The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on December 2, 2014. Chairman Bamburak called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: Paul Bamburak, Chairman
Jerry Gruen, Vice Chairman
Anthony Zamparelli, Secretary
Anthony 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

APPEAL #14-1709 – THOMAS SCHNEIDER, JR.

Ms. Kirk stated at its last meeting the Board approved to do a site inspection of the property which occurred on Saturday, November 29 at 10:00 a.m. All Board members and Ms. Kirk were present. Parties including the Applicant were all notified by written letter dated November 19, 2014 of notice of the site inspection. Copies of the letters which were sent to the Applicant and all members of the public that requested Party Status were marked as Exhibit B-4. Ms. Kirk stated no Testimony was provided, and no Testimony was taken by the Board. She stated they solely went to visit the property that is the subject of these proceedings and to make a visual inspection of the location and neighborhood where the property is located.

Mr. DosSantos stated they met on Saturday as scheduled. He stated it is a lovely neighborhood. He stated they walked Ferry Road and down Cherry to Arborlea as well. He stated from the subject property, they walked Ferry to the right and to the left. He stated they saw the character of the neighborhood as well as the character of the lots themselves. Mr. DosSantos stated he wanted to see the density of the neighborhood and how many of the houses had the 75’ frontage compared to some double lots with a 150’ wide frontage. Mr. DosSantos stated they also wanted to see they types of homes which were there and to see if there was a style of home that was more prominent than others.
Mr. Bamburak stated they saw houses which had single lots and double lots with some houses close together and some far apart. He stated in his opinion there was no one overwhelming architectural style.

Mr. Zamparelli stated he agrees with the comments made by the Board and they did not see anything that stood out any more than others. He stated there were modern, old, large, and small houses.

Mr. Moffa stated he was one of the members that was pushing for this visit, and he feels it went well in that he was able to obtain the information he wanted as far as evaluating the character of the neighborhood. He stated there are certain criteria that the Zoning Hearing Board is supposed to take into consideration before a Variance is granted, and the one he felt was key in this case that he felt was unresolved based on the previous Testimony given was the issue of the character of the neighborhood. He stated there were concerns raised by certain parties stipulating that perhaps the Tax Map that was showing the 75’ frontages was not accurate; and some individuals indicated that a lot of the lots were combined and did not have 75’ frontages, rather that the 150’ situation was more prevalent. Mr. Moffa stated the Board was able to evaluate this; and in his opinion, he feels the 75’ frontage does dominate the area. He stated there were a few parcels in the area that had the 150’ frontage, and there is also a parcel across the street from the subject property that is Township-owned open space.

Mr. Gruen stated while he agrees with most of what his fellow Board members stated, before they vote he would suggest to the residents and Mr. Schneider that if they are unhappy with the vote, rather than spending time and money in Court, he would recommend that they get together and sell the lot with the help of the Township or the residents do a fundraiser and buy the lot. Mr. Gruen stated it is a difficult lot to be developed, and it may be to Mr. Schneider’s advantage to sell it to the residents. Mr. Gruen stated from what he heard, Mr. Schneider was asking for a very reasonable price; and the residents could purchase it to further enhance the beauty of the neighborhood especially since this lot is right across the street from the Township open space which the Board was not aware of. Mr. Gruen stated he does not know when the Township purchased this lot. He stated he hopes they can get together and resolve this without paying attorney fees.

Mr. Bamburak asked Mr. Schneider if he would like a Continuance to consider Mr. Gruen’s suggestion. Mr. Schneider stated they could speak to them after the meeting, and he would like to move ahead at this time.
Mr. Robert Dumont stated after the meeting they knew that there was an issue about seeing how the lots laid out, so they came to the Township and made copies of the Zoning Map. He showed the lot in question and stated that all the orange colored lots are less than 100', adding 90% are 75’ frontages. He also noted on the Plan the Township-owned open space.

Mr. Schneider stated they are not in a floodplain and are not in any wetlands. Mr. Bamburak stated the only issue is the 75’ frontage.

Mr. Dos Santos asked Mr. Habgood if the Township-owned parcel is protected in any way with any Stipulations, and Mr. Habgood stated he only knows that it is Township owned. Ms. Kirk stated having done Township work in the past, she suspects that probably when the neighborhood was developed and subdivided, there was probably a requirement that the developer donate a certain amount of open space to the Township; and this could be the parcel that was donated as part of the Subdivision process.

Mr. Gruen stated he understands that the Township does not have a position on this Application, and Ms. Tyler stated the Board agreed to leave this to the Zoning Hearing Board.

Mr. Bamburak asked if anyone present wishes to make a comment on any new material that was not discussed at the last meeting.

Mr. Robert Humienny was reminded that he was still under Oath. Mr. Humienny stated he has lived there for twenty-five years, and there was previously a sign on the open lot that it was preserved open space and it has been there for as long as he can remember.

Mr. Humienny stated all the neighbors around the property are against developing the lot for all the reasons they have already discussed including preserving the character, water run off, wildlife, etc.

Mr. Humienny asked why they have the 100’ rule in the Township, and Ms. Kirk stated Mr. Humienny raised this question to her on Saturday. Ms. Kirk stated she explained to him at that time that when this area was developed, the Zoning Ordinance required lots to have 75’ wide front yards. At some point after the development of that area the Township, probably in looking at other areas that were coming in as R-2, changed the Zoning Ordinance to reflect 100’ width. She stated this does not mean that the existing 75’ properties are illegal; and it just means that in light of the Comprehensive Plan for the Township and in looking at new development coming in, the Township thought it best to increase the lot width for
any R-2 Zoning District. Mr. Humienny stated he assumes this was done for the
same reasons that they have already heard about living in this area which is the
density and the demand on the Township’s resources, the tax base, and the impact
on the Schools. Mr. Bamburak stated this is beyond the purview of the Zoning
Hearing Board. Mr. Humienny stated he questions why they would potentially grant
a Variance in this regard. He stated he does not see a reason to go beyond the rule
that is in place.

Mr. Tim Bryan, 104 W. Ferry Road, was reminded that he was sworn in previously.
Mr. Bryan stated he does not have anything but felt he should recapitulate a point
that he feels was not made clear during the last Hearing. He stated this Variance is
being asked as a relief from a hardship, but the hardship was of the developer’s own
making. Mr. Bryan stated he bought two lots, tried to sell two lots, and failed in
selling one lot and ended up getting “stuck” with a lot so that he had to come and get
a Variance.

Ms. Kirk stated that argument is a legal issue for the Board to decide. She stated
Mr. Bryan may have an interpretation which is different from the Applicant’s, and
the Zoning Hearing Board is the underlying authority in the Township to interpret
the Zoning Ordinances in light of existing Case Law and make a determination as to
whether “the hardship was created by the owner of the Lot or now.” Mr. Bryan
stated he did not feel this was clearly stated at the last Hearing.

Testimony was closed.

Mr. DosSantos stated with respect to the neighbors, having walked the
neighborhood and given the fact that this was a good lot when parceled out in the
1950’s, and having the chance to walk the neighborhood and appreciate the existing
density with the overwhelming amount of homes at 75’ width, he does not feel that
granting this would effect the character of the neighborhood.

Mr. DosSantos moved and Mr. Zamparelli seconded to grant the Variance as
requested.

Mr. Moffa stated the Board always takes into consideration the issue of the hardship,
and that the Applicant cannot create the hardship. He stated the fact that these lots
have never been one is a factor in the decision. He stated if the Applicant had
acquired this as one lot with 150’ of frontage, and then moved to split it into two,
this would be creating his own hardship. He stated these lots have always been
separate, and continue to be separate so this is a different circumstance; and they
did not create a lot with 75’ frontage, and it always had 75’ of frontage. He stated
having seen the property and walked the neighborhood, he agrees that the character
is not an issue in this case.
Mr. Gruen stated he agrees with Mr. Moffa. Mr. Gruen stated whoever owned those lots paid taxes on them and the owner has certain rights, and he does not see how they can turn it down. He stated if it had been one lot, they could turn it down; but since it was developed as two separate lots and filed as such, he will reluctantly vote in favor of this.

Motion carried unanimously.

Ms. Kirk stated because this was a contested matter, the Board has to issue formal Findings of Fact and Conclusions of Law; and under the law, the Board has forty-five days to do that. Ms. Kirk stated the Applicant will first receive a one-page Decision letter in the mail, but the formal Decision with the specific Findings will be issued within forty-five days. Ms. Kirk stated not only does the Applicant get a copy of that Decision but every resident who sought Party Status will also get a copy of that. Ms. Kirk stated once that Decision is issued, there is a thirty-day Appeal period from the date of that Decision to file an Appeal in Doylestown if the Applicant or any of the other Parties so choose. Ms. Kirk warned the Applicant not to proceed with any Building Permits until all the Appeal periods have been exhausted in case someone decides to file in Doylestown. She stated at that point she would recommend that the Applicant consult with an attorney to find out the best course of action.

APPEAL #14-1712 – PATRICK M. AND KIM ANNE BRENNAN

The Application submitted was marked as Exhibit A-1. A copy of the Zoning Hearing Board Decision from 2005 was marked as Exhibit A-2. A review letter prepared by the Township engineer in November was marked as Exhibit A-3. A Permit Site Plan was marked as Exhibit A-4. Notice of tonight’s Hearing was published in the Bucks County Advance, and a copy of that Proof of 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. Letters were mailed to residents as required by the Ordinance, and a copy of that letter along with the list of addressees was marked as Exhibit B-3.

Ms. Kirk stated at the time the initial Zoning Decision in 2005 was rendered, she was a member of the Zoning Hearing Board. She stated she is now the Solicitor for the Zoning Hearing Board and does not take part in any part of the Board’s Decision. She stated she does guide the Board as they may request. She asked if the Applicants had any opposition to her being present in her capacity as Solicitor, and the Applicants stated they did not.

Mr. Patrick Brennan and Ms. Kim Brennan were sworn in.
Mr. Habgood stated the Applicants have not yet received a copy of Exhibit A-3. Ms. Kirk stated this needs to be provided to the Applicant. She advised the Applicants that the Township recently passed a new Ordinance dealing with floodplains and designations as part of the FEMA management for flood insurance premiums. She stated there are certain requirements now put in place for any property within a designated floodplain. Ms. Kirk stated due to that new Ordinance which falls underneath the Zoning Ordinance, there are certain other technical requirements. She stated the Zoning Hearing Board has requested the Township to have the Township engineer review any Applications that would fall under the realm of that Ordinance and prepare a review letter to highlight to the Board what needs to be met and complied with.

Ms. Kirk stated since the Applicants had not received the letter prior to this evening, she is not sure if they would not want to ask the Board to bypass their Application to give them time to review the review letter since the Board will be asking the Applicants questions as to whether they will agree with what the Township engineer has indicated. Ms. Kirk stated in that letter, the Township engineer has also shown that there is the possibility that they might need to ask for an additional Variance that deals with expansion of non-conformity under the Zoning Code which they could verbally amend tonight.

Mr. Bamburak stated since there is a lot to read in the review letter, the Applicants will be given the opportunity to review the letter while the Board continues with the next Application. Ms. Kirk provided the Applicants with a copy of the Ordinance which the Township engineer has referenced. Mr. Bamburak advised the Applicants that if they determine that there is too much in the letter to consider this evening, the Board could also grant them a Continuance.

Later in the evening after Mr. and Mrs. Brennan had the opportunity to review the Township engineer’s letter, Mr. Brennan stated he did review the additional Sections which were cited; and he understands them. Ms. Kirk stated they can verbally amend the Application now, and Mr. Brennan stated they would like to proceed.

Ms. Kirk stated the Variances requested are outlined in Exhibit A-3, Page 2 which itemized #1, #3, #4, and #5; and there is an Amendment to include an additional Variance for a non-conformity due to the front covered stoop under Section #200-86B3C. Mr. Brennan agreed.
Mr. Bamburak asked if they are planning to raise their home, and Mr. Brennan stated they cannot because their home is all block and cannot be raised. Mr. Brennan stated what they plan to do is cut it off at the elevation they need to be at according to what the architect designed as far as what is necessary for the engineers involved to make the structure strong enough to support the existing home. He stated at that level, they would then build a first-floor deck and build a two-story house. He stated there is no way to lift the home, and he feels it would be faster to take it down and proceed as he indicated.

Ms. Kirk stated they are proposing to eliminate the entire building and rebuild, and Mr. Brennan agreed they will rebuild up to a point that is out of the floodplain. He stated they will probably keep more than half of the block that exists of the whole building, and get rid of the roof and the rest.

Mr. Gruen stated they will keep the exact footprint, and Mr. Brennan agreed except for the covered porch in the front because they need to enter the house. He stated in the rear there is an existing deck, and he read in the engineer’s letter that this should be elevated to a height out of the floodplain; and he stated this is no problem. Mr. Brennan added that he does like a little step out the door, and he asked if he is held to the fact that he has to stay 1.5’ out of the floodplain or could he go 2’ out of the floodplain. Mr. Eisold stated they can go higher.

Ms. Kirk stated the letter from the Township engineer indicated that they proposed deck should be elevated to the same height of the house to bring it up out of the base floodplain level, and Mr. Brennan agreed and they will not have any skirting underneath it so that the water can flow through. Mr. Brennan stated the Township engineer also suggested flood vents, and he stated they were going to do this anyway. He stated they built the garage in the rear, and they are well aware of what is necessary to mitigate; and they did put flood vents in the garage and will do the same thing here.

Ms. Kirk asked Mr. Brennan in reviewing the Township engineer’s letter, does he agree that the background information as provided by the engineer is accurate; and Mr. Brennan agreed. Ms. Kirk stated this would be except for the fact that Mr. Brennan agrees that the deck should be elevated to the same level of the house, and Mr. Brennan stated he would agree that it should be out of the floodplain. Mr. Eisold agreed with this adding that the house could be raised an extra 3” so that the deck would be above, and Mr. Brennan agreed.
Ms. Kirk stated with regard to the Sections dealing with the Zoning Ordinance, Mr. Eisold referenced Section 200-55B1, and she does not see that in the Code. Mr. Habgood noted Page 2 in the Summary, and he stated he feels this is a typo. Mr. Eisold stated he feels it should be 51B1, and this change was made.

Ms. Kirk asked Mr. Brennan if he agrees with all of these provisions, and Mr. Brennan stated they do.

Ms. Kirk noted the Section starting Zoning Ordinance Comments #1 and #2, and Mr. Brennan stated they agree with this. Ms. Kirk noted the next Section dealing with the specifics of the new Ordinance, Section A – 200-54; and Mr. Brennan stated he will comply with all the requirements set forth. He stated they were powered from above, and they plan to eliminate oil and go to forced air possibly with radiant heat. He stated the forced air and heat will come from the attic and some condenser units which will be outside. He stated the condensers will be raised on a platform which will bring them out of the floodplain. He stated they will have nothing going underground. Ms. Kirk stated all of this will be subject to the review and approval of the Township engineer, and Mr. Brennan stated they understand this.

Ms. Kirk noted B, and they will have to provide documentation certified by either a professional engineer or architect dealing with the design as to pressure velocity impact, and Mr. Brennan agreed.

Ms. Kirk noted C dealing with Building Permit Applications related to the Zoning Ordinance, and they will have to have a fully-signed elevation certificate presented; and Mr. Brennan stated they will. Mr. Brennan stated his architect is certified to give the elevations, and they have fixed points on the Plan that are not being removed which is the actual slab of the house which is staying. He stated they should also be able to provide the proposed elevation certificates through his architect from that. He stated he assumes the surveyor will do the As-Built at the end. Ms. Kirk stated they will do whatever is necessary for the elevation certificates as required by the Township, and Mr. Brennan agreed.

Ms. Kirk noted Section E. She asked if there will be a basement, and Mr. Brennan stated there will not. He stated there will just be the crawlspace made by cutting off the house. He stated the blocks will stay there with flood vents.

Ms. Kirk noted Sections F, G, H, I, J, K, L, M; and Mr. Brennan stated they will comply. Ms. Kirk stated these are all subject to approval by the Township engineer, and Mr. Brennan stated they understand this.
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Ms. Kirk stated because of the nature of the effect of the new Ordinance with respect to Variances, this Board will have to issue formal Findings of Fact and Conclusions of Law which will indicate a notice that if the Board grants the Variance, there may be increased rates for flood insurance premiums, and the Variance may also impose a risk to life and property simply by nature of the fact that the property is located wholly within a floodplain; and Mr. Brennan stated they understand this.

There was no one present in the audience to speak to this matter.

Mr. DosSantos moved, Mr. Moffa seconded and it was unanimously carried to approve the Application as amended subject to compliance with the terms and conditions as set forth in the Township engineer’s review letter marked as Exhibit A-3.

APPEAL #14-1713 – JAMES R. LITTLEY

Ms. Kirk stated Mr. Habgood notified her that the Applicant through his attorney has requested to withdraw his Application. As a result copies of the Application were not submitted to the Board. Ms. Kirk stated there is a letter which was received from Michael Peters, the attorney for the Applicant, dated November 20, 2014 which withdraws the Application in its entirety so at this point there is nothing for the Board to decide.

APPEAL #14-1714 – THOMAS J. MACK CONSTRUCTION

The Application submitted was marked as Exhibit A-1. Calculations regarding impervious surface coverage were provided, and this was marked as Exhibit A-2. A statement in support of the Appeal prepared by the Applicant was marked as Exhibit A-3. A copy of a Site Plan provided was marked as Exhibit A-4. The proposed garage plan provided was marked as Exhibit A-5. Notice of tonight’s Hearing was published in the Bucks County Advance, and a copy of the Proof of Publication was marked as Exhibit B-1. The property was also posted with Notice of tonight’s Hearing, and a copy of the Posting was marked as Exhibit B-2. Notices were mailed to property owners as required by the Ordinance, and a copy of the letter with the list of addressee was marked as Exhibit B-3.

Mr. Thomas Mack and Mr. Alan Anspaugh, homeowner at 50 Sutphin Road, were sworn in.
Mr. Mack stated Mr. and Mrs. Anspaugh purchased the property in 2002. It is in the R-2 Zoning District, and the lot area is 16,000 square feet. He stated they are seeking relief from Article V, Section 200-23B, the impervious surface requirements. Mr. Mack stated they purchased the property in 2002 and subsequently removed a great deal of impervious from the property. Mr. Mack stated a Permit was submitted for a Pool fence in 1988, and you can see from that the impervious surface greatly exceeds what they have today.

Mr. Anspaugh stated in 2003 they removed the pool, all the concrete around it, and all the pathways, etc.; and he roughly calculated that it put back into the soil 1,760 square feet. He stated what they are seeking tonight is a Variance that would increase the garage footprint by 379 square feet according to his calculations.

Mr. Zamparelli stated the pool does not count as impervious surface, but the coping and the sidewalks do. Mr. Mack stated by Mr. Anspaugh’s calculations he removed concrete areas of 1,120 square feet, a greenhouse at 55 square feet, and a brick path of 80 square feet. He stated this was done in 2003 and was Permitted by the Township for the removal.

Mr. Gruen stated currently the existing impervious surface is 33.5%, and Mr. Mack stated this reflects what was done in 2003 by the homeowner. He stated before they removed the impervious surface, they were at least 36%.

Mr. Habgood stated the numbers on Exhibit A-5 are correct; however, on Exhibit A-5 they show an area of turf pavers that they want to add as part of the driveway. Mr. Habgood stated his concern is that if this counts as impervious, this would bring the impervious surface percentage up to 35%; however, Mr. Eisold would have to make the determination whether these would be counted as impervious or not.

Mr. Eisold stated he did see the detail for the pavers, and typically they are considered to be pervious. He stated they are concrete block but there is a lot of soil in between the block so the water goes through, and they are typically considered a pervious and not impervious. Mr. DosSantos stated the number on Exhibit A-5 would therefore be correct.

Mr. Bamburak asked if the garage is for a collector car, and Mr. Anspaugh stated it is.

Mr. Zamparelli asked all the additions had Permits, and Mr. Habgood agreed. He stated in 1988 there was a Permit issued for an addition along with some decks, and the Site Plan he pulled for that is very similar to the Site Plan that was entered as Exhibit A-4.
Mr. Zamparelli asked the permitted impervious surface, and Mr. Habgood stated it is 18% for this lot. Mr. Habgood stated he did check the impervious surface, and in 1988 they counted it as 36%.

Mr. DosSantos asked Mr. Anspaugh if they have added any impervious surface since they purchased the property in 2002, and Mr. Anspaugh stated they only replaced a sidewalk at the same footprint.

Mr. Moffa asked what they put where the pool was, and Mr. Anspaugh stated they put in grass.

Mr. Gruen asked if they plan to keep the turnaround behind the garage, and Mr. Anspaugh stated they will and beyond that will be the flow through. Mr. Mack stated they are using part of the existing turnaround for the garage, and beyond that to add a little additional, they are using the pervious pavers.

It was agreed that the impervious surface they are seeking is the 34.6% that is on the Application.

There was no one present in the audience to discuss this matter.

Mr. Gruen asked if they are proposing any relief for the impervious such as a drywell; and Mr. Mack stated the flow-through pavers will provide relief as that whole area will have 2" of modified underneath the concrete block structures, and there will be dirt in there so that the water flows through that. Mr. Mack stated the stormwater on the lot is pretty much self contained, and there are some flow lines although they do not have a complete topo on the Application. He noted the arrows that reflect the water flowing from the back around front. Mr. Eisold agreed the pervious pavers will take the water.

Testimony was closed.

Mr. Zamparelli moved, Mr. DosSantos seconded and it was unanimously carried to grant the Variance as requested to increase impervious surface coverage to 34.6%.

APPEAL #14-1715 – DENNIS AND SHARYN LEVITT

The Application submitted was marked as Exhibit A-1. The Site Plan provided was marked as Exhibit A-2. Notice of tonight’s Hearing was published in the Bucks County Advance, and the Proof of Publication was marked as Exhibit B-1.
The property was posted with notice of tonight’s Hearing, and a copy of that posting was marked as Exhibit B-2. Notice was mailed to property owners as required by the Ordinance, and a copy of that letter with the list of addressees was marked as Exhibit B-3.

Mr. Richard Magee, attorney, Mr. Warren Mann, architect, Mr. Dennis Levitt, Ms. Sharyn Levitt, homeowners, were sworn in.

Mr. Magee stated this is an Application for an attached garage to the single-family detached home located in a Residential neighborhood.

Mr. Magee provided a colorized version of the Site Plan already marked as Exhibit A-2, and this colorized version was marked as Exhibit A-3. Mr. Magee stated the homeowners are seeking a Variance from the 18% impervious surface ratio coverage, and are seeking relief not to exceed 22.68%.

Mr. Warren Mann was called and stated the homeowners would like to add a small garage of about 393 square feet off the right side of their home off their existing driveway. He stated they are going to add approximately less than 1% to the impervious surface that is existing which is approximately 21%.

Mr. Magee noted Exhibit A-3 which is the homeowners’ plan. Mr. Mann noted the yellow-covered area is the small addition of a one-car garage. Mr. Magee stated the proposed additional impervious surface is 637 square feet, and Mr. Mann stated he believes the additional is 396 square feet. Mr. Magee stated there is then an additional apron just to get the door to “marry” with the current driveway. Mr. Magee asked the total additional impervious surface that the homeowners are proposing, and Mr. Mann stated it would be the combination of the two. Mr. Magee noted Mr. Mann prepared the Plan and is a Registered architect and professional engineer. Mr. Magee stated he is also the father of Sharyn Levitt and he designed the home which was built in 1984.

Mr. Magee stated the impervious surface calculations are on the Plan. Mr. Mann stated the total property area is 40,041 square feet, the home is 2,899 square feet, the driveway is 2,814 square feet, the walk leading from the driveway to the front door is 299 square feet, the patio and terrace excluding the pool area is 2,446 square feet, and the proposed addition is 396 plus 241 to extend the apron into the garage. Mr. Mann stated in total the existing impervious surface on the lot is 8,438 square feet which is 21.07%. The total proposed impervious surface is 9,075 square feet which is 22.68%.
Mr. Magee asked if there are any known stormwater drainage or flooding problems on the property, and Mr. Mann stated there are not; and he has been familiar with the property since 1984. Mr. Magee asked if the property is located in a Residential neighborhood, and Mr. Mann stated it is.

Mr. Bamburak asked Mr. Habgood if he agrees with the numbers, and Mr. Habgood stated the numbers they show on Exhibit A-2 are correct for impervious surface.

Mr. Magee stated he has discussed with Mr. Mann various mitigation approaches that could be done to address any concerns the Board might have about stormwater run off. Mr. Mann stated he has discussed these with the homeowners, and they are willing to address those concerns. Mr. Magee asked Mr. Mann to outline for the Board different approaches that might work for this property. Mr. Mann stated to mitigate the additional impervious surface, they could install a dry well which he would locate off the driveway on the side of the property to the north. Mr. Magee asked if this would address any additional percentage of impervious surface coverage above the required 18%, and Mr. Mann stated it would mitigate it completely. Mr. Magee asked what other mitigation approaches could be done, and Mr. Mann stated they could replace existing impervious driveway with pervious pavers from the back to where it meets Barn Drive; and if this is the only mitigate done, it would reduce the impervious to 15%.

Mr. Magee asked if the Plans showed the use of pervious pavers when they originally approached the Township, and Mr. Mann stated they did. Mr. Magee asked Mr. Mann if he has had discussions with the Township engineer or Code Enforcement Officer regarding the types of pervious pavers that are acceptable, and Mr. Mann stated they did not discuss the particular type.

Mr. Magee stated if the Township recognizes certain types of pervious pavers, the homeowners are willing to explore this option subject to Township approval; and Mr. Mann agreed.

Mr. Magee asked Mr. Mann if he feels the addition of the attached garage will harm or be detrimental to the public welfare or the neighborhood; and Mr. Mann stated it will not, and the design will blend in with the existing residence. Mr. Magee asked Mr. Mann if he feels the Variance requested is the minimum Variance that would afford relief to the homeowners, and Mr. Mann stated he does. Mr. Magee asked Mr. Mann if the attached garage is consistent with the R-2 District in which the property is located, and Mr. Mann stated it is.

Mr. Magee asked Mr. Mann if he will be involved with the design and the construction, and Mr. Mann agreed.
Mr. Mann stated they are not doing anything negative to the property; and if anything, they are adding to the character of the house. He stated if they were able to install the pervious driveway, they would be improving the run off by 3%.

Mr. Gruen stated they do not have elevations, and he asked Mr. Mann if there was any way they could put the garage on the paved area. Mr. Mann stated the design was done this way so that they would not encroach on any of the building setback lines.

Mr. Zamparelli stated he understands that they are willing to reduce the impervious surface to 15% through mitigation. Mr. Bamburak stated they are currently at 21.07% and it does not seem that anyone is complaining, and he feels it is a lot of work to tear up the driveway. Mr. Zamparelli stated a dry well would not be a lot of work. Mr. Mann stated while he does not have the calculations for the dry well, they would be willing to comply with the Code for the run off.

Ms. Kirk stated she felt that the Applicant indicated that they proposed a dry well off the driveway which would reduce the effective impervious surface back to the existing amount of 21.07%. Mr. Magee stated Mr. Mann did state this, but later in his Testimony he also indicated that the homeowners are willing to do mitigation efforts to address it back to the 18%. Ms. Kirk asked if this would just involve the installation of a dry well. Mr. Magee stated it would depend on the soil percolation that they would have to investigate. He stated if they get the percolation they expect that farm property had, they should be able to do this with a minimal dry well.

Mr. Bamburak stated he feels it is punitive to make them go down to 18% when it was 21.07% depending on what they hear from those in the audience. Mr. Bamburak asked Mr. Eisold his opinion on the dry well sizes for the different approaches. Mr. Eisold stated while he does not see any grades or contours, it appears the grade falls off from the front corner of the building toward the left front of the property, and Mr. Mann agreed adding it does not get out onto the street in anyway. Mr. Eisold stated he would recommend putting in some kind of dry well along the curved part of the driveway, and he feels it would probably have to be 3’ to 5’ wide and follow along a section of the driveway. He stated part of the Township’s Stormwater Ordinance has a calculation in it that shows, based on the amount of square footage they are increasing the impervious, they could design the dry well to accommodate that. He stated there seems to be sufficient room, and they could put in clean stone with river rock on top which would look very aesthetic. He stated the water would go through the bigger stones into the stones underneath, and they could do a quick calculation to determine how long and how wide it would need to be to reduce by 1 ½% or whatever is required. Mr. Mann stated they would use landscape stone.
Mr. Gruen stated at one point the Township was talking about a new Ordinance where they would allow pervious pavers, and Ms. Tyler stated what they passed was for pervious pavement. Mr. Gruen stated he feels they should leave it to the homeowner to decide what they want to do as he does not want to force them into doing either a dry well or the driveway provided they reduce the impervious surface by a certain amount.

Mr. Moffa asked how long they have owned the property, and Ms. Levitt they have owned it approximately thirty years. Mr. Moffa asked if they put the pool in, and Ms. Levitt agreed. Mr. Moffa asked if they got Permits for that, and Ms. Levitt stated they did. Mr. Moffa asked if there is documentation on when they went over the 18%. Mr. Habgood stated there was a Permit for the construction of the pool; however, it appears that they did add additional impervious surface that they did not get Permits for as there is no Permit for the shed or the impervious surface between the pool going back to the terrace patio and the walkway to the driveway; and that all appears to have been added after the pool was put in.

Mr. DosSantos asked the amount of the non-Permitted impervious surface, and Mr. Habgood stated the Permit in 2000 showed that they were just under the 18%. Mr. Moffa stated if they take this into consideration it might not be asking too much to ask the homeowners to bring it back down to 18% considering that these homeowners have brought it over the 18% in the time they have owned the property. Mr. Mann stated the homeowners understand that and want to do what is right. Mr. Moffa stated he would be interested in seeing mitigation to bring it back down to the 18%; and while 15% seems excessive when 18% is permitted, if they want to do this no one would stop them.

The Board was in favor of bringing it down to 18%.

Ms. Louise Rubenstein was sworn in. She stated her property is at 661 Sutphin Drive, and her back yard faces the doors of the two existing garages now. She stated she is at the bottom slope, and her property is very wet. She stated she is not saying it is because of their violation, but in the last eight years they have lost four evergreen trees which their landscaper told them were uprooted because the ground was so wet. She stated they also have a partially-finished basement which has flooded, and she appreciates them agreeing to the mitigation. Mr. Bamburak stated the homeowners have agreed to do better than what it is right now, so some of what Ms. Rubenstein is seeing may go away. Ms. Rubenstein asked if this will be guaranteed.
Ms. Kirk stated whatever the Board decides as to stormwater management, it would be subject to the approval of the Township engineer; and there is a way to do the calculations to insure that the effect of the impervious surface coverage would be brought down to a certain level.

It was noted that Ms. Rubinstein’s lot is Lot #9. Mr. Eisold stated the Township has a Stormwater Management Ordinance that describes how much stone and volume is required to mitigate the stormwater run off. He stated the way the Applicant’s driveway is configured, they could make a 3’ to 5’ stone area which could go as far as they need to along the driveway; and this would prevent some of the water that is going off the driveway onto the adjacent property and get it into the ground. He stated this relates to surface water which is the main concern, and it does not relate to groundwater which would be another issue. He stated the stone area would store a certain volume of water particularly during the bigger storms.

It was noted the curved area of the driveway is adjacent to Ms. Rubinstein’s lot; and Mr. Eisold stated there is a concrete curb by the trees, and it could start narrow there and as you got more grass in the front, it could widen out to take more water in that location. Mr. Gruen stated whatever they do, it will reduce the amount of water that Ms. Rubinstein will get. Mr. Eisold stated it will store water in the facility that currently runs to the adjacent property.

Mr. Moffa stated he feels Ms. Rubinstein’s concerns will be addressed by the mitigation, and hopefully she will notice the improvements since there will be a significant reduction in impervious surface coverage with this plan.

Mr. Bamburak stated he feels the Board is looking at proposing a Variance to allow the impervious coverage of 22.68% subject to mitigation to make the effective impervious surface 18%.

Mr. Magee stated they also have a letter from the next door neighbors on the other side voicing no objection and in support of the Application, and this was marked as Exhibit A-4.

Mr. Gruen moved, Mr. Moffa seconded and it was unanimously carried to approve the Application as requested subject to the Condition that a stormwater facility will be installed on the property for an effective rate of impervious surface coverage of 18% subject to the Township engineer’s approval.
APPEAL #14-1716 – DONALD F. AND ELIZABETH MAURER

The Application submitted was marked as Exhibit A-1. Calculations regarding impervious surface coverage provided was marked as Exhibit A-2. A Site Plan previously provided was marked as Exhibit A-3. The Applicant provided this evening a Master Suite Addition Plan, and this was marked as Exhibit A-4. Notice of tonight’s Hearing was published in the Bucks County Advance, and a copy of that Proof of 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 Ordinance, and a copy of that letter with the list of addressees was marked as Exhibit B-3.

Mr. Donald Maurer and Ms. Elizabeth Maurer were sworn in.

Mr. Bamburak stated they are requesting permission to construct an addition which will increase the impervious surface and encroach into the setback. Mr. Maurer stated when they downsized they downsized too much to provide for their nine grandchildren when they come over to the house. He stated this is why they are proposing a master bedroom and bath.

Ms. Kirk asked if they are putting it in or expanding what is already there, and Mr. Maurer stated it will be off the garage. It stated currently it is an L-shaped house, and it will be a U-shaped.

Mr. Zamparelli stated it seems that at 3%, this is a lot of extra impervious; and he asked Mr. Habgood if the calculations are correct. Mr. Habgood stated he actually calculated it a little bit higher. He stated he calculated more for the driveway than is shown on Exhibit A-2. He stated he calculated existing at 19.1%, and the proposed at 22.1%. It was noted that 18% is permitted. Mr. Maurer stated they have not added any impervious surface since they bought the house.

Mr. Bamburak stated there are concerns when the request is to increase impervious surface, and he stated they usually ask for measures to make the effective impervious what it should be.

Mr. Eisold stated there was prior discussion this evening about this, and with the addition they could easily probably tie in the roof drains of at least the new addition and possibly even some of the existing house. He stated this would be tied into a wet well that would be sized and design to accommodate the additional 3% increase in the impervious area. Mr. Bamburak stated this would increase the construction costs since there is excavating work. Mr. Maurer stated they would be willing to do this. Mr. Bamburak stated this will have to go to the Township engineer for review.
Ms. Kirk stated a Variance granted would be subject to installation of an appropriate stormwater management facility to effectively reduce the impervious surface coverage to 18% subject to the Township engineer’s review and approval.

Mr. DosSantos stated his only concern is they are at 19.1% which is how they bought it. Mr. Gruen stated it is not that much more to make it effectively 18% since it would only require another one or two feet of digging.

There was no one present in the audience to speak to this matter.

Mr. Bamburak stated this is also the issue of the setback; and Mr. Maurer stated he spoke to the neighbor who lives behind them, and he had no problem with this. The Board did not have a concern with the setback requested.

Mr. DosSantos moved, Mr. Zamparelli seconded and it was unanimously carried to approve the Application as requested with the actual impervious surface at 22.1% with the Condition that appropriate stormwater management be installed to bring the effective impervious ratio to 18% subject to Township engineer review and approval.

There being no further business Mr. DosSantos moved, Mr. Moffa seconded and it was unanimously carried to adjourn the meeting at 9:00 p.m.

Respectfully Submitted,

Anthony Zamparelli, Secretary