done to mitigate the rainwater. Mr. Tarasov stated the direction they were planning to go was to restore the condition of the yard to what it was prior to the installation of the shed in terms of the impervious surface. He stated they would like to know if this would be acceptable or would they be required to push the impervious surface back to the 18% that it was prior to their purchase of the home. He stated they would prefer to bring it back to what it was prior to installing the shed.

Mr. Tarasov stated they would also agree to move the shed another 2' away from Mr. Petruccelli's property line to make sure that they are within the setback and still be within 10' from the water line of the pool.

Ms. Kirk stated the Code states 18% is the maximum impervious surface allowed, and 20.6% represented the actual impervious surface at the property prior to the installation of the shed. She stated with the shed, the impervious surface would increase to 21.9%, and if the crushed stone had to be included as impervious, it would have been 24.3% impervious surface.

Mr. Smith asked Mr. Tarasov what other impervious surface they have installed at the property since moving in. Mr. Smith asked how they got to 18% to the 20.6% prior to the installation of the shed. Mr. Tarasov stated 20.6% was the percentage when they purchased the home.

Mr. Gruen asked if they installed the swimming pool, and Mr. Tarasov stated they did not. Mr. Gruen asked if there was a Permit for the swimming pool, and Mr. Habgood stated there was. Mr. Gruen asked how they got to 20.6%. Mr. Bamburak stated it could have been a calculation error at that time.

Mr. DosSantos stated he understands that Mr. Tarasov is proposing remediation measures to bring the impervious surface back to 20.6%, and Mr. Tarasov agreed.

Mr. Gruen asked Mr. Majewski if he provided Mr. Tarasov with a Plan to bring the impervious surface to 18% or 20.6%, and Mr. Majewski stated he gave him a calculation of what it would be to take it back to what it was prior to the installation of the shed which was 20.6% and also a calculation to take it back to 18% although he is not sure when it was ever at 18%.

Mr. Bamburak asked Mr. Tarasov if he has an idea what he plans to do; and Mr. Tarasov stated he received the information yesterday, and there are number of options.

Ms. Kirk stated the Board could grant approval conditioned on the Applicant utilizing one of the mitigation measures subject to approval of the Township engineer to bring the coverage back to either 20.6% or 18%. She stated in this way the Applicant and the engineer could work on what would be the best method to help reduce the impervious surface effect. Mr. Bamburak stated Mr. Majewski and Mr. Tarasov would then negotiate it to whatever the Zoning Hearing Board decides.

Mr. DosSantos stated Mr. Tarasov also indicated that he was going to move the shed 2' away from the side yard setback; and Mr. Tarasov agreed. Ms. Kirk asked Mr. Tarasov if he would then withdraw the request for the side yard setback Variance, and Mr. Tarasov agreed.

Mr. Bamburak asked Mr. Tarasov if he discussed this matter with his neighbor following the last meeting, as his neighbor had indicated he had a number of concerns. Mr. Tarasov stated he did not have an additional conversation with Mr. Petrucci. He stated they did have a conversation prior to the first meeting, and Mr. Tarasov stated he feels additional trees and landscaping are a possible way to mitigate the run off because they would absorb rainwater. Mr. Bamburak stated the trees could make the shed less unsightly for the neighbor, but the Board would not be requiring this if he has agreed to move the shed in by 2'.

Ms. Kirk stated at the last meeting, Mr. Tarasov indicated he felt the height of the shed was approximately eleven feet; and she asked if he was able to verify this. Mr. Tarasov stated he did look at it after the meeting, and he feels it was eleven feet; but he agreed to double check this. Mr. Majewski stated it is definitely less than fifteen feet.

Mr. Gruen asked if Mr. Tarasov if he would be willing to reduce the impervious surface to less than 20.6%. He stated the onus was on Mr. Tarasov when he bought the property to make sure that everything was legal; however, Ms. Kirk stated this is not an accurate statement. Mr. Gruen stated he feels it is an accurate statement. He again asked Mr. Tarasov if he would be willing to reduce the impervious surface lower than the 20.6%; and Mr. Tarasov stated this is a possibility depending on the cost, and he would be willing to come to a reasonable conclusion.

Mr. DosSantos stated he assumes he has not had an opportunity to do a cost analysis of the proposals from Mr. Majewski, and Mr. Tarasov stated he has not. Mr. Tarasov stated they have already spent a significant amount of money on the shed already, and they would have to determine whether they can keep the shed or get rid of it because the cost of the remediation would be cost prohibitive.

Mr. Gruen asked Mr. Majewski if he could remedy the situation with just rain barrels, and Mr. Majewski stated he could not. Mr. Gruen stated he will have to install a dry well or some other system, and Mr. Majewski agreed. Mr. Gruen stated to reduce it from 20.6% to approximately 19.5% it would not be an astronomical change in the price, but Mr. Majewski stated to go from 20.6% to 18% would double the size of the control measures. He stated to go to 19.5% would make it 50% larger.

Mr. Bamburak suggested that Mr. Tarasov request an additional continuance to give himself time to review the control measures and the cost.

Mr. Dean Petruccelli, 849 Princess Drive, stated he reviewed the numbers; and he feels currently the property is over by 535 feet impervious surface, and with the shed he is asking for another 270 square feet which would bring the total impervious surface area to 805 square feet over the allotted amount.

Mr. Petruccelli stated he feels the shed is in violation of Building Code 297. Mr. Bamburak stated the Zoning Hearing Board does not control Building Codes. He stated they consider Zoning Codes. Mr. Petruccelli stated 297 is Variance Appeals. Ms. Kirk asked if he is looking at the Section of the Zoning Ordinance that outlines what needs to be done in order to get a Variance, and Mr. Petruccelli agreed. Ms. Kirk stated this is not the Building Code.

Mr. Petruccelli read from that Section as follows: “The Board shall hear requests for Variances where it is alleged that the provisions of the Chapter inflict unnecessary hardship on the Applicant. The Board may grant a Variance provided that the findings are made where relevant in a given case. That there are unique physical circumstances or conditions including irregularity, narrowness...”

Mr. Bamburak stated the Zoning Hearing Board is familiar with this Section.

Mr. Petruccelli read Item #3: “Such unnecessary hardship has not been created by the Appellant.” Mr. Petruccelli stated Mr. Tarasov created the hardship by putting up the shed without Permits.

Mr. Petruccelli read Item #4: “If the Variances authorized will not alter the essential character of the neighborhood.” Mr. Petruccelli stated a 22’ by 12’ shed alters the character of the neighborhood when there is no other shed in the neighborhood that has that size. He stated he has not seen a shed that size in the Township. Mr. Petruccelli stated it also states that “it will not be detrimental to the public welfare.” Mr. Petruccelli noted problems of water run off, more mosquitoes, freezing rain in the back yard, slip hazard, and water in the basement which he is getting now which creates mold.

Mr. Petruccelli stated the fifth step states, “If the Variances authorized will represent the minimum Variance that will afford relief and the least modification possible.” He stated a 22’ by 12’ shed does not seem like the minimum to afford a minimal amount of Variance, and this seems like the maximum to him.

Mr. Petruccelli stated he spoke to all the surrounding neighbors, and he noted the neighbors behind Mr. Tarasov – Ted Hoffman at 392 Ramsey, John Weber at 394 Ramsey, and Matt Wachinski, at 865 Princess; and they do not have a problem with it being moved to the far corner of the property. He stated if it were to be moved to the far corner of the property, Mr. Tarasov would not have to put trees around it or do any remediation as all the run off would remain on Mr. Tarasov’s property. Mr. Petruccelli stated he feels the whole neighborhood would be a better place if Mr. Tarasov were to move it.

Mr. DosSantos stated he would still have to take care of the remediation since he would be over the impervious surface.

Mr. Bamburak stated while the Board recognizes that Mr. Petruccelli does not like the shed next to his property line, the Variance is about impervious surface area as it is his right to put a shed where he wants to provided it is within the Ordinance requirements.

Mr. DosSantos stated one of Mr. Petruccelli’s objections was the run off, and the mitigation is to counter the impervious surface. Mr. Petruccelli asked about the oversized shed of 22’ by 12’ as it states in the Ordinance about something being disproportionate. He stated if everyone in the area has a 5’ by 10’ shed and someone puts in a 20’ shed, it is disproportionate. Mr. Gruen stated there is no Ordinance against this provided it is within the height limitation. Mr. Petruccelli stated it states that they cannot alter the essential character; and Mr. Bamburak stated it is still a residential neighborhood and residences have sheds.

Ms. Kirk stated the size of the shed itself is not at issue in front of the Zoning Hearing Board as long as the shed meets the requirements of the Zoning Ordinance as to the height which is if it is less than 15’, it does meet the requirements. She stated what is at issue is the impervious surface coverage caused by the location of the shed.

Mr. Petruccelli stated he feels the Zoning Hearing Board caters to people who come in and say they did not know they were supposed to get Permits. He stated Mr. Petruccelli is now doing what he should have done in the first place. Mr. Gruen stated they are not catering to the Applicant. Mr. Zamparelli stated they are requesting mitigation to bring back the impervious surface to what it was before the shed was there, so he is doing exactly what Mr. Petruccelli requested in this regard. Mr. Petruccelli stated he still put up the shed without any Permits. Mr. Smith stated the Zoning Hearing Board does not cater to people who do things without Permits; and Mr. Petruccelli stated it appears to him that

they do, and someone could come in and say they do not know. Mr. Smith asked Mr. Petruccelli how many Zoning Hearing Board meetings he has attended, and Mr. Petruccelli stated this is his first.

Mr. Petruccelli stated he also looked at Falls Township, and they have a limit on the size of sheds, and Lower Makefield should put this on the books. Mr. Bamburak stated

Mr. Petruccelli could go to the Board of Supervisors meeting and suggest this during Public Comment. Mr. Bamburak stated he has made suggestions to the Board of Supervisors about things that should be changed. Mr. Bamburak stated the Zoning Hearing Board does not write the Zoning Ordinance, and are tasked with coming up with reasonable ways to work around someone who does not comply with the Ordinances. He stated they do not cater to anyone, and they are residents just as is Mr. Petruccelli.

Mr. Petruccelli asked how he will insure that there will be large enough trees going around it, if the shed stays there. He stated if Mr. Petruccelli does not do it, he will have to do it and pay money to block the shed. Mr. Gruen suggested he meet with his neighbor and discuss this. He stated they cannot force Mr. Petruccelli to do anything except comply with the Ordinance.

Ms. Kirk stated depending on the action taken by the Zoning Hearing Board with respect to the Application and the Conditions imposed, if Mr. Tarasov does not abide by the Conditions, Mr. Petruccelli's recourse would be to notify the Code Enforcement Officer who will investigate this, and if necessary, file the appropriate Court action either with the local District Court or Doylestown to gain compliance with the Conditions imposed by the Board.

Mr. Zamparelli stated he had a similar situation with a neighbor, so he put up an entire hedgerow of arborvitae to block his neighbor; and he suggested that Mr. Petruccelli do the same. He stated Mr. Tarasov is proposing to mitigate the water problem.

Mr. Tarasov stated he has read that he needs to get an adequacy letter. Ms. Kirk stated there is a new Act that was imposed by the Legislature for all Municipalities that deal with the Neshaminy Creek and other watersheds. She suggested Mr. Tarasov speak with Mr. Majewski when they discuss the mitigation, and he will have to submit the appropriate paperwork to the appropriate State agencies that are now overseeing stormwater management.

Mr. Bamburak asked Mr. Tarasov if he would like to consider the additional costs further and come back before the Zoning Hearing Board. Mr. Tarasov stated he would like to do this so he has an idea of the direction he will need to go. Mr. Tarasov asked if the Board has an opinion as to the percentage they are looking for; and Ms. Kirk suggested

Mr. Tarasov look at a range from 19% to 20.6% as it does not appear that the Board is going to require him to go back to 18%. She stated he does not have to come up with a specific plan, and this would just be an estimate as to costs.

Mr. DosSantos moved, Mr. Smith seconded and it was unanimously carried to continue the matter to October 18, 2011.

APPEAL #11-1610 – THOMAS J. MACK CONSTRUCTION

Mr. Thomas J. Mack was present with Mr. Dick Jerardi, property owner, who were sworn in.

The Application submitted was marked as Exhibit A-1. A letter was issued by the Township disapproving the Application for the addition, and this letter was marked as Exhibit A-2. Also submitted was an impervious surface calculation breakdown, and this was marked as Exhibit A-3. A sheet containing four photographs of the property was marked as Exhibit A-4. A Plan of the existing conditions at the property was marked as Exhibit A-5. The Plan showing the proposed addition was marked as Exhibit A-6. Notice of the Hearing was published in the Yardley News, and Proof of Publication was marked as Exhibit B-1. Notice was posted at the property on September 16, 2011, and this was marked as Exhibit B-2. Notices were mailed to adjacent property owners in accordance with the Township's Ordinance, and the letter with the listing of adjacent owners was marked as Exhibit B-3.

Mr. Mack stated this is an Appeal from the determination of the Zoning Officer dated 8/1/11 as a result of a Building Permit Application for an addition on the Jerardi residence at Tax Parcel #20-43-56-1 located at 1705 Westover Road. Mr. Mack stated the existing lot size is irregular – 71' by 157'. The present use is a single-family residence, and the Zoning is R-2. Mr. Mack stated the improvements include a single-family residence. Mr. Mack stated the Jerardis purchased the property in 1992, and they have made no additions or changes to impervious surface under their ownership.

Mr. Mack stated they are requesting a Variance based on Section 200-23B which limits the impervious surface to 29% for the lot size of 10,000 square feet to 12,500 square feet. He stated the existing house was built in 1927. He stated there was a screened-in porch on the right side elevation of the house which is part of the front elevation structure. He stated the Application states that they are removing the porch and actually reducing the impervious surface ratio by about 1%. He stated this process started in November, and over the winter there were snow load problems and the porch collapsed. He stated currently the roof of the porch is no longer there.

Mr. Bamburak stated it appears that the porch they are repairing is in pretty bad condition. He asked if they are going to replace it with a porch, and Mr. Mack stated it will be a closed, family room addition.

Mr. DosSantos asked if the total impervious on the property is as the Jerardis overtook it in 1992, and Mr. Mack agreed.

Mr. Mack stated Mr. Habgood raised issues about the Permits for the shed and the rear walk; and Mr. Mack stated his mother still lives in the area and friends of his owned this home and the shed pad in the back was a play house at one point and was torn down by the time the Jerardis moved there. He stated they would be agreeable to removing that pad also. Currently it is just a pad and there will be equipment on the property so that they could take this pad out.

Mr. Habgood stated the home was built in 1926, and when it was built no Permits were required by the Township at that time.

Ms. Kirk stated the proposed family room addition will be approximately 334 square feet, and there will be a walkway extension of approximately 28 square feet; and Mr. Mack agreed. He stated this meets an existing walkway that goes to the porch. Ms. Kirk stated when the existing porch is removed, the impervious surface coverage will actually be reduced to 41%.

Mr. Smith asked Mr. Habgood if he has a calculation as to what the impervious surface would be if the pad were removed. Mr. Habgood stated it appears that the pad is 86 square feet so an additional 86 square feet of impervious surface would be removed. Mr. Mack stated it is .79%. Ms. Kirk stated they would then be down to approximately 40%.

There was no one present to discuss this Application.

Mr. Majewski stated he did a calculation removing the 86 square feet, and it would bring the impervious surface down to 39.9%.

Testimony was closed.

Mr. Smith moved, Mr. Zamparelli seconded and it was unanimously carried to grant the Variance in the way of allowing impervious surface of 40% and removal of the pad.

OTHER BUSINESS

Ms. Kirk stated at this point Aria is scheduled for its Hearing before Judge Fritsch on Mr. Smollow's request for the documents in response to the subpoenas previously issued, and this is scheduled for October 28. She stated until those issues are resolved, she believes the Zoning Hearing Board took the position that they did not want to hear any further testimony so she recommended to the Board rescheduling the Aria Hearing from October 18 to November 15.

Mr. Gruen stated if the Hearing is October 28, they are assuming the Judge will render an opinion immediately, and Ms. Kirk stated she is going to ask the Judge to render a decision that day. Ms. Kirk reviewed Mr. Smollow's requests before the Judge.

Mr. DosSantos moved, Mr. Zamparelli seconded and it was unanimously carried to continue the Aria Hearing to November 15, 2011.

A number of residents were present to discuss a matter that was not on the Agenda this evening; and Mr. Bamburak stated while they would not put this on the record, they could speak to the Board. After discussion by the residents, Mr. Bamburak stated when the matter is again heard by the Board, they will have public comment. Ms. Kirk stated they are asking questions of the Board this evening on an informal basis outside of the actual Application, and they should raise these issues at the actual Hearing.

There being no further business, Mr. Gruen moved, Mr. Zamparelli seconded and it was unanimously carried to adjourn the meeting at 8:30 p.m.

Respectfully Submitted,

Jerry Gruen, Secretary

