

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – AUGUST 6, 2019

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on August 6, 2019. Mr. Gruen called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board:                      Jerry Gruen, Chair  
    Anthony Zamparelli, Vice Chair  
    Keith DosSantos, Secretary  
    Pamela Lee, Member  
    James McCartney, Member

Others:    James Majewski, Director Planning & Zoning  
    Barbara Kirk, Township Solicitor  
    Adam Flager, Zoning Hearing Board Solicitor  
    Frederic K. Weiss, Supervisor Liaison

APPEAL #19-1824 – RYAN & SAMANTHA O’MARA  
TAX PARCEL #20-050-239 – 1217 EVERGREEN ROAD

Mr. Gruen stated the O’Maras are requesting a Continuance because they cannot get a surveyor.

Mr. McCartney moved, Mr. DosSantos seconded and it was unanimously carried to grant the Continuance as requested to September 1, 2019.

APPEAL #19-1839 – KEVIN & BARBARA FISCHER  
TAX PARCEL #20-030-073 – 1385 N. RIVER ROAD

Mr. Kevin Fischer was sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Impervious Surface Breakdown was marked as Exhibit A-3. The reasons for the requested relief was marked as Exhibit A-4. A legal description was marked as Exhibit A-5. The e-mail regarding the Continuance

request was marked as Exhibit A-6. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Fischer stated they have lived at 1385 N. River Road for twenty-five years, and they are still raising their family there. He stated they are seeking approval for the replacement of five detached structures – sheds and a carport – with a single garage-type structure. He stated the square footage of the old structures measured 1,355 square feet, and the new structure measures about 630 square feet so it is less than one half of what was removed from the property. Mr. Fischer stated the impervious surface is roughly reduced from 9.4% to 9.0%.

Mr. Fischer stated the reason for the replacement is because the old structures were in very poor condition with a lot of wood rot. He stated they were unsightly and unsafe. He stated the new structure is an improvement and increases the aesthetic and safety of the area. He stated the new structure will be used in a similar manner to store equipment, lawn tools, and a boat.

Mr. Gruen asked why they are here if they have less impervious surface. Mr. Fischer stated he built this and he needs to get permission for what he did. Mr. Majewski stated the Applicant built a structure in the floodplain without a Permit. He added that new structures in the floodplain are required to get a Variance to allow those structures. Mr. Majewski stated Mr. Fischer is indicating that he removed five structures to compensate for that. Mr. Majewski stated he is not aware of any structures that were removed, and he only knows of the one that was constructed without the benefit of a Permit.

Mr. McCartney stated on the diagram that was provided structures A, B, C, D, and E were demolished, and he built F in the floodplain; and Mr. Fischer agreed.

Mr. Gruen asked Mr. Majewski if the new structure was built to the specifications of the floodplain, and Mr. Majewski stated he is not sure. Mr. Gruen asked Mr. Majewski if he inspected it. Mr. Majewski stated he was on the towpath and saw a big structure being built in the floodplain, and he had the Code Enforcement Officer cite the violation. Mr. Gruen asked Mr. Majewski if the structure was completed at the time he observed it. Mr. Majewski stated he does not believe it had siding on it yet, and it was just plywood which was he noticed it. Mr. Majewski stated with regard to being in compliance with the floodplain requirements, he sees that it does not have the required flood vents. Mr. Gruen asked if a Cease and Desist was issued, and Mr. Fischer agreed.

Mr. Gruen asked about the condition of the structure at this time; and Mr. Fischer stated he has been working on it for three years, but has not done any work on it since he got the Notice. Mr. Fischer stated the structure is up, it is safe, and it is anchored. He stated it is in the place where another structure had been located. He stated he used part of that foundation, and he has put in 3' deep footings for the structure. He stated it is anchored. He stated he is a structural engineer, and the structure is safe. He stated they could put flood vents in it. He stated the other structures, even though they were in poor condition, never moved with the floods because the velocity of the water in that location is extremely slow. He stated flood vents are easy to install, and they could install them. He stated they do not have any siding on the building, and he would like to put siding on; however, he did not want to go any further without permission.

Mr. Gruen asked if he did not know that he needed a Building Permit if he is a structural engineer; and Mr. Fischer stated the other structures were there and they were replacing with less. He stated he does know that a Building Permit is required.

Mr. DosSantos asked if they could get it inspected before they agree to grant this. He stated had Mr. Fischer gone through the proper channels and obtained a Permit, there would have been inspections throughout the process. Mr. DosSantos stated the Township could inspect it and then report back to the Zoning Hearing Board.

Mr. Fischer stated he did include in his package the conceptual plan of what was there. He stated he still wants to install additional anchorage and bracing but he has not done anything with it because of the stop work order.

Mr. Gruen stated the first issue is whether he should have built something there to begin with, and that is what the Variance is needed for. Mr. Gruen asked what are the requirements, and he asked how close he is to the wetlands. Mr. Majewski stated regardless of whether or not he started work without a Permit, Mr. Fischer could come before the Zoning Hearing Board and propose a structure in this location, to remove the other buildings and replace it with this building. If Mr. Fischer had following the rules and the Board had granted a Variance, he would then go forward to get a Building Permit from the Township and the Building Code Official would then insure that all of the requirements of the Building Codes and the Floodplain Codes were followed. Mr. Majewski stated Mr. Fischer did supply a conceptual drawing of how he constructed it.

Mr. Majewski stated the Board is being asked to grant a Variance to construct a structure in the floodplain, and he will still need to get a Building Permit.

Mr. DosSantos stated if a Variance were granted, the structure he has constructed would need to meet the Code requirements of the Building Department, and Mr. Majewski agreed. Mr. Majewski stated in the event that he could not meet those requirements, he would need to modify the structure to meet all the requirements of the Building Codes.

Mr. McCartney stated the Zoning Hearing Board could make a ruling, and then the Inspector would follow up; and Mr. Majewski agreed that would be appropriate.

Ms. Lee asked Mr. Majewski if the five original structures require da Variance at the time they were built. Mr. Fischer stated the structures were “pretty old.” He noted Structure A was constructed mostly on his property by a neighbor who has since left, and that was taken down because of the sale of the neighbor’s property. Mr. Fischer stated he did consider that as part of the structures that he counted.

Mr. Gruen asked Mr. Fischer if he has any proof of those buildings. Mr. Fischer stated the Site Plan he provided the Board was the Site Plan that was submitted with his original Permit in 1994/95 which shows those structures on the drawing. He also showed the Board a drawing from Pickering Corts and showed the location of his property as well as the original house that was demolished. He also showed the location of the five structures there were removed. Ms. Lee stated he has already removed structures A, B, C, D, and E; and Mr. Fischer agreed.

Mr. Majewski stated there are no wetlands right where the building he has built is located.

Mr. Gruen stated he feels the Board should consider if they should grant him a Variance to build a garage, and after that it would be up to the Building Department to verify as to whether what he has built meets the Codes.

Mr. DosSantos stated he is reducing the impervious from what it had been with the other structures.

Mr. Fischer stated he made an error on the Application, and he noted Page 2, Item 2 with regard to the status of water and sewer service. He stated he does have public water; however, while there is public sewer, they use a septic system. He stated when the public sewer was installed, he granted an Easement across the front of his property

for the convenience of the Township to help them with failing septic systems north of his property. He stated Mr. Truelove had contacted him and advised that it would be a good thing for the community, and he granted the Township the easement even though he felt a “little uncomfortable” doing it but he felt it would be for the good of everybody.

Ms. Lee asked about the flood vents Mr. Majewski noted, and Mr. Majewski stated one of the requirements for building an enclosed structure in a floodplain area is that it have flood vents. Mr. Majewski stated a flood vent is an opening in the walls or foundation that would allow water, as it builds up, to go in the flood vent and essentially flood the inside of the structure so that there is not an imbalance of water inside and outside which could potentially collapse the walls.

Mr. Gruen asked if there are elevation requirements for the first floor, and Mr. Majewski stated this is a garage/storage structure so there is not an elevation requirement as long as they have vents.

Mr. McCartney stated Mr. Fischer could get to the Building Permit stage, and the Building Department might find errors in the existing building; and he asked if Mr. Fischer would be willing to fix them. Mr. Gruen stated he would not have a choice. Mr. Fischer stated he would do whatever he needed to do.

Ms. Lee asked Mr. Fischer if he has an existing garage; and Mr. Fischer stated he does, and is underneath the house.

Ms. Kirk stated the Township wishes to participate. Ms. Kirk stated on the Site Plan, the carport, structure A, is in the northeast corner of the property. Mr. Gruen stated that was a building which was removed, and Mr. Fischer agreed. Ms. Kirk stated he also removed structures B, C, D, and E, and Mr. Fischer agreed. Ms. Kirk stated structure C looks to have been square in shape. Ms. Kirk stated Mr. Fischer had stated he built the new structure on a foundation that existed; and Ms. Kirk asked if that was where structure C was. Mr. Fischer stated part of the new structure is there. Ms. Kirk asked if structure F as shown on the Plan is the new structure, and Mr. Fischer agreed.

Ms. Kirk stated the structure is a rectangular portion and then a side square attached to it, and Mr. Fischer agreed. Ms. Kirk asked Mr. Fischer to explain why it is in that configuration. Mr. Fischer showed a photo of the structure on his phone. Ms. Kirk stated the rectangular part is a sitting area which is not enclosed, and Mr. Fischer agreed. Mr. Majewski stated if the photo could be e-mailed to him, he could then print it out.

Ms. Kirk asked the total height of the structure, and Mr. Fischer stated he feels it is about 17'. Ms. Kirk stated if it is 17', that exceeds the current Zoning requirements as the maximum height allowed under the Zoning Ordinance is 15'. She stated if the structure is greater than 15', Mr. Fischer either needs to ask for additional relief or need to alter the structure to make it comply with the current Zoning. Mr. Fischer stated he would therefore ask for additional relief. Mr. Flager stated while he can, he cannot tonight. He stated what has been advertised are the two other Code sections. Mr. Fischer stated he is not 100% certain of the height. Mr. Gruen stated before the Board votes on it, they would need to know the height of the building. He stated they will not be able to vote on it tonight. Mr. Gruen stated from looking at the picture he feels it is more than 15'. Mr. Fischer stated he is "pretty sure" that it is 17', but not 100% sure. Mr. Flager stated Mr. Fischer could request that additionally, and then have all three requests heard together. He stated only two have been requested right now, and he would need a third if it is above 15' or he could change the structure. Mr. Fischer stated it is there already and would "be tough to change." Mr. Flager stated he would therefore have to request an additional Code section for an additional Variance. Mr. Fischer asked if he would have to pay an additional \$750 for that, and Mr. Flager stated that would be up to the Township.

Mr. Gruen asked if they should hear from the audience this evening or wait since it will have to be re-advertised, and Mr. DosSantos stated he feels they should hear from those present so they can get on the Record.

Mr. Mike Tenaglia, 1409 Robinson Place, was sworn in. Mr. Tenaglia showed the location of his home on the Plan adding he is to the north of Mr. Fischer. He stated he is the closest neighbor, and he is the only neighbor that would be effected by the shed/garage he has built. Mr. Tenaglia stated Mr. Fischer has a "top-notch property, and his yard is in great shape. He stated Mr. Fischer is an asset to the community. He asked if the Board has any questions for him.

Mr. DosSantos asked if he could confirm that there were structures that were unsightly on Mr. Fischer's property that were removed, and Mr. Tenaglia agreed adding he helped him remove two of them. Mr. DosSantos stated Mr. Fischer has a view of the current structure, and Mr. Tenaglia stated he does. Mr. DosSantos asked Mr. Tenaglia if he has any objection to the height of the structure, location, or anything else with regard to the structure; and Mr. Tenaglia stated he does not. Mr. Tenaglia stated this is a perfect location given the way Mr. Fischer's property is laid out. Mr. Tenaglia stated while Mr. Fischer does have a garage it is underneath a house, and he questioned who would want to put lawnmowers, boats, etc. where there are gas tanks involved under the house where you are raising a family. Mr. DosSantos asked if there are any flooding

issues in the area, and Mr. Tenaglia stated they did have “things in the past in 2004, 2005, and 2006;” however, he moved into his property in 2007. He has been the Fischers’ neighbor for almost fourteen years, and there have been no problems.

Mr. Gruen asked Mr. Fischer what is on the second floor of the garage, and Mr. Fischer stated it will be used for storage. Mr. Gruen asked if there will be plumbing or electric, and Mr. Fischer stated there will not. He stated the reason for the height is because he has files that he wanted to get out of the house. He stated. the floor is rated for 100 pounds per square foot.

Mr. Gruen asked Mr. Majewski if they will advertise it again. Mr. Majewski stated the Township will go out and verify the height of the garage, and they will then have to advertise for that Variance. Mr. Gruen stated they would only have to do that if it is over 15’; and if it is under 15’, they would not have to advertise again. Mr. Gruen asked if it will cost additional money; and Mr. Majewski stated it will, but it should not be excessive. He stated Mr. Fischer would not have to pay another \$750 fee, and it would just be the additional amount for the cost to advertise and to pay the Court Stenographer. Mr. Majewski stated he can go over the figures with Mr. Fischer.

Ms. Kirk stated Mr. Fischer would not have to necessarily file a whole new Application, and it would be an amended Application to include relief from the height restriction; and Mr. Majewski agreed. Ms. Kirk stated that amended Application would need to be re-advertised, and Mr. Majewski agreed.

Mr. Flager stated the height is still important because they would need to know the amount of relief that he is requesting for the Variance. He stated it should be measured so they know the exact amount of Variance. Mr. Majewski stated since they are going to the site, they could review the structure to make sure that there are no “red flags” involved.

Ms. Kirk suggested that at the next Hearing Mr. Fischer bring some hard photos of the structure to enter into Evidence as well. Mr. Majewski stated the Applicant has e-mailed him the photo that was shown to the Zoning Hearing Board this evening, and he will print that out for the Record.

Mr. DosSantos asked how long it would take for the Township to go out to the site so they can give Mr. Fischer a date for the Hearing. Mr. Fischer stated he could do the measurement tomorrow and bring it into the Township although he is sure it is close to 17”. Mr. Gruen stated they need the exact measurement. Mr. Gruen asked when they could get Mr. Fischer on the Zoning Hearing Board schedule again, and Mr. Majewski stated it would either be forty-five days or later so it may be the

second meeting in September or the first meeting in October. Mr. Majewski stated they need to do two advertisements, one week apart so it is typically forty-five days. Mr. Majewski stated the Township will verify the measurement before they advertise.

Mr. Flager stated Mr. Fischer also needs to file an amended Application, and Mr. Majewski agreed.

Mr. McCartney moved and Mr. DosSantos seconded to approve a Continuance as requested in order for the Applicant to get the information to the Township regarding the building height.

Ms. Kirk asked that it be Continued to a date certain. Mr. DosSantos stated he does not know that they can do that yet until the Application gets filed and taking into account what the Township has to do. Ms. Kirk stated her concern is that this be open ended under the MPC, and then a deemed approval. Ms. Kirk asked Mr. Flager if he would require a written Waiver from the Applicant or else the Board should give a date certain; and if need be, carry it further out if it is not enough time. Mr. Flager stated the Applicant could make that affirmation at this time and follow that up through an e-mail to himself or Mr. Majewski Waiving the MPC deadlines, and we would then be covered, and they would not need a date certain. Mr. Flager advised Mr. Fischer that under the Municipalities Planning Code which covers a lot of what the Zoning Hearing Board does, there is a certain deadline once an Application is filed that it has to be heard and ruled upon. Mr. Flager asked that Mr. Fischer waive that deadline so that the Board can give him the appropriate amount of time to amend the Application, for the Township to review and take the measurements, and then have Mr. Fischer come back. Mr. Fischer agreed to Waive the deadlines. Mr. Fischer was asked by Mr. Flager to confirm that in writing to Mr. Majewski or himself that he is waiving the deadline, and Mr. Fischer agreed.

Motion carried unanimously.

APPEAL #19-1841 – PEMBROKE FV LP  
TAX PARCEL #20-013-005-001 – 1000 FLORAL VALE BLVD.

Mr. John Schwartz was sworn in. Mr. Flager marked the Exhibits as follows:  
The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The proposed sign rendering was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.



Mr. Gruen stated Floral Vale also wants a sign like Mr. Schwartz did previously at another location. Mr. Schwartz agreed and stated it is the mid-rise building which is located within the Floral Vale Professional Park. He stated it is the four-story mid-rise building in the back of the Park. He stated it is a separate entity of the Park though it is managed by the Association. He stated they are requesting to have an internally-lit light box monument sign for the building. He stated the lumens that would be generated by this light box would be consistent with a ground-illuminated light. He stated they have run the design through the Condominium Association which has seventy members, and they have all given approval to go ahead with this. Mr. Schwartz stated the new design would have a higher visibility. He stated what they have found is that with the patients coming to the building, the ground light casts some shadows on the sign which makes it hard to read at some points, and the illuminated light will create no shadows and create high visibility for the tenants.

Mr. Gruen stated they are basically changing the ambience of the Township because they are going around changing the signs. He stated everyone is going to want these signs. Mr. McCartney stated he feels they can look at these on a case-by-case basis, and in this case it is located in the back of the Office complex and not on a major road. Mr. Schwartz stated there is no Residential in this area at all. He added there is no visibility from the road, and it is internal. Mr. McCartney stated it is all the way in the back. Mr. Zamparelli stated he does not have an issue with this sign at this location.

Ms. Lee stated she voted against the last request like this because she does not want these bright signs. Mr. Schwartz stated the “brightness standard” would still be in line with the indirect lights, and it does not change how bright the sign is, and it is just the way it is lit.

Mr. Gruen stated he feels this is why this should be on a case-by-case basis, and in this particular case, the sign is off the road; and if it were in a Residential neighborhood or near a Residential neighborhood, he would look at it totally differently.

Ms. Lee stated she feels they can achieve the same effect with a spotlight. She stated the Zoning does not call for what they are proposing, and it is not a necessity or a hardship. Mr. Gruen stated spotlights are sometimes a lot worse than an internally-lit sign or back-lit sign. He stated they get hit and do not aim at the sign. He stated he thinks what they are proposing is a good thing if it is done properly and it is not too bright.

Mr. McCartney stated it appears that the illuminated sign itself is 56”, and it will have a stone base it will sit on. Mr. McCartney asked the height of the stone base, and Mr. Schwartz stated he believes that it is 12”. He stated they will take out the existing

sign. Mr. McCartney asked the height of the existing sign; however, Mr. Schwartz stated he was not sure although he believes that it might be 4'. He stated the proposed sign will be higher, and they are adding two more tenant slots on the sign.

Mr. Gruen stated there will be no flashing; and Mr. Schwartz stated there will be no moving parts or flashing lights, and it will just be lit from the inside.

Dr. Weiss stated the technology of these internally-lit signs has changed drastically over the last ten years, and he believes the Board of Supervisors will be addressing this issue and probably making Amendments to the current Ordinance.

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

Mr. McCartney moved and Mr. DosSantos seconded to approve the Variance as requested. Motion carried with Ms. Lee opposed.

APPEAL #19-1842 – JOAN & DOUGLAS BENNET  
TAX PARCEL #20-040-046 – 2006 MAKEFIELD ROAD

Ms. Joan Bennet and Mr. Douglas Bennet were sworn in. Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Impervious Surface Breakdown was marked as Exhibit A-3. Additional impervious calculations submitted were marked as Exhibit A-4. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Ms. Bennet stated in 2014 they were living in a townhome which they had outgrown, and they needed to be able to take care of her 93-year old mother. She stated they looked at 2006 Makefield Road in December, 2014, and it met a lot of their requirements as it had an existing handicap ramp and an existing in-law suite for an aging parent. She stated the floor plan is less than desirable for a 2019 family. She stated the only internal access to the in-law suite is through another bedroom. She stated the only other access to the in-law suite is from the outside of the house so there is no privacy to either the caretaker nor the one being taken care of.

Ms. Bennet stated tonight they are requesting a Variance in order to be able to build a hallway that will go through the living room into the in-law suite, and therefore bypassing bedrooms and giving both people the privacy they need to live in the residence. She stated they are also requesting a Variance so that they

can put in two parking places on the Makefield Road side of the property. She stated Makefield Road has become dangerous and no one follows the required speed limit. She stated there are people who come to their house, and it is very dangerous to back out of the driveway as there is no turn around. Ms. Bennet stated they are also looking to have upstairs dormers. She stated there is an upstairs which is basically an attic with a small office space. She stated they need additional bedrooms there to accommodate family members who could come to take care of her mother who will possibly come and live with her. Ms. Bennet stated there are also no bathroom facilities on the second floor.

Mr. Gruen stated he does not believe they need a Variance for the dormers as that would be part of the existing building. Ms. Bennet stated the Variance is for the impervious surface.

Mr. Gruen asked the intersecting road of their property on Makefield Road, and Ms. Bennet stated they are three homes up from the Makefield School crossing toward Edgewood. She stated their driveway is at the end of the School Zone.

Mr. Zamparelli stated it seems that the request is just for impervious surface, and Ms. Bennet agreed. Mr. McCartney stated Ms. Bennet had mentioned the need for a Variance for a hallway inside of the house and dormers; and Ms. Lee stated she was just explaining why they need the Variance for impervious surface. Mr. Zamparelli asked if they have proposed a method for mitigating the extra impervious surface. Mr. Bennet stated they do. Mr. Gruen asked the allowable amount, and Mr. Majewski stated it is 24%.

Mr. DosSantos asked when they purchased the property, and Mr. Bennet stated they purchased it in 2015. Mr. DosSantos asked if they have added anything to the property since they purchased it by way of impervious surface, and Mr. Bennet stated they have not. Mr. Bennet stated they purchased of the house because it “was perfect for an in-law situation.” He stated the addition was done in 1986/87.

Mr. Zamparelli stated all he needs to know is how they are mitigating the extra impervious surface, and Mr. Bennet stated “it is a dry well situation.” Mr. Zamparelli asked if the plan is to reduce it back to 24%. Mr. Bennet stated there are two dry wells – one in the front yard and one in the back yard – and they are approximately 1,200 cubic foot which would accommodate “way more than we need.” He stated it would accommodate a 100-year rain event for a duration of one hour which is 3.6” of rain. Mr. Gruen asked if they are existing, and Mr. Bennet stated that would be in the future.

Mr. Zamparelli stated the proposed impervious surface is 31%, and they need that number to say 24%; and he asked the plan to make it 24%. Mr. Bennet stated they will offset it with the dry wells. He added that all the downspouts will lead into that.

Mr. Gruen asked who designed the dry wells, and Mr. Bennet stated he did. Mr. Gruen asked if he is an engineer; and Mr. Bennet stated he is a Civil Engineer, Union Carpenter, and he teaches at Bucks County Technical Institute. Mr. Gruen asked Mr. Bennet if he is Certified, and Mr. Bennet stated he is not a PE.

Mr. McCartney asked Mr. Majewski if the proposed dry wells will cover the 7%; and Mr. Majewski stated they do, and it is “very impressive work.” Mr. Majewski stated this has sufficient volume to go down to 24%. Mr. Bennet stated this is the first thing that would occur to make sure that the run off is accommodated in advance of building the structures and also to get the grass to grow before the winter sets in.

Mr. Gruen noted that there are no storm drains on Makefield Road except at the School, and everything else goes on the road.

Ms. Marianne Carroll, 13 E. School Lane, was sworn in. She stated she reached out to the Bennets when she received Notice. She stated her home faces into their side yard, and between her yard and their yard is E. School Lane, two very narrow yards, and then their yard. Ms. Carroll stated while she appreciates their “aggressive attempt” to mitigate the impervious coverage, her concern is that they have a very large “Class A RV” in the yard. She stated in the winter time it “sticks out like a sore thumb.” She stated when it first appeared she was upset because there are all of these “idyllic” yards, and then there is this “very large vehicle.” Ms. Carroll stated she reached out to them in conjunction with this Application, and she asked if they would be willing to buffer it in some way. She stated they had a discussion about it, and Ms. Bennet indicated that they would be willing to plant some shrubbery to help mitigate the appearance from the yards. Ms. Carroll asked that in conjunction with this Application, there be a Condition that they be required to put in the bushes.

Mr. McCartney asked Mr. Majewski if there is an Ordinance requiring buffer around a Class A recreational vehicle, and Mr. Majewski stated he is not sure what a “Class A recreational vehicle is.” He stated the Ordinance does have a requirement that recreational vehicles be placed on a hard surface – paved or stone – and that it be placed in an area that is less obtrusive to the neighborhood, and he feels planting shrubs would be a good idea. Mr. Majewski stated they would also help with stormwater management.

Mr. McCartney asked if the Applicants are willing to do that; and Ms. Bennet stated she did go to Marrazzo's today for a price, and they will be out to see how many bushes they need. She stated it may necessitate taking down two trees, and it will be a considerable expense. Mr. Gruen stated "bushes will not do it, and they will need trees." Ms. Bennet stated they will be Emerald Arborvitae, and the ones she looked at were about 5' tall. Ms. Bennet stated it is a very shaded spot, and they will do "the best they can." Mr. Gruen stated these are one of the favorite bushes for deer. Ms. Lee stated the deer will eat the bottom. Ms. Bennet stated the yard is fenced, and this is the best they can do. Mr. Gruen stated they could do another kind of tree, and Ms. Bennet stated she would be willing to take suggestions. She stated she did consult with Marrazzo's, and this is what they suggested.

Mr. McCartney asked if the RV is currently placed on a hard surface, and Ms. Bennet stated it is. Ms. Lee stated she does not feel the Zoning Hearing Board can address this. Ms. Bennet stated it meets the boundary distance as well. Mr. McCartney stated the Bennets are good neighbors for volunteering to do this. Ms. Lee stated she feels this is more voluntary, and she does not see where the Zoning Hearing Board's Decision has anything to do with that. Mr. Flager stated that is a separate Ordinance, but the Zoning Hearing Board could Condition it and view it as remediation. Ms. Lee stated she will have to remove two trees to put these bushes in. Mr. Flager stated while the Board could have this as a Condition because bushes can be considered remediation, the Board is not required to. Mr. McCartney and Ms. Lee stated they would rather not have that as a Condition.

Ms. Bennet stated they want their neighbors to be happy. She added that Ms. Carroll's property is over 400' away, and she is not their next-door neighbor. Mr. Gruen stated Ms. Carroll is about three houses down from the Bennet property. Ms. Bennet stated Ms. Carroll's property is "quite a distance" and is across the street. Ms. Bennet stated while she knows that it is not in the Code that they have to do that, they are willing to do it since they "want people to be happy;" and they will see what they can do.

Ms. Lee moved, Mr. McCartney seconded and it was unanimously carried to grant the Variance pursuant to the specifications in the Application.

APPEAL #19-1843 – BRYAN URSIC  
TAX PARCEL #20-003-036-016 – 1250 SILVER STREAM DRIVE

Mr. Bryan Ursic was sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The attached reasons for the Variance was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Ursic stated they have been in the house just over a year, and they bought it new from Toll Bros. He stated at the time they purchased it, they knew that they wanted to fence the yard in; however, they did not realize that going across a stormwater easement would be an impediment. He stated he is requesting a Variance to cross over the stormwater easement and connect to an existing fence at the back of the property. He stated Toll Bros. installed a black aluminum wrought iron-look fence between his property and the property that has the pond next to Oakmont. Mr. Ursic stated they will do the exact same style fence; but if they are restricted by having to stay on the house side of the stormwater easement, they will lose about 40% of their back yard, and it will look “ridiculous” with two fence lines parallel to each other. He stated it will be an open-rail, black aluminum fence, and it is not a solid fence. Mr. Gruen asked the height, and Mr. Ursic stated it will be 48” high. Mr. Majewski stated in talking with Mr. Majewski, they will keep it 2” above the soil although there is nothing on the bottom anyway, and it is totally open.

Mr. Gruen asked Mr. Majewski the type of easement, and he asked if there are pipes or something the Township will have to enter; and Mr. Majewski stated he believes that this one may just be an underground swale, although he is not 100% sure. Mr. Ursic stated there is one stormwater pipe, and the next Applicant on the list has the piping coming from that yard where there is an inlet, and it goes right through yard, through Mr. Ursic’s back yard, and then across to connect to the rest of the stormwater system.

Mr. DosSantos asked if they were condition the Application on the Applicant agreeing that the removal would be at the Applicant’s cost if the fence had to be removed for any reason because of the Easement, and Mr. Ursic agreed.

There was no one in the audience wishing to speak on this Application.

Mr. McCartney moved, Ms. Lee seconded and it was unanimously carried to grant the Variance as requested with the Condition that if the fence has to be removed, it will be removed at the Applicant’s cost and that they leave a 2” gap for the flow of water.

APPEAL #19-1844 – JOHN D’ORAZIO  
TAX PARCEL #20-003-036-017 – 1260 SILVER STREAM DRIVE

Mr. John D’Orazio and Mr. Richard Dinublia were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The reasons for the Variance was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Gruen stated this fence is basically as the previous Applicant, and Mr. D’Orazio agreed. Mr. Gruen asked if he is willing to accept the same Conditions, and Mr. D’Orazio agreed. Mr. Gruen asked if he is doing the same type of fence which is wrought iron, and Mr. D’Orazio agreed.

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

Mr. McCartney moved, Ms. Lee seconded and it was unanimously carried to approve the Variance as requested, and the Applicant to agree that if the fence needs to be removed for any type of access to the Easement, the cost would be at the Applicant’s expense, and the fence to be 2” from the ground.

APPEAL #19-1845 – DOUGLAS & MARY AGNES BRODOWSKI  
TAX PARCEL #20-046-143-001 – 66 BLACK ROCK ROAD

Mr. Douglas Brodowski and Ms. Mary Agnes Brodowski were sworn in.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The garage proposal including photographs and information was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Brodowski stated he is proposing a three-car garage; and they need a Variance for height as they are proposing a height of 18’ 18”, and there is a restriction of 15’ for an accessory building. He stated the reason for the requested height is because that would allow for loft storage on the second level. He stated the structure that he is in today has inadequate storage as can be seen from the pictures he has provided.

Mr. Brodowski stated the dwelling that they occupy is a restored barn. He stated they purchased the property in December, 2015. He stated it is 2.68 acres, and on that property was a derelict barn, a derelict house, and it was a neglected property. He stated there were trees that were overtaken by grape vines, and many of the trees were not salvageable. He stated he had an arborist come out, and they saved as many trees as they could. He stated they have spent a tremendous amount of money improving the property, restoring the barn, and taking it back to its original form. He stated he had the barn built by the Amish. He stated they saved the wood from the trees that had to be removed, and the wood was used for the construction of the barn. He stated the cherry that came off the roof of the barn which was cut in half was used for the countertops in the barn, and they tried to restore it as close to the original form as he could. He stated he had an architect design it, and he went through all the Building Code requirements to comply with everything that was needed.

Mr. Brodowski stated he is present tonight requesting a garage to be built in a similar style as the barn; and it will be built in a scale that is in proportion to the barn, will be built in a way that it will complement the barn, and to allow easy access from the barn to the garage so that he can park his cars and have access to the storage on the second level.

Mr. Brodowski stated currently he has three storage units which he is paying for each month for things he is unable to store in his dwelling. Ms. Brodowski stated the barn does not have a basement, and it only has very small closets. Ms. Brodowski stated the barn is where they live.

Mr. DosSantos stated the relief they are requesting is for the height as well as for the placement, and Mr. Brodowski agreed. Mr. Brodowski stated the garage is required to be built in the rear quarter of the property; but with their frontage being mostly existing driveway, that would place the garage, if they were to comply with the Code, almost 300' away from the house. He stated that is impractical, and for that reason he is asking that it be built on the existing gravel driveway close to the dwelling.

Mr. McCartney stated the back of the garage would face Black Rock Road, and Ms. Brodowski agreed. Mr. McCartney stated as you drive down Black Rock Road, the existing dwelling is on the right-hand side, and there will be a driveway between the existing driveway, and the back of the barn will be on the right-hand side on Black Rock Road. Ms. Brodowski noted the "after spring, 2019 picture," and she stated those two windows are what you see from



Black Rock Road when you look down the driveway. She stated to the left of that will be the garage, and the back of the garage will be against Black Rock Road; but it will not be visible from Black Rock Road.

Mr. McCartney stated they currently have access on Black Rock Road to the house, and Ms. Brodowski stated that is currently where they access. Mr. McCartney stated they would make a right into the driveway, and as you come into the driveway, the existing barn is on the right-hand side; and as you follow the driveway around to the left, “the barn would be on the left-hand side so it is almost splitting the driveway and you would be coming between the two.”

Mr. McCartney stated then they have access all the way back to Ardsley Court; however, Mr. Brodowski stated while they do not, that is proposed. Mr. McCartney asked if they are proposing that as well, and Mr. Brodowski stated that does not have to come under tonight’s Hearing for Variance. He stated it is drawn there to give some perspective on what they are looking to do. He stated the intention is to use that as their primary entrance/exit. He stated the narrow driveway comes down close to another house; and to be more considerate to the neighbors there, they are trying not to use that particular driveway, and have this second driveway out to the cul-de-sac.

Mr. McCartney asked the size of the Lot, and Ms. Brodowski stated it is 2.68 acres. Mr. McCartney asked if they have considered moving the detached structure to the other side away from Black Rock Road to a location where they would not need a Variance. Ms. Brodowski stated that would be 300’ in the back corner toward Bedford. Mr. McCartney asked if that would be the only spot on this Lot where it would be legal. Mr. Majewski stated this Lot actually has frontage on two roads, one of which is Ardsley Court, so the fourth of the Lot furthest from removed from Ardsley Court is to the northeast and also as a flag Lot off of Black Rock Road, the fourth of the Lot would be on Drawing ST-1 somewhere around where the approved shed is; and to the left of it on the drawing would be the fourth of the Lot furthest removed from both of those roads. Mr. Majewski stated it would probably be 150’ to 200’ away from where it is shown.

Various drawings were reviewed by the Zoning Hearing Board including the subject property and surrounding properties. Ms. Brodowski stated eleven properties touch their Lot.

Mr. Gruen stated the barn was pre-existing and was renovated, and Ms. Brodowski agreed. Mr. Gruen asked what is on the other side of the barn at a location he showed on a Plan.

Mr. Brodowski showed a larger rendering of the property. Ms. Lee asked about the one-story dwelling shown on the poster board being shown, and Ms. Brodowski stated that was the one-story house on the property that was derelict and was removed.

Mr. DosSantos stated the only building on the property now is the restored barn that they are currently using as a residence. Mr. Gruen stated there is also a shed; however, Ms. Brodowski stated the shed is proposed. Mr. Gruen stated it indicates it is an approved shed; and Ms. Brodowski stated while it was approved, it has not been built yet.

Mr. DosSantos stated as opposed to putting the garage in the proposed location, he asked why they could not build it to the north of their driveway which is north of where the barn is. He stated this would be in between where the proposed shed is and the barn. Ms. Lee stated it would be at the location where the building was that was removed. Ms. Brodowski stated if you would look at their property and come out the door, you would see a “beautiful 2 ½ acres that have gorgeous trees and beautiful grass;” and she would now have to run a driveway across that section and then walk 200’ to go to the garage.

Mr. Gruen stated the Board received a letter, and Ms. Brodowski stated she received the same letter. Mr. Gruen stated Ms. Brodowski has indicated she does not want to “destroy her vista;” but she is willing to put a building right in the back of the neighbor’s swimming pool where they would have to look at it. Ms. Brodowski stated she looks at a building exactly the same as that from her property, and she does not have a problem with it. She stated she has also plants trees all around the property which have already grown 5’ since they planted them, and they will continue to grow.

Mr. Gruen asked what is the hardship, and he asked why, aside from the fact that they do not want to destroy their view, they could not put the garage as an attached building with a breezeway on the north side of the dwelling/barn; and then they would not even need the Variance for the height. Mr. Brodowski stated they are trying to preserve the aesthetic of the barn. He stated it is nearly a two-year old barn, and they spent a tremendous amount of money on it. He stated he is not looking to put a garage next to a barn which would take away from the appearance of the barn. Mr. Gruen stated they could put it 34’ away the same as they did on the other side. He stated it would be the same building, but not on the back side which would interfere with their neighbors.

Mr. DosSantos stated he feels they would still need a Variance for that, but it would be a compromise. Ms. Brodowski stated there would be a neighbor there as well who could object to it.

Mr. Brodowski stated he is aware of the letter that was submitted. He stated they bought the property in December, 2015; and soon after he obtained the property, he put in Green Giants along the fence knowing that he wanted to create a buffer. He stated the neighbor was aware of the improvements going on, but made no effort to create a buffer himself. Mr. Brodowski stated he also put in a fence to provide even more privacy. He stated what he is facing is a lot of “complacency and neglect with vines growing over the fence killing his Green Giants.” He stated he has had landscapers come out a number of times. Mr. Brodowski stated he has a 25’ yew that is being overtaken by vines by that same neighbor. Mr. Gruen stated if the Green Giants are on Mr. Brodowski’s property, they are his responsibility to take care of; and it is not the neighbor’s fault that the vines are growing there, and they cannot control where the vines go, adding “everyone has that.” Ms. Brodowski stated it is poison ivy, and she has had it cut back; however, that neighbor is concerned about the view that he is going to see.

Mr. Gruen stated they cannot get involved in disputes between neighbors, and he is asking about the hardship and why they cannot put the garage on the other side of the dwelling. Ms. Brodowski stated that is their yard. Mr. Brodowski stated this would be transferring his property rights to the neighbor.

Mr. McCartney noted on the Plan where they are proposing the garage, and asked if they would consider moving it to a location he showed on the Plan. Ms. Brodowski stated they would not. Mr. McCartney stated it is the exact same distance, and it is not 300’. Ms. Brodowski stated on the side of the barn Mr. McCartney is indicating they should move it to she has sodded and done plantings and gardens, and she will not consider that.

Ms. Kirk stated the Township is participating. She asked the dimensions of the proposed garage and noted the Plan shows 24’ by 36’; and Mr. Brodowski stated that is what they are proposing. Ms. Kirk stated it will have three garage bays, and Mr. Brodowski agreed. Ms. Kirk asked if there is a dedicated second floor, and Ms. Brodowski agreed. Ms. Kirk asked if there will be electric or plumbing on the second floor, and Mr. Brodowski stated there will be electric, but no plumbing. Ms. Kirk asked if the Board were to grant this relief, what assurances could they give the Township that a subsequent would not attempt to use the second floor of that garage for additional living space. Ms. Brodowski stated she is not sure how they could do anything if someone else were to buy it and do something as they would lose their rights if they sold it; but they would not sell it as livable quarters.

Mr. Gruen stated in New York you can put restrictions on future sales regardless of Zoning which supersede the Zoning, although he is not sure whether you can do this in Pennsylvania. Ms. Kirk stated she knows that historically the Zoning Hearing Board has had concerns about accessory structures containing second floors that could subsequently be used for some sort of livable space, and she is trying to ascertain from the Applicants what are they willing to do by way of possibly a Deed Restriction or something to that effect so that there would not be that issue. Mr. Gruen asked if they could put on a Deed Restriction, and Ms. Kirk agreed.

Ms. Kirk stated it is the Applicant's position that because of the location of the house that where they are proposing the garage is the most viable option for them, and Ms. Brodowski agreed.

Ms. Kirk asked if other than the barn and the proposed garage are there are any other structures on the property, and Ms. Brodowski stated currently there are no other structures. Ms. Kirk stated there is a Plan that shows an approved shed, but she understands that has not been built; and Ms. Brodowski agreed that has not been built. Ms. Kirk stated the Plan also shows a proposed driveway access to Ardsley Court, and that has not been built; and Ms. Brodowski agreed. Ms. Kirk asked if that proposed driveway going to be in addition to the existing driveway from Black Rock Road, and Mr. Brodowski agreed. Ms. Kirk stated there would then be two accesses, and Mr. Brodowski agreed.

Mr. McCartney asked the distance from the approved shed from the house, and Mr. Brodowski stated it is approximately 150' from the house. Mr. McCartney stated it looks like it would be more than 150'. Mr. Majewski stated the location of the approved shed from the proposed garage is approximately 200'. Mr. McCartney stated they are willing to put a shed 200' away but not the garage, and Ms. Brodowski stated shed would not be parking her car in the shed. Mr. McCartney asked if they moved the barn, and Ms. Brodowski stated it is on the existing foundation of the barn.

Mr. McCartney stated it looks like the building envelope is in the middle of the site according to the dotted line within the boundary of the property. Ms. Brodowski stated she does not know that was the building envelope. Mr. Majewski stated he does not know what that represents.

Mr. Gruen asked at a "certain point did anyone proposed a house on this property," which would be another dwelling – a main house instead of the barn. Mr. Brodowski stated that is not proposed. Mr. Brodowski added that they were trying to salvage the existing house, but it could not be salvaged. Mr. McCartney stated the existing

house was to the left of the barn, and Ms. Brodowski stated it is where “the big brown hole is on the picture.” Mr. McCartney stated that is where he proposed that the garage be located.

Mr. Gruen stated they testified that the second level of the garage would be for storage, and they also have a proposed second structure of 30’ long by 15’ wide for additional storage. He asked why that storage shed could not be made a little larger, and they would not need the second story on the garage. Ms. Brodowski stated they types of things that they need to store are things for her daughter who is an artist, and she will not be putting her artwork in a shed outside. She stated she would also not put her good china in a shed so it is things like that. Mr. McCartney asked if the art has to be kept at a certain temperature. Ms. Brodowski stated it is not so much a certain temperature, but it is not something that she would put in a shed. Mr. McCartney asked if there would be any heating or cooling to the area, and Mr. Brodowski stated they have no plans for that. Mr. McCartney stated he feels fluctuations in temperature could damage art more than anything. Ms. Brodowski stated she has no place to put it now, and it is in storage containers.

Mr. Tom Burns, 62 Black Rock Road, was sworn in. Mr. McCartney stated Mr. Burns is the property directly left of the flag drive with the swimming pool; and Mr. Burns agreed, and he noted his property on the Plan. He stated the Applicant’s driveway runs along his property to the right of his property. Mr. Burns stated he did provide a letter; and in summary, he had indicated that as a matter of law there is no hardship here that warrants the granting of a Variance. He stated there is no physical condition unique to this property that makes it impossible for the Applicant to build their garage in the area required by the Ordinance. He noted the picture being shown must be dated since a majority of the trees he noted on the picture are gone. Mr. Burns stated the requested Variance does have an adverse impact on his property. He stated they already have the ingress/egress along the side of his property, and there is no setback as it is right off his fence. He stated he understands that they are now proposing to use this driveway as well as a new driveway from Ardsley Court to their barn. He stated they also want to build a 20’ structure, 15’ off the property line overlooking his pool with windows shown in the drawing which will be facing the pool.

Mr. Burns stated first they indicated it would be used for storage, and now there will be artwork. He stated he can foresee an art studio being 15’ from his property line. Mr. Burns stated he does not want cars, lawnmowers, and boats stored 15’ to 25’ from his pool especially when the Ordinance does not permit it.

Mr. Burns stated the requested Variance does not represent the minimum Variance that will affect the property, and it is not the least modification possible in terms of impacting other properties. He stated as several Board members have already pointed out there is no reason as a compromise that the proposed garage could not go on the other side of the barn which would be in the vicinity of a compatible use as that neighbor's garage sits on that property line so it would not have any adverse impact on them as they are using that area of the property for the same purpose. Mr. Burns asked that the Application be denied.

Mr. Flager asked Mr. Burns if he is requesting Party Status, and he explained what Party Status means. Mr. Burns stated he is requesting Party Status, and he is opposing the Application.

Mr. Christopher Sheehan, 725 Ardsley Court, was sworn in. Mr. Sheehan requested Party Status, and he stated he is against the Variance.

Mr. Sheehan noted the location of his home on the property. Mr. Majewski stated he is pointing to the house that is located to the southwest of the property on the northwest side of Ardsley Court.

Mr. Sheehan stated he moved into the property in 2001; and they moved into the property because of the natural environment as there was a "tremendous amount of trees and wildlife within the whole area." He stated part of it was "privacy, seclusion, serenity, and things have changed a bit." He stated there has been a "bit of development," and a lot of natural habitat has been effected by what has occurred. Mr. DosSantos asked if he is referring to what has occurred on the Applicant's property, and Mr. Sheehan agreed. Mr. Gruen asked for specifics as to why he believes the Applicant caused that change. Mr. Sheehan stated there are animals that used this as a breeding ground, and deer used to use it every year; and they no longer do that, and it is a direct impact "from that."

Mr. Sheehan stated part of his concern with the structure is how it will be used in the future. He stated there are two access points being considered – one of which is a new driveway. Mr. Sheehan asked if the structure will be a habitable space. Mr. DosSantos stated the Applicant has indicated that he is not asking for the access point off Ardsley at this Hearing. Mr. Sheehan stated he is talking about the structure, "but it does have a relationship" which is why they want to put it in that location.

Mr. Sheehan stated with the development, there have been changes to the area; and there has been a lot movement to develop the area. He stated the street has had some direct impact regarding equipment that has been moving through the area to develop the space. Mr. Sheehan stated along with the development and the equipment going through, he understands that this will also be used potentially as a farm. He stated the area has been greatly impacted by equipment moving through the area.

Mr. Gruen asked if he is used the proposed roadway from Ardsley Court as an ingress to the property to move equipment, and Mr. Sheehan agreed adding that is where all the equipment has moved through to develop the area. Mr. Gruen asked if there is a path there already, and Mr. Sheehan stated there is a path that was placed in the area for equipment. Mr. Gruen asked if they were to use that as a driveway, do they need a Permit to have two access roads to the property; and Mr. Majewski stated they would need a Permit for driveway access. He stated he believes the Applicant is aware that a Permit is required. Mr. Brodowski stated he is aware of this; however, he believes what has been indicated is an exaggeration. He stated they had a tree service come on one occasion who drove over the curb; and the neighbor had taken pictures of that and presented them to the Township who then came to him regarding the complaint.

Mr. McCartney asked under whose instruction did the tree service do that and asked how they would know they could access the property from Ardsley Court. Mr. Brodowski stated the Lot is open. Mr. McCartney stated you would go down the driveway to go to the house, and he asked why they would assume they could get to the house from Ardsley Court. Mr. Brodowski stated they had come down his driveway and were cutting back some brush at that end of the property by the cul-de-sac, and they then exited through the cul-de-sac.

Mr. Sheehan stated all the heavy equipment has gone through that area; however, Ms. Brodowski stated it was not all of the equipment. Mr. Sheehan stated all of the neighbors will attest to it. Mr. Gruen stated that has nothing to do with the Application before the Zoning Hearing Board. He added that Mr. Brodowski has the right to landscape his Lot provided he does not remove large trees.

Mr. Sheehan stated regarding the structure, part of his concern is how is the property going to be used; and will the additional habitants be using the area for frequent access to the space. He stated the concern is the habitability of the structure, and he feels if this were 2' shorter, the structure would not be able to be habitable. He stated his main concern is how the structure is going to be used.

Mr. Gruen asked if the property is in the Resource Protection area, and Mr. Majewski stated it is not in the floodplain. He stated should they submit a Permit for a driveway, it could be approved; and there is no restriction on having a driveway out to Ardsley Court. Mr. Majewski stated he has had a number of inquiries from neighbors about that; and some neighbors were inquiring about a snow storage easement that is in the Township Code, although that is applicable to Subdivisions and Land Development where there is a new Lot going into the end of a cul-de-sac where you leave a little room to plow snow, but that is not an issue here.

Mr. Gruen asked if they wanted to build a garage on the other side of the barn there would be no restrictions except they would need a Variance because it is not in the rear quadrant. Mr. Majewski stated that location would be more in compliance with the Ordinance; however, it would still require a Variance because of the height and also because it would be in the fourth of the Lot furthest removed from the road. Ms. Lee stated that is because it is not attached to the barn. Mr. Majewski stated even if they attached it with a breezeway, they could comply with the principal structure requirements.

Mr. McCartney stated the Applicant is not willing to do either of those options. Mr. Brodowski stated he is actually considering, depending on the objection here, building with a breezeway up to the 35' height limitation as an addition to the existing structure although that is not his preference. He stated at this point he is asking for a detached garage. Ms. Brodowski stated from the barn to the place where they have requested the garage, they could build a breezeway and have access to the barn and go up to 35' high. Mr. McCartney stated they would consider that, but they would not consider moving the proposed garage. Mr. McCartney asked how they would get access, and Mr. Brodowski stated they would have to have an architect design it. Mr. Gruen asked if they feel the 38' breezeway will interfere with the look of the barn that they are trying to preserve, and Ms. Brodowski stated she does not.

Mr. Michael Davis, 724 Ardsley Court, was sworn in. He showed the location of his home on the map. He stated earlier Applicants had informed their neighbors of what was going on at those properties. He stated their community is a great community, and everybody wants to help each other; however, unfortunately a lot of this the neighbors are hearing for the first time at the meeting, and he would ask the Brodowskis to work with the neighbors, talk to them, and work together as a community.



Mr. Davis stated he has similar concerns to what Mr. Burns and Mr. Sheehan said and also has direct concerns about the cul-de-sac. Mr. Davis stated Mr. Majewski had indicated that was not really a concern; however, Mr. Davis stated he would like to read the Township Ordinance regarding cul-de-sacs as he feels two apply directly. Mr. Davis noted Article X – Design Standards and Improvement Requirements – Cul-De-Sacs 178-45. Mr. Majewski stated that is the Subdivision and Land Development Ordinance, and is not applicable to this property. Mr. McCartney stated the cul-de-sac access is not before the Zoning Hearing Board although he understands it is a concern. Mr. Davis asked what would be the right forum for that one, and Ms. Lee stated she assumes it would be when they apply for a Permit. Mr. Majewski stated there is no forum for that Section, and that would only be if they came in and tried to subdivide the Lot into two properties. He stated they have an existing Lot that abuts a cul-de-sac, and they have the right to access it under all the Township Codes. He stated the Code Mr. Davis is referencing is for a new Development where they are cutting a Lot up, and then extending a cul-de-sac which would trigger a number of requirements.

Mr. Gruen asked what is the Lot size requirement for this Zoning. Mr. Majewski stated this is in the Resource Protection Zone – RRP – and the minimum Lot size is three acres. Mr. Gruen stated they could not divide it without a Variance, and Mr. Majewski agreed. Mr. Majewski if they subdivided it, then the applicable Sections of 178 would apply.

Mr. Gruen asked Mr. Davis if he wanted Party Status, and Mr. Davis stated he did.

Mr. Davis stated he would like to note the two Ordinances for the Record even if they do not apply just for future consideration should something come up. Mr. Gruen stated that is not before the Zoning Hearing Board, and Mr. McCartney stated it is not applicable. Mr. Flager stated this is the Zoning Board, and what Mr. Davis is referring to is under the SALDO, and the Zoning Hearing Board has no control over the SALDO. Mr. Davis stated he just wanted to speak to the safety of the street. Ms. Lee stated the only issue is whether or not the Zoning Hearing Board will grant a height Variance and a location Variance for their proposed structure, and that is all the Board can decide on tonight.

Mr. Davis asked if there is a way that he could get notification on Subdivision or “if they are going to use it.” Mr. Gruen stated he would as a matter of course if they apply for a Subdivision, and the same Notice he received tonight, he would receive if they applied for a Subdivision. Mr. Majewski stated they notify all property owners within 1000’ of any Subdivision or Land Development. Mr. Gruen stated that would be whether you have Party Status or not, and that is the standard operation.

Mr. Davis stated he is formally opposing this Application. Ms. Lee asked why he is opposed to the location and height of their structure; and Mr. Davis stated his daughter swims in the pool that Mr. Burns has so the location of that directly on the pool he feels “impacts that experience.”

Mr. Davis stated he does have video of multiple times that the equipment was driving over the curb if the Board needs it. Mr. Gruen stated that is not before the Board. Mr. Davis stated it does speak to what Mr. Sheehan had mentioned. He stated the Brodowskis stated that it only happened once, but he has multiple videos. Mr. Gruen stated they are allowed to bring equipment onto their property so that is not before the Zoning Hearing Board.

Ms. Lee stated there is a 50’ setback, and she asked if their structure is within that setback. Mr. McCartney stated they are proposing it 15’ off the front yard setback. Ms. Lee noted the poster board that Mr. Brodowski gave them this evening. Mr. DosSantos stated that is not part of the Record. Mr. Majewski asked what is that Plan, and he asked if it has a label on it. Mr. McCartney stated it is a survey and indicates that the front yard is Black Rock Road, and that it requires a 50’ setback from the front of the property for where the garage can be. Mr. Majewski stated it is not for a garage as a garage is an accessory structure if it is not attached to the principal structure, the house; and therefore it is a 10’ setback for an accessory structure.

Ms. Lee stated on the “back side it says 125’ rear yard setback,” and she asked what is that for. Mr. Zamparelli stated he does not feel they should refer to the poster board. Mr. Flager stated he understood that poster board was just a blow up of what had been submitted, and Ms. Lee stated it is something totally different. Mr. DosSantos stated it is not part of the Record. Ms. Lee stated it was provided to them, and members of the Zoning Hearing Board were looking at it.

Mr. Flager asked if these are “two different things,” and Mr. Brodowski stated they are the same property, and one if a must enlarged version of the other. Mr. Flager stated they are showing the same thing but on a different scale. Mr. Gruen asked why it is different from the “blueprint” that the Board has. Mr. Brodowski noted one document which he indicated was the survey which was done when they first obtained the property. Mr. DosSantos asked if he wants it entered into Evidence, and Mr. Brodowski stated he does not. Mr. DosSantos stated there should therefore not be referring to it.

Mr. Majewski stated with regard to Ms. Lee's question the lines that were drawn on ST-1, it appears that they looked at the setback requirements for the principal buildings which would be a front yard setback from Ardsley Court and 125' rear setback which would be from the northeastern property line; however, that is irrelevant to this Application.

Mr. McCartney stated the version the Applicant presented to the Board labeled ST-1 is a Sketch prepared by the architect who is doing the garage is an actual survey. Mr. Brodowski stated she had taken the survey from the engineer and applied it to the drawing that the Board has. Mr. Gruen asked Mr. Majewski has compared the two to see if they are the same, and Mr. Majewski stated he has not compared the two; however, when they submit for a Building Permit, they would need to provide the proper information although he does believe that they are the same.

Mr. Blaine Applegate was sworn in. He stated he lives at 2006 Makefield Road, but he also owns 63 Bedford Place. He asked for Party Status, and he stated he is opposed to the Application.

Mr. Applegate submitted photos which were marked Applegate-1. Mr. Gruen stated if Mr. Applegate plans to tell the Board about the condition of the property, that is not before them; and that is something that the Township would have to handle. Mr. Applegate stated his issue is a "vector control issue," which he imagines he has to take to Doylestown. He stated Page 2 shows piles of construction refuse that has been there quite a long time. He stated with all the trees being gone "he does not know where the mice are going to go." He stated that is a concern for his home at 63 Bedford but everyone on Bedford Place that this property backs up to. Mr. Majewski stated that would be a Bucks County Board of Health issue; and Mr. Applegate stated while he understands that, he wanted to have this on the Record as to what is going on there.

Mr. Brodowski stated Mr. Sheehan stated earlier that he heard that his intention was to create a farm, and that is incorrect. He stated Mr. Davis was speaking about being "neighborly," but he has learned that Mr. Davis has a fence and a shed in the front quarter of his property all without a Permit as well as a deck without a Permit. Mr. Brodowski stated there are problems with each of the neighbors. He stated one neighbor has flipped a house and removed all the vegetation. Mr. Gruen stated the Board is here just to discuss the garage. Mr. Brodowski stated each of his eleven neighbors has been "fighting him tooth and nail on this."

Ms. Brodowski stated when they purchased the property in December, 2015 she had petitioned the woman who owned the property for ten years to be able to purchase the property. Ms. Brodowski stated she lived around the corner on St. James Place where she maintained a beautiful home; and when the property finally came up for sale, she purchased it "sight unseen." She stated it had a barn from 1840 that they were told needed to be knocked down. She stated it has the Underground Railroad that goes from the barn to the neighbor's house, and they decided that the barn was worthy of saving and they put a lot of effort, money, and energy to make it into their beautiful home. She stated they also spent lots of money cleaning up a piece of property that was a "complete eyesore." She stated she took out fifty bags of liquor bottles off of the property, thousands of baseballs, and thousands of golf balls that she is sure one of the neighbors hit into the property. She stated that the clean-up that was done was "monumental. She stated it is a beautiful piece of property that she and her husband own and they live there with her two children where they pay taxes, and where they are permitted to do what they want with their property.

Mr. Gruen stated they are within the Zoning, and Ms. Brodowski agreed. Ms. Brodowski stated she can make it a farm or plant a "million trees." Mr. Gruen stated that is not the question before the Board.

Ms. Brodowski stated this "meddling and picking they have been put under is absolutely horrendous." She stated no person in the Township should be subject to what is happening right now. Ms. Brodowski stated this was to be their "dream property," but there are "eleven people who pick on them day and night." She stated there are eleven people whose sheds are on their property, but they have not had them moved. She stated Blaine Applegate has his fence on her property, but they "kindly put their fence behind it," while his fence is on their property. She stated it has been "three years working every night and every weekend on the property, and they have given everything of themselves." She stated there are people who do not even get the poison ivy off their fence, and she "has to listen to this."

Ms. Brodowski stated she is asking that they be able to put their garage where they like. She stated it will be a beautiful structure, and there will be nobody overlooking the pool. She stated if they are concerned about the pool, they had three and a half years to plant trees to block the property.

Ms. Ann Webb, 59 Glen Drive, was sworn in. Mr. Gruen asked where her home is in relation to the subject property, and Ms. Webb stated she lives in the neighborhood across the street on the other side of Black Rock where she has lived for twenty-two years. She stated she is friends with the Brodowskis, and she feels this is very sad. She stated she also knows many of the other people who are present this evening, and she feels they are just opposed to change. She stated if they knew the Brodowskis and saw where they lived before, whatever they do is going to be perfect. She stated the barn does not affect what she sees, and she is just attesting to their character.

Mr. DosSantos stated the Applicants have heard some of the neighbors comments as well as some of the Board members discuss some alternate locations and compromise. He stated before there is a vote taken, he asked if they are adamant that the garage will go where they have proposed as opposed to another location. He stated he understands they do not want to put it in the back corner of the yard because of the distance; however, the Board may be inclined to approve another location in the yard that would not be that far corner but not the location on the frontage for a number of reasons. He stated there is a height issue as well as the location issue. He stated he would like to know if this is something they would consider or take some time to consider or if they are determined to have it where they have it.

Mr. McCartney asked if they would like to have five minutes to discuss this. Mr. Brodowski stated what they have proposed tonight is the location that they want.

Mr. Gruen asked Mr. Burns how far away is his pool from the property line. Mr. Burns stated the edge of the pool deck is approximately 15' from the back fence. Mr. DosSantos stated Mr. Burns had provided a photograph which was part of the letter Mr. Burns sent. Mr. DosSantos stated in looking at the photograph he sees Mr. Burns' pool and there is also a structure, and Mr. Burns stated that is the barn. Mr. DosSantos asked where in the picture would the proposed garage be built, and Mr. Burns stated he understands it would be right in front of the barn in the foreground to the right of the large pine tree in the left of the picture. Mr. Gruen asked if the pine tree will have to be removed; however, Mr. Burns stated he did not know.

Mr. McCartney asked Mr. Majewski the required setback for a pool, and Mr. Majewski stated the water's edge of a pool needs to be 10' from the property line. He stated items such as decking are required to be a minimum of 5' from the property line. Mr. McCartney stated the pool therefore did not require a Variance. Mr. Burns stated the pool has been there since 1967. Mr. Brodowski stated the pool has been there since 1973.

Mr. Burns stated he would like to speak since the eleven people who all “adjoining this property have been attacked in terms of our lack of neighborliness.” Mr. Burns stated speaking for himself, the Brodowski’s property is a beautiful property, and they have done a great job; and he is glad that they are using it and enjoying it as they like; however, “part of the deal when you move into an established neighborhood is you all do the best you can to respect the use and enjoyment of your neighbors’ property, and to the extent you can’t do that voluntarily, that is why we have Zoning Ordinances.” Mr. Burns stated this is so the Government can help them along to make sure they are all using their properties in a way that maximizing their opportunity to use and enjoy them. He stated he does not know the Brodowskis at all, and he has not heard anything about poison ivy or vines except for this evening. He stated they live close to him and they are free to knock on his door any time if they have any issues they would like to discuss.

Mr. Gruen stated there is no Ordinance for poison ivy or vines. Mr. Burns stated he is just speaking on the issue of “neighborliness.” Ms. Brodowski stated Mr. Burns sent her a letter about water pooling in the driveway.

Mr. Flager stated he is not sure about Mr. Burn’s submission being marked into evidence, and he asked if Mr. Burns would like the entire submission put into Evidence; and Mr. Burns stated he would. Mr. Flager marked this as Burns 1.

Mr. Zamparelli moved, Mr. Gruen seconded and it was unanimously carried that the Appeal be denied.

There being no further business, Mr. McCartney moved, Mr. DosSantos seconded and it was unanimously carried to adjourn the meeting at 9:45 p.m.

Respectfully Submitted,

Keith DosSantos, Secretary