

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – AUGUST 17, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on August 17, 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
 James Dougherty, Member
 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

APPEAL #21-1914 – JOSEPH JENNINGS
Tax Parcel #20-031-004
2 MCKINLEY AVENUE, YARDLEY, PA 19067
(Continued from 7/20/21)

Mr. Flager stated they have requested a Continuance. Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to Continue the matter to September 21, 2021.

APPEAL #21-1926 – JENNIFER SCHNERIDMAN & BRIAN PEPE
Tax Parcel #20-063-247
228 EMERALD DRIVE, YARDLEY, PA 19067

The Applicants were not present at this time. It was noted that there were neighbors present. It was agreed to wait until later in the meeting to see if the Applicants arrive.

APPEAL #21-1925 – DEREK CAMP
Tax Parcel #20-037-188
917 LANYARD ROAD, YARDLEY, PA 19067
(Continued from 8/3/21)

Mr. Derek Camp was present with Mr. David Lisanti who was sworn in. Mr. Lisanti stated he understands that at the last meeting the Board had requested some changes to the Plan, and they have reduced the impervious/hardscape area around the pool mostly by reducing the width on three sides to 3'. He stated they also removed a portion of the patio from the lower area of the Plan where the secondary patio is located. He stated they removed a "wing" off of that which is a rectangular section. He stated they are reducing the impervious by about 300 square feet. Mr. Lisanti stated previously they were proposing 1,420 square feet of net impervious, and not they are proposing 1,125 square feet of net impervious. The previous percentage was 33.5%, and now it is at 31.8%. There will be a seepage bed.

Mr. Solor noted the seepage bed, and stated it does not seem that the drainage is being directed to it. Mr. Lisanti stated it was his "personal choice" to remove the grading from the Plan because it made it unclear. He stated the inlet, which is the circular structure that can be seen closes to the pool, will be graded to an area that will capture all of the run-off from the pool area, and it will then direct it to the seepage bed which will be at the lower end of the property. He stated there will also be a second inlet on top of the seepage bed, and that will be graded as well so both of these areas will collect all the water from the upper area and the lower area directly into the seepage bed.

Mr. Solor stated while the answer makes sense, he would have liked to see the grading on the Plan.

Mr. Flager marked the Revised Plan as Exhibit A-4, and he marked the Revised Impervious and Stormwater Calculations as Exhibit A-5.

Ms. Kirk stated Mr. Lisanti had indicated that he had reduced the size of the pool coping on three sides to 3', and Mr. Lisanti agreed. Ms. Kirk stated looking at the Plan, the side of the pool closest toward the seepage bed, only half of it is 3' wide; and Mr. Lisanti agreed. Ms. Kirk stated they still kept the extension of that piece that goes out to the fourth side for chairs, etc., and Mr. Lisanti agreed adding he understood that was okay to leave that way. Ms. Kirk noted the area between the pool coping and the property line closest to the adjacent property labeled "Tafari," and she asked if that will

remain strictly landscaping and mulch. Ms. Kirk reminded Mr. Camp that at the last Hearing there was an agreement that the area between that part of the pool coping toward the adjacent neighbor would remain landscaped and mulch with no stone, and Mr. Camp agreed.

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

Mr. Connors stated he was hoping for 30% impervious surface, and Mr. Zamparelli agreed. Mr. Zamparelli asked if in order to do this, they could cut the patio down more, and Mr. Camp stated that is the side that goes right to the house. Mr. Camp estimated that from the pool to the house it is about 10', and Mr. Lisanti agreed. Mr. Tritt suggested that they approve impervious surface at 30%, and Mr. Camp stated he would agree to that.

Mr. Tritt moved and Ms. VanBlunk seconded to approve subject to the re-submission of a Pan showing the impervious coverage ratio at 30% mitigated down to the current existing level and with the Revised Grading Plan so that everything grades down to the inlets that the Applicant's contractor referenced and subject to Township final approval. Motion carried unanimously. Mr. Dougherty did not participate in this vote.

APPEAL #21-1926 – JENNIFER SCHNERIDMAN & BRIAN PEPE

It was noted that the Applicants were still not present. Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to Continue the matter to September 21, 2021.

APPEAL #21-1927 – JAMES MOOCK

Tax Parcel #20-036-001

2328 LAKESHORE DRIVE, YARDLEY, PA, 19067

Mr. James Moock was sworn in with Mr. Jerry Giles and Ted Hennessey from Precise Home Renovations.

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. Zamparelli stated this is a corner Lot.

Mr. Flager stated the “Public Comment states that they are increasing the rear yard setback on a non-conforming Lot from 11’10” to 19’7” where 45’ is otherwise required;” however, it should be “decreasing.” Mr. Flager stated the reference to the Code Section is proper so he feels this is a typo, and it is still indicating that there is a setback issue.

Mr. Zamparelli stated they are putting on a “huge addition onto the back,” and Mr. Giles agreed. Mr. Giles stated they are trying to create a livable space for Mr. Moock’s mother. Mr. Giles stated she needs to be a “one-level Senior,” and the architect has drawn up a plan that works very well for her and allows her access with the family through the living room. He stated as she gets older they can have dinner with her and not have to “pass through doors.”

Mr. Zamparelli noted with regard to the 45’ rear yard, they do not show the actual dimension to the edge of the structure on the Plan. Mr. Giles stated the highlighted portion in red is the new structure. Mr. Zamparelli stated a dimension to the edge of the new structure is not shown. Mr. Giles stated there is “quite a bit of side yard, and almost their side yard is their back yard.” Mr. Zamparelli stated he still does not see the dimension. Mr. Giles stated while he does not see a number it is “quite a distance.” Mr. Zamparelli stated they need numbers. Mr. Giles stated it is probably 100’; however, Board members disagreed.

Ms. Kirk stated there is a line that goes from the purple section up to the yellow area and right next to the green box it says “proposed trench,” there is a measurement that says 45’ RY from rear yard.

Mr. Zamparelli noted a dimension of 37’2” on the far left.

Mr. Connors stated they are going into the rear yard, the side yard, and the front yard with the addition, which is almost the same size as the existing house. He added that the new building footprint, the yellow area, is going into the rear yard setback, the side yard setback, and the front yard setback on a footprint that is about the same size of the existing dwelling’s footprint. Mr. Zamparelli stated it does show 37’2” to the corner.

Mr. Giles stated extrapolating that visually, it can be seen that it is “probably pushing 100’; however, the Board disagreed. After reviewing the Plan, Mr. Giles stated he feels it is more like 40’ to 50’. Mr. Giles asked what they need for the Variance.

The Board discussed setbacks from the other sides. Ms. VanBlunk stated it appears that they will be encroaching the setback on all three sides. She stated the Board is concerned because they are basically doubling the footprint of the dwelling on the property.

Mr. Majewski stated the front yard setback is already an existing non-conformity, and they are extending that non-conformity; and therefore there is no front yard relief necessary. Ms. VanBlunk asked what is the Variance being requested, and Mr. Flager stated what they applied for is a rear yard setback and the impervious. He stated the rear yard requirement is 45'. Mr. Giles stated he believes it will be the front yard also. Mr. Connors stated there are two front yards, but the front yard along Lakeshore is already encroaching so they do not need a Variance for that. He stated they do need a Variance for the rear yard in both directions.

Mr. Giles stated even if he is doubling his dwelling, "what does that have to do with anything – if he is doubling it or tripling it." Mr. Connors stated he is asking for a Variance. Mr. Giles stated while he understands that, they are not building a "Yardley Hunt home on this little lot." He stated it is not like they are building "a mansion," and there are houses "equally as big as Jimmy is thinking of right on the same line." Mr. Connors stated those people are not here for a Variance. Mr. Zamparelli stated it does seem that they are doubling the house.

Ms. VanBlunk asked what is being proposed, and she asked if it is a bedroom, plus a living room, plus a bathroom. Mr. Moock stated it is a kitchen/great room, a bedroom, a bathroom, and a mud room all on one level. He stated his mother is going to be moving in, and he would like to give her all of her "living needs – bedroom, bathroom, kitchenette, great room, and a mud room all on one floor level." He stated she is a forty-year resident living in Yardley Hunt, and she cannot deal with steps anymore. He stated they are selling the Yardley Hunt home, and simultaneously building this so that she will be able to properly downsize.

Mr. Zamparelli asked if there is not already a kitchen in the house. Mr. Giles stated while he does, he is a single man and would like to maybe date in the future, so he would like to have his own living quarters and his mother to have her own living quarters. Mr. Zamparelli stated he believes there might be another problem with having a second kitchen in the house. Mr. Zamparelli stated it seems that they want to put an in-law suite on; however, Mr. Moock stated he would not call it an in-law suite since she is his mother. Mr. Zamparelli stated while they do not need to get into semantics, that is what he is trying to

do, and these are generally called in-law suites, and you cannot have another kitchen. Mr. Zamparelli stated if they were to remove the kitchen, it may reduce the size of the footprint. Mr. Moock asked if she is not allowed to have a refrigerator or a microwave. Mr. Zamparelli stated you are not allowed to have a kitchen with a stove.

Mr. Connors asked if it is a kitchen or a kitchenette. Mr. Moock stated it is a kitchenette. He added it is a "living room with a sink." Mr. Zamparelli asked if there will be a stove and counters, and Mr. Moock stated there would be a countertop. Mr. Zamparelli asked about a stove, and Mr. Moock stated "we do not know yet." Mr. Zamparelli stated he does not feel the Board is being given accurate information.

Mr. Giles asked if they are allowed to have a 24" stove instead of a 30" stove. Mr. Zamparelli stated there cannot be a second kitchen. Mr. Giles stated then they will "take that away."

Mr. Solor stated he has a solution that would "get rid of most of the Variance requests if not all of them," and he stated that would be that rather than putting this building extension on the south side, they put it on the north side." He stated he knows that there is a garage there, but if the extension were put there, it could be put in entirely inside the approved building envelope that they have now for the setbacks and they would probably not be increasing the impervious area above the limit. He stated they would not therefore need to file a Variance, and they would just apply for Building Permits with the Township.

Mr. Giles stated they will need to discuss that with the architect, and Mr. Zamparelli stated they would need to request a Continuance. Mr. Moock requested a Continuance.

Ms. Kirk stated the Board should be aware that she is present on behalf of the Township which is participating.

Ms. Susan Moock was sworn in and she stated her husband of fifty-three years recently passed away. She stated she has AFib, has had a heart attack and a stroke, has severe arthritis, and she is waiting to have four different operations. She stated as soon as her house is sold in Yardley Hunt, her plan because of the possibility of being in a wheelchair, is to be in an "open-enough" space for

a wheelchair to get around. She stated there also has to be a large enough entry to get into a bathroom. She stated this is the solution they came up with, and her son offered “this situation.”

Mr. Zamparelli stated Mr. Solor’s suggestion could solve all of the problems if they move it to the other side of house; and he asked if they would be opposed to that. Ms. Mook stated they would have to talk with the builder and the architect.

Ms. VanBlunk stated if the architect/builder comes up with Plans that no longer require Variances, they would not have to come before the Zoning Hearing Board.

Ms. VanBlunk. moved, Mr. Connors seconded and it was unanimously carried to Continue the matter to September 21, 2021.

APPEAL #21-1926 – JENNIFER SCHNERIDMAN & BRIAN PEPE

Mr. Majewski stated the Applicants are now available. There was discussion whether the Appeal could be opened at this time since it had been Continued. It was noted that there had been members of the public present for this Appeal but once the Board Continued it, they left. Ms. Kirk noted there had been two residents present who had asked her for a copy of the Plan, and they then left.

Ms. Schneridman and Mr. Brian Pepe were present. Ms. Schneridman stated they were having technical difficulties getting on the call. She stated their contractor was supposed to be here as well, but she is “not sure what is happening with him.”

Mr. Flager stated since they were not present, the Board voted to Continue their Hearing until September 21. He stated the reason they will still do that is because there were residents present; and while we are not sure whether they were for or against the Application, since they already left with the assumption that the Hearing was not taking place today, the Board needs to Continue the Hearing. Mr. Flager added that this might also be better for the Applicants since their contractor is not here.

Ms. Schneridman asked if there is nothing they can do since they were here but could not get through. Mr. Flager stated the issue is that the Board already voted to Continue and people have already left.

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
(Continued from 8/3/21)

Mr. Edward Murphy, attorney, Mr. Justin Geonnotti, engineer, were present with Mr. John Fenningham, attorney. Mr. Fenningham stated he is present representing Mr. and Mrs. MacDonald. He stated he has two witnesses this evening – Vincent Fiorvanti, surveyor/engineer; and time permitting, followed by Scott MacDonald.

Mr. Murphy stated he and Mr. Fenningham had a discussion earlier; and depending on how long Mr. Fenningham takes with his Direct, we may not get to cross-examination. He stated he feels it may be more efficient for Mr. Fenningham to run through both of his Witnesses on Direct, and at the next Hearing there will be cross-examination. Mr. Murphy stated after Mr. Fenningham introduces Mr. Fiorvanti, he will Stipulate to his credentials and qualifications. Ms. Kirk stated the Township does not oppose that either.

Mr. Vincent Fiorvanti was sworn in. He stated he was retained on June 18 by the MacDonalds to assist them in opposition to the Application before the Board. Mr. Fenningham stated this was after the June 15 Board Hearing, and he had asked for a Continuance that evening for that reason.

Mr. Fiorvanti stated he is Certified as a land surveyor in the Commonwealth of Pennsylvania and also Certified as a civil engineer in the Commonwealth of Pennsylvania. Mr. Fiorvanti stated he has Testified as an expert before the Zoning Hearing Board and other Boards in the Bucks County area in the areas of expertise of surveying, civil engineering, and land development. Mr. Fenningham offered Mr. Fiorvanti as an expert in those fields, and this was accepted.

Mr. Fenningham asked Mr. Fiorvanti if in preparing for his Testimony this evening did he review the Exhibits which were entered into the Record on June 15 on behalf of the Applicants, and Mr. Fiorvanti stated he did. Mr. Fenningham asked Mr. Fiorvanti if he also reviewed the Transcript of Mr. Geonnotti's Testimony before the Board on June 15, and Mr. Fiorvanti stated he did. Mr. Fenningham asked Mr. Fiorvanti if he was present at the August 3 Hearing when he questioned Mr. Geonnotti with regard to his Plan Exhibits and his Testimony, and Mr. Fiorvanti stated

he was. Mr. Fenningham asked Mr. Fiorvanti if he reviewed Exhibits A-13, A-14, and A-15 which were admitted into the Record through Mr. Geonnotti on August 3, and Mr. Fiorvanti stated he did.

Mr. Fenningham asked Mr. Fiorvanti if he heard him ask Mr. Geonnotti if the proposed dwelling structure to be constructed on the flag lot parcel would be located within the floodplain area as defined in the Township Ordinance, and Mr. Fiorvanti stated he did. Mr. Fenningham asked Mr. Fiorvanti if he agrees with Mr. Geonnotti's Testimony that it is not proposed to be constructed in the floodplain area, and Mr. Fiorvanti stated he does not. Mr. Fenningham asked Mr. Fiorvanti if the proposed residential structure actually be located in the floodplain area as that term is defined in the Township Ordinance, and Mr. Fiorvanti stated it will. Mr. Fenningham asked Mr. Fiorvanti if his expert opinion in that regard to a reasonable degree of engineering and surveying certainty, and Mr. Fiorvanti stated it is.

Mr. Fenningham asked Mr. Fiorvanti if he has prepared Rebuttal Plans and graphs to be presented to the Board this evening, and Mr. Fiorvanti stated he has.

Mr. Fenningham asked Mr. Fiorvanti to tell the Board what he reviewed in addition to the items just discussed. Mr. Fiorvanti stated he reviewed the Township Code, FEMA maps, published information, the Exhibits presented by the Applicants, and Transcripts of the Testimony. Mr. Fenningham asked Mr. Fiorvanti if he specifically reviewed the definitions within the Zoning Ordinance including the following: Base Flood Elevation, the Flood Insurance Rate Map (FIRM), the Flood Insurance Study (referred to as FIS), the Identified Floodplain Area, and Flood Plain Area; and Mr. Fiorvanti stated he did review those definitions.

Mr. Fenningham asked Mr. Fiorvanti with regard to stormwater management, did he review the Small Project Exemption Provisions of Section 173-6; and Mr. Fiorvanti stated he did. Mr. Fenningham stated he had asked Mr. Fiorvanti to do that because Mr. Geonnotti had Testified with regard to the applicability of the Small Project Exemption for this Application.

Mr. Fenningham asked Mr. Fiorvanti if he also reviewed Provision 200-53 B that speaks in terms of priority of application of restrictions with regard to the floodplain area in the Township, and Mr. Fiorvanti stated he did.

Mr. Fenningham stated the Applicants through Mr. Geonnotti's Testimony presented to the Board what was marked as Exhibit A-13 identified as "Floodplain Management Requirements" with a separate document that is titled "Unit For Using NFIP Studies and Maps." He asked Mr. Fiorvanti if he reviewed that Exhibit, and Mr. Fiorvanti stated he did. Mr. Fenningham asked Mr. Fiorvanti if he has an opinion whether these regulations/information/guides are addressed to a Zoning Hearing Board. Mr. Fiorvanti stated his opinion is that they are not, and they are typically used for insurance and for floodplain administration.

Mr. Fenningham asked if Exhibit A-13 supersedes the definitions within the Township Ordinance that require consideration of the Flood Insurance Rate Map and the Flood Insurance Study, and Mr. Fiorvanti stated it does not. Mr. Fenningham asked Mr. Fiorvanti if the FEMA documents are referred to specifically in the definitions that Mr. Fiorvanti reviewed as just discussed, and Mr. Fiorvanti stated they are.

Mr. Fenningham noted Section 200-51E7 of the Township Ordinance, and he asked Mr. Fiorvanti if he evaluated that provision in connection with the proposed development of the flag lot parcel; and Mr. Fiorvanti stated he did.

Mr. Fenningham asked why is that Zoning Ordinance relevant to the Board's consideration of this Application; and Mr. Fiorvanti stated there are specific provisions in the Ordinance whereupon wetlands located adjacent to a stream within two miles of the Delaware River are to be the subject of an independent wetlands study, and this project is less than two miles from the Delaware River. He added there are wetlands between the site and the stream that would fall under this category, and no independent wetlands study was done that he had seen.

Mr. Fenningham asked Mr. Fiorvanti if it is his opinion based on all that he has reviewed that an independent wetlands impact study is information that should be made available and reviewed by the Zoning Board; and Mr. Fiorvanti agreed adding that it states "the Township shall require it."

Mr. Fenningham asked Mr. Fiorvanti if he has an opinion based on this expertise whether this Application should be reviewed by the Zoning Hearing Board under the application of the Small Project Exemption under the Township Zoning Ordinance. Mr. Fiorvanti stated he does not believe that this site really qualifies for the exemption, and there are provisions in

the Ordinance that allow the Township to deny the exemption if the area is adjacent to flood hazard areas or flooding problems. Mr. Fenningham stated that is Section 173-6H 2.

Mr. Fenningham asked Mr. Fiorvanti aside from his review of the Plan Exhibits from both June 15 and August 3, the review of Mr. Geonnotti's Testimony, and his review of the Township Ordinance, if he did anything else to prepare for this evening. Mr. Fiorvanti stated he prepared some Exhibits to illustrate his findings and his opinion as to the location of the floodplain and generally with respect to the improvements that are proposed.

Mr. Fenningham asked Mr. Fiorvanti if he did a field study in connection with the two parcels at issue – the flag lot and the flag pole parcel, and Mr. Fiorvanti stated he did. Mr. Fiorvanti stated he did the survey approximately one week ago. He stated in this situation, they were tying into the FEMA benchmark; and they had to hire an outside firm because they could not get the GPS equipment fast enough, so he was assisted by an independent field survey crew that was hired. Mr. Fenningham asked Mr. Fiorvanti if he personally supervised the survey crew on site, and Mr. Fiorvanti stated he did. Mr. Fenningham asked Mr. Fiorvanti if he needed to access the flag lot or flag pole parcels to conduct the survey; and Mr. Fiorvanti stated they did not adding that they compared the data and elevations and intersections on fixed objects so that they could make a comparison between the elevations on the property and the elevations as they would be if they were tied into the FEMA benchmark.

Mr. Fenningham asked Mr. Fiorvanti if it is his expert opinion based on the field survey work that he conducted that the proposed residential structure will be located within the floodplain area, and Mr. Fiorvanti agreed.

Mr. Fenningham stated with regard to peak flow calculations, Mr. Geonnotti Testified on June 15, pages 51 and 52 of the Transcript that was provided by Bill Campbell, that the amount of surface water flow would be basically nothing. Mr. Fiorvanti stated he read that Testimony. Mr. Fenningham asked Mr. Fiorvanti if he reviewed the data that Mr. Geonnotti was relying upon, and Mr. Fiorvanti stated he did look at the storm calculations that were proposed. He added they were in accordance with the exemption and water quality standards, but he did not see any calculations regarding peak flows.

Mr. Fenningham asked Mr. Fiorvanti if he formed an opinion whether the volume and velocity of surface water flow caused by a storm event will be basically nothing, and asked if he agrees with Mr. Geonnotti. Mr. Fiorvanti stated he does not agree, and added it is his opinion that the proposed dwelling and the paving will alter stream flows, will increase peak flows, and will cause re-directed flows and impacts to the site and downstream.

Mr. Fenningham stated Mr. Geonnotti also Testified that the proposed site improvements included a rain garden, and he asked Mr. Fiorvanti if he evaluated the proposed rain garden as an effective stormwater management control. Mr. Fiorvanti stated in his opinion he does not believe that the rain garden will be effective with the location of the site and with regard to its vicinity within the floodplain.

Mr. Fenningham asked Mr. Fiorvanti if he reviewed the flag pole lot in its present condition with respect to surface water flow and stormwater management. Mr. Fiorvanti stated what he is referring to as the flag pole lot is the separate lot which he believes is 16' to 18' wide by the length of the property, and he also believes it was part of a paper street at one time. Mr. Fiorvanti stated that is the area that the new driveway will be constructed in, and there will be about 2,500 to 2,600 square feet of blacktop there. He stated if you look at the existing conditions, it is densely vegetated containing trees and shrubbery, and evergreens; and it will be replaced by 2,500 to 2,600 square feet of blacktop which will be aimed directly at the stream and not controlled, and he believes that will be an issue that will have negative impacts on the downstream area.

Mr. Fenningham asked with regard to the proposed residential structure, will that itself have any impact on the volume and velocity of surface water flow; and Mr. Fiorvanti stated it will have an adverse impact on both. He stated he has Exhibits that will show that the dwelling located in the floodplain will alter flows around the dwelling and will block flows from reaching the stream during the one hundred- year events and the fifty-year events. Mr. Fiorvanti stated the peak flow exemptions that the project is proposed under is under 5,000 square feet but it is located in the floodplain as he will show, and he feels it is being looked at piecemeal. He stated he does not feel the exemption criteria applies to a site like this. Mr. Fiorvanti stated there are provisions in the Ordinance to allow the Township to not allow the exemption, and he feels that is what should happen in this case based on a reasonable degree of surveying and engineering expertise.

Mr. Fenningham stated Mr. Geonnotti also Testified to a rain barrel/gutter system with respect to the proposed dwelling, and he asked if that will have any impact on controlling surface water flow. Mr. Fiorvanti stated the rain garden, the rain barrel, and the disconnection of impervious surfaces are typical improvements on a small project that is not located in the floodplain. He stated if a small project is located in a well-drained area with no hazardous areas next to it, and no ponding water around it, then the Ordinance only requires management of water quality; and then you will see rain gardens and rain barrels. He stated if you look at the Applicant's Testimony, they had the floodplain 700 cubic feet per second two feet from the house; and he questioned whether a house two feet from a "raging" stream of 700 cubic feet per second "is a good idea." He stated he feels that it is dangerous, and he believes that he can show that the floodplain will hit the house and go around the house.

Mr. Fenningham stated Mr. Fiorvanti visited the site for the survey and prior to that and is familiar with the adjoining property owned by the MacDonalds, and Mr. Fiorvanti agreed. Mr. Fenningham asked Mr. Fiorvanti if he has an opinion if the lack of controls will have an impact upon surface water flowing onto the MacDonalds' property, and Mr. Fiorvanti stated he feels it will have an adverse impact. Mr. Fenningham asked if that impact can be measured, and Mr. Fiorvanti stated he feels it will be a significant impact although he would not be able to measure it volumetrically although it possibly could be measured if they did enough studies; however, it is re-directed flow which is always something that you try not to do on a property. He stated it also has an impact that it will raise levels, raise velocity, impede flow, and change the characteristics in that area which is something you never want to do with stormwater management. He stated it is a difficult site, and it is hard to put anything in the path of the stream without altering everything. Mr. Fenningham asked Mr. Fiorvanti if he is referring to the surface water or the existing creek that flows to Silver Lake, and Mr. Fiorvanti stated it is actually both. He stated if he is correct and the house is in the floodplain, it alters the stream flow during the one hundred-year storm; and it also intercepts flow coming to the stream from the house above it, and it will have to go around the house as opposed to going straight to the stream.

Mr. Fenningham asked Mr. Fiorvanti if he is aware of the condition of the creek during a storm event, and Mr. Fiorvanti stated he is. Mr. Fiorvanti stated on the day that they surveyed, it had rained that night; and they thought that they were going to have to cancel the survey crew. He stated it had stopped raining at 6 a.m., and they were there at 7 a.m.; and he has photos of the stream and how fast the stream responds and swells, and how

flat the over-bank areas are. Mr. Fenningham asked Mr. Fiorvanti if he took a photograph that is depicted on one of the Rebuttal Exhibits, and Mr. Fiorvanti stated he did.

Mr. Fenningham asked Mr. Fiorvanti to discuss the difference between graphing plotting and actual field survey work. Mr. Fiorvanti stated the term graphic plotting is “not an accepted term,” but typically it means there are two pictures on a computer screen and you blow them up so that they are the same size and put them on top of each other and trace one boundary onto another. He stated it is a way to put an approximate boundary on one layer from another layer. He stated it is something that is done with “planning-type submittals.” He stated a field survey is more accurate.

Mr. Fenningham stated Exhibit A-4 – the Zoning Plan- has Notes on it that he discussed with Mr. Geonnotti on August 3, and one of them, Note #32, discusses that the Plan was based upon graphic plotting. He stated the ALTA Survey is Exhibit A-7, and the Zoning Plan was based upon Exhibit A-7; and that Exhibit in the left bottom corner has a Note also referring to “by graphic plotting only.” Mr. Fenningham asked Mr. Fiorvanti if he reviewed Exhibit A-4 and Exhibit A-7, and Mr. Fiorvanti stated he did. Mr. Fiorvanti stated he did see the disclaimer Note on two or three Exhibits, one of which actually stated that “no field survey work was done to establish the flood zone.” He stated he also saw the other Note that said, “graphic-plotting only and a FEMA submission might be made and they might need a Variance.” He stated there were disclaimers on all of the Exhibits which “caught his eye.” He stated you can do graphic plotting and you can get the floodplain from the County and “slide it under and trace it on;” but he does not know how the floodplain was arrived at. He stated since they had time, they tied into FEMA themselves and compared elevations.

Mr. Fenningham asked Mr. Fiorvanti if he can explain the analysis of the field survey and the accuracy of elevations through his Rebuttal Plans, and Mr. Fiorvanti stated he can.

Mr. Fenningham asked if the Applicant has so far presented any volumetric calculations or analyses to support the proposed development. Mr. Fiorvanti stated he believes they had the Small Projects Water Quality Volume Calculations but he did not see the details in the rain garden to substantiate the volumes. He stated he also did not see the proposed grading of the rain garden. He stated the calculations presented were based on the exemption being granted and just dealing with the water quality and Small Project-type stormwater issues.

Mr. Fenningham asked Mr. Fiorvanti again if it is his expert opinion that the Small Project Exemption should be denied by the Board with regard to this proposed project, and Mr. Fiorvanti agreed.

Mr. Fenningham stated he had presented photographs and video presentations which were marked with the designation “MAC” for MacDonald, and those are 001 to 035 and will be discussed through Mr. MacDonald’s Testimony.

Mr. Fenningham suggested that the four Exhibits he will be presenting now will be VF-1 (for Vince Fiorvanti), VF-2, VF-3, and VF-4.

Exhibit VF-1 was shown. Mr. Fiorvanti stated this the FEMA Profile Map which he believes was discussed previously in the Applicant’s Exhibits. Mr. Fiorvanti stated he added the additional line work shown in blue. He stated the first issue they were looking at was whether or not the building is in the floodplain. He stated they saw in the Notes that it was not tied into the FEMA benchmarks and that no field survey work was done. Mr. Fiorvanti stated when you are comparing a FEMA elevation to a ground surface, they have to be on the same elevation. He stated when FEMA does their studies they take cross-sections of the stream and monitor the flow and it has an elevation to it. He stated looking at the FEMA Study you can see where the stream will overflow its bank at elevation 88.1, and they you look to see where 88.1 is on the ground.

Mr. Fenningham asked if Mr. Geonnotti’s Exhibits graphically plot the water elevation and the land elevation. Mr. Fiorvanti stated the survey was done in the field, but he does not know if it was tied into FEMA’s benchmark, as the Plan says it was not. Mr. Fiorvanti reviewed how a topographic survey is done. He stated contour elevations are also available from Bucks County. He stated to compare FEMA’s study to the ground, you need to have your topography exactly on their benchmark. He stated now they use GPS equipment so the information is available more quickly.

Mr. Fiorvanti stated it was indicated in the information from the Application that no field survey work was done to establish the flood zone. Mr. Fiorvanti stated he had a survey crew check the elevations of the Applicant’s Exhibits based on FEMA’s datum. Mr. Fenningham asked Mr. Fiorvanti what was the elevation on the Applicant’s Exhibits, and Mr. Fenningham stated there were a couple different elevations. Mr. Fiorvanti stated his turned out to be about 2/10ths less everywhere. He stated while that does not sound like a lot, on a site like this 3” could be another 12’. He stated when a site is at 1%, for every foot vertically, you go 100’ horizontal. He stated this is a flat site so it does make a difference.

Mr. Fiorvanti stated looking at the profile there is a slope to it so it is inaccurate to say that the elevation is 88 or 88.1 for the entire site. He stated the elevation changes, and as you go upstream the elevation gets higher. He stated if it is 88.1 in one spot, and you go over 100' which can be seen on the Exhibit in blue, it is 88.5. He stated disregarding the survey work, assuming the Applicant's elevation was tied into FEMA perfectly, it is not 88 all the way across the site. He stated it may be 88 on the low part of the site, and 100' over, it is 88.5 so the line has a slope to it which brings it closer to the house.

Mr. Fiorvanti stated he also looked at the 42.5 which is the same cross section that the Applicant had, and instead of 88.2 he had 88.3 on the Exhibit where the V hits the surface for the one hundred year storm.

Exhibit VF-2 – Revised Floodplain Line was shown. Mr. Fiorvanti stated he has highlighted the 88 contour and the 89 contour. He stated the two contour lines vary in width. He stated when the contours are closer together the site is steeper, and when the contours are farther apart, the land is more flat. He stated between 88 and 89 he divided it into ten equal pieces so between each contour there are ten tenths. He noted on the Exhibit where the site is steep, the difference between 88 and 88.1 is very little, but if there is a big, flat area, the difference could be 15'.

He stated he feels the first error was that the flood hazard area was 88 all the way across. He noted at the edge of the deck it is 88, at cross section through the house is 88.1, and going 100', it is 88.5. He noted an area where he read 88.3 but that is the same point that the Applicant had indicated 88.2 "to be safe" and the house was 2' from 88.2. Mr. Fiorvanti noted on the Exhibit where he had 88.2 or 88.3 which was in the house. He stated it can be seen how much difference a tenth makes and how sensitive this model is to where the water will be. He stated the floodplain line is hitting the house and the deck. Mr. Fiorvanti stated he also had a survey crew come out to check the elevations and they were about 2/10ths lower at the surface of the ground than the elevations that the Applicant had. Mr. Fiorvanti stated if it is 2/10ths lower, the water is 2/10ths deeper. He noted the red line on the Exhibit which he believes would be a conservative estimate of where the flood plain would be based on the field work, which would be even more into the house. Mr. Fiorvanti stated even if he did not bring the surveyors out and used the Applicant's elevations and read the profile, it is still in the floodplain.

Mr. Fenningham stated the red line depicted on Exhibit VF-2 is Mr. Fiorvanti's expert opinion as to where the elevation is with regard to the one hundred year storm event, and Mr. Fiorvanti agreed that is his interpretation of where the one hundred year flood line would be based on the Applicant's topo and his field datum check. Mr. Fiorvanti stated he is using their contours, and he believes that there is a 1' difference between where the 88 and the 89 is; and the location of the water is going to vary according to FEMA study 88.5 100' from where that section is, but it is definitely not level and does not stay at 88. He added that the 88.2 contour definitely does not mirror the 88 with a fixed offset.

Mr. Fenningham stated the proposed dwelling is actually in the floodplain area, and Mr. Fiorvanti stated he believes that it is. Mr. Fenningham stated that is depicted on Exhibit VF-2, and Mr. Fiorvanti agreed.

Exhibit VF-3 was shown, and Mr. Fiorvanti stated this shows the flow arrows coming from the bottom of the Exhibit to the top where it shows the one hundred year flood hitting the garage, going around the house, and over the deck. Mr. Fiorvanti stated when it goes around the house it goes around the rain garden. He stated water quality-type improvements do not really work in this neighborhood, and that part of the Stormwater Ordinance is for small projects with no flooding problems and no immediately downstream areas. He stated looking at the Stormwater Ordinance, it states that if those things exist, the Exemption should be denied.

Mr. Fiorvanti noted the location of the rain garden. He stated the stream will hit the house and go around it and fill the rain garden, and the water from the roof is going to be piped into the rain garden. He stated the deck will be covered with water and the house will be sitting in water.

Mr. Fiorvanti noted the location of the driveway. He stated the disconnection of impervious surface is something that you do if you are not worried about peak flow rates, and you are cleansing the water and letting it flow over grassy areas. He noted the 2,391 square feet of paving. He noted the picture on the bottom left of the Exhibit showing the area behind the stop sign which is the area where the new driveway will be cut in. He noted the area where the existing driveway is located. He stated the new driveway will take out landscaping, shrubbery, and trees with a "straight-shot, 2,000 square feet driveway." He stated in a fifty-year storm, the floodplain would not be in the

house, but 2,000 square feet would be a lot of peak flows driving into the stream and flowing downstream. He stated there are no “peak-flow attributes to the Plan” because only 5,000 square feet of paving does not require it.

Mr. Fiorvanti stated he is suggesting that in this kind of neighborhood, the exemption should not be granted. He stated this is not a “small job on this lot.” He stated he believes the entire driveway will stay uncontrolled and if there is a one hundred-year storm the outlet for the rain garden would be under water. He stated the invert that the rain garden is tying into is 84.96 and the top of the grate is 88.3, and he “got 88.18 there.” He noted the inlet on the Exhibit adding that the bottom of the inlet is 84; and during the one hundred-year storm, the water is at 88 so the “whole thing is full of water.” Mr. Fiorvanti stated if they were to dig the rain garden down a foot or two, it would fill with water because the one hundred-year storm will “kick in.” He noted an inlet on the Exhibit which would be under water if you use his line, and the flow will probably come backwards, fill the rain garden along with the flow going to the rain garden from a location he showed on the Exhibit as well the roof flow going into the rain garden which will overflow and go onto the MacDonald property in a different way than it did before. He showed how the water flowed before, but now probably in the fifty-year storm it will overflow in a different way although he did not model it. He showed on the Exhibit an outlet pipe that will be under water. He stated looking into the grate it would be filled two and a half feet deep, and during a heavy storm it would be coming out and going backwards. He stated this is a “tough spot” to put the dwelling. He stated ignoring the 2/10ths difference they have in elevations, the fact that it is not 88 and given how close it is to the house, and it how sensitive it is to a couple tenths of elevation, illustrates this.

Mr. Fiorvanti showed on the Exhibit the picture of the stream area that was swollen when he was there with the survey crew. He stated it can be seen how flat the area is. Ms. VanBlunk asked where the picture was taken from; and Mr. Fiorvanti stated it was taken from the MacDonald’s property adjacent to the driveway, and he did not go on the Applicant’s property at all. Mr. Fiorvanti stated it is downstream, and the subject property is upstream.

Mr. Tritt asked if the existing house is in the floodplain; and Mr. Fiorvanti stated while he did not do survey work there, the County has it mapped as a floodplain, and he would not be surprised if it is in the floodplain. He stated there are existing situations where there are houses or whole neighborhoods in floodplains. He stated sometimes a house gets flooded

is abandoned; and he has been involved in raising the house, re-designing it, and making the basement walls “blow out” so that the stream can go underneath the house if it is an existing non-conforming situation. He stated the difference here is that there is a choice, and it is a proposed house in the floodplain which he feels is different than an existing house that you have to make some changes to.

Also on the Exhibit, Mr. Fiorvanti noted the graphic of the stream channel. He showed the red rectangle on the right; and stated if he was told that this was his proposed house which was 2’ from the floodplain “up on a cliff,” he would feel safe. However, if he was told that he was 2’ away from a floodplain, and it was the red rectangle on the left, he would not feel safe. He stated if one thing changes the channel such as if a tree were to fall and back up the flow, if the area adjacent to the stream were flat, it is very sensitive to anything vertical. He stated a couple tenths off, 3” or 4” higher, and the house on the left could have it spread 50’ where the house on the right would be okay. He stated you can see the stream channel and the overbanks are flat and low-lying, and you can see on the topography the difference between the 88 and 89 contours. He stated it is very sensitive; and no matter whose floodplain is right, both of them have the floodplain very close to the house, and he has it hitting the house.

Exhibit VF-4 was noted which is titled, “Wetlands Within Two Miles of Delaware River.” Mr. Fiorvanti stated this is the Bucks County GIS, and is an example where you can see the elevations. He stated they are approximate elevations, and they are good for overall land planning and drainage studies, and they map floodplains. He stated you can approximate elevations. He stated in this situation the floodplain is a “very big deal” so that is why he feels it has to be tied in. He stated the Exhibit was for the location of the wetlands. He stated also on this, you can map the distance to the Delaware from the project site, and it is 6,900 feet so it is less than two miles. He stated as he reads the Ordinance, he feels that the Township “shall require an independent wetlands evaluation for wetlands associated with a stream that is within two miles of the Delaware.” He stated the purpose of this Exhibit was to show where the dimensions came from.

Mr. Fenningham stated on Exhibit A-4 – the Zoning Plan – there is Note 7(2) that describes that there is no building envelope. Mr. Fenningham asked Mr. Fiorvanti if he reviewed that Note in his preparation for this evening, and Mr. Fiorvanti stated he did. Mr. Fenningham asked why it is expressed

that there is no building envelope. Mr. Fiorvanti stated he believes if he took the setbacks from the resource-protected land which includes streams, wetlands, and wooded areas then there would be no building “setback” on the property. Mr. Fenningham stated it is the presence of the existing natural resources and wetlands areas that is the basis for the Note prepared by Mr. Geonnotti that there is no building envelope on the flag lot parcel, and Mr. Fiorvanti agreed. Mr. Fiorvanti stated the intent of the Ordinance is to prevent development in this type of area.

Mr. Fenningham asked Mr. Fiorvanti if a homeowner wants to build on an unimproved lot that has natural resources to the degree that this flag lot and flog pole parcel have, does the desire to build supersede the protection of the Township Ordinances of natural resources; and Mr. Fiorvanti stated in his opinion it does not supersede. Mr. Fenningham stated the Township Ordinances protecting the natural resources should govern over the notion that a property owner should be able to build on any lot. Mr. Fiorvanti agreed, and added that was the intent of the Ordinance which is why the regulations exist.

Mr. Fenningham asked Mr. Fiorvanti if he has an opinion based on all of his review that the development of the flag lot parcel and the flag pole parcel will exacerbate the current conditions in connection with the creek and the flow through the MacDonald’s property to Silver Lake; and Mr. Fiorvanti stated he believes that it will. Mr. Fenningham asked if any development will exacerbate those existing conditions, and Mr. Fiorvanti agreed.

Mr. Fenningham stated Section 200-56 C2 of the Township Ordinance is titled “Drainage Facilities.” Mr. Fenningham stated within that provision it addresses storm drainage facilities with the last sentence being: “The system (referring to storm drainage facilities) shall also be designed to prevent the discharge of excess run-off onto adjacent properties.” Mr. Fenningham asked if the Applicant has presented evidence of the degree or volume of excess run-off if the two parcels are developed as proposed, and Mr. Fiorvanti stated they have not. Mr. Fiorvanti added that they are presenting the project as though the exemption would be granted, and they are only really taking into account the two-year storm. He stated he believes that there was Testimony that the increase in the peak rate run-off for the one-hundred year storm would be the .2CFS number noted, but he did not see any calculations. He stated as he has shown during the one hundred-year storm, if the house is in the floodplain, there is going to be a lot of currents and re-direction of flow, and excess run-off even in storms not as bad as the one hundred-year storm – and it would be in

the fifty-year storm and twenty-five-year storm. He stated there is 2,000 square feet of driveway that is uncontrolled that will be flowing into the stream, and under the exemption you do not have to worry about peak flows; however, he does not feel the exemption is warranted here.

Mr. Fenningham asked if the benchmark that is to be applied the hundred-year storm event, and Mr. Fiorvanti stated the way the Ordinance is written without the exemption is that peak flows are to be controlled for all storm events.

Mr. Fenningham stated they were all the questions he had, but he may have re-direct if there is cross examination this evening.

Mr. Zamparelli asked Mr. Murphy if he was going to cross-examine Mr. Fiorvanti, and Mr. Murphy stated he was going to do it at the next meeting. Ms. Kirk stated she had no questions. Mr. Murphy stated he was going to cross-examine both Mr. Fiorvanti and Mr. MacDonald at the next meeting. Mr. Fenningham stated if they are going to have another meeting, he would prefer to present Mr. MacDonald at the next meeting. Mr. Flager stated if Mr. Murphy would cross-examine Mr. Fiorvanti this evening, at the next meeting they would have Mr. MacDonald at the next meeting. Mr. Murphy stated he would like to have time consult with Mr. Geonnotti. Mr. Fenningham stated he had no objection to giving Mr. Murphy the time.

Ms. Kirk stated she understands that Mr. Fenningham distributed a drop box of Exhibits for tonight's Hearing, and she asked if there were thirty-five photographs. Mr. Fenningham stated that was sent last week. He stated last week he sent to the Township the photographs and four short videos.

Ms. VanBlunk stated she did see the videos; however, the photographs that she was able to look at appeared to be different files, but when she clicked on them they all seemed to be the same pictures, and she believes that there were only seven. She stated she did not see thirty-five pictures. Ms. VanBlunk stated they were received this afternoon. Mr. Fenningham stated his understanding was that they were sent to the Township for distribution last week. Mr. Murphy stated he did not get them under around 4:00 p.m. this afternoon. Ms. Kirk stated she has an e-mail dated today from Denise Slivka at 3:22 p.m. enclosing the Exhibits, and Mr. Fenningham stated those were the four Exhibits that were just discussed. Ms. VanBlunk stated Mr. Majewski had indicated that what he was sending included "older stuff."

Mr. Majewski stated the Exhibits that were in the drop box that were distributed today included four files of pictures, and each file contained numerous photographs; and that is where Mr. Fenningham has stated that there were over thirty photographs. Mr. Majewski stated each of the Exhibits had multiple photographs. Ms. VanBlunk stated she did look at each of the files. She stated if Mr. Majewski is able to pull those up, they could view them here as she was not able to view them before tonight. Mr. Fenningham stated the effort was to get them to the Township last week, and he thought that they did. He added that there are four groups, and they are associated by date of the photograph – March 11, 2021, July 12, 2021, August 4, 2020, and August 14, 2018. He stated they were giving an array of conditions involving the creek. He stated he felt that everyone had these, and he would want to make sure everyone has them for the next Hearing; and Mr. MacDonald who took the photos will go through them with the Board.

Mr. Fenningham stated Mr. Murphy had asked about Mr. MacDonald's Testimony, and Mr. Fenningham stated he believes Mr. MacDonald's presentation will be about a half hour.

Mr. Murphy stated he feels they want to conclude this at the next meeting, and he could cross-examine Mr. Fiorvanti at the next meeting, hear from Mr. MacDonald, and then have re-direct from Mr. Geonnotti. Mr. Fenningham agreed with this. Ms. VanBlunk asked if they are going to hear from Mr. MacDonald this evening, and Mr. Fenningham stated he was going to defer him to the next Hearing. This was acceptable to the Board.

Mr. Murphy stated the meeting scheduled for September 21 seems to have a lot of Appeals. Mr. Zamparelli stated he would be in favor of having a Special Meeting just for this Application. Mr. Fenningham stated while he streamlined Mr. Fiorvanti because of the time constraints, he will not recall him; and they will go right to Mr. MacDonald. He stated if there is cross-exam, he may reserve some re-direct. After discussion it was agreed to hold a Special Meeting on August 31 to consider this matter only.

Ms. VanBlunk moved, Mr. Solor seconded and it was unanimously carried to continue the matter to August 31, 2021 at 7:30 p.m.

Mr. Fenningham asked if there will be Public Comment on August 31, and Mr. Zamparelli agreed. Mr. Fenningham stated he also believes that there is an open Party Status Applicant from the last time.

CANCEL SEPTEMBER 7 MEETING

Ms. VanBlunk moved, Mr. Solor seconded and it was unanimously carried to cancel September 7 meeting due to the Rosh Hashanah holiday.

There being no further business, Mr. Solor moved, Ms. VanBlunk seconded and it was unanimously carried to adjourn the meeting at 9:25 p.m.

Respectfully Submitted,

Matthew Connors, Secretary