

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MIINUTES – AUGUST 3, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on August 3, 2021. Mr. Zamparelli called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Chair
Pamela VanBlunk, Vice Chair
Matthew Connors, Secretary
Peter Solor, Member
Michael Tritt, Alternate Member

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

Absent: James Dougherty, Zoning Hearing Board Member

APPEAL #21-1922 – FRED & ASHLEY RITTER
Tax Parcel #20-047-091
59 GLEN DRIVE, YARDLEY, PA 19067

Mr. Fred Ritter and Mr. Rob McCubbin, Anthony and Sylvan Pools, 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 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. McCubbin stated they are looking to construct an in-ground, concrete pool. They are requesting relief for impervious surface. He stated the Ordinance calls for impervious limits on the property of 13%, and currently they are at 17.8% because of the existing features on the property including the house, driveway, detached garage, rear patio, and the front walkway. He stated they propose 120 linear feet of pool coping, 24 square feet of equipment pad, and 680 square feet of pool patio which would increase the total by 824 square feet and put them at 20.7%.

Mr. McCubbin stated as part of the Plan, they have a stormwater management system designed for all of the impervious over the 13% allowable so the system is designed for the 2,161 square feet that they are over the 13% maximum.

Mr. Zamparelli asked Mr. Majewski if Mr. McCubbin's numbers are correct, and Mr. Majewski agreed. It will take the impervious down to 13%.

Ms. Kirk stated the Township is not participating in this matter.

Mr. Solor asked Mr. Majewski if there are any floodplain concerns, and Mr. Majewski stated this property is not within the one hundred year regulated floodplain. He stated it is uphill from the Canal which is where the floodplain primarily is.

There was no one from the public wishing to speak on this matter.

Ms. VanBlunk moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal as submitted.

APPEAL #21-1923 – PETER CHAPMAN & PILAR OTTO

Tax Parcel #20-052-066

106 WEST FERRY ROAD, YARDLEY, PA 19067

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 Requested Relief 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. Peter Chapman was sworn in. He stated they are looking to replace the fence around their property. He stated they are putting in a privacy fence along their rear border which is in line with Code. On the other three sides there is a mix of two-rail and three-rail, three and four foot post and rail fencing; and they would like to increase it to four foot all the way around. He stated they are applying for a Variance to allow them to do that for the front yard. He stated they have two very active dogs, and a two-rail fence is not enough to contain them. He added there are deer that they chase, and there is a busy road.

Mr. Chapman stated when the neighborhood was created, his property was two Lots; and the house is on one Lot, and the majority of their yard is on the next to the side so the Zoning distinction between the back yard, the side yard, and the front yard does not really make sense for their property. He stated they would not want to divide off what is defined as the back yard separately from the front yard.

Mr. Chapman stated they have checked with their direct neighbors on either side who share the property line, and they are fine with it. He added that currently the front fence is screened by very mature plantings so you really cannot see the fence from the road so he does not feel it would be a problem in terms of aesthetics or visibility by traffic.

Ms. VanBlunk stated this is not a corner Lot, and Mr. Chapman agreed. He stated he believes that when it was built, the property went all the way to the corner, but it has gradually been built on. He stated originally it was one Lot, but a few years ago they merged them, and they now have one big Lot with the house on one and the bulk of the yard on what was the other Lot.

Ms. VanBlunk asked if the fence is going onto the other Lot. Mr. Chapman stated the fence originally went all the way around both Lots. He stated the driveway goes up the center, the house is one side, and the yard is on the other side.

Mr. Connors stated he understands that they are looking to have a four foot post and rail fence around three of four sides of the property, and Mr. Chapman agreed. Mr. Connors stated the rear would be a mix of five and six-foot fence, and Mr. Chapman agreed. Mr. Connors asked how far back from the front property line are they looking to have the four-foot fence, and Mr. Chapman stated it would be where the current fence is which he believes is shown on the Site Plan as a minimum of 20' and a maximum of 50'.

Mr. Zamparelli asked if the fence will protrude into the front yard, and Mr. Connors stated it appears that it is in the front yard setback. He added that in the past the Board has agreed to increments for increases. It was noted that the existing fence is 3' high in the front yard. Mr. Connors stated he is seeking a Variance for the front yard setback. Mr. Chapman stated he agrees, and he does not believe that they do not need a Variance for the fences in the rear and the side yard.

It was noted that the Township is not participating in this matter.

There was no one from the public wishing to speak on this matter.

Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to approve the Appeal as submitted.

APPEAL #21-1924 – TIMOTHY & ABBY BEVINGTON
Tax Parcel #20-058-183
752 SUMTER DRIVE, YARDLEY, PA 19067

Mr. Nathan Simcox, representing the Applicants was sworn in. He stated he put in the Application for the Permit and the Variance as he is the contractor doing the work.

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 Stormwater/Impervious Sheets were collectively 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. Simcox stated the impervious surface is at 18%. They are proposing to add a patio area which will take it to 22.3%. It will be an inter-locking paver patio. He stated they will install an infiltration trench to accommodate for the water displacement.

Mr. Zamparelli stated the Plan was very “elementary.” Mr. Simcox stated he usually does pools, but he is doing this for a friend so topographicals were not done. He stated the Plot Plan was provided by the Township, and he added the area that will be the new patio area.

It was noted that the Township is not participating in this matter.

Mr. Zamparelli stated the Plan is “unimpressive,” and he does not know if the Permit Office will accept this. Mr. Simcox stated usually for impervious coverage, they just get the Plot Plan and map out the size and dimensions and where they will be with the impervious calculations, and it is acceptable in Lower Makefield where he has done a number which did not require a Variance. He stated typically he does pool installations and they do have topographical surveys created for those because they are more complex.

Mr. Zamparelli asked Mr. Simcox if he would be willing whatever the Township asks him to do for infiltration; and Mr. Simcox stated they would do whatever measures are required in terms of volume, and they will install that reciprocating where the water runs off the patio and trapping it into the ground. Mr. Zamparelli stated usually the Board likes a more specific Plan that shows all of that.

Mr. Connors asked Mr. Majewski if he agrees with the numbers and is willing to work with the Applicant. Mr. Majewski stated he did review the numbers, and there is one minor error in the calculations, and the trench length would need to be 27' in order to meet the volume reduction requirements. Mr. Majewski stated for the Permit they will need to have a detail as to how they are going to construct the infiltration trench which is a standard detail that he has done before for Pool jobs. He stated they would also need to see the patio dimensions so they can verify that it meets what has been outlined in the Application.

Mr. Solor stated there is a Note about an existing pavilion, and he asked if that pavilion has been included in the 18% or is that part of what he is looking to mitigate. Mr. Simcox stated that is existing and has been calculated.

Mr. Simcox stated they will accommodate what needs to be done in terms of making sure that the volume is compensated for.

There was no one from the public wishing to speak on this matter.

Mr. Solor moved, Mr. Tritt seconded and it was unanimously carried to approve the Appeal subject to submission and approval of a Stormwater Mitigation Plan for an effective rate from 22.3% to 18%.

APPEAL #21-1925 – DEREK CAMP
Tax Parcel #20-037-188
917 LANYARD ROAD, YARDLEY, PA 19067

Mr. Derek Camp 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 and Stormwater Calculation sheets were collectively 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.

It was noted that the Township is participating in this Appeal.

Mr. Steve Schwartz, Longford Landscape, was sworn in. He stated they are proposing to install a fiberglass pool and patio pool decking around it.

Mr. Zamparelli stated this is just for impervious surface. He asked Mr. Majewski if he has any concerns about the Notes on the Plan, and he particularly referred to Note #1 in the Zoning Summary. Mr. Majewski stated he assumes that the Record Plan that they had did not have a minimum Lot size, and that is irrelevant to this Application.

Mr. Zamparelli stated they are showing an infiltration-type seepage bed, and he asked Mr. Majewski if those numbers are correct. Mr. Majewski stated those numbers are correct, and what they have shown will mitigate the impervious surface back to what is currently existing which their Plan notes as 24.9%.

Ms. Kirk stated it appears that the in-ground pool coping will be immediately behind the asphalt driveway; however, Mr. Schwartz stated that is incorrect. Ms. Kirk asked where the pool will be located. Mr. Schwartz stated there is the driveway and then about 6' to the fence, and from the fence to the pool is approximately 30'. Ms. Kirk asked if there is 30' between the area that is marked as "asphalt driveway" and the fenced area where the pool starts, and Mr. Schwartz stated between the asphalt driveway and the fenced-in area it is about 6', and then from the fence to the pool coping itself it is about 30'.

Ms. Kirk stated it appears that the coping around the in-ground pool is of various widths. She asked the narrowest width of the pool decking area, and Mr. Schwartz stated the narrowest width is 4'. Ms. Kirk noted the rear where it states, "in-ground pool;" and she asked how wide is that decking area. Mr. Schwartz stated it goes from 4' to 6' and to 6' on the side facing the house. He stated it then comes out 12' from the pool at the widest point and then 15' on the other side. He noted that he does not have the Plan in front of him.

Ms. Kirk asked why could not three sides of the pool area have a deck coping of 3' in order to reduce the amount of impervious. She stated one section could have a wider area for chairs. Mr. Schwartz stated the narrower side is so that you can walk around, and they put most of the decking on the front by the door.

Ms. Kirk asked why it could not be a consistent 3' or 4' wide around three sections, and then just the wider area as shown. Mr. Schwartz it was just to give more room to put things around the pool. He stated if the Board wants it to be narrower, they could make it narrower, but it was there so that they could put things around the pool.

Ms. Kirk asked what will be surrounding the pool decking area that is not concrete; and Mr. Schwartz stated it will be landscaping, mulch, and grass. Ms. Kirk asked if it will be landscaped with stone of any nature; and Mr. Schwartz stated there will be no stone – just plants, mulch, and landscaping. Ms. Kirk asked if the Applicant would agree that no gravel will be installed in that area to help reduce any impacted gravel that may increase impervious surface unknowingly. Mr. Camp stated they will not have any gravel or rock going in there. Ms. Kirk asked Mr. Camp if the Board were inclined to grant the Application, would he agree to that as a Condition that there not be any rock or gravel installed; and Mr. Camp agreed.

Ms. Kirk asked about the proposed concrete patio shown. Mr. Schwartz stated those will be concrete pavers. Ms. Kirk stated that is not how it is marked, and Mr. Schwartz agreed that it will be a concrete patio. Ms. Kirk stated part of it will be covering an existing slate patio. Mr. Schwartz stated the existing slate patio will be taken out, and a concrete patio will be put in. Ms. Kirk asked if the existing slate patio that is to be removed shown in the calculations as 250 square feet being removed, and Mr. Schwartz agreed. Ms. Kirk stated they are then covering it with a concrete patio, and she asked if that number should not be added back in. Mr. Schwartz stated the engineer has all of the calculations.

Ms. Kirk stated according to the calculations it looked like 250 square feet of "concrete/hardscape" is being removed, and she asked what is that section that is being removed. Mr. Schwartz stated it is the slate patio and no other areas are being removed. Ms. Kirk stated they are then adding 1,670 square feet of impervious surface, and Mr. Schwartz agreed. Ms. Kirk asked if they added back in the 250 square feet of impervious surface that is going to now become concrete. Mr. Schwartz stated that would be part of it.

Ms. Kirk asked the size of the concrete patio. Mr. Schwartz stated the one piece is 10' by 10' and the other piece is about 20' by 20'. He again noted that he does not have the Plan in front of him. Ms. Kirk stated Mr. Schwartz has stated

that the larger rectangular area is 20' by 20' and the smaller extension is 10' by 10'; and Mr. Schwartz agreed. He added that would eventually have a spa on it, but for now it is just a 10' by 10' patio.

Ms. Kirk stated Mr. Schwartz had indicated earlier that there would be a pool building; however, Mr. Schwartz stated he did not state that, and it will just be the filter and the pumps.

Mr. Connors asked if the pool equipment is enclosed or on a pad, and Mr. Schwartz stated it is just on a pad.

Mr. Solor stated the impervious area they are putting on is almost twice what is in the Zoning for this particular Lot. He asked if they have looked at ways to try to reduce the amount of impervious area that they are looking to add as this seems to be quite a bit. Mr. Zamparelli noted the area where it says "concrete patio," and he asked if they could make that curve straighter for a while before they have the large piece. He asked why that has to be so big. Mr. Connors stated he agrees that this is a lot of impervious for this property, and he feels they should consider this further as to how they could cut back on what they are proposing. Mr. Schwartz asked how much the Board feels they should cut back on it. Mr. Zamparelli stated he would like to see it straight from the line where it states "concrete patio." Mr. Connors stated he feels the concrete around the pool could be cut back, and he feels the concrete patio to the west of the house could be cut back. He stated he feels they need to "tighten up" what they are proposing. Mr. Solor stated he feels they should narrow the area around the pool coping as was previously suggested. He stated with regard to the patio where the slate patio currently is, they could consider cutting off the section that is extending past the house and just pave over the slate area bringing it back to the house. Mr. Schwartz asked if he is suggesting taking out the smaller patio area. Mr. Solor stated that would be in addition to what has been discussed about shrinking back the coping around the pool area. Mr. Schwartz stated they could shrink the back area to 3', and on the left side make it 4'.

Mr. Zamparelli asked the width of the area around the pool now, and Mr. Schwartz stated he believes that it is 4' and 6' and 12'. Mr. Zamparelli asked if they could not just make it 3' around the pool. Mr. Schwartz stated he could do the back, the left, and the other side, and then just leave the larger area as the main area for chairs, etc. Mr. Schwartz stated they could also take the smaller area by the lower patio where the slate patio is.

Mr. Connors stated the inlet does not seem to be a place that would collect run-off from the pool, and he asked Mr. Majewski if he is satisfied with that location. Mr. Majewski stated that is something that they typically have the Township engineer review at the time of the Pool Application.

Mr. Zamparelli stated if they can tighten the three sides around the pool toward the back of the property, the north side, and the west side and that would leave room for the chairs on the east side of the pool, he would be satisfied with that. Mr. Camp stated he would be satisfied with that.

Ms. Kirk stated she would recommend Continuing the matter to afford the landscaper additional time to come up with an Amended Plan to present to the Board, and that was agreeable to the Board. It was noted the next meeting would be August 17. Mr. Camp agreed to the Continuance.

There was no one from the public wishing to speak on this matter.

Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to Continue the matter to August 17, 2021.

APPEAL #21-1906 – GABRIEL DECK & ALEXANDRA CALUKOVIC-DECK
Tax Parcel #20-039-004-001 & #20-039-004-002
INTERSECTION OF WOODLAND DRIVE & WEST SCHOOL LANE, YARDLEY, PA 19067

Mr. Edward Murphy, attorney, and Mr. Justin Geonnotti, engineer, were present.

Mr. Murphy stated this matter was Continued, and Mr. Geonnotti has yet to be cross examined by Ms. Kirk or Mr. Fenningham, who entered his appearance on behalf of the next-door neighbor. Mr. Zamparelli stated he also recalls that Mr. Fenningham was going to bring in an expert.

Ms. Kirk stated the property consists of two parcels, and Mr. Geonnotti agreed. Ms. Kirk stated one parcel is being referred to as a flag-pole parcel which is .7 acres of land, and Mr. Murphy stated that is the long, narrow piece which is 0.169 acres or 7,402 square feet, Parcel #20-39-4-2. Ms. Kirk asked Mr. Geonnotti if that flag pole parcel is the one that is very long and narrow, and it about 410' long, and Mr. Geonnotti agreed. Ms. Kirk stated that is an existing, separate, free-standing Lot; and Mr. Geonnotti agreed adding that it has its own Tax Parcel assigned. Ms. Kirk stated adjacent to it is the more-traditional rectangular parcel, and Mr. Geonnotti agreed. Ms. Kirk stated that parcel is 116' wide by 268' long,

and Mr. Geonnotti agreed. Ms. Kirk stated that parcel consists of 1.7 acres; however, Mr. Geonnotti stated it is .7 acres and is the bigger parcel. He added it is about 30,513 square feet. Ms. Kirk asked how much acreage they have between the two parcels, and Mr. Geonnotti stated it is .869 acres. Ms. Kirk stated that computes to approximately a little less than 38,000 square feet, and Mr. Geonnotti agreed.

Ms. Kirk stated the larger, more traditional parcel is the one that is landlocked at the present time, and Mr. Geonnotti agreed. Ms. Kirk stated that has no means of access at all, and Mr. Geonnotti agreed. Ms. Kirk asked if there is anything currently built on that parcel, and Mr. Geonnotti stated there is not. Mr. Geonnotti stated there is a portion of the shed that extends over the Lot Line that is owned by Parcel #20-39-04, but there are no other structures on that property.

Ms. Kirk asked if the parcels are separately owned by two different individuals, and Mr. Geonnotti stated currently they are owned by the same individual – separate parcels. Ms. Kirk stated there is still one property owner for both parcels, and Mr. Geonnotti agreed. Ms. Kirk stated the Decks are the Equitable Owners, and Mr. Geonnotti agreed. Ms. Kirk stated they are presently under an Agreement of Sale to purchase the properties, and Mr. Geonnotti agreed.

Ms. Kirk stated she believes that Mr. Geonnotti indicated that the MacDonalds, who are represented by Mr. Fenningham, share the northern boundary line with the landlocked parcel; and Mr. Geonnotti agreed. Ms. Kirk asked what is the grading from the northern boundary line across the parcel, and she asked if it is higher up at the northern line where the MacDonald property is.

Mr. Geonnotti stated looking at the subject property from east to west with east being the front property shared with the existing front property line and west being along the stream, the property grades toward the stream as you slope back. He stated where the house is located would be at the highest point of this property. Ms. Kirk asked what Plan is being referenced, and Mr. Geonnotti stated he is looking at the Stormwater and Landscaping Exhibit which has the grading on it. He noted that the Zoning Plan does not have grading on it. Mr. Geonnotti stated he believes the Stormwater Exhibit was entered as Exhibit A-11. He stated it is the Plan that shows the house and the green shading all around it. He stated it is also shown on the survey.

Mr. Geonnotti stated the property slopes toward the stream from the common Lot Line of the existing parcel and the common owner toward the stream located in the western portion of the property. He stated the elevation is approximately 89 ½ , and as you get toward the stream you are at elevation 83.

Ms. Kirk asked what color was used to highlight the stream itself, and Mr. Geonnotti stated on this Plan the stream itself is not being highlighted; and it was showing the stormwater features. He stated the stream would be seen on an earlier Exhibit. He stated the stream was highlighted in a different color because it is part of an Easement.

Ms. Kirk noted Exhibit A-10 which was designated as “Alternate Wetland Exhibit,” and there is a large section highlighted in green; and she asked if that is the wetlands area, and Mr. Geonnotti agreed that is the actual wetlands. Ms. Kirk asked if the stream is the section that looks like a narrow curved area within the center of the wetlands area, and Mr. Geonnotti agreed. He added that in the middle of the green you can see a stream line that is meandering through the property, and it shows two, 25’ offsets on either side of the stream. He stated that is the existing Stream-cleaning Easement that exists on the property so the stream runs within that Easement. Ms. Kirk stated that is considered a higher area than where the frontage of the property would be along Woodland Road; however, Mr. Geonnotti stated it is the opposite. He stated the house is higher than the stream. He added that the whole property grades to the stream.

Ms. Kirk stated they are proposing to install a stormwater conveyance system most of which will be consist of a rain garden located in the front of the property, and Mr. Geonnotti agreed. Ms. Kirk stated that is at the highest grade level of the property when they are consolidated, and Mr. Geonnotti agreed. Ms. Kirk asked Mr. Geonnotti asked if it is his opinion that use of the rain garden will be sufficient to collect all of the stormwater run-off created by the construction. Mr. Geonnotti stated they are collecting the entire roof of the house, conveying it into the stormwater basin, collecting all of it and managing rate volume and water quality. He stated they are actually providing double the Ordinance requirement for stormwater management by this Application. Ms. Kirk stated he is indicated that their stormwater facilities are two times greater in cubic feet collection that what would otherwise be required under the Ordinance, and Mr. Geonnotti agreed.

Ms. Kirk stated for the rear of the property there is a proposed deck area, and she asked if that will be a wooden slat deck or concrete; and Mr. Geonnotti stated it will be a wooden deck. Ms. Kirk stated other than the existing house itself and the proposed asphalt deck, there is no other footprint of impervious surface coverage that needs to be collected; and Mr. Geonnotti agreed.

Ms. Kirk stated Mr. Geonnotti had earlier Testified that the Township ranks the natural resource conditions that need to be addressed first, and Mr. Geonnotti agreed. Ms. Kirk stated one of those are the Easements that he has already identified as existing on the property, and Mr. Geonnotti agreed.

Mr. Murphy stated they are referring to the ERSAM Plan that was previously introduced as Exhibit A-4. He stated on that Plan they have the matrix for the various natural resources on the site, the level of protection that the Ordinance required for each specific category, and what level of disturbance they are proposing for each. He stated there was a reference to the several existing Easements that have been in place for forty to fifty years. Mr. Geonnotti stated they are shown in pink on the Plan, and the majority of the flag pole Lot is encompassed by two Easements, and there is the Stream-cleaning Easement which is shown in pink as running along the stream.

Ms. Kirk stated Mr. Geonnotti has Testified that the order of magnitude would be that Easements are the most restrictive, then the floodplain, floodplain soils, lakes, steep slopes, and woodlands; and Mr. Geonnotti agreed. Ms. Kirk asked when Mr. Geonnotti identified the wetlands, where does that fit in the order of magnitude. Mr. Geonnotti stated wetlands come in after floodplain and floodplain soils, and then it goes to wetlands. He stated the order of magnitude is floodplain, floodplain soils, lakes and ponds, and then the wetlands. Ms. Kirk stated based on Mr. Geonnotti's interpretation of the Ordinance, wetlands are near the bottom of the magnitude; and Mr. Geonnotti stated he would put them in the middle – Easements, floodplain, and then wetlands when it comes to this Plan – then steep slopes and woodlands.

Ms. Kirk stated they are asking to be able to disturb a section of the wetlands, which Mr. Geonnotti put it as a flood fringe area, for temporary construction staging; but that would actually be a wetlands area. Mr. Geonnotti stated it is a temporary disturbance of the flood fringe which is permitted. He stated it is not a permanent disturbance.

Ms. Kirk stated they will disturb about 22% of the wetland buffer area that is otherwise considered to be protected, and Mr. Geonnotti agreed. Ms. Kirk asked if that is a result of the construction or is that the result of the placement of the house. Mr. Geonnotti stated Exhibit A-9 showed the disturbance of wetland buffer. He stated it is the house that is impacting the wetland buffer shown in yellow on the Plan. He stated the Plan is entitled, "Wetland Exhibit."

Mr. Murphy stated there is a top portion of the Plan and a bottom. He stated the top portion was the original Plan and original lay-out of the house, and the lower section was the Revised Plan that was the subject of the comparison and Testimony at the last Hearing.

Ms. Kirk stated on that Plan the green area that is highlighted is the wetland area, and Mr. Geonnotti agreed. Ms. Kirk stated there are then two different shadings of yellow. Mr. Geonnotti stated it should be one shade of yellow. Ms. Kirk stated one is a brighter yellow than the other. She stated the area that is in the darker, brighter yellow says it is the "flood hazard zone;" and in between the bright yellow shading and the green, which looks to be a more muted yellow color, looks to be the wetland buffer area.

Ms. Kirk showed the Plan to the Board. Mr. Geonnotti stated what is being shown in a bad print. He stated there should be only two colors on the Plan – a green and a yellow.

Ms. Kirk stated Mr. Geonnotti calculated under the Ordinance that the measurement for the wetland buffer area from the edge of the resource protection line has to be 100', and Mr. Geonnotti agreed. Ms. Kirk stated he then indicated that depending upon the plantings and the trees within that area, he could argue for a 50' buffer area; and Mr. Geonnotti agreed. Ms. Kirk asked where he would measure the 50' buffer area. Mr. Geonnotti stated the Ordinance provides criteria for the amount of wetland buffer required for a wetlands based on the vegetation from the 50' to 100' from the edge of the wetland provided. He stated if there is a lot of vegetation in that first 50' you need less buffer as you would be getting water quality from the thicker vegetation and you would keep the wetlands protected. As the water runs off and gets into the wetlands, it is running through a denser vegetation, and you need less of a width. Ms. Kirk stated if she was measuring based on the Plan being shown would the 50' be measured from the start of the green section forward toward the house, and Mr. Geonnotti agreed. Ms. Kirk asked what type of vegetation needs to be planted within that area that would allow a 50' buffer area versus 100'. Mr. Geonnotti stated it would

be a mix, and it would be over 12” of vegetation over a certain length - trees, denser grass, and thicker vegetation along a percentage of that wetland. Ms. Kirk asked if that area if it was heavily planted with trees and landscaping look to be what other areas have designated as meadow-type areas, and Mr. Geonnotti agreed.

Ms. Kirk stated Mr. Geonnotti had indicated that the Applicant was willing to plant evergreen or deciduous trees in that area, and Mr. Geonnotti agreed. Ms. Kirk asked if the purpose of those tree plantings in that wetland buffer area merely to filter groundwater before it gets into the stream, and Mr. Geonnotti agreed. Ms. Kirk asked if the trees are designed in any way to absorb the water to prevent excessive stormwater run-off, and Mr. Geonnotti agreed. He added that it is a double credit, and they are taking credit for some additional plantings and trees on the property right now; and any additional trees planted within that buffer would increase the water quality of the buffer area.

Ms. Kirk asked if the Township’s Code designate the type of trees that should be planted in order to provide more vegetation within a wetland buffer area, and Mr. Geonnotti stated there is planting criteria. Ms. Kirk asked if there are specific species designated; and Mr. Geonnotti stated on the Plan right now, they do not show species, but there is a Planting Plan that shows five deciduous trees being planted within that stretch, and deciduous trees are part of the approved species for wetland revitalization and stormwater credits.

Ms. Kirk stated the reason she is asking this question is if they look in the Township there are a lot of “scraggly” evergreen trees planted that have very shallow roots; and the concern that she had is if those types of evergreen trees are planted and there is a heavy downpour, those trees will easily become uprooted and no longer serve their purpose. She asked if the Applicant is willing to plant additional trees in that area as recommended by the Township that may be of a more substitutive cost than merely “scraggly” evergreen trees. Mr. Geonnotti stated on the Plan they are proposed deciduous trees for that reason so that it something hardy that could withstand the wetland area and inundation by water. Ms. Kirk asked if that is a Condition that the Applicant would be willing to agree to if the Board were inclined to grant the request, and Mr. Geonnotti and Mr. Murphy agreed.

Ms. Kirk asked if there is any type of fencing or markers intended to set out what the wetland buffer area is, and Mr. Geonnotti stated that there is not at this time on the Plan. Ms. Kirk asked if the Applicant is willing to consider installation of a split-rail fence to designate the required wetland buffer area, and Mr. Murphy agreed. He added that in a prior Application about a year or so ago the Zoning Hearing Board in similar circumstances made a recommendation of that together with some signage to identify the extent of the Easement area, and that would be done in concert with the establishment of a Conservation Easement that in those back areas as well. He stated they would be agreeable to that same protocol in this Application as well which would be a fence, signage, and the establishment of a Conservation Easement in the back.

Ms. Kirk stated in addition to a Conservation Easement given that in the future the restrictions relative to Conservation may not be as rigid as they are now, would the Applicant be willing to impose a Recorded Restriction that prohibits the construction of any type of structure in that buffer area, and Mr. Murphy agreed. He added that they would identify the Township as having the right to enforce those restrictions. He stated in other cases you would have an independent Conservancy do it; however, since there is already an Easement over a large measure of the stream for stream cleaning, the Conservation Easement would be layered on top of that with the Township given the right to enforce any restrictions that would be included in it.

Ms. Kirk asked Mr. Geonnotti if the Zoning Hearing Board were inclined to accept his theory of an alternate wetland buffer, can he actually measure a 50' buffer area from the limits of the wetlands towards the house; and Mr. Geonnotti stated he can. Ms. Kirk asked if he could get a clear 50' buffer across that whole strip, and Mr. Geonnotti agreed. Ms. Kirk asked if that is what he is showing on the Alternate Plan, and Mr. Geonnotti stated it is showing a 50' buffer off of the wetlands. Mr. Murphy stated the Plan that Mr. Geonnotti is referring to is noted as Alternate Wetland Exhibit, and what that Plan shows is the 50' wetland buffer that Ms. Kirk just suggested.

Ms. Kirk noted the bottom left corner of the proposed house where there is a very narrow section between the house and the 50' proposed buffer area, and she asked what that distance is. Mr. Geonnotti stated off the edge of the buffer, he assumes that it is between 7' to 10' and maybe a little more. Ms. Kirk stated it will not be just 1' or 2', and Mr. Geonnotti stated it would not.

He stated there is enough area there to be maintained. It was noted that it was 3'. Mr. Solor stated that gives you 53' from the start of the buffer so it would be 3' since the buffer is 50'.

Ms. Kirk stated Mr. Geonnotti indicated that the house that is proposed on the Revised Plan was reduced in size by 556 square feet, and Mr. Geonnotti agreed. She stated the whole first floor footprint with the proposed garage would be 2,008 square feet, and Mr. Geonnotti agreed. Ms. Kirk stated it is a two-story structure, and Mr. Geonnotti agreed. Ms. Kirk stated the maximum height of the structure will not exceed 35' as required by the Ordinance, and Mr. Geonnotti agreed.

Ms. Kirk asked the intended type of roofing, and Mr. Geonnotti stated he assumes it will be a peaked roof. He stated the Applicant is present this evening if that is a concern. Ms. Kirk stated she was curious about the style of roofing if it would enable the gutters to have the downspouts into the rain garden as she assumes slate roofing would have a different requirement than a pitched roof. Mr. Geonnotti stated the Applicant is an architect, and they have made him aware that they need to make sure that happens. Ms. Kirk asked if the Applicant would agree to a Condition about the building gutters. Mr. Murphy stated all water collected from the roof will be directed via gutter to the rain garden via rain barrels or whatever other conveyance is required to get to the rain garden in front of the house as depicted on the Exhibit.

Ms. Kirk stated she believes the Testimony was that all roof gutters would be directed to the rain garden, and Mr. Murphy stated they will be connected to the rain garden.

Ms. Kirk asked what is the status since the last Hearing of the potential rain barrel at the corner of the building. Mr. Geonnotti stated their calculations work over and beyond without the rain barrel. He stated the rain barrel was added, and they are not taking credit for it. He stated it is shown as an option of what could be proposed. He stated capture and re-use is a great form of stormwater management. He stated they are proposing a rain garden, the additional landscape plantings, and the disconnect in impervious area; and collectively without the rain barrel, that is two hundred times the Township requirement for stormwater on this site.

Ms. Kirk asked where the rain barrel would be installed, and Mr. Geonnotti stated the rain barrel would be underneath a roof downspout. He stated if the rain barrel were to fill, the overflow would be conveyed into the stormwater basin. He stated water in the rain barrel can be used for irrigation on site or it just gets conveyed to the stormwater basin at a later time. Ms. Kirk asked if the rain barrel be in contradiction to all of the roof gutters being down spouted into the underground rain garden. Mr. Geonnotti stated it is the same intent; and if it does not get captured and reused, which is a better form of stormwater management, it gets conveyed into the rain garden and it never gets discharged over land anywhere else.

Ms. Kirk stated Mr. Geonnotti has Testified earlier that the existing stormwater conveyance system within the Easement area already has an existing rip-rap apron; and Mr. Geonnotti stated there is a substantial rip-rap apron located within the property itself which they will be connecting into. Ms. Kirk asked if there is any enlargement or alteration proposed to that existing rip-rap apron, and Mr. Geonnotti stated there is no need. Mr. Murphy stated all of this is depicted on the Stormwater and Landscape Exhibit where you can see the location of the rain barrel and the rip-rap at the end of the stormwater conveyance system in the flag pole-shaped parcel.

Ms. Kirk stated she understands that the flag pole Lot will be primarily converted to an asphalt driveway, and Mr. Geonnotti agreed. Ms. Kirk stated Mr. Geonnotti's Testimony indicated that the water from the driveway will not be captured and diverted to the proposed rain garden, and Mr. Geonnotti agreed. Ms. Kirk stated Mr. Geonnotti indicated that it would go through a river stone apron before overland through the wetland buffer and then conveyed to the stream, and Mr. Geonnotti agreed. Ms. Kirk asked the location of the river stone apron, and Mr. Geonnotti stated the river stone apron is located at the back of the driveway. He noted the Stormwater and Landscape Exhibit where it is labeled as "proposed 2' wide river stone apron." He stated it is not necessary, but it is another form of filtration as water runs off of the driveway. He stated the grass itself and the amount of length that there is before it enters the stream or the rip-rap is sufficient for water quality, but they are trying to "overdo" stormwater management as much as they can.

Ms. Kirk noted the Stormwater and Landscaping Exhibit versus the Alternate Wetland Exhibit, and asked if the proposed river stone rip-rap apron will fit in the open area and not encroach into the 50' wetland buffer. Mr. Geonnotti stated they can make it work, and they can go down to 1' at the edge if it gets too tight. Ms. Kirk asked the length of the apron, and Mr. Geonnotti stated it is the full length of the driveway.

Ms. Kirk stated the Amended Application is seeking only four Variances, and Mr. Geonnotti agreed. Ms. Kirk stated they are requesting that setbacks be measured from Lot Lines and not from natural resource area lines, that the Applicant be permitted a 10% disturbance of the flood fringe merely during construction, requesting a 22% disturbance of a wetland buffer which is essentially requesting a 50' wetland buffer as opposed to a 100' wetland buffer, and the flag pole Lot would only 18' wide rather than the 25' required; and Mr. Geonnotti agreed. Ms. Kirk stated with regard to the flag pole Lot it is the section that would be going out to Woodland Drive, and Mr. Geonnotti agreed.

Mr. Fenningham stated he represents Scott and Kathy MacDonald who are the neighbors adjoining the Bausinger property including the flag Lot.

Mr. Fenningham stated the Applicant's proposed house site is uphill from the proposed buffer area and creek, and Mr. Geonnotti agreed. Mr. Fenningham stated the proposed house site is down grade from the Bausingers' existing home, and Mr. Geonnotti agreed. Mr. Fenningham stated the flag Lot is sloped running down toward the creek, and Mr. Geonnotti agreed. Mr. Fenningham stated the proposed rain garden/basin is down grade from the Bausingers' property where their existing house is, and Mr. Geonnotti agreed. Mr. Fenningham stated it is above the house location as depicted on the Zoning Plan. Mr. Geonnotti stated it is above the proposed house.

Mr. Fenningham asked if the surface water runs across and down the slope, the flag Lot toward the creek bed; and Mr. Geonnotti agreed. Mr. Fenningham asked Mr. Geonnotti if he agrees that the MacDonalds' property is downhill and side gradient from the Bausingers' property including the flag Lot. Mr. Geonnotti stated it is downhill, but it is not side gradient. Mr. Fenningham stated he is trying to get an orientation that the surface water flowing from the Bausingers' parcel where their house is and the flag Lot run downward and toward the MacDonald property. Mr. Geonnotti stated it runs toward the stream. He stated the property is graded that it runs from the Bausinger property to the stream and not toward the MacDonalds' property.

Mr. Fenningham asked Mr. Geonnotti if he has visited the site, and he stated he has visited it multiple times. Mr. Fenningham asked Mr. Geonnotti if he has seen the MacDonalds' property, and Mr. Geonnotti stated he has.

Mr. Fenningham asked Mr. Geonnotti if he would agree that the water flowing through the creek floods the MacDonalds' property and erodes the creek bed, and Mr. Geonnotti stated he could not weigh in on that. Mr. Fenningham asked if he has not observed that, and Mr. Geonnotti stated he would not say that the water from this property floods the streambed. He stated the flooding on the MacDonald property is not caused by a vacant Lot with dense vegetation flowing into the stream. He added that anything that is occurring at that point in the stream is due to a significant amount of run-off coming into that stream from upstream locations. He stated earlier he had Testified that this area has a lot of known flooding issues, and the point that the MacDonald property is at a pinch point at the culvert is only further documented by the fact that some of the run-off from the existing properties, some of the additions on some of those properties, and the illegal discharges from some of those properties coming into the stream at that point is causing flowing on the MacDonald property. He added that he would not say that a 100% percent vacant Lot is causing flooding on the MacDonald property.

Mr. Fenningham asked Mr. Geonnotti if he is familiar with the definitions in the Ordinance in the floodplain area, and Mr. Geonnotti agreed he is.

Mr. Fenningham noted a clause in the Ordinance as follows: "A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or water course and/or any area subject to the unusual and rapid accumulation of surface waters from any source." Mr. Fenningham asked Mr. Geonnotti if he took into account all sources of water run-off that would be impacted by the post-development run-off on the flag Lot, and Mr. Geonnotti stated he did. Mr. Fenningham asked Mr. Geonnotti if he has an opinion whether that surface water run-off will be greater or less or "slight in some measurement."

Mr. Geonnotti stated he feels it is important to clarify that they are not building in the floodplain. He stated Mr. Fenningham is citing a floodplain definition, but they are not building in the floodplain. He added that in earlier Testimony he stated that they are providing over and beyond the stormwater management and that is rate, volume, and water quality two hundred times the Ordinance requirement. He stated in the post-development condition they will be an improvement on the conditions on the site or at least to the maximum ability that they have given the limited area they have for development.

Mr. Fenningham noted the Base Flood Elevation as plotted on the Applicant's Plans of Record. He stated he believes that it is plotted at elevation 88.5, and Mr. Geonnotti stated it is 88. It was noted this is Exhibit A-4.

Mr. Fenningham stated the plotting of the Base Flood Elevation (BFE) is just below the proposed the new house location, and Mr. Geonnotti agreed.

Mr. Fenningham stated Mr. Geonnotti actually re-designed the configuration of the proposed house to ostensibly have the house above the BFE, and Mr. Geonnotti agreed.

Mr. Fenningham stated the Applicant's Plans of Record including the Zoning Plan and the ERSAM Plan were plotted graphically including the BFE, and Mr. Geonnotti stated that is incorrect. Mr. Geonnotti stated they were plotted based on a field survey with field data and referenced in FEMA mapping. He stated it was all based on field data and not by graphical representation.

Mr. Fenningham asked Mr. Geonnotti to describe what is meant by plotting graphically. Mr. Geonnotti stated graphical plotting means that they take a rough approximation of where the line hits the property and sketch it in on a Plan. He stated this is done basically with conceptual planning. He stated this is a Zone AE Floodplain which means that there is a Base Flood Elevation assigned to it. He stated until you understand where that elevation hits the property, you do not know where the floodplain is. He stated this is the same reason why when you have a house located in the approximate floodplain, the insurance company asks you to hire a surveyor to go out and shoot the property to find out if the first floor is located above the Base Flood Elevation.

Mr. Fenningham asked Mr. Geonnotti would agree that it is critical to accurately depict the BFE elevation, and Mr. Geonnotti agreed. Mr. Fenningham asked if Mr. Geonnotti referred to any documents to support the BFE calculation and delineation that he made on the Exhibits, and Mr. Geonnotti stated he did. Mr. Fenningham asked if the General Note 1 on the Zoning Plan Exhibit A-4 referring to the ALTA Survey, and Mr. Geonnotti stated it is. Mr. Fenningham asked if it fair to say that the Zoning Plan and Mr. Geonnotti's determination of the Elevation BFE at 88 was based upon the ALTA Survey, and Mr. Geonnotti agreed. Mr. Fenningham stated that is Exhibit A-7; and Mr. Geonnotti agreed adding that it was surveyed by Fortified Services.

Mr. Fenningham asked Mr. Geonnotti if he would agree that the FEMA Map shows the floodplain at the current Bausinger house above the flag lot. Mr. Geonnotti stated the FEMA map is based off of graphical plotting

purposes and it based off of a GIS/ortho grid plotting, and it is an orthophoto which only has 5' contours. Mr. Geonotti stated the field survey that they conducted is based off of real life data, and everything on the Plan is accurate within a hundredth of a foot. He stated that elevation is then translated and confirmed with a FEMA map which says that the Base Flood Elevation of the profile along that section is 88 so where the 88 contour hits their property is where the FEMA floodplain is. Mr. Geonnotti stated the FIRM Map shows the floodplain extending further than what they have shown it because it is based on a less-accurate graphical representation and not on a field survey. He stated you take that as a reference, and then you apply the field survey as to where that hits the profile.

Mr. Fenningham asked Mr. Geonnotti agrees that his Zoning Plan indicates that no field survey was performed in connection with the BFE determination. Mr. Geonnotti asked where that is noted, and Mr. Fenningham stated it is Note #32. Mr. Fenningham read the last sentence of Note #32 as follows: "No field surveying was performed to determine the Zone and an Elevation Certificate may be needed to verify this determination or apply for a Variance from the Federal Emergency Management Agency."

Ms. Kirk asked which Plan has Note #32 that Mr. Fenningham is reading from, and Mr. Fenningham stated it is Zoning Plan A-4. He stated there are two documents that are A-4 – the Zoning Plan and the ERSAM Plan. He stated he is referring to the Zoning Plan.

Mr. Geonnotti stated that is a typo on the Plan. He stated Mr. Fenningham had already noted Note #1 which says: "This Plan has been based on a reference of a field survey."

Ms. Kirk stated what she is reading as Exhibit A-4 does not say that under Note #32, and hers states: "By graphic plotting only this property is in Zone AE." Mr. Fenningham stated that is consistent, and he had read the last sentence.

Mr. Geonnotti stated this is a Plan error, and it is not based on graphical plotting and it is based on the survey, and the survey has already been noted and accepted as Exhibit A-7 which shows the FEMA line based not on graphical plotting but based on a field survey.

Mr. Fenningham noted Exhibit A-7, the bottom left corner, where there is another Note disclaimer. He stated this is the ALTA survey document. He read the flood note in bold at the left corner of Exhibit A-7 which is the ALTA survey that Mr. Geonnotti stated was the foundation for the Zoning Plan as follows: “By graphic plotting only this property is partially in Zone AE, Zone X (shaded) and X (unshaded) of the Flood Insurance Rate Map.” He stated it refers to the FEMA map number “which bears an effective date of July 16, 2004 and is not in a special flood hazard area. As shown on the FEMA Website by firmette created on July 16, 2004 we have learned this community does currently participate in the program.” He added this means that the Township participates in the FEMA mapping for development purposes.

Mr. Fenningham stated this is a disclaimer consistent with Note #32, and he asked if there are two Plans with two errors or was this only done by graphic plotting. Mr. Geonnotti stated it is two Plans – two errors. He stated it is a general Note that is common to a lot of engineering and survey plans. He stated if was by graphically purposes only that map would match the FIRM map which shows the whole property located into the floodplain.

Mr. Fenningham asked if there are errors that are on the Plans that were submitted and sealed, how confident can the Board be with the accuracy of the plotting of the BFE and the floodplain area itself.

Mr. Fenningham asked if the floodplain is in question and you put a house within the floodplain would that not be like putting the house in a body of water that will cause the water to rise. He asked if the house location as proposed in the Plans before the Board is a location within the floodplain, is it like putting the house in a body of water that will then cause the body of water to rise or to accelerate the flow of surface water as a result of the post-development status.

Ms. Kirk asked Mr. Fenningham if he is talking specifically of a floodplain and not a wetland buffer or floodplain soil, but the floodplain; and Mr. Fenningham agreed.

Mr. Geonnotti stated Mr. Fenningham is saying that if the house was built in a floodplain with no other grading or any other balancing, would it cause the floodplain to rise, and the answer would be possibly yes. Mr. Fenningham stated it is like stepping into a bathtub, and when a body steps into a bathtub the water rises; and Mr. Geonnotti stated it depends on the size of the bathtub.

Mr. Fenningham asked Mr. Geonnotti if the location of the proposed house result in surface water flowing around the structure at an increased velocity. Mr. Geonnotti stated Mr. Fenningham is implying that the house is located in a floodplain. Mr. Fenningham stated he did not add that. He stated he understands all of the site improvements proposed, but his premise is that the rain garden is above the location of the house; and there will be surface water running toward the house not collected in the rain garden. Mr. Geonnotti stated the bottom of the rain garden will obviously located lower than the house so water can be conveyed to it. Mr. Fenningham asked how deep is the rain garden as proposed, and Mr. Geonnotti stated it is about one foot deep.

Mr. Fenningham asked Mr. Geonnotti if he did any studies to model the flow of water to see what happens to the flow toward the adjoining downstream properties. Mr. Geonnotti asked if he is referring to surface water or groundwater, and Mr. Fenningham stated he is asking about surface water. Mr. Geonnotti stated that is what they propose as a stormwater management system that returns this to existing conditions or better.

Mr. Fenningham stated in Mr. Geonnotti's Testimony on June 15 he stated that the proposed surface water improvements would collect the water on site, and Mr. Geonnotti agreed. Mr. Fenningham stated he is seeking to understand whether that is going to result in no surface water flowing off site to any other adjoining properties.

Mr. Murphy asked what water he is talking about collecting before it is conveyed to the stream. Mr. Geonnotti stated the water they are collecting is the water from the new impervious off of the structure of the roof that is going to be captured into a rain garden, treated for rate, volume and water quality before being conveyed downstream anything that does not infiltrate into the ground.

Mr. Fenningham asked if there is another body of surface water that they are not addressing. He stated there is natural rainfall and surface water flow existing now through the vacant lot. He asked Mr. Geonnotti if he is saying that there will be no surface water run-off off of the flag lot toward the downstream properties, particularly the MacDonald's property. Mr. Geonnotti agreed. He added that there is existing run-off occurring off of the property. He stated as a new developer on an existing piece of land they are tasked with taking the new impervious and returning the site from pre to post into pre-existing conditions or to the conditions required by the Township Ordinance which they are exceeding by two hundred percent. Mr. Geonnotti stated his

Testimony was that they are meeting the Township Ordinance and improving the situation by two hundred percent. He stated there is surface run-off occurring on that property naturally, and it is a grass area which conveys water to the stream to the MacDonald's property, which gets there through the stream through an existing Easement. He stated there will be surface water that is existing today that will continue to get to that stream at a lesser rate and volume than is required by Code as part of this Application. He added that they are not collecting all of the water that is flowing off the property and capturing it, and there will still be a conveyance into that property which is permitted because it exists, but they will not be increasing the rate or volume through the stream to that property.

Mr. Fenningham asked, hypothetically, what if the floodplain is not as Mr. Geonnotti depicted it on the Plan, and the FEMA mapping of the BFE is up at the existing Bausinger home. He asked what impact that level of water will have on the proposed site improvements, and he asked if they will be under water.

Mr. Murphy Objected.

Mr. Geonnotti stated there is enough documentation, which he can outline, to prove that the floodplain that has been shown on the Plan is accurate and based on a publicly-available FEMA floodplain based on a field survey dropped into CAD and 100% accurate.

Mr. Connors stated the flood elevations that they pulled off of FEMA are based on study points. Mr. Geonnotti stated they are based on study point and a geo-referenced cross section dropped into auto-CAD measured distances. He stated it is much more precise than you can get from any publicly-available FEMA flood map. Mr. Connors asked if there are several study points along the stream.

Mr. Geonnotti stated cross section V which is a cross section along the study point goes directly through the proposed house. He stated in all situations it is a very easy calculation considering where it falls on the property. Mr. Connors asked Mr. Geonnotti if he based his flood elevation off of a study point of the cross section just mentioned, and Mr. Geonnotti agreed. Mr. Murphy stated it was verified by the field survey.

Mr. Fenningham stated on June 15 Mr. Geonnotti Testified that the proposed Plan is within the Small Project Exemption of the Township Ordinance, and Mr. Geonnotti agreed. Mr. Fenningham asked Mr. Geonnotti if he measured post-development excess run-off onto the MacDonald's property. Mr. Geonnotti asked for a further explanation. Mr. Fenningham noted 200-56B with regard to floodplain technical provisions there is a Section 56 C2. Mr. Geonnotti asked why they would look at floodplain provisions if they are not in the floodplain. Mr. Fenningham stated he believes that they are in the floodplain. Mr. Geonnotti stated he would not be able to answer this since they are not in the floodplain. Mr. Fenningham stated this Sub-Section addresses drainage facilities.

Mr. Geonnotti stated what Mr. Fenningham is referring is located within the Floodplain Ordinance – floodplain technical provisions – which are only applicable if there is an encroachment into the floodplain which they do not have. Mr. Geonnotti stated Mr. Fenningham is referencing Section 200-56 C2 which reads: "Drainage features – storm drainage features shall be designed to convey the flow of run-off in a safe and efficient manner. The system shall provide proper drainage along streets and provide positive drainage away from buildings. The system shall be designed to prevent the discharge of excess run-off onto adjacent properties." Mr. Geonnotti stated the Board is aware that these floodplain provisions only come into play if you are developing within the floodplain so these are not applicable to this project because they are not located within a floodplain, and they are exceeding the stormwater requirements applicable to them by two hundred percent.

Mr. Fenningham stated this will hinge on where the BFE is, whether it is within the floodplain or not, and that is what he is drawing attention to.

Mr. Fenningham stated Ms. Kirk had asked questions about the requirement of a 100' buffer versus the depiction of a 50' buffer. He stated the Applicant is not seeking Variance relief to allow a 50' buffer, and Mr. Murphy agreed. Mr. Fenningham stated all of the Testimony on June 15 and Mr. Geonnotti's answers to Ms. Kirk's questions were posited on if the Zoning Board allows a 50' buffer versus the required 100' buffer. Mr. Geonnotti stated he recalls that on June 15 the purpose of the Testimony was to say that the Ordinance is very subjective when it comes to 100 versus 75 versus 50 based on the existing vegetation on site. He stated if they were to apply to the criteria for a 100' buffer, which subjectively there has been some discussion that they may be applicable for, the structure itself would not even require a Wetland Buffer Variance because it would not be located within the buffer.

Mr. Fenningham stated he also recalls that Mr. Geonnotti testified that he has not prepared a Landscape Plan as yet. Mr. Geonnotti stated they prepared a Stormwater Plan showing additional plantings, but they did not identify species, spacing, and the like; but they did commit to a certain amount of plantings, deciduous and evergreen, to over satisfy the stormwater requirement.

Mr. Fenningham asked Mr. Geonnotti if he agrees that there are existing mature trees with extended root coverage on the flag Lot currently; and Mr. Geonnotti agreed. Mr. Fenningham stated those trees will be taken down to allow for the construction of the new home as located on the Plan. Mr. Geonnotti stated that is correct within the tolerances of the Ordinance, and replacement trees will be added. Mr. Fenningham stated the mature trees are in a cluster configuration, and there are trees within a smaller area that are aligned and along the common Lot Line with the MacDonalds; and Mr. Geonnotti stated he would agree as much as you can cluster within 18'. He added that is the width of the flag Lot right now, and it is about an 18' wide slot of land. Mr. Fenningham stated that is the flag pole, and he is referring to the flag Lot. Mr. Geonnotti stated there are a few trees within the vicinity of the house, 14" trees, which he would not say are substantial trees. He stated they are allowed disturbance of trees, and they are well under the woodland disturbance even though this does not qualify because it is less than a quarter acre of trees. He stated they are providing replacement trees.

Mr. Fenningham asked Mr. Geonnotti if he would agree that the cluster of trees that is there now opposite the pool area on the MacDonalds' property are in an approximately size and height of 30' to 40', and Mr. Geonnotti agreed. Mr. Fenningham stated the replacement plantings will be Arborvitae or sapling trees, and Mr. Geonnotti stated that is to be determined.

Mr. Fenningham asked Mr. Geonnotti if he has done an analysis of the water absorption of the replacement trees versus the existing mature trees, and Mr. Geonnotti stated they used the Township-approved standard for what is allowable for stormwater for replacement trees. He stated there is a spread sheet available from the Township Zoning Officer which they used.

Mr. Fenningham asked Mr. Geonnotti if he would agree that the delineation of the buffer areas that Ms. Kirk asked about is also dependent on an accurate BFE determination. Mr. Geonnotti stated he would not agree adding that buffer areas are based on wetlands, and the wetlands were field delineated and based

on the survey so the buffers shown on the Plans are accurate. Mr. Fenningham stated there is not buffer in a floodplain area, and Mr. Geonnotti stated that is because the floodplain counts more than the buffer.

Mr. Murphy stated he would like Mr. Geonnotti to comment so that there is no misunderstanding about conflicting Notes on the Plans. Mr. Murphy stated there were aware from the annotated submissions about the inconsistencies. Mr. Murphy stated Mr. Geonnotti has acknowledged that there were typos. Mr. Murphy stated all the information that Mr. Geonnotti has submitted with the Application to the Board as it relates to the delineation of every natural resource on the property be it floodplain, wetlands, the buffer, etc. the foundation is an actual field survey; and Mr. Geonnotti agreed.

Mr. Murphy stated the Plans presume that the buffer adjacent to the wetlands will be 100', and Mr. Geonnotti agreed. Mr. Murphy stated that even though they know from past experience, depending on the subjective standards and how they would be applied, that there could be a reduction in that buffer; and Mr. Geonnotti agreed. Mr. Murphy stated they made no assumption in the submission of the Plans that any reduction in that buffer would be granted; and Mr. Geonnotti agreed. Mr. Murphy stated the Plans contemplate the full 100' wetland buffer and to demonstrate that there would be only be little if any building envelope available if that 100' buffer would be applied, and Mr. Geonnotti agreed.

Mr. Murphy stated with regard to FEMA, Mr. Geonnotti is familiar with the Floodplain Management requirements as published by FEMA and as they would be applied to Municipal members of FEMA that take advantage of that and regulate floodplains in their own individual Municipalities; and Mr. Geonnotti agreed. Mr. Murphy asked Mr. Geonnotti to describe the hierarchy of information and the specificity of that information that should or can be relied upon by Municipal Floodplain Managers as well as Applicants who own properties in the floodplain.

Mr. Geonnotti stated the National Flood Insurance Program (NFIP) publishes floodplain management requirements. He stated it is part of FEMA, and this is what all Townships and Municipalities reference as a form of determining where the floodplain hits on their property. He stated there is an order or magnitude/order of preference/order of accuracy that comes with floodplain delineations.

Mr. Geonnotti noted a document which could be made an Exhibit if necessary, and Mr. Murphy stated they will introduce it and provide additional copies of the excerpt of the FEMA regulations that they are talking about.

Mr. Geonnotti stated FEMA regulates the floodplain. He stated this is in Zone AE which means it is a studied stream, and there are Base Flood Elevations known along the stream which can be pulled off to determine for a single property along the stream what is the Base Flood Elevation. He stated the least most accurate is the FEMA firm map that is available publicly, and it just shows a graphical representation on an aerial; and that is the least accurate. Mr. Murphy stated FEMA acknowledges in its printed materials that its own information is a graphical representation; and a result is potentially the least accurate, and Mr. Geonnotti agreed. Mr. Geonnotti stated in Unit 4 of the document using NFIP studies and maps, it says: “Due to the limited detail and large scale of Base Flood Maps used for most FIRMS, which is the flood insurance rate map, much interpolation between contour lines is done in mapping floodplain boundaries. This is why you may find discrepancies when actual ground elevations are surveyed. The maps are just the best available graphical representations of Base Flood Elevations. Here is the order of preference for identifying a Base Flood Elevation at a particular location – the most accurate Base Flood Elevations are found in the Floodway Data Table.” Mr. Geonnotti stated they have listed by cross section, and instead of reading off of a graph, it tells you exactly what the elevation is at a certain cross section.

Mr. Fenningham stated he Objects based on the definition of the identified Floodplain area in Section 200-53 of the Township’s Ordinance. He stated in that definition is the reference to FEMA’s Flood Insurance Rate Maps and Flood Insurance Study. He stated those mappings are also within in other definitions including the Special Flood Hazard Area, the AE Zone, and with regard to the use of references to floodplain area, floodway, and references to Base Flood Elevations throughout the Township Ordinance. Mr. Fenningham stated unless there is a Challenge to the Ordinance by this Testimony that they should not be looking at this and should be looking at something else, this is why he Objected. He stated he also Objects to the the introduction of the Exhibit.

Mr. Tritt stated he lives on Deerpath Lane which is downstream from this property; and when he developed his Lot at that point in time, they did not rely on FEMA flood maps because they are not accurate. He stated he had a professional surveyor come out to actually do the physical contour lines

as they exist from a survey. He stated the FEMA maps are used as a reference point only. He stated if you have an existing property, after the FEMA maps have changed, then you have to get a survey done, and then you put an exemption in to the Flood Map, which his property has as will this. He stated once they do the accurate survey, then the flood map issue goes away.

Mr. Tritt asked Mr. Fenningham if he represents the MacDonald property, and Mr. Fenningham agreed. Mr. Tritt stated the MacDonald house is 46' away from the stream so the house is currently in a floodplain. He stated that house could not be built today because they are in a floodplain. Mr. Tritt stated the MacDonalds are benefitting from a grandfathered situation, and that house would not be able to be built today.

Mr. Geonnotti stated with regard to the point of being a Challenge to the Ordinance, it is no Challenge; and it is just a more accurate way of interpreting the FIRM map. He stated the FIRM map takes it at a 10,000' level looking down at an aerial; and as you get into a studied stream, you start looking at a flood profile which can accurately depict based on the site of the Plan, the elevation of the Base Flood at any given point along the stream. He stated is not a Challenge to the Ordinance, and it is just saying that the FIRM map is available to you, and you can use it as a reference, but you need to take it one step further if you want to know exactly where the Base Flood Elevation hits your property. He stated it will be based on a data table and on a profile. He stated if those two are not available to you, the least accurate available is the FEMA FIRM map.

Mr. Connors asked the date of that study associated with their stream section, and Mr. Geonnotti stated it is March 16, 2015. He stated that is the date of the FEMA map that is shown on the Plan, and is the latest map change for FEMA.

Mr. Murphy stated for this Application we are relying on the most accurate information that Mr. Geonnotti was able to obtain via the on-site field survey and the March, 2015 FEMA study to as accurately as possible identify the Base Flood Elevation on the Plans, and Mr. Geonnotti agreed.

Mr. Murphy stated in anticipation of the issue being raised, Mr. Geonnotti prepared an additional Exhibit.

Mr. Murphy stated they will mark the FEMA Floodplain Management Requirements as Exhibit A-13, and Mr. Geonnotti provided copies of what will be marked as Exhibit A-14. Mr. Geonnotti stated Exhibit A-14 is a Flood Profile for the associated FIRM Map for the stream. He stated the stream itself has been studied by FEMA and they came up with elevations along the stream of the stream and the associated floodplain elevation which is the Base Flood Elevation. Mr. Murphy stated that is the March, 2015 Study which was just made reference to, and Mr. Geonnotti agreed. Mr. Geonnotti stated if you were to look at the Associated FIRM Map, the subject property – cross section V – goes right through the property. He stated V has a Base Flood Elevation labeled on the Plan of 88.1 directly in the middle of the property. He stated the surveyor of Record took that map and took the contours, and 88 is the Flood Hazard area. Mr. Geonnotti stated what they did today to be “ultra-conservative” looking at a worst-case scenario and looking at the most upstream point of the Plan where their structure is, they considered looking at the flood profile and applied the most-conservative approach that the building itself at the northern most/upstream most point is 42 ½ ‘ off of the cross section V which they dropped in – geo-referenced and is 100% accurate – that it is 42.5’ away. The maximum that they could justify on this property of a Base Flood Elevation would be 88.2. He stated they looked at the associated contours around the property, and the building – applying the worst-case scenario – is still outside of the floodplain at 88.2.

Mr. Geonnotti stated he also prepared another Exhibit showing an offset and where the 88.2 contour hits the property. This was marked as Exhibit A-15. Mr. Geonnotti stated this shows that at the most-conservative approach which is more conservative than the survey, the structure itself is still located outside of the floodplain.

Ms. Kirk asked Mr. Murphy the title of Exhibit A-15. Mr. Geonnotti stated it is a Cross-Sectional Floodplain Exhibit. He stated it shows cross section V as the red line cutting through the center of the building, and what can be seen is a 42.5 dimension to the bottom of the Plan showing the upstream most point; and that point is what they are saying using the most-conservative approach, is 88.2. He stated they did an offset of the 88.2 contour based on an elevation that was field surveyed, and the 88.2 contour does not strike the house, which means that the house is still located outside of the flood hazard area and outside the floodplain. He stated this is just taking it one step further to make sure that they are “bulletproof” in saying that they are not building in the floodplain. He stated that was the point of the original exercise, and the first Application they submitted showed the house in the floodplain.

He stated hearing the concerns of the neighbors, they reduced the size of the footprint and pulled it entirely outside of the floodplain; and they are building on what is the minimal amount of area available to that site.

Mr. Fenningham asked Mr. Geonnotti to describe in greater detail what site survey was actually done at the property. Mr. Geonnotti stated originally a full boundary location and topographic survey was conducted. Mr. Fenningham asked who performed that, and Mr. Geonnotti stated it was Fortified Services, professional land surveyors. Mr. Murphy stated Exhibit A-4 makes reference to that. Mr. Fenningham asked if that reference is in Note #1, and Mr. Geonnotti agreed. Mr. Fenningham asked if that is the company that prepared the ALTA Survey A7, and Mr. Geonnotti agreed. Mr. Fenningham asked Mr. Geonnotti if that is what he is referring to as depicting the field survey results, and Mr. Geonnotti agreed that is what is being used the basis of their Plans.

Mr. Zamparelli stated he understands that Mr. Fenningham has an expert to Testify, and Mr. Fenningham agreed.

Mr. Murphy stated he has no further Testimony, and he would Move the remaining Exhibits that were discussed this evening.

Ms. Kirk stated prior to June 15th Mr. Murphy circulated a series of ten different Exhibits, and two of them were Plans labeled, “Unencumbered Lot Area #1 and Unencumbered Lot Area #2” but they were never admitted/submitted at the last Hearing. Mr. Flager noted the Exhibits we have as follows: Exhibit A-1 was the Application. The Reasons for the Requested Relief was Exhibit A-2. The Impervious Surface Breakdown Calculations and the Stormwater Management Controls was Exhibit A-3. The Zoning and ERSAM Plan was Exhibit A-4. The Wetland/Floodplain/Landscape Stormwater Plans were Exhibit A-5. Mr. Geonnotti’s CV was Exhibit A-6. The Survey Plan dated 1/20/21 is Exhibit A-7. The original Plans and Revised Plans Comparison and Floodplain Exhibit is Exhibit A-8. The Wetland Plans which have the old versus the new is Exhibit A-9. The Stormwater Exhibit is Exhibit A-10. Ms. Kirk stated she has the Alternate Wetlands Plan as Exhibit A-10. Mr. Murphy stated that is correct. Ms. Kirk stated Exhibit A-11 was Stormwater and Landscape, and Mr. Flager stated that was the Conveyance and Routing.

Mr. Murphy stated they definitely provided Testimony on both Unencumbered Lot Areas. Ms. Kirk stated they did provide Testimony, but the actual Plans were not introduced. Mr. Murphy stated they will then mark them as Exhibit A-16 and Exhibit A-17.

Mr. Murphy Moved the remaining Exhibits that were discussed and marked this evening. Mr. Flager stated he understands that Mr. Fenningham Objects to the FEMA regulations; however, he does not feel that is a valid Objection although there could be cross examination and his expert could Testify, but the FEMA regulations are the FEMA regulations, and there is not anything Objectionable to their Introduction as an Exhibit. Mr. Fenningham stated he understands.

Mr. Zamparelli reminded everyone that there is a 10:00 p.m. curfew.

Exhibits A-1 through A-17 were accepted.

Mr. Murphy stated Mr. Fenningham indicated that he feels he would likely go well beyond 10:00 p.m. if they were to start with his Expert. Ms. Kirk asked if would make sense for those residents who are present who did not have an opportunity to speak at the June 15 Hearing to make comment at this time, and Mr. Zamparelli agreed. Mr. Fenningham stated Mr. MacDonald will also be Testifying after their expert Testifies; and they could both Testify at the next Hearing date.

Mr. Benjamin Battiste, 2327 Lakeshore Drive, was sworn in. He stated he is the Vice President of the Makefield Lakes Community Association (MLCA) that represents ninety plus households on and around Silver Lake with a vested interest in the Lake's long-term health. He stated they are asking the Zoning Board to deny this project in its entirety; and at minimum, disallow the Variance request to lessen the wetland buffer requirements or for it to be built on the wetland buffer. He stated he is also requesting Party Status for himself and for the Association.

Mr. Battiste stated he has lived at his address for over twelve years, and over the first few years the storms would bring a lot of water into the Lake; and the Lake levels would rise. He stated "muck" would fill up the Lake, and the Lake banks would erode. He stated it has become worse over the last five years, and they are getting more "high-intake storms overflowing the area."

Mr. Battiste stated it has been alluded to by some of the speakers tonight that the stream is in distress. He stated it is already in distress, and he is not sure how lessening the wetland buffer from 100' to 50' would help that and also putting a structure in that area. He stated he would not just blame this property for "eliminating the Lake from the community and it is a bunch of different factors;" however, there is no benefit whatsoever of building on

this property in terms of the Lake's health. He stated as the stream fills up and the speed of the water increases, it brings more debris/muck and erodes the banks not only of the stream but then it comes into the Lake which widens it out and it lowers the bed of the Lake. He stated it fills up and goes over the banks. He stated long term it is a problem.

Mr. Zamparelli stated Mr. Battiste is saying that if this project were to be built it would be detrimental to the stream and especially reducing the buffer from 100' to 50'. Mr. Zamparelli added that if it were kept at 100', he would not be able to do anything with the property. Mr. Zamparelli asked Mr. Battiste if he agrees that the Plan that Mr. Geonnotti developed and reviewed was a "pretty good plan and would at least not add to the water to the stream." Mr. Battiste stated he does not know if he would agree with that adding he is not an engineer; however, cutting 100' to 50' and then building on 22% of the 100' wetland buffer does not seem logical. He stated he understands that the rain garden is built to absorb the majority of that water, but it will still fill up in other areas and increase the speed going down. He stated they could put plants and trees in as well; and while it "sounds good, we all know how water works."

Mr. Tritt asked Mr. Battiste if it is his opinion that the properties that border the stream that currently mowed and have grass going to it, it would be better if the bed of the stream would have vegetation along the waterway on the current properties that currently mow; and Mr. Battiste stated he would agree if it was the right vegetation. Mr. Tritt stated that would also help to increase the quality of the water going down to the Lake, and Mr. Battiste stated it would prevent too much water going down and bringing in yard waste and debris that eventually ends up in the Lake and fills it up. Mr. Tritt stated Mr. Battiste would like to see more vegetation planted along the stream, and Mr. Battiste stated he would love to see that up and down the stream – not just this property, but every property. Mr. Zamparelli stated he feels that would be a good idea.

Mr. Flager asked if there was an Objection to the request for Party Status. Mr. Murphy stated he would Object to the Association's request for Party Status. Mr. Murphy stated he also does not know where Mr. Battiste lives in relation to the subject property whether himself would qualify for Party Status, but clearly the Association does not have the direct, immediate pecuniary interest to qualify as a Party. Mr. Flager asked Mr. Battiste if he personally received Notice of this Hearing at his property, and Mr. Battiste stated he did not although he feels he should have been notified. Mr. Battiste

stated he lives on the lower Lake which the upper Lake then spills into. He stated he lives on the Lake. Mr. Flager stated Mr. Battiste would not qualify for Party Status automatically. Mr. Murphy stated he Objects to Mr. Battiste receiving Party Status.

Mr. Zamparelli stated Party Status would not be granted to Mr. Batiste or the Association at this time.

There was further discussion about Mr. Battiste or the Association qualifying for Party Status. Mr. Flager stated Mr. Battiste could offer Testimony how he would be individually affected if the Board would like more information before making that determination. He stated if he is an Officer of the Organization he could do that as well. Mr. Flager stated this would be two separate determinations – Mr. Battiste asked for it individually for his own property and on behalf of the organization of which he is the Vice President, and they would need to determine if he has the authority to act on behalf of the organization.

Mr. Tritt asked if there is anyone else present from the organization, and Mr. Battiste stated there is not, and the President spoke at the last Hearing.

Ms. Kirk stated the Township Code is very specific as to the requirements as to who has to be notified of a pending Application, and that distance is used as a determination of who will be adversely effected, and that would be a basis for making a determination of Party Status. Ms. Kirk stated while she defer to Mr. Flager's advice to the Board, generally people outside of that scope are not usually granted Party Status in Applications. Mr. Tritt asked what is that radius. Mr. Flager stated being within the amount gives you automatic Party Status, but outside of that distance, you would have to show that it effects your property.

Mr. Majewski stated our Ordinance only requires the properties that adjoin the property in question to be notified; however, the Township has as a matter of course notified everyone within 300' for the last twenty years or more. He stated it is up to the Zoning Hearing Board to determine whether they think that there is some other reason why someone should be granted Party Status.

Mr. Solor stated he believes that Mr. Battiste stated that stream impacts do impact his property because he is downstream. Mr. Zamparelli stated he is still outside of the area. Mr. Solor stated he does not feel it has to be within that range if there is an impact specific to his property. Ms. Kirk stated it would have to be different from that which would affect other residents. She stated it would not be a general, common impact, but a very specific impact to that individual alone. Mr. Flager stated it could be shared by more than one person. He stated if it affected everyone in the Township the exact same way, you would not have Party Status; however, if it is a group of people that live along the stream compared to everyone that lives in the neighborhood that would be a different determination. Mr. Solor stated he feels it would be limited to the class of people who live along the stream. Ms. VanBlunk stated she feels he can only ask for himself.

Mr. Battiste stated he is asking as an Officer of the Association for the Association including all of the members who have lake front properties who would be effected by any stream or creek changes that could affect their properties since the Lake is the greatest resource for their property values.

Mr. Solor stated he believes that Mr. Battiste needs to explain his relationship of what the Community Association's responsibilities are with regard to the Lake in order to establish that the Lake itself would have an impact.

Mr. Battiste stated the Association is bound and required because of dues to maintain the Lake which in the past has included dredging the Lake and working with different storage management options. He stated they have also planted vegetation along the banks to try to stop the erosion. He stated they have also done a lot of dam work for the upper and lower dams of both of the lakes. He stated they have also taken down and cleared trees from the stream. He stated they try to keep it healthy as much as possible.

Ms. VanBlunk asked the number of members, and Mr. Battiste stated there are over ninety households. Ms. VanBlunk asked Mr. Battiste if he was elected, and Mr. Battiste stated all the Officers are elected every other year.

Mr. Zamparelli asked Mr. Battiste if he believes their properties would be effected any differently than any of the other people in the Silver Lake area, and Mr. Battiste stated those on the Lake would be more than those off the Lake although the Lake is a huge selling point and impacts property values in the neighborhood.

Ms. VanBlunk asked if all of the members of the Association on the Lake, and Mr. Battiste stated they are not all on the Lake. He stated there are many members who are not on the Lake but they pay dues and take part in activities at the Lake. Mr. Solor asked if the Association has financial responsibility for maintaining the Lake which would be the financial impact, and Mr. Battiste agreed.

Mr. Flager asked if there was a meeting and vote on this Application to show that Mr. Battiste was authorized. Mr. Battiste stated he could submit Minutes. He stated they have monthly meetings, and there is an Annual Meeting. Mr. Flager asked if a meeting was held with a vote to oppose this Application, and Mr. Battiste stated there was not.

Mr. Murphy asked Mr. Battiste if he was authorized to attend the meeting on behalf of the Association and to oppose the Application on behalf of the Association; and Mr. Battiste stated as an Officer they were making that decision, but they did not run it by the members. Mr. Flager stated while he is not saying that he eventually cannot do so, without that type of formal action, it would be problematic having an Officer take this type of action. Mr. Battiste stated he is an Officer who was voted in.

Ms. VanBlunk asked Mr. Battiste what are his duties as Vice President. Mr. Battiste stated while they share duties, they have a President, Vice President, Secretary, and Treasurer. He stated they focus on social events and Lake maintenance. He stated the Treasurer deals with the finances, and the Secretary takes the Minutes. He stated they also have Sub-Committees including engineering and Lake clean-up. He stated they also deal with signage. Ms. VanBlunk asked Mr. Battiste if he is authorized to make decisions on behalf of the Association. Mr. Battiste stated as a “voted Officer” he believes he is. Ms. VanBlunk asked his basis of that belief, and Mr. Battiste stated the members vote on the Officers. Mr. Flager asked why it would be the Vice President here and not the President, and Mr. Battiste stated the President was at the last Zoning Hearing Board meeting, and they discussed this in between meetings. Mr. Flager stated he did make comment, but he does not know that he asked for Party Status; and Mr. Battiste stated he does not believe that he did. Mr. Flager stated he agrees that if the President is not present, the Vice President has the ability to make certain determinations; however, he feels there needs to be a little more to do that. Mr. Flager stated individually it would be fine for Mr. Battiste as someone who lives downstream on the Lake, but there needs to be more to authorize Mr. Battiste to request Party Status on behalf of the organization.

Mr. Murphy stated Mr. Battiste admitted that he had no authority to be here on behalf of the MLA to oppose the Application because the MLA has not yet voted to oppose it. Mr. Murphy stated he may come back next month with authorization to do that. Mr. Battiste stated he does not agree that he does not have authority, and he does not feel that they need to have every member of his organization vote on it. He noted that the Zoning Hearing Board members are all Board members, and we do not all have a say on how the Zoning Hearing Board votes. Mr. Flager stated he does not believe the whole Association needs to vote on it, but the Board could vote on it depending on how they are structured as an organization.

Mr. Zamparelli stated depending on their By-Laws and how they set up their Association, he could do something at his meeting and come back before the Zoning Hearing Board to consider it again.

Mr. David Rogers, 825 Edgewood Road, was sworn in. He stated he has been a resident at 825 Edgewood Road for over thirty years, and he has been watching the creek which is about 150' from his driveway, severely deteriorate. He stated he has watched trees fall into it, and every time there is a storm it floods. He stated his back yard becomes a marsh. He stated he is very concerned that any additional development of property upstream will make the situation worse. He stated he suspects that his property would probably not have been built where it is now that he has seen some of the FEMA maps. He stated he believes it was built in 1964. He stated when there is a severe rain storm, the water pours through his back yard and his side yard. He stated this has gotten consistently worse over the last thirty years especially when there are heavy rains. He stated during the storm last week, he had a river running through his back yard which is probably no more than 300' from the subject property.

Mr. Rogers requested Party Status. Mr. Zamparelli asked if he received a notice in the mail, and Mr. Rogers stated he did not. Mr. Murphy asked Mr. Rogers how far away he lives from the subject parcel, and Mr. Rogers stated it is a half block walking up Woodland so it is probably not more than 400'. Mr. Flager asked if he lives on the stream; and Mr. Rogers stated there is the stream, the MacDonalds' driveway, and then his driveway. He stated the MacDonald property is "kind of a flag Lot" behind his property.

Mr. Zamparelli agreed to grant Mr. Rogers Party Status.

Mr. Zamparelli stated as it is now 10:00 p.m. they will have to Continue the matter.

Mr. Majewski reviewed the other items that will be on the Agenda for the next meeting scheduled for August 17, 2021.

Ms. VanBlunk stated it was noted that there are eight people waiting on call to speak; however, she stated it is 10:00 p.m. Mr. Zamparelli stated they are adjourning the meeting.

Mr. Solor moved, Ms. VanBlunk seconded and it was unanimously carried to Continue the matter to August 17, 2021.

There being no further business, Mr. Connors moved, Ms. VanBlunk seconded and it was unanimously carried to adjourn the meeting at 10:00 p.m.

Respectfully Submitted,

Matthew Connors, Secretary