

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – NOVEMBER 3, 2014

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on November 3, 2014. Chairman Bamburak called the meeting to order at 7:35 p.m.

Mr. Bamburak noted that there are only four members present this evening, and in the case of a tie, the Appeal would be denied; and those present this evening have the option of a Continuance until such time that there would be five members present.

Those present:

Zoning Hearing Board: Paul Bamburak, Chairman
Jerry Gruen, Vice Chairman
Keith DosSantos, Member
Mark Moffa, Member

Others: Robert Habgood, Code Enforcement Officer
Mark Eisold, Township Engineer
Barbara Kirk, Zoning Hearing Board Solicitor
Kristin Tyler, Supervisor Liaison

Absent: Anthony Zamparelli, Zoning Hearing Board Secretary

APPEAL #14-1708 – EMANUEL C. BUTERA

Mr. Emanuel Butera was present with Mr. Nicholas Scamuffa, Allied Building Contractors who was sworn in.

Mr. Bamburak stated when Mr. Butera was last before the Board, they found out that they needed to have a complete flood review which was something new because of the new Zoning Ordinance, and Mr. Eisold has done this. Marked as Exhibit B-4 was the Township engineer's review letter consisting of three sheets.

Mr. Eisold noted Page 2 of his review letter which lists the three Ordinance Sections from which Variances are requested. He also noted the Zoning Ordinance Comments on Page 2. He noted Item 1 regarding Natural Resource Protection Requirements which requires 100% protection; however, he added it is also known that the porch is being elevated above the base flood elevation with a freeboard of 1.7 feet. He stated the only thing protruding below would be the four concrete piers. He stated everything above that would be above the base flood elevation.

Mr. Eisold stated Item 2 is a requirement under the Nonconformity Section, and it appears a Variance from this Section would be required; and he does not believe this was in the initial Application. He stated they are requesting a Variance from Section 200-22 but there is also another Section that indicates when there is a nonconformity, you must get a Variance from that as well. Ms. Kirk stated there was a request under the General Provision of 200-86.B(1) regarding altering a non-conforming Section, but it failed to cite this additional specific provision of B3. Mr. Eisold stated it would be up to the Board if they could expand on that.

Mr. Eisold stated Item 3 lists Conditions of Approval which would be required. He stated this would include the seven different Items under 3.a., and 3.b. through 3.h. which are reinforcing certain Sections of the Floodplain Ordinance.

Mr. Bamburak noted 3.c. discusses skirting, and he understands Mr. Butera has a sample. Mr. Scamuffa showed the lattice they planned on using which is cedar. Mr. Eisold stated the concern is that if the flood elevation would get up, it should be something that would break enough so that it could be pushed out of the way and not impede the flow underneath the porch. Mr. Scamuffa stated if the Board will allow this, they will use it; however, if the Board does not allow it, they will leave it open. Mr. Bamburak stated the concern is that with the lattice they are showing a collection of twigs, etc. could get in front of it; and Mr. Eisold stated he feels it would be safer without it. Mr. Bamburak asked Mr. Butera if he would agree to deleting the skirting, and Mr. Butera stated he would agree to this. Mr. Gruen asked about the possibility of hanging it on a hinge; however, it was noted this could be impacted by which way the water was going, and it was agreed it would be better not to have it. Mr. Scamuffa stated the space at the bottom is approximately 1 ½' so it is not a huge space to the ground, so he does not feel it matters if they delete it.

Ms. Kirk stated Item 3. of the comments raised by the Township engineer dealing with Sections 200-53 through 200-59 sets out the Conditions in Sub-Section a. She asked Mr. Butera if he will comply with all of the requirements as follows: minimizing flood damage, conformity with all other applicable Codes and Ordinances, utilities to be located and constructed to minimize or eliminate flood damage, adequate drainage, structure to be anchored to resist flotation, collapse or

lateral movement, building materials to be flood resistant, use of appropriate practices for minimizing flood damage, and that utilities will be designed and located to prevent water entry or accumulation; and Mr. Butera stated he agrees with these Conditions.

Ms. Kirk noted Sub-Section b. dealing with the base elevation, and stated Mr. Butera will keep it as set forth in the Plan so that it is at least 1.5 feet above the base elevation; and Mr. Butera agreed they will.

Ms. Kirk noted Sub-Section c. and based upon the comments from the Township engineer, Mr. Butera will eliminate the skirting around the bottom and leave the bottom of the porch open; and Mr. Butera agreed they will.

Ms. Kirk noted Sub-Section d. which indicates that structures have to be anchored firmly in accordance with accepted engineering practices and that a signed and sealed Certification by a registered professional engineer regarding those designs will be submitted to the Township; and Mr. Butera stated this is acceptable.

Ms. Kirk noted Sub-Section e. which stated that the electrical components of the proposed porch must comply with the provisions set forth in the Floodplain Ordinance, and Mr. Butera stated he will comply with this.

Ms. Kirk noted Sub-Section f., and stated Mr. Butera will not increase the Base Flood Elevation as to the construction of the porch; and Mr. Butera agreed.

Ms. Kirk noted Sub-Section g. and stated the porch will continue to be elevated as proposed and it will be flood proofed to the greatest extent possible. Ms. Kirk asked Mr. Eisold what exactly would be "flood proofing," and Mr. Eisold stated this is a general comment. He stated the materials that would come into contact with the water should be built to resist the water. He stated this would mainly be discussing the concrete piers since they are what are going to be flooded most often. Ms. Kirk stated they would have to remain as concrete pier footings or something of similar material, and Mr. Eisold agreed they would have to be something that would stand up to the flooding.

Mr. Scamuffa stated they will be, and with standard building practices now everything is mechanically fastened. He stated the concrete pier footing will be in the ground with a bolt which will be mechanically fastened to the post base which will be mechanically fastened to the beam which will be fastened to the joist so it is all tied together.

Ms. Kirk asked Mr. Butera if he recognizes that if the Board were inclined to grant the relief requested, the Variance may increase the premium rates for the flood insurance for his property; and that by granting the Variance, the Board is not warranting that there may not be any increase to life or property. Mr. Butera stated he understands this.

Mr. Gruen stated he understood that the Township was going to participate, and he asked if there are any comments from the Supervisors. Ms. Tyler stated they discussed protocol on procedures going forward on any Application within the Flood Zone, and what they are going to do is what they did in this case which is to provide an engineering review of the Application against the new Ordinance. She stated the Zoning Hearing Board will get a SALDO type letter on each Application so that Ms. Kirk is comfortable that the Zoning Hearing Board has been properly instructed as to what the new Ordinance is and so that there is some basis to determine that the Application is not running afoul of the new Ordinance.

Mr. Bamburak asked if they will set the procedure up with the Building Office so this is done before the Applicant comes before the Zoning Hearing Board, and Ms. Tyler agreed.

Mr. Gruen asked with regard to this particular Application, how does it stand in regard to the new policy since the policy was instituted to lower the insurance rates for the entire Township. Ms. Tyler stated they are not sure of the potential impacts, and it may potentially have an impact on the overall rating. She stated this is a new Ordinance, and the new program has not met its first lawsuit yet.

Mr. Eisold stated they believe that with the precautions they have discussed, they have minimized the effect, if any, of getting a decreased rating from the CRS; and they are doing everything they can with this proposal to minimize the damage and potential future negative impacts.

Mr. Bamburak asked for an explanation of the CRS, and Mr. Eisold stated this is the Community Rating System. He stated it is a National program, and the Township is working toward getting the CRS Rating; and if they are eventually included in this, it will allow for reduced premiums for the residents of Lower Makefield Township. He stated with this reduction, there are more requirements; and the Ordinance was the first part of this. He stated they are in the process of working through the paperwork to help the residents get some percentage discount.

Mr. Gruen asked if reducing impervious surface in the Township would help too or is it just if you live along the River. Mr. Eisold stated it is limiting damage in the floodplain. He stated the purpose of the CRS system is to limit FEMA's exposure to damage, and the Township is to look closely at these Applications and not allow something that is just a matter of time before there is a major loss which FEMA would have to pay out. He stated FEMA is trying to not have as much liability during these flood events.

Mr. Bamburak asked if FEMA will review the rating after a period of time and decide whether or not to increase it because the Zoning Hearing Board gave out inappropriate Variances. Ms. Tyler stated in theory this is possible. She stated they are expecting the Township and the Zoning Hearing Board to safeguard the properties within the floodplain within the guidelines of the new Ordinance. Mr. Bamburak stated it would be helpful to know what FEMA felt as to what qualified as a simple Variance. Ms. Tyler stated the Township will continue to look at these Applications; and if there is one that is a "red flag," Ms. Saylor will notify them and they will be guided accordingly. Ms. Tyler stated they need to balance common-sense Applications to allow someone to do something with their property. Mr. Eisold stated at this point they are trying to be as safe as possible and not permit something that would be "outrageous" that will go against the Township.

Ms. Kirk stated this is why at the last Hearing she asked that the Board of Supervisors approve this review process by the engineer in relation to the new Ordinance because it will enable the Zoning Hearing Board to be aware of certain nuances that may sway their decision whether to grant or deny an Application.

Mr. Moffa asked Mr. Eisold if he feels this Application based on his review does not have any "red flags;" and Mr. Eisold stated he feels that if they meet the requirements and do everything in accordance with what they say they are going to do, he feels the liability is minimal. He stated they will have four piers that will be constructed in the floodplain, and everything else will be above that. He stated what is proposed will not raise the flood water elevation.

Mr. Gruen asked who will inspect this, and Mr. Eisold stated they will make sure that it is built properly.

Mr. Moffa asked Ms. Tyler if she agrees with Mr. Eisold that this is an Application that falls more in a "common-sense type," and not one which raises a lot of "red flags;" and Ms. Tyler stated she agrees. She stated Ms. Saylor is the Township expert in this; and Mr. Eisold stated she is up on all the requirement, and she did the review. Ms. Tyler stated Ms. Saylor was present at the last meeting, and while she

was uncomfortable with it at that meeting, it was not with the resident's Application rather it was making sure that they were in compliance with the new Ordinance; and this Application appears to be. Mr. Eisold stated Ms. Saylor has put a lot of work into creating the Ordinance and working on the CRS, and she wanted to be cautious with this initially not knowing all the details.

Mr. DosSantos asked if there is any concern with plantings or shrubbery in front of the addition in that it may be a trap such as the lattice work could have been; and Mr. Eisold stated he is not concerned about shrubs since if water it coming, it will just go around or take it away as opposed to a major tree. Mr. Eisold stated he would be more concerned with something wooden or something that is solid that the water could not get past.

There was no one present in the audience wishing to speak on this Application, and Testimony was closed.

Mr. DosSantos moved, Mr. Gruen seconded and it was unanimously carried to grant the Variances with the Conditions set forth in Exhibit B-4, specifically the letter from the Township engineer beginning on Page 2 with the heading, "Zoning Ordinance Comments," Sub-Section 3 which carried over into Page 3 of Exhibit B-4.

Ms. Kirk advised Mr. Butera that he will receive a written Decision from the Township in the next few days indicating that the Application was granted subject to the Conditions. She added that in light of the "newness" of this Ordinance, he will also receive more formal Findings of Fact and Conclusions of Law from the Board setting forth specific requirements including the notice. She stated the Board has forty-five days to get this to Mr. Butera. She stated if he submits his Permits, he will be doing so at his own risk in case someone wants to make an Appeal. She feels the Board is better served in this instance by providing the more formal Findings outlining everything that was discussed at the Hearing.

Mr. Scamuffa asked if they can submit the Permit before this; and Ms. Kirk stated while they can, they should be aware that if they do this and proceed with construction before the Decision issued and the thirty-day Appeal period runs someone may file an Appeal in Doylestown, and they would be starting work at their own risk.

APPEAL #14-1709 – THOMAS SCHNEIDER, JR.

The Application submitted was marked as Exhibit A-1. A copy of the six-page Deed for the property was marked as Exhibit A-2. A memorandum prepared by Mellon Biological Services LLC was marked as Exhibit A-3. An aerial map provided by Mellon Biological Services LLC was marked as Exhibit A-4. A Variance Plan provided was marked as Exhibit A-5. Notice of tonight's Hearing was published in the Bucks County Advance, and a copy of that publication was marked as Exhibit B-1. Notice was also posted at the property of tonight's Hearing, and a copy of that Posting was marked as Exhibit B-2. Notices were mailed to property owners as required by the Ordinance, and a copy of that letter along with the list of addressees was collectively marked as Exhibit B-3.

Mr. Tom Schneider, owner of the property, was present with Mr. Robert Dumont, Real Estate Agent; and they were sworn in.

Mr. Bamburak reminded the Applicant that since there are only four Board members present this evening, in the case of a tie, the Appeal would be Denied; and they could Continue this to a time when there would be five members present. Ms. Kirk stated if it is a tie and the relief is not granted, they could re-submit an Application for re-consideration or file an Appeal to Doylestown to go through that process; and she suggested that they consult with a lawyer as to the appropriate way of doing that. She stated they could also ask for a Continuance until the next scheduled Board meeting in anticipation that all five Board members or an Alternate Member would be available so that there would be five people voting.

Mr. Schneider asked to proceed at this time.

Mr. Schneider stated he owns a lot on W. Ferry Avenue. Mr. Dumont stated it is compliant with all the requirements of the Zoning District with the exception of the lot width. He stated the Zoning came in after those lots were subdivided or of record. He stated they have a 75' by 200' parcel, and the R-2 requires 100'. He stated they can meet every other requirement of the District. He stated within 500' of the property, there are twenty-five parcels that are the same size at 75' by 200'. Mr. Bamburak stated Mr. Schneider already owns/lives at the property next door to this vacant lot where he wishes to build, and Mr. Schneider agreed.

Mr. Dumont stated Mr. Schneider does not live next door, and that house was sold on Friday. Mr. Dumont stated Mr. Schneider was the owner until Friday, and the new owner is present this evening.

Ms. Kirk stated under the Ordinance it requires a lot width at the front building line of 100', and the Application states that they are proposing 75'; however, on the Zoning Variance Plan under the notation that says "Zoning Requirements," it appears that they are asking for 80'. Mr. Dumont stated they are asking for 75' in the Variance requested note under Survey Preferences. He stated in the middle it states Section 500-9003a Variance requested from the minimum lot width at front building lot for 15,000 square foot lot in Zone Residential Medium R-2 where required minimum lot width is 100', and the existing lot is 75'. He stated it also has the Tax Parcel Lot which is a typo, and it should be 20-52-64. Ms. Kirk noted the right side where it says, "Legend" and underneath it says "Zoning Requirements," and they have designated minimum front yard 80' with two asterisks that say "Variance Required." Mr. Dumont stated they have 75' not 80' so this is a typo which the engineer must have put on there. Mr. Dumont stated it is 75'.

Mr. Eisold stated he believes the front yard is the front yard setback and not the lot width so he feels it is incorrect with the asterisks.

Ms. Kirk asked if they meet the front yard setback requirement, and Mr. Eisold stated it looks like they can.

Mr. Moffa stated the only Variance requested is for the 75' versus the 100', and Mr. Eisold agreed it is for the lot width.

Mr. DosSantos stated the Section referred to is 500-903a he feels is a typo as well, and Mr. Dumont stated they hired a professional with a license in Pennsylvania. Mr. DosSantos asked if they can agree that they are talking about Section 200-22, and Mr. Dumont agreed. He stated Mr. Habgood gave them the documentation for the Application.

Mr. Gruen asked Mr. Schneider when he purchased the lot, and Mr. Schneider stated it was five to six months ago. Mr. Gruen asked when the lot was subdivided; and Mr. Dumont stated it was never subdivided, and he stated it was a single and separate parcel as far back as when the parcel maps were put together at the Township. Mr. Gruen asked if it was not part of the whole Subdivision, and Mr. Dumont stated he is not sure. He stated what they have is from the public records from Doylestown, and it came off the Tax Maps records – the 75' by 200'.

Mr. Schneider stated they did not take it through Subdivision if this is what Mr. Gruen is asking. Mr. Gruen stated he wants to find out when the lot was established, and Ms. Tyler stated the first Deed was April, 1972. Mr. DosSantos stated that refers to the 75' in the Metes and Bounds Description.

Mr. Gruen asked the size of the building they are proposing to build, and Mr. Schneider stated it will be approximately 2,400 square feet. Mr. Dumont stated that has not been determined yet because they have not gone that far. He stated this was the first step, and they needed to get the Variance before they could apply for the Permit. He stated the plan is to stay within the aesthetics of the neighborhood and build something similar, and roughly 2,400 square feet seems to work in there with the property values and the size of the lot and all the setback requirements and impervious surfaces. He stated it would be about \$350,000 to \$400,000 on the market depending on what the client might want into the home. He stated it will fit right in nicely with the rest of the neighborhood, and it will not be smaller or any bigger than the rest of the neighborhood.

Mr. Bamburak asked if they will fit into the setbacks, and Mr. Dumont agreed adding they can control all of this at the Permitting process. Mr. Bamburak stated they could come back and ask for another Variance, and Mr. Schneider and Mr. Dumont stated they will not come in for any other Variances.

Mr. Bamburak asked Mr. Schneider if he is planning to build the house for sale and not to live in it, and Mr. Schneider agreed.

At Mr. Bamburak's request, Ms. Kirk advised what it means to be a Party to the action which means that they must meet certain requirements as to the proximity of where the person lives in relation to the property. She stated that as a Party to the action, you would be entitled to receive copies of the Board's written Decision, and would have a right if not satisfied with the Board's Decision to file an Appeal. Alternatively, if the Applicant is not satisfied with the Board's Decision and decides to Appeal, the Parties would get Notice of that Appeal and would be entitled to participate in the proceedings in Doylestown.

Mr. Timothy M. Bryan, 104 W. Ferry Road, was sworn in. He stated his property is immediately adjacent to the lot in question, and he is to the south/left. Mr. Bryan requested Party Status. Mr. Bryan stated they have discussed adding a house to the neighborhood that would be of the relative size and value of the other houses in the neighborhood, but what a new construction would not have is sixty, eighty, or one hundred years of age like many of the houses in the neighborhood. He stated when he bought his home in January of this year, they were "enchanted" with Bucks County and the Yardley area, and particularly with the Arborlea area. He stated the homes are seventy to ninety years old on relatively generous-sized lots which were heavily wooded. Mr. Bryan stated now on the lot immediately next to him, they are going to be putting a new house of modern construction which will "stick out like a sore thumb" in the neighborhood. He stated to get it on that narrow lot, they are going to put it right up next to his house and the adjoining house which the person seeking the Variance has just sold to another couple who are present this

evening. Mr. Bryan stated they are going to look windows to windows, "squeezed in like sardines," in that situation. He stated it is going to require a lot of beautiful, very mature trees to be taken down. Mr. Bryan stated the area where he lives is known to people he works with in New Jersey, and he felt a particular pride of ownership of coming in to this situation. Mr. Bryan stated now they feel that it will be degraded by the addition of this house. Mr. Bryan stated he feels that there are restrictions with building and minimum widths for a reason. Mr. Bryan stated he is also concerned about the valuations of the properties in question, and he feels that the entire neighborhood will be degraded in value when they have the addition of a house that is "sandwiched" in between two others, and the age of the house will not be in keeping with the rest of the architecture in the area.

Mr. Bamburak stated they are not planning on building the new house any closer to the property side lines than they are allowed to build it. He stated by Ordinance they have to have a 15' side yard setbacks on both sides, and they are not requesting a Variance from this. Mr. Bamburak stated Mr. Bryan stated his lot is 75' wide as is the proposed lot so it does not seem that they are "sandwiching in" anything that has not already been "sandwiched in." Mr. Bamburak stated with regard to the architectural appropriateness, possibly he could speak to Mr. Schneider about this. Mr. Bamburak added that the architectural details are not the purview of the Zoning Hearing Board.

Mr. Bryan was shown a copy of the Plan.

Mr. Dumont stated he is a Real Estate agent, and they have a feel for what will sell there, and they will build something that will fit in nicely with the neighborhood.

Mr. Peter Chapman, 106 W. Ferry Road, was sworn in and stated his home is immediately to the left, two doors down from the vacant lot. He requested Party Status. Mr. Chapman stated he feels the granting of a Variance should largely be based on hardship and inability to use your existing lot and property as you would choose to do. He stated he feels the Zoning laws exist for a reason including the minimum lot sizes. He feels being able to come over a lot and make a profit to the detriment of the neighbors without any intention of staying in the neighborhood and adding to it, defies what the Zoning laws are in the first place. He stated the Applicant correctly pointed out that most of the lots within the immediate radius are 75' by 200'; however, if you look at the actual map, most of the houses are built on double lots or one and a half lots. He stated he has two 75' by 200' parcels, and his house is "squeezed" on one and they have a very, very large side yard on the other. He stated if you look at the neighborhood as a whole although there may be 75' wide parcels, on averages the houses are spaced out much, much wider than that. He stated he would never have any desire to subdivide and build on their second lot because he feels it is the character

of the neighborhood. He stated they have the open space and the trees; and although the parcels are small on average as a whole the houses end up more spaced out than 75' would suggest. He stated he does not know when the 100' requirement came into being, but it would seem that was placed there for a reason. He stated the neighborhood is Zoned as a medium-density neighborhood and going below that 100' minimum would seem unnecessary.

Mr. Gruen asked Mr. Chapman to shown on the map where his property is, and it was noted that he owns two lots – 066 and 067. Mr. Chapman stated that both of the houses that are behind Mr. Bryan's house are either double lots or a lot and a half. He stated all of the house with a couple of exceptions are built on significantly larger parcels than 75' by 200' so the Tax Map is not really an accurate representation of how the properties are laid out.

Mr. Gruen asked Mr. Chapman if he would say that most of the lots are really 150' by 200', and Mr. Chapman stated he would say that they are 150' or 100'.

Mr. Moffa asked Mr. Chapman how his house is oriented on the two lots, and is the house in the middle. Mr. Chapman stated they are off to the side in a very similar position to the lot that was sold. He feels his second lot – 067 – which is the one more distant from the vacant lot in question could be built on if the Board approved this Application. He added he would have no desire to do this, and if they were to sell the property to avoid this happening, he would be inclined to put it in the Deed and merge the parcels to preserve the land.

Mr. Bamburak stated it is his property, and he would have the right to sell it or build on it if he wished. Mr. Chapman stated he would happily forego that right.

Mr. Bamburak stated when the land was developed, it was legally subdivided. Mr. Chapman stated you could also argue that it was a vacant lot, and it existed as the side yard for that house which is seventy years old. He stated in terms of precedent, to the neighborhood it is not a vacant lot, it is the yard of that house. Mr. Bamburak stated the neighbors would have the option to buy that vacant lot.

Mr. Moffa stated looking at the Tax Map, the Applicant made a compelling argument calling out all the Tax Parcels that do not comply to the 100', and there appear to be even more than those that do not comply with the 100' in that Arborlea; however, Mr. Chapman is saying that just looking at the Tax Map does not tell the whole story because there are not homes on every 75' parcel. Mr. Chapman stated he feels on average there is 100' between houses.

Mr. Gruen stated he would like to be able to visit the site with the Board so they can determine the what the effect of this Approval would be. He stated he feels they are opening a “can of worms” if they Approve this. He stated if there are a lot of houses as Mr. Chapman stated that are on double lots, a lot of people could come forward and ask for a Variance. He stated the Township changes the Zoning to 100’ for a reason.

Mr. Gruen moved that at the next available meeting, the Board should meet and walk it and see what it is so they can tell for themselves.

Ms. Kirk stated she feels there has been Case Law that does not support the Zoning Hearing Board as a group to go to visit and inspect a property.

Mr. Gruen stated he has asked previously if they were allowed to visit a site to check on an Application, and he was told that the only way they could check on an Application was if they called for a meeting at the site and had it advertised. Mr. Gruen stated he would not mind going by himself if he had the permission of the Board.

Mr. DosSantos noted an aerial he is viewing on an iPhone, and on the other side of Cherry he sees a number of houses that appear to have 75’ width. He stated looking at the south side of Cherry, the properties behind also look like they are on 75’ width lots. He stated where Mr. Chapman is, he sees spaces so what Mr. Chapman is indicating does not seem to be the characterization of the whole neighborhood as opposed to the characterization of the space between Juniper and Cherry.

Mr. Dumont stated he agrees, and he feels that is the exception and not the rule. He stated he has the Tax Maps that came from the public records, and the property lines run straight through. Mr. DosSantos stated the question is whether or not someone has two lots. He stated he is looking at houses, and it does seem that there is parcel of housing of on each lot. Mr. Schneider stated this is correct, and the majority do not have the two lots.

Mr. Chapman stated he feels there are a significant number that have at least greater than 75’ by 200’ at least on the block bounded by W. Ferry, Cherry, Arborlea, and Juniper. He stated there are two or three houses on Arborlea that back onto this lot, and they are at least 100’ or 125’.

Mr. Bamburak stated he feels this is a classic case of why they have Variances since this was a legally-subdivided lot that cannot be developed without a Variance. Ms. Kirk agreed. Mr. Bamburak stated this is what is the hardship – that the property is encumbered in some way which was no fault of the property owner.

Mr. Bamburak stated this was done in 1972, and it was legally subdivided at 75'. He stated at some point the rules were changes to require 100', but this lot already existed at 75.' He stated the property owner of this property has property rights too. Mr. Bamburak stated there is nothing they can do to develop and enjoy this property without the Variance, and this is the classic reason that a Variance is granted.

Mr. Chapman stated while this true, the land was not bought in 1972, it was bought this July; and the buyer could have been aware of the Variance before he bought it or before he sold the lot and subdivided it because the Zoning laws were there. He stated he could have checked and learned that he needed 100' to build a house, and that subdividing it was not going to work out.

Ms. Kirk stated after a quick review of the Municipalities Planning Code it indicates that after a Hearing has been started the Board cannot inspect the site or the surroundings with any Party unless all Parties are given an opportunity to be present at any on-site inspection. She stated she also recalls that there was a Decision that strongly discouraged those site inspections, but she does not have it at her fingertips.

Mr. Moffa stated this is 180 degrees opposite of what they were informed when they went to the training the Township provided for them with a State Zoning professional who encouraged site visits. Mr. Moffa added that what Ms. Kirk just read does not prohibit a site visit, and it just indicated that they have to advertise it.

Mr. Bamburak stated Ms. Kirk has indicated that she recalls there was something else about site visits; and if they decide to Continue this, they should allow Ms. Kirk to research this.

Ms. Tyler asked if a site visit is relevant to the issue which is whether the property is developable as it exists.

Mr. Moffa stated character of the neighborhood fits into the issue and character of the neighborhood is a requirement for Zoning relief to be taken that into consideration. He stated there is a question as to what the real development characteristics are in that area, and the question is whether the Tax Map parcels adequately portray that. He stated he feels a visit to the area would be in order.

Mr. Gruen stated initially he felt they were all 75' wide lots which were established in 1972; however, Mr. Schneider owned the house next door and recently sold it, so he created the hardship by selling that house on the 75' lot and purchased another one.

Ms. Tyler asked who subdivided it, and Mr. Gruen stated it was subdivided it before. Ms. Tyler asked if this Applicant subdivided it, and Mr. Gruen stated he did not; however, a lot of the houses were built on two lots years ago. He stated this is why he wants to look at it for himself and see what effect the Zoning Hearing Board approving that lot will be on the neighborhood since that is part of the hardship too. Mr. Gruen stated the hardship is not just that he cannot build on it, and Ms. Tyler stated that would be the hardship in this case. Mr. Gruen stated it was not because he also owned the house next door. Mr. DosSantos stated he does not own it now, and Mr. Gruen stated he just sold it so it is a self-created hardship.

Mr. Moffa seconded Mr. Gruen's Motion

Mr. DosSantos stated he did not own two lots, subdivide it, sell one, and keep one. He owned one which he just sold but then bought the second lot from an Estate. He stated it is not a self-created hardship in the sense that he created that parcel. He stated the parcel was created back in at least 1972 as they can see by the Township records.

Mr. Chapman asked what the Deed states since when he bought his houses, both Tax Parcels were covered in the one Deed.

Mr. DosSantos stated the Deed associated with this Tax Parcel just establishes that the decedent bought this property in 1972, and it was transferred recently by the Estate so the 75' is the metes and bounds description in the Deed from April 2, 1972.

Mr. Chapman stated how Mr. DosSantos represented to does not completely reflect his understanding which is that the Applicant bought the one property with two parcels on one Deed as one real estate transaction and then sold the house to the people who are here this evening, and he kept the second lot for himself and now is trying to build on it.

Mr. Schneider stated the people they did just sell to the house to have been aware of his intentions to build the lot from day one.

Mr. DosSantos asked if he could clarify now the property they are talking about, and Mr. Dumont stated it is two parcels and there are two individual tax parcels 164 and 164-1. He stated the Deed is nothing more than how it is conveyed. He stated the Deed does not make the legal description. He stated the parcel itself is a single entity, and the other parcel is another entity. He stated there could be one Deed, but it does not mean anything. He stated when they sold the other parcel on Friday, they got a Deed for just what they purchased which was the house on the corner of W. Ferry.

Ms. Kirk asked if the parcel that was sold, 64-1, went to closing, and Mr. Dumont stated it did. Ms. Kirk asked if they have a copy of the Deed that was provided to sell that; and Mr. Dumont stated while they have it, they do not have it with them this evening. Ms. Kirk stated under Operation of Law, when people technically buy two separate parcels, if those parcels are adjacent they may merge so it would go to see if there was an issue of a "subdivision" or "not subdivision" by getting the document that was provided. Mr. Dumont stated it was never subdivided and it was never merged, and they could provide the document. Ms. Kirk stated those documents could be submitted into evidence to verify this.

Mr. Gruen noted the map – 20-052-064 is one lot, and the other lot he just sold is 20-052-064-001; and this is the only lot in the whole subdivision that is the same number but it looks like it was divided somehow. He stated no one else in the entire subdivision has an additional 001 next to their lot. Mr. Gruen was shown another lot across the street, and Mr. Gruen agreed that is another one. Ms. Tyler also noted some parcels behind.

Mr. Habgood stated from what he understands from Planning when you see a Tax Parcel Number that has four digits, usually that means at some time in the past it was subdivided off the main parcel, which is why there is the -1. He stated when that subdivision happened in this case, he does not have that information.

Mr. Gruen asked Mr. Schneider if he owned both lots at the same time, and Mr. Schneider stated this is correct. Mr. Gruen stated his understanding was he owned the house, sold it, and then bought the lot. Mr. Gruen stated he now understands that he owned them both at the same time; and Mr. Schneider agreed, and added that the new buyers have been aware of their intentions with this lot from the beginning.

Mr. DosSantos stated he now understands that his original understanding was incorrect, and Ms. Kirk agreed. Ms. Kirk stated both lots were purchased in July, 2014 under one Deed designated as two separate lots with two separate Tax Parcel Numbers.

Mr. Moffa stated by owning both lots at the same time, at that time, they would not have needed a Variance to build on this lot because they would have met the minimum width; and Ms. Kirk stated this is incorrect as they had two separate Tax Parcel Numbers so they were treated as two wholly separate and individual lots. She stated this is why she asked the question when he sold the lot that was designated as 64-1 were there any issues at the time of closing with the Title Company as to a merger by Operation of Law. She stated this is why she asked if those documents could be provided because then it would not be treated as a de facto Subdivision, and on the contrary it would always be treated as two separate lots with two separate Tax Parcel Numbers.

Mr. Gruen stated he might withdraw his Motion depending on listening to get more comments. Mr. Moffa withdrew his Second.

Mr. Robert Humienny, 24 W. Ferry Road, was sworn in and asked to have Party Status. Mr. Humienny stated his property is two houses east of the subject property on W. Ferry Road. Mr. Humienny stated he has a lot of the same concerns that were already mentioned. He stated he has lived in his home for twenty-five years, and the houses in the neighborhood range from sixty to ninety years old and are all made out of stone and wood typically. He stated he is afraid of losing the charm of the neighborhood especially that specific lot on W. Ferry. He stated they are very old charming homes all surrounded by trees and woods, and he is afraid of the devaluation that may happen when you “jam” a house into that lot that is not going to be of the same style, the same age, or the same construction.

Mr. Humienny stated there are also a lot of older trees that have been there when the Arborlea area was a nursery owned by Moon Nursery in the 1800s. He stated there are a lot of trees right in front of this particular property. He provided a picture of the front of the property.

Mr. Bamburak asked Mr. Humienny if his property is on the corner of Cherry Lane and W. Ferry, and Mr. Humienny agreed. He stated he has 150'. He stated he believes he has two different Tax Parcels; however, it was noted that is not correct according to the map. Mr. Humienny stated he would not subdivide his property for all of the reasons stated. Mr. Humienny showed on the map where his home is located.

Mr. Humienny stated he is also concerned about the impervious surface and the loss of the percolating area. He stated this has always been an area that floods, and the entire corner and sidewalk in front of the lot down to the corner on Cherry Lane floods. He stated there are no sewers in the area, and whole corner floods every spring and every heavy snow. He stated the whole sidewalk fills with water as does the side street. He stated he also understands from the prior owner, that they could not build on this lot because there is a huge granite ridge in that lot. He stated there are also big granite rock outcroppings across the street on that property itself in between the older trees. Mr. Humienny stated if they put another home and a driveway and “jam” it in there, it will just get worst. He stated all of their basements flood. He stated the house that was just sold also floods constantly and has big issues on either side.

Mr. Bamburak asked Mr. Eisold if he has comments about the stormwater in this particular area. Mr. Eisold stated the area is not located in the floodplain. He stated any future development of this property based on the Township Ordinances will require some form of stormwater management going forward. He stated he has not been out to the property.

Mr. Humienny stated he would like to make a correction in that it was stated that Mr. Schneider lived in the house, and Mr. Humienny stated he did not. Mr. Schneider stated he had stated he owned the house.

Ms. Heather Humienny, 24 W. Ferry Road, was sworn in. Ms. Humienny stated she has been an elected official for the last thirteen years, sitting as President of a Board, and she understands that many issues can be black or white and you should take your responsibility seriously; however, she understands after twenty-five years of service to the Township as an official for the Schools and for her Political Party, that not everything should be viewed as black and white. She stated she voted for a Supervisor who won purely on the platform of open space and building bike paths in the Township. She stated Arborlea represents the vision that Supervisor had of Lower Makefield.

Ms. Humienny stated she told the people who moving into the home that their sidewalk floods 5" and their basement floods. She stated her basement floods also.

Ms. Humienny stated that the Board should look beyond the technical facts. She stated her home is almost one hundred years old. She stated someone came into Lower Makefield and purchased her neighbor's home for profit. She asked if they are going to stay Lower Makefield Township or are they going to become a Newtown Township. She asked if they are going to value the open space that the former Supervisor dedicated his life to. She stated there is open space on W. Ferry Road which is dedicated and there for a reason. She stated there are lots that are not being sold. She stated she lives on a double lot. Ms. Humienny stated there was a half million dollar home that sat for two years at the end of W. Ferry and Yardley-Morrisville Road because someone wanted more money and subdivided a beautiful home and built it, and it has sat dormant for at least two years. She stated it does not fit into the area. She stated the people who want to live in Arborlea – that is not what they are looking for.

Ms. Humienny stated they have a beautiful neighborhood and this is the same reason that people move to Yardley and Lower Makefield because of the open space. She "implored" the Board to let her one hundred year old home maintain its dignity. She stated they could have moved many times; and everyone moves up, but not her because they love Arborlea and what it represents. She asked that they not "damage" their neighborhood with something like this.

Ms. Humienny stated the lot was sold to a young couple, and she is assuming they could not afford what was offered next door. She stated it could have been sold as a whole parcel if the buyer had an interest in maintaining the integrity of her neighborhood rather than the bank.

Ms. Holly Gash, 104 W. Ferry Road, was sworn in. She stated her home is next door to this property, and they have a rock wall that divides her house from the vacant lot. She stated the rock wall was built in 1928 and has a wonderful history as does her home. She stated she was told the vacant lot across the street was owned by William Penn and his family and is protected green space. She stated there is a herd of deer that go from that property across to this property that they are going to tear down. She also noted the other wildlife in the area. She recommended that the Board visit the site. She stated the charm of the neighborhood is based on this one particular area that they want to backhoe. She stated her home is built on a huge granite boulder in her basement, and the property is on a granite fault. She stated she just had a gas line put in at a cost of \$10,000. She stated the subject property is on a granitic fault as well, and it will be extremely expensive. She stated she understands that they want to make a profit, but they should think about the animals, the green space, and the charm of the neighborhood. She asked that not just think about profit and getting more people in their but maintaining the charm of the neighborhood, the animals that use all of that space, and the trees.

Mr. Cole Miller, 103 Arborlea, was sworn in. He stated his home is behind the subject property. He requested Party Status. Mr. Miller stated most of his objections have already been stated. He stated he does not feel this new home will fit in. He noted an area which has a spec house on it which does not fit into the neighborhood, and it has not sold in two years to three years and will never sell.

He stated it is a million dollar neighborhood but is worth maybe \$300,000 and looks like it. He stated his home was built in 1926, and he has four oak trees which are over one hundred years old. He stated the beautiful is a beautiful area. He stated he does not like this proposal, and he does not feel it will help the neighborhood.

Mr. Anthony Horne, 100 W. Ferry, was sworn in. He noted his home is the 64-1 parcel that settled on Friday. He requested Party Status. Mr. Horne stated his concern is about losing the aesthetic value of the neighborhood as far as the building vernacular and the trees and it could definitely effect the resale home values of the houses that are adjacent on either side. He stated his main concern is the topography of the two parcels there where it is definitely on a sloping trajectory going out to the corner of Cherry and Ferry, and the house already has substantial water infiltration which they are starting to work on right now; and he is concerned that it could be aggravated by any development on this parcel.

Mr. Bamburak stated he understands that he bought the house from Mr. Schneider who advised him that he was going to do this, and now Mr. Horne is against the Application. Mr. Horne stated he is more concerned whether they are going to do the right thing as far as the impervious surfaces. He stated he did know that they had plans to develop the property. He stated he was offered to buy the property; but under the conditions of the home that he bought and all the work that needs to be done, they could not afford to buy both parcels.

Mr. Dumont stated the Building Permits will insure that the water from lot will not flood, and it will be handled appropriately.

Mr. Bamburak stated they have not asked for any Variances from the impervious, and the only question in front of the Zoning Hearing Board is lot width.

Mr. Schneider stated he is open to suggestions from the Board as to aesthetics. Mr. Bamburak noted this is not the purview of the Zoning Hearing Board.

Mr. Dumont stated if they do not build it right, it will not sell. Mr. Schneider stated they are open to please everyone, and he feels the issues discussed tonight can be easily handled. Mr. Gruen suggested that he discuss this with the neighbors.

Mr. Bamburak stated there is a Motion before the Board to inspect the property, but Ms. Kirk has some concerns that they should not do this. Ms. Kirk stated she recalls seeing something that could very well have been a case that indicated that the site inspection should not have occurred because there was not public notice or all Parties were not invited. She stated she does not have that in front of her this evening. She stated what she read to the Board was the Section of the Code that indicates that if there is going to be an inspection, it must be properly advertised and all Parties must be afforded the opportunity to be present. She added she does not remember the specifics of the case.

Mr. Gruen stated when they attended the Seminar they were told that they could not go as a group to inspect the property; but as individuals, they were encouraged to inspect the property. He stated when they came back and discussed it at a Zoning Hearing Board meeting, he recalls that they were told that the only way they could inspect the property, unless you see it by accident just driving by, was if you called for a Zoning Hearing Board meeting to be advertised and everyone is allowed to participate. Ms. Kirk agreed that this is correct. Mr. Gruen stated that is what he is asking for. Mr. Gruen stated if they can do it privately, he would be for this as well.

Ms. Kirk stated the Code specifies “Nor should the Board inspect the site or its surroundings after the commencement of Hearings with any Party unless all Parties are given an opportunity to be present at any on-site inspections.” She stated random inspections can be misconstrued as the Board showing up in violation of the Sunshine Act having Mr. Schneider or someone else present without the other Parties being afforded the opportunity to be there as well. Mr. Gruen stated he agrees with this 100 percent. Ms. Kirk stated she is just advising the Board she recalls seeing a case that dealt with site inspections where the Court did not favor it, but she does not recall the specifics of why it was not favored.

Mr. Gruen stated the key word is “the Board,” and a single Board member could. Mr. Moffa stated the key part is “with a Party.” Ms. Tyler stated there is also an evidentiary problem. She stated the Zoning Hearing Board is a Judicial Board and anything that goes into the Board’s decision-making process has to be part of the Record and has to be part of Evidence. Mr. Gruen stated he would present it at the Hearing. Ms. Tyler stated she feels Ms. Kirk should go back and look into this case. She stated anything that goes into deciding this Application has to be in the Record, and Mr. Gruen driving by in a car and looking would not be part of the Record. Mr. Bamburak stated he does not feel Mr. Gruen can drive by and look at the property and come back and provide a report to the Board, and Ms. Kirk agreed. Mr. Bamburak stated Mr. Gruen would then be testifying in front of the Board.

Mr. Gruen stated he does not know why Pennsylvania is different from other States. Ms. Tyler stated the Board are not attorneys, rather they are fact finders and Judges. She stated Judge cannot go out to inspect the site. Mr. Gruen stated he was on other Zoning Boards before, and they were encouraged to go out. He stated it was in another State. Ms. Tyler stated the Township Zoning Board are the Judges, and they cannot be the evidence gatherers.

Mr. Bamburak asked Mr. DosSantos if he would like to see the property, and does he feel that it would help in his decision; and Mr. DosSantos stated it may. He stated he feels it would have to take place on the weekend since it is now dark at this time of year.

Mr. Gruen stated he feels this is the fairest thing to do for all Parties. He stated in the past they had people Testify and after the Hearing he would pass by and see things were not what was said in front of the Board. He stated he is not saying anyone is lying, but he would like to determine this for himself.

Ms. Kirk stated alternatively the Board could direct the Township Code Enforcement Officer to independently take photographs of the property as well as surrounding homes and bring them back to the Board at the next Hearing.

Mr. Bamburak stated he feels the Board should go out and look at it themselves. Mr. Bamburak stated the Board is concerned, and they live in Lower Makefield too. He stated they try to do a good job for everybody. He stated every property owner has rights to use their property as they want. Mr. Bamburak stated they are trying to determine what to do since they have never as a Board gone out and inspected a property. He stated they do not yet know if they are allowed to do this.

Ms. Kirk suggested if the Board is inclined to approve the Motion to inspect the property, they could set it for a date to occur subject to her verification that it is appropriate, and they could carry this matter until December 2 which would give the Board opportunity to set up a date. Ms. Kirk noted the Board's meeting for November 18 does not appear to be too heavy. Mr. Gruen asked if they could set a special date on a Saturday. Mr. Bamburak stated they would have to visit the site during the day.

Mr. Schneider asked what would change anything seeing it visually. Mr. Bamburak stated one of the Conditions of a Variance under a strict interpretation of the dimensional issues is that it does not effect the character of the neighborhood. Mr. Schneider stated he feels this would go back to aesthetics which they are open to discuss. Mr. Bamburak stated it would go to the character of the neighborhood and not necessarily the aesthetics of the house. Mr. Bamburak stated some of the Testimony has been that the houses are spread out, and the Board at this point does not know. Mr. Bamburak stated the Board is leaning to going out to the property although Ms. Kirk has to look into whether this is allowed. He stated if they break those laws, this matter could end up in Doylestown which would result in a significantly longer time before he can do anything.

Ms. Kirk stated if the Board were inclined to vote on the Motion that has been offered, the approval would be subject to legal verification of appropriateness.

Mr. Bamburak stated they would also need to have the meeting Continued until December 2, and Ms. Kirk stated this would provide her the opportunity to verify that it is okay for the Board to conduct the site visit; and if it is, she would suggest that at the Board meeting of November 18, the Board would make an announcement as to when they expect to conduct the site visit and therefore Notice can be provided to all of the Parties. Mr. Moffa asked if this site visit would have to be advertised; and Ms. Kirk stated it would not, and Notice would just have to be provided to all Parties. Ms. Kirk stated she has the addresses of the Parties so everyone can be afforded the Notice of when the site inspection would occur.

Mr. Bamburak asked if it would be possible for the Board to meet at the site on November 18 at 4:00; however, Mr. Gruen stated Ms. Kirk just indicated that at the meeting on November 18 they would announce when they will meet on the site if it is determined that it is legal to do so. Ms. Kirk agreed and stated at the meeting on November 18 the Board would confirm whether it was legal and then set the date to occur between November 18 and December 2. Mr. Moffa asked if they should set a tentative date now, adding he may not be able to attend the meeting on November 18. Mr. DosSantos stated he feels the Board can discuss this amongst themselves.

Mr. Bryan stated he is confused about Ms. Kirk's statement that she is questioning the appropriateness since she read the legal verbiage three times, and three times it said it is inappropriate to do it or it is not allowed to do it once you commence the Hearing unless all Parties are given an opportunity to attend. He asked how appropriateness is in question. Ms. Kirk stated what she read was a provision set forth in the Statute by the State in the Pennsylvania Municipalities Planning Code. She stated every Statute is subject to a Judicial Determination or Interpretation so there could be a current case issued by the Commonwealth Court of Pennsylvania that says the provisions of the Statute read this; however, the Court is saying that there are certain restrictions or things that apply. She stated it is a Court review of the language of the Statute that she is not sure about. Mr. Bryan stated he now understands.

Mr. Gruen moved to Amend the Motion to state that the Board meet and walk the site subject to legal verification of appropriateness. Mr. Moffa seconded and the Motion carried unanimously.

Ms. Kirk stated that in light of the fact that Mr. Moffa may not be here on November 18 the Board may want to choose a tentative date to be scheduled between November 18 and December 2; and as long as it is approved, Notice could go out to the Parties to let them know of the date. Mr. DosSantos asked that they discuss this later amongst themselves.

Ms. Tyler asked Ms. Kirk if they are bound to having just four Board members going forward, and Ms. Kirk stated a Board member or Alternate could come in as a fifth member provided they got up to speed based on the Testimony by reviewing a copy of the Minutes. Mr. DosSantos asked if they would then be allowed to participate in the Decision, and Ms. Kirk agreed.

Ms. Kirk stated in light of the Board Motion and Approval to do a site inspection it would be appropriate for there to be a Motion to continue this under December 2.

Mr. DosSantos moved, Mr. Gruen seconded and it was unanimously carried to Continue the matter to December 2, 2014.

Mr. Bamburak stated on November 18, Ms. Kirk will report on the technical issues, and he advised those in the audience that those interested could attend the meeting on November 18 to hear Ms. Kirk's decision. He stated if the site visit is allowed, the Board will meet on the site between November 18 and December 2, and they will announce the date at the meeting on November 18. Mr. Bamburak stated it is possible that everyone involved will not be available on the date chosen; but if they have to meet everyone's date, it will never occur. He stated they would like to have as many people there as possible.

Ms. Kirk stated it is limited to the Parties. Ms. Kirk also stated this will not be a situation of Testimony, and it will just be the Board being there to conduct a site inspection. Mr. Moffa stated he wants to see the site and the surrounding neighborhood. Ms. Kirk stated she envisions that the Board will start at the lot and then walk around the block and whatever is designated to get a sense of the neighborhood.

Mr. Bamburak stated any discussion will have to be done at a meeting at the Township meeting room so that it is on the official Record.

Mr. Moffa asked if everyone who spoke today gets Party Status. Ms. Kirk stated Heather Humienny spoke but did not specifically request Party Status; and Ms. Humienny stated she would like to have Party Status. It was noted her address is the same as Robert Humienny who had requested Party Status and two separate Notices would then have to be sent to that address. Ms. Kirk also noted that Holly Gash also spoke, and Ms. Gash stated she would also like Party Status, and again this will require two separate Notices to be sent to the address at 104 W. Ferry Road.

Mr. Dumont asked if it is determined that they cannot meet on the site for legal reasons, will the next meeting be December 2; and Mr. Bamburak agreed. He stated November 18 would just be the date to announce if it is legal to visit the site and if so when the site visit will be.

A short recess was taken at this time.

APPEAL #14-1710 – MR. & MRS. MICHAEL MULRAY

The Application submitted was marked as Exhibit A-1. A Site Plan submitted was marked as Exhibit A-2. Two black and white photographs showing the exterior of the property were marked as Exhibit A-3. Three letters issued to the Zoning Hearing Board from three different property owners near the subject property were marked as Exhibits A-4, A-5, and A-6, with Exhibit A-4 signed by Larry Burns, Exhibit A-5 signed by Parelli, and Exhibit A-6 signed by Mr. Pilotti. Notice of tonight's Hearing was published in the Bucks County Advance, and this was marked as Exhibit B-1. Notice of tonight's Hearing was also posted at the property, and a copy of that Posting was marked as Exhibit B-2. Notices were mailed to property owners as required by the Ordinance, and a copy of that letter and a list of the addressees was marked as Exhibit B-3.

Mr. Michael Mulray, Ms. Kerri Mulray, and Mr. Michael Taratuski, were present and were sworn in.

Mr. Bamburak stated they want to build an addition, and Mr. Mulray this will be additional living space. Mr. Bamburak stated it will encroach into the front yard setback. Mr. Mulray stated the far right corner of the addition will encroach. Mr. Bamburak stated 40' is required, and they are requesting a Variance to allow 34'.

Mr. Bamburak asked about impervious surface, and Mr. Mulray stated the included this in the cover letter. He stated they are allowed to have 18%, and with the addition if approved, they will be at 13%.

Mr. Bamburak asked Mr. Habgood if he agreed with the calculations, and Mr. Habgood stated he did.

There was no one present in the audience to speak on this Application, and

Testimony was closed.

Mr. Gruen moved, Mr. Moffa seconded and it was unanimously carried to approve the Variance as requested.

November 3, 2014

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There being no further business, Mr. Moffa moved, Mr. DosSantos seconded and it was unanimously carried to adjourn the meeting at 9:30 p.m.

Respectfully Submitted,

Paul Bamburak, Chairman