

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – MARCH 2, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on March 2, 2021. Mr. Zamparelli called the meeting to order.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Chair
Pamela VanBlunk, Vice Chair
Matthew Connors, Secretary

Others: James Majewski, Director Planning & Zoning
Mike Kirk, Code Enforcement Officer
Tim Duffy, Township Solicitor
Adam Flager, Zoning Hearing Board Solicitor
Frederic K. Weiss, Supervisor Liaison

Absent: Peter Solor, Zoning Hearing Board Member
Michael Tritt, Zoning Hearing Board Member

APPEAL #21-1900 – JON SHAVEL & RUTH HARRIS
Tax Parcel #20-055-243 – 357 RAMSEY 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 Zoning Sheet with the impervious surface calculations 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. Jon Shavel and Ms. Ruth Harris were sworn in.

Mr. Shavel stated they are looking to rehab their house and add a pool, barbecue, and shed.

Mr. Zamparelli stated he does not feel there is a big issue with the shed; however, the impervious surface is being increased from 24.2% to 26.9% so they will need to have mitigation. He asked what they intend for mitigation back to what is existing.

Mr. Dave Lisanti was sworn in and stated they are utilizing tree plantings for the stormwater mitigation. He stated it is a generally flat yard, and the pool will be placed in the center. It will be pitched to both sides. The Applicant will install at least nine trees split on either side. He stated that the Applicants have explained to him that would be a low number, and they will probably be planting more trees than that. Mr. Lisanti stated they are showing the bare minimum to meet the Code requirements.

Mr. Zamparelli stated they are going over by a couple percent, and the Board generally requires something more permanent for mitigation once it is beyond 1%. He stated the Township has to consider how long what is being proposed would last and whether the next homeowner would continue it. He stated if it is 1% or less, they do allow trees to make up the difference; however generally the Board would not accept just trees.

Ms. VanBlunk stated she agrees that since they are looking at a 2.7% increase, they would like to see something more permanent since trees could die or if the house is sold the next owner could take out the trees. Ms. VanBlunk asked Mr. Lisanti if there is something he could recommend to Ms. Harris and Mr. Shavel that would be a more permanent mitigation effort.

Mr. Connors stated he is willing to have the trees address some of the infiltration requirements, but he feels they need to split it amongst a couple of BMPs for that much of an increase.

Mr. Lisanti stated a permanent fix for the stormwater would be an underground seepage bed, and there would probably be an inlet that would be seen on the property.

Mr. Shavel showed a slide of a seepage pit. He stated he and Ms. Harris feel that they would be willing to do that. He stated they will also plant a lot of trees so they will have both things.

Mr. Zamparelli asked Mr. Majewski if the calculations presented are correct, and Mr. Majewski agreed.

Mr. Lisanti asked if they would suggest 50% BMP and 50% trees. Mr. Connors stated he would be satisfied with that.

Mr. Shavel asked if there is a preference for where the seepage bed should be put, and Mr. Connors stated they should work with the Township engineer so that they can select the best area which will work for the property and the Township.

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

Mr. Connors moved and Ms. VanBlunk seconded to approve an increased impervious surface of 2.7% subject to mitigation approved by the Township engineer through a combination of 1% from the trees and the remaining being a BMP approved by the Township engineer.

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

Motion carried unanimously.

After the Applicants had left the meeting, Mr. Zamparelli stated there was a shed issue. Mr. Connors stated the shed was placed 3' from the property line. Mr. Flager stated the Board granted the Appeal and the only Condition related to the second Variance. No further action was taken by the Board.

APPEAL #21-1901 – HYDROSCAPE INC. (PATRICK O'DUNNE)

Tax Parcel #20-049-236 – 268 SPRINGDALE TERRACE, 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 Impervious Surface Calculations were 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. and Mrs. Patrick O'Dunne were sworn in.

Mr. O'Dunne stated they have a plan to install a patio and pool in the rear yard. He stated they are currently close to the 18% permitted as they have 17.4%, and what they are proposing will take them to over 27% so they are applying for 28%. He stated the mitigation proposal provided is for a seepage pit which will exceed the 10% increase from 18% to 28%.

Mr. Zamparelli asked Mr. Majewski if the calculations are correct; however, Mr. Majewski stated he did not see the calculations. It was noted the Board did receive the calculations. Mr. O'Dunne stated he used the spreadsheet that was provided by Mike Kirk to calculate the cubic feet of run-off adjusted to the volume of the seepage pit.

Ms. VanBlunk stated they are proposing a storm trench, and that calculation was with that. Mr. O'Dunne agreed the intention is to use the stormwater trench as stormwater management mitigation.

Mr. Majewski stated while he did not see that, if Mr. O'Dunne used the calculator provided, he is sure that what was done will work; and ultimately if the Board were to approve it as submitted for the impervious surface of 28% provided it would need to be approved by the Township engineer. Mr. Majewski stated they are required to mitigate all the impervious surface that is created so they would have to go back to what is currently existing. He stated they need to account for all the impervious surface that they are doing. Mr. O'Dunne stated they will make sure that the volume numbers get it down to the 17.4%. Mr. Majewski stated if the Board were inclined to approve this it would be approved for an impervious surface of 27.2% subject to providing stormwater management to the satisfaction of the Township engineer.

Mr. Connors stated there is a fireplace in the side yard setback, and he asked Mr. Majewski if that is considered a structure. Mr. Majewski stated it would be an accessory structure and needs to be 10' away from the property line.

Ms. VanBlunk moved and Mr. Connors seconded to approve the Appeal for 27.2% subject to providing stormwater management subject to the review and approval of the Township engineer.

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

Motion carried unanimously.

APPEAL #21-1902 – MICHAEL & RACHEL RUBACHA
Tax Parcel #20-059-005 – 1072 RANDOLPH DRIVE, 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 Impervious Surface

Calculations were 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. Michael Rubacha and Ms. Rachel Rubacha were sworn in.

Mr. Rubacha stated they are proposing to replace an existing back deck that has an overhang that will be removed, and they will be putting in a bluestone patio. As a result, the amount of impervious will increase by .9% or 160 square feet. He stated they have contracted with Gasper to do the work, and they will be putting in a stormwater management system that would be able to manage up to 216.6 square feet so that they will be able to mitigate 56 square feet above the increase of impervious that they would be creating with the patio.

Mr. Majewski stated the calculations are correct.

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 subject to the Township's final approval.

APPEAL #21-1903 – TIMOTHY & MICHELLE CHAMBERLAIN
Tax Parcel #20-025-016 – 19 FAIRWAY DRIVE, 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 Impervious Surface Breakdown which also has the stormwater management 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. Timothy Chamberlain and Ms. Michelle Chamberlain were sworn in.

Mr. Chamberlain stated they are asking for a Variance for the setback for their back yard. They want to put in a 19' by 20' addition on so they can give their daughter a bigger room; and they will move into the addition which will have the master bedroom, bathroom, and closet.

Mr. Zamparelli stated there is not an impervious issue and the side yard setbacks are fine.

Mr. Connors stated it is an extension of an existing non-conformance so he feels they do need permission to extend that. Mr. Majewski stated the Township's past policy is that as long as you are not increasing the extent of a non-conformity, which in this case is the distance from the side to the property line, then it is considered an existing non-conformity; and they are allowed to do that.

Mr. Zamparelli stated they are therefore just looking at a rear setback which will be a 3' reduction.

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

Mr. Zamparelli stated he feels this is de minimus.

Ms. VanBlunk asked how many bedrooms they currently have, and Mr. Chamberlain stated it is three bedrooms and one and a half baths. He added it will remain three bedrooms. He stated his daughter's current bedroom is 9' by 9', and they will make that into a full bath, and they are adding a bath into the master addition. It will be three bedrooms and two and a half baths. The proposed addition is a master bedroom, master bathroom, and a walk-in closet.

Ms. VanBlunk stated she does not have an issue with the request.

Mr. Connors asked if the deck will remain, and Mr. Chamberlain stated it will.

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

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

APPEAL #20-1873AA – JEAN AUGUSTIN
Tax Parcel #20-054-089 – 3 RIDGE AVENUE, 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 Deed was marked as Exhibit A-3. There are two Proofs of Publications which were collectively

marked as Exhibit B-2. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3. Mr. Flager stated the Township will also introduce some Exhibits.

Mr. Flager stated the Township is participating and Tim Duffy will be handling that on behalf of the Township. Mr. Tim Duffy from Hill Wallack stated he is present on behalf of the Township which is opposing this Application.

Mr. Jean Augustin was sworn in.

Mr. Flager stated the Applicant was a client of his firm over ten years ago, but he was not a member of the firm at that time and knows nothing about it. He stated he does not feel there is technically a conflict, but he wanted to put it on the Record in the interest of full disclosure. The Board did not see this as a conflict, and Mr. Duffy stated the Township had no Objection.

Mr. Augustin stated he has two cases - an Application for a Bed and Breakfast and "something to do with the patio." Mr. Flager stated he has two forms of requested relief a Variance and a Special Exception.

Mr. Augustin stated there is an existing patio in the back of the house in the corner in the back yard. Mr. Augustin asked if the Board had that paper, and Mr. Zamparelli stated they have the information that he provided which is the Google picture, the Plan, and the calculations. Mr. Augustin stated there is a patio back there and what he did was he made it a bit wider. He stated it used to be 16' and he made it 32' with red patio brick and then he wanted to put a roof on top of it. He stated that is the first request – that he be allowed to put the roof on top of it. He stated he is not going one inch further than what the existing patio is so he is "in the same line," and he just wants to put the roof back up.

Mr. Zamparelli asked about the other request. Mr. Augustin stated the other is the Application for Special Exception. He stated he did not understand the Special Exception before, but he needs to have other people live in the house with him who are not related to him. He stated before that he was doing Bed and Breakfast and Airbnb, and he "thought he could have it." He stated he is a consultant and people travel to stay with him, and he wants to be able to have these people come in and stay with him when he is doing projects. He stated right now he was "on a call and he has three colleagues with him at his house" because they are working on a project. He stated he still has a need to do that, and he would like to be able to do that; and he put in the

Application for Bed and Breakfast, “ and he just calls it a Bed and Breakfast,” but what he is looking for is the ability to have people who are not related to him stay at the house – “not on the short term - on the long term basis.”

Mr. Zamparelli stated he seems that he wants to be able to do whatever he wants with the property, but Mr. Augustin disagreed. Mr. Augustin stated he wants to be able to have other people stay in the house with him. He stated the “purpose is really mostly work.” He stated when they come in, they are from out-of-town. He stated he travels a lot, and he will stay in a hotel. He stated what they have done Internationally at other times is that “people would say ‘stay with me for a month or two months’ to work on the project together.” Mr. Augustin stated he does this himself and he goes to Germany “and stays with them, and he works, and they do what they need to do, and then they are finished.”

Mr. Augustin stated that is the Application. He stated that is how he got in trouble with Lower Makefield because he asked why he could not to it. He stated he is not renting it or doing Airbnb with it and he just has “his friends come in and stay with him for the purpose of being productive.” He stated he has people now in the house with him, “not in the Lower Makefield address but in another address where he is talking to the Board from right now.”

Mr. Zamparelli stated he seems like he wants to have permission to have people stay there and help him work on the house. Mr. Augustin stated it is not to work on the house. He stated he is a management consultant, and he wants professionals to come in and work with him on projects - not work on the house. He stated he “does not want anybody to touch the house.” He stated they are “not carpenters – they are professionals.”

Mr. Connors stated it is similar to a WeWork situation, except Mr. Augustin lets them stay with him there. He asked if it is room and board as well as a work space. Mr. Augustin stated it is for the time when they come in to work. He stated you “could call it that, but it does not think there is a name for it.” He stated he wants to have his colleagues with him because that way they get a lot more done, and he can deliver his projects to his clients as he is the Director. Mr. Augustin stated “a lot of these guys come in from India,” and they can come in and work with him. He added that it is for convenience.

Ms. VanBlunk asked Mr. Flager if there are not certain rules for a Bed and Breakfast Special Exception, and she believes that breakfast has to be served, and it is for a limited time and not a long-term basis. Mr. Augustin stated he can answer that; however, Ms. VanBlunk stated she asked the Board's solicitor a legal question. Mr. Flager asked if she is looking for the definition of Bed and Breakfast adding he "does not know that the Zoning Code has one for Bed and Breakfast although it has one for boarder."

Mr. Connors stated the R-2 has the Special Exception that he is requesting, and he asked if there is criteria associated with that in the Zoning Code. Mr. Duffy stated there are, and it appears that Mr. Majewski has that Section.

Mr. Duffy stated Mr. Augustin indicated he is a consultant and he has colleagues come in. Mr. Duffy asked what kind of business he has. Mr. Augustin stated it is computers. Mr. Duffy asked the name of his company, and Mr. Augustin stated it is PwC – PricewaterhouseCoopers.

Mr. Duffy asked Mr. Augustin if he has had co-workers come in before and stay with him for a length of time, and Mr. Augustin stated "he used to, and he stopped doing it when Jim told him he had to get a Special Exception for that." He stated that is why he is here. Mr. Duffy stated that was in July, 2019; and Mr. Augustin stated "he did not remember – it was quite a while back."

Mr. Duffy asked if he is Testifying that in July, 2019 and before that the people he had staying long term at his house were co-workers who were involved in his computer business. Mr. Augustin stated he does not know the date, but when he was doing the Airbnb, he also used to have "these guys come in – his colleagues." Mr. Duffy asked in 2019 when he was running the Airbnb business, if the boarders that were living there were computer co-workers, and Mr. Augustin stated a couple of them were. He added he did have boarders as well, but most of the people were his co-workers.

Mr. Duffy asked if that included Sean. Mr. Augustin stated there was a time when he was running the Airbnb that he did have boarders and he had colleagues come into his house. He stated he was very open. He asked "Jim why he could not have his guys come in and work with him." He stated he did not know that you are not supposed to do that. He stated he was told that if he wanted to do that, he had to get a Special Exception for that; and that is why he is here. He stated "it took a long time for us to get to this meeting." Mr. Augustin advised Mr. Duffy that he is "not interested in getting into anything before that or they are wasting their time."

Mr. Duffy stated Mr. Augustin testified that he travels a lot, and Mr. Augustin stated he does. Mr. Duffy asked for how long; however, Mr. Augustin asked why he was asking that question. Mr. Duffy asked how long he would be gone at a stretch during 2020. Mr. Augustin stated he has not traveled because of COVID. Mr. Duffy asked if he plans to travel in 2021, and Mr. Augustin stated he does. Mr. Duffy asked for how long he expects to be away when he is traveling in 2021. Mr. Augustin stated most of the time it would two to three times a month, and he would probably be out of the house probably four days a month.

Mr. Duffy asked Mr. Augustin if the Ridge Avenue property is his residence, and Mr. Augustin stated it is one of them. Mr. Duffy asked which residence is his primary address, and Mr. Augustin stated his address is across the street. Mr. Duffy stated that is the property directly across the street from Ridge Avenue property in Morrisville Borough that he also owns, and he asked if that is his primary residence; and Mr. Augustin agreed. Mr. Duffy stated he is registered to vote in Morrisville Borough, and Mr. Augustin agreed. He stated he has not changed his address to across the street.

Mr. Duffy asked Mr. Augustin if he is planning to have it as a Bed and Breakfast; and Mr. Augustin stated if he is allowed to have it be a “boarding place/Bed and Breakfast” he would like to have his colleagues there. He stated one day he may go back and do an Airbnb; but what that means is that would become his residence, and he would live there like he used to before. He stated when he was doing the Airbnb, he lived there, and that was his primary residence.

Mr. Duffy asked Mr. Augustin if tonight he is still looking for a Special Exception to run a Bed and Breakfast, and Mr. Augustin agreed that is the reason he is here as well as “the business with the roof.” Mr. Duffy stated Mr. Augustin asked for a Bed and Breakfast Use and also a Boarder Use, and he is trying to determine which one he wants. Mr. Augustin stated he wants the Bed and Breakfast.

Mr. Duffy stated in the past when Mr. Augustin was running the Airbnb, he had a friend, David Poe, help out and manage the business; and Mr. Augustin agreed. Mr. Duffy stated he did reservations and helped out and cleaned the rooms, and he asked Mr. Augustin if he expects to have someone like him help out; and Mr. Augustin stated he does for the time when he is not there, and he needs someone to help him out. Mr. Augustin stated if he was doing a Bed and Breakfast, he would also have a cook there. Mr. Duffy stated there will therefore be a cook there and his friend, David, or someone else help run the

business; and Mr. Augustin stated “most likely to make sure the business is run properly.” Mr. Duffy stated Mr. Augustin would not be there full time, because he would be travelling.

Mr. Augustin stated he does “a lot of different businesses.” He stated this is why he wants to have the Special Exception so that he can have proper people there doing the right thing. Mr. Duffy asked if the cook and manager of the business would be family members or friends. Mr. Duffy stated the cook is his niece.

Mr. Duffy asked Mr. Augustin if he were to decide back into 3 Ridge Avenue – and Mr. Augustin stated “it is across the street.” Mr. Duffy asked Mr. Augustin besides himself, does he feel the majority of the people living there would be guests for the Bed and Breakfast or boarders. Mr. Augustin asked what are “boarders,” and Mr. Duffy stated it would be people who live there long term. Mr. Duffy asked if the majority of the people living there would be living there permanently. Mr. Augustin stated he sees one person living there that he would call a boarder, and that would be his niece “who is cooking.” He stated he also sees “someone like David welcoming people and helping manage it.”

Mr. Duffy asked Mr. Augustin with regard to the Variance, when did he started building the covered porch. Mr. Augustin stated he did not build the porch - the porch was there already. Mr. Duffy asked if the covered porch that he is requesting the Variance for was there, and Mr. Augustin agreed. He added it can be seen in the pictures that the porch “has been there since before he bought the house.” Mr. Duffy stated Mr. Augustin is here looking for a Variance for a new porch that was built on the corner of the house closest to Ridge Avenue - not the one that is near the basement stairway. Mr. Augustin stated there is a porch there that has been there as part of the house. He stated the porch was 12’ wide and he added another 12’ to the side of it, and so he made it 24’ instead of 12’.

A slide of the Plan was shown. Mr. Duffy noted on the Plan where it states: “patio with roof 12’.” Mr. Duffy stated that is where the covered porch is for which he is looking for a Variance. Mr. Augustin stated it is the cover – the porch was there. Mr. Duffy stated he is asking about the roof which was not always there. Mr. Augustin stated the roof was not there but the patio was there. Mr. Duffy asked Mr. Augustin when he started building the roof, and Mr. Augustin stated “he does not know the time – four to five, six months ago.” Mr. Duffy stated he did not have any Permits for that, and Mr. Augustin agreed he did not. Mr. Augustin added he did have a Permit for a portico which was 8’ “on top of it;” but he took it down to make it wider.

Mr. Connors asked if he went from 8' wide to 12' wide, and Mr. Augustin stated he went all the way to 24'. Mr. Connors asked the depth of that which has been identified on the Plan as 12', and he asked if that was already 12' or something else; and Mr. Augustin stated it was already 12'. He stated all he did "was went sideways." Mr. Augustin noted the Plan and stated he extended it from 12' to 24'. Mr. Connors stated he has identified 16' of grass, and that is 21' feet from there to the property line; and Mr. Augustin stated he believes it is was "28 point something to the property line." Mr. Connors stated it states 33.2. He stated 33.2 minus 12 would get to 21.2. Mr. Augustin stated there are plenty of trees there. Mr. Connors asked if those trees are proposed or existing, and Mr. Augustin stated they are existing.

Mr. Connors noted another section on the Plan, and Mr. Augustin stated that is the pavers. He stated that is what "makes is the 24." He stated on the Plan it looks like it goes longer than 12' but it is only 12'.

Mr. Zamparelli stated he is not comfortable with the Plan, as they are "jumping around." He stated they also have to get back to the B & B which he had asked for, and then he did not ask for it the second time, and now he is asking for it again. Mr. Zamparelli stated he "seems to be all over the place on this," and he is not comfortable."

Mr. Augustin stated the reason he is all over the place is because he was not sure what it was that he was allowed to do. He stated he told "Jim and Mike" what he wanted to do and what he was doing, and he asked them what he needed to do. He stated "way back" when he bought the property they told him he had to get a Special Exception before he could do this. He stated he is "about computers and financial planning, and he can talk about that." He stated he would do the Special Exception but it was very important to him to have other people in there to work with him. He stated for what "he does for a living" they have meetings. He stated after this meeting, he is going back to a meeting "with these guys for three hours." He stated to have them with him is important because what it would "mean is that he would be sitting in a hotel somewhere working with them instead." He stated that is the "B and B business."

Mr. Augustin stated he used to do Airbnb "and that stuff and he might ask to do Airbnb, but right now his bnb thing is so that he can have his people there with him." He stated he is not open as a Bed and Breakfast as a business. He stated his focus is to put the house to use to do what he does and have his people come in and work with him, and they are all "outstanding folks."

Mr. Connors asked Mr. Augustin how long people stay with him when they come over, and Mr. Augustin stated they stay for two to three months. He stated there is first a discussion and design phase, and that could be two to three months. He stated they leave, and then in a month they come back for the next phase of the project. Mr. Connors asked long is each stay, and Mr. Augustin stated total it could be two to six months. Mr. Connors stated there is an Accessory Use allowed within the Zoning Code and it describes a Bed and Breakfast and what the criteria is. He stated one of the criteria is that no one will stay for more than fourteen days. Mr. Connors stated he feels they should Continue this matter so that they can get a legal opinion from Mr. Flager. Mr. Connors stated Accessory Uses under 200-69 give the criteria for Bed and Breakfast. He stated some of the things that Mr. Augustin is talking about do not comply with that, but he also needs to understand if that Accessory Use is applicable to the R-2 Zoning Special Exception.

Mr. Flager stated under 200-69 A2 it states: “The use and occupancy of an existing single-family detached dwelling shall be permitted by Special Exception only for accommodating transient guests for rent subject to the following additional conditions and restrictions, all of which must be met;” and then it lists A through P which would need to be met according to the Zoning Ordinance. He stated even though Mr. Augustin’s “is in 200-20 because of the Zoning District that it is, it still goes by 200-69 which governs this.” Mr. Flager stated 69A3 would be for Boarding because technically the Application asked for one or in the alternative, the other.

Ms. VanBlunk asked Mr. Augustin if he is charging these people to come stay in his home, and Mr. Augustin stated he is not. He stated he used to charge when he did the Airbnb, but this is not Airbnb, and they are his colleagues. Ms. VanBlunk asked if they are staying with him for free; and Mr. Augustin stated they are, and what he gets is “productivity.” He stated it is the ability to deliver the project at a set time. Mr. Augustin stated “they share.” He stated he does not charge them anything, but if his “friend is cooking, he eats his food,” and his friend eats Mr. Augustin’s food.

Ms. VanBlunk stated Mr. Augustin had indicated that his niece was coming in to cook for these people, and Mr. Augustin agreed. Ms. VanBlunk stated his niece will be one of the people who will stay there, and Mr. Augustin agreed. Ms. VanBlunk asked if he is paying his niece to stay there and work or is he charging her board to stay there. Mr. Augustin stated he did not think about that yet. He stated he knows that his niece would like to help him out “as he helps her out.” He added she is now in Florida and she will

come up and stay with him and help him out. Ms. VanBlunk asked if she is over eighteen, and Mr. Augustin agreed. Ms. VanBlunk stated he will bring his niece up but he will not pay her to cook; however, Mr. Augustin stated while he will not “pay her to cook, he will pay her money, but not because she is cooking, but because she is helping him out.”

Ms. VanBlunk stated the colleagues who will be staying with him will not be paying Mr. Augustin rent. She asked if he will be paying them to do work for him, and Mr. Augustin stated they get paid from the “budget from the client.” Mr. Augustin stated “businesswise he can price the budget knowing that he is not affording the expenses that he would afford if he were to put them in a hotel.”

Mr. Zamparelli stated he understands that Mr. Augustin has people helping him with his business, and he is assuming that he has an office somewhere where they could work in the office. Mr. Augustin stated he does not. Mr. Zamparelli stated it seems Mr. Augustin is requesting a place for them to stay, but he feels what Mr. Augustin wants “is over and above what he needs.” Mr. Zamparelli stated he “does not see it, and what he wants is too much.”

Mr. Augustin stated right now he has three people with him working on “this budget for a bank.” He stated he would like to have them stay with him at 3 Ridge doing that work. He asked as the owner of the property “what is wrong with that.” He asked what he needs to make that happen since that is what he is asking for.

Mr. Connors stated his issue is that Mr. Augustin is asking for either a Bed and Breakfast or Boarding, and he is not meeting the criteria associated with those two uses. Mr. Connors stated the Zoning Hearing Board has to fall back on the Code. He stated for Boarding it states there can be not be more than two boarders as an Accessory Use, and there are also other criteria which he is not sure the property meets or not; and he would need to know that before they could proceed. Mr. Connors stated there is other criteria for Bed and Breakfast which says you can have more people but they cannot stay for more than fourteen days. Mr. Connors stated what Mr. Augustin has stated so far does not comply with either of those criteria.

Mr. Zamparelli stated he also believes that Mr. Augustin would have to live there as well and there is other criteria. Mr. Connors stated he was just noting two of the big ones that he is hearing.

Mr. Augustin stated given that, they can “forget about it,” and he does not want to waste the Board’s time. He stated the “house will stay empty as he has no use for it.” He stated he “needs to be here, and he had said that he is not home right now, and he is in another house because he needs to do work so that he can pay his mortgage over there.” He stated he will “pass on that.”

Mr. Connors stated the Board needs to understand how he complies with the Zoning Code; and if he wants to come in with something, they could look at that.

Mr. Augustin stated they can move forward and he needs to put a roof on top of the porch, and he “wants to know what is wrong with that.”

Mr. Duffy asked Mr. Augustin if he is withdrawing his Application for the Special Exception for the Boarding Use and the Bed and Breakfast, and Mr. Augustin stated he is because “he is not seeing where this is going so it is a waste of his time and the Board’s time.” Mr. Zamparelli advised Mr. Augustin that he is not wasting the Board’s time, and he apologized to Mr. Augustin if he feels that way; but the Board does have to have a good understanding, and he does not see the need. Mr. Augustin stated he told the Board his need for it. He stated his need is to have his colleagues working here with him, and he wants to know what to do to make that happen.

Mr. Zamparelli stated Mr. Augustin could have them help in his office for eight hours a day. Mr. Augustin stated he cannot do that, and he asked “which office.” Mr. Connors advised Mr. Augustin he understands what he needs and wants; however, there is not a mechanism by which to make a decision. Mr. Augustin stated he wishes there was a way, “but they are spinning him around.” Mr. Connors stated 200-69 in the Zoning Code shows the two Uses that Mr. Augustin has applied for – the Boarding Use and the Bed and Breakfast Use. Mr. Connors stated to be eligible for the Special Exception Mr. Augustin’s use and property would have to fit into those criteria; and if they do not, there is not really any place that they can go with. He stated the Board does not have the ability to tell Mr. Augustin that he can do whatever he wants. He stated a Special Exception has a very narrow criteria for the Board to evaluate; and if it does not fit into that, there is nothing that the Board can do.

Mr. Zamparelli asked Mr. Augustin if he is withdrawing the Application for Special Exception; and Mr. Augustin stated he does not know, and he asked if he could put it on hold. Mr. Flager stated he is requesting a Special Exception for the Boarding/Bed and Breakfast Use and the other part of

the Application is a Variance for the setback that they discussed previously. Mr. Flager stated if he does not want to go through with the Special Exception right now, he could withdraw that and still try to get the Variance for the setback. Mr. Augustin stated he still wants to go for the Variance for the setback. Mr. Augustin asked if there is a way he could put the Special Exception on hold. Mr. Flager stated if he withdraws it, he is free to file again in the future; whereas if he continues and it is denied, he cannot re-file. Mr. Flager stated if he were to withdraw it, he would preserve his right to bring it at a later time. Mr. Augustin stated he would like to do that, and he will withdraw the Special Exception and continue with the setback issue only.

Ms. VanBlunk stated she understands that the patio is built, and he wants to build the roof. Mr. Augustin stated he wants the roof on top of it. Mr. Zamparelli stated he thought the roof was built already; and Mr. Augustin stated it is there already, but he did not get a Permit for it. Ms. VanBlunk stated he indicated that the patio was there when he bought the house, and Mr. Augustin agreed. Ms. VanBlunk stated he built the roof, and the Variance is for the roof and not the patio. Mr. Connors stated it is a covered structure in the setback, and he has a double-frontage Lot. Mr. Augustin stated that area is not even one third of his back yard so he is “not sure why he is here.” He stated he has three quarters of his back yard that is empty.

Mr. Zamparelli stated corner Lots are always an issue. Mr. Zamparelli asked what is the setback he should have. Mr. Kirk stated his property is a non-conforming property. He stated Mr. Augustin had 32' to the property line before the roof, but he is supposed to have 50'. He stated Mr. Augustin increased the setback to only 16', and he is currently sitting at 16' from the property line where before the roof was built it was at 32'. Mr. Zamparelli stated at that point there was no roof on it, and it was just a patio.

Mr. Kirk stated the other issue is that Mr. Augustin keeps stating that the patio was existing; and that is false, and it was not existing. Mr. Augustin stated it was existing, and that can be seen in the picture. Mr. Kirk stated it is existing now because Mr. Augustin already put it in. Mr. Augustin stated the patio existed. Mr. Kirk stated the only thing that was there previously was a 6' by 6' cement pad/landing with a step down at the back door. Mr. Kirk stated Mr. Augustin added red brick pavers all around that and extended it. He also put the roof over top of the red brick pavers. Mr. Kirk stated the landing outside the door was existing, but Mr. Augustin increased the patio and also put the roof over top of it.

Mr. Augustin noted the pictures that he sent, and asked that they be shown since what Mr. Kirk stated is “not right.”

Mr. Duffy asked Mr. Augustin if he can Testify under Oath that in the past year he did not add any pavers, and Mr. Augustin stated he did add the pavers. Mr. Duffy asked if the pavers were there before, and Mr. Augustin stated he had already stated that he added 12’ to the side. He stated he had indicated that it used to be 12’ and now it is 24’. Mr. Duffy stated Mr. Augustin is giving conflicting Testimony.

Mr. Duffy asked if all of the patio that is now under the porch roof was there at the time he bought the house; and Mr. Augustin stated the 12’ patio was there, and he added 12 more feet of red bricks to it. He stated this can be seen in the picture.

Mr. Kirk stated what he is saying does not add up mathematically. He stated the corner of the house was 32’ to the property line, and now it is at 16’. He stated the red pavers go up to the tip of the roof structure, and that brought it to 16’ so he added 16’. Mr. Kirk stated Mr. Augustin is saying that there was a 12’ patio already there, and he added 12’ more; however, that does not make sense.

Mr. Duffy stated he has a Witness, the next-door neighbor, Chris Hoover, who can be called to Testify to clarify this. He added Mr. Hoover lived there before Mr. Augustin moved in, and he saw all the construction that went on including the roof and the expanded patio.

Mr. Augustin stated if they can show the pictures, that would help. He stated these pictures were submitted with the Application for the roof. He stated the pictures show what it looks like and where the red pavers are that he added to the side. Ms. Kirk stated he has not seen any pictures, and he has only seen the Plans for what he claims he put in there. Mr. Kirk stated what was existing was the cement landing outside the rear door. Mr. Kirk stated he added pavers to the end, and he also extended in an area on the other side of the landing that cannot be seen in the Plan that was submitted. Mr. Kirk stated the only thing that was previously there was the little cement landing outside the door, and there were never any red pavers there; and this was all added after the fact.

Mr. Augustin stated that area that is 16' wide up to the pole existed. He stated he did send in the picture. He stated it was concrete, and there were two levels there. He stated he did add the pavers on the other side to go to the wall. Mr. Kirk stated the cement area that is seen on the Plan is what was existing, and Mr. Augustin added pavers. Mr. Augustin stated he "went sideways 16' with the pavers." Mr. Kirk stated he went in front of it, and he went to the side of it. Mr. Augustin disagreed, and stated "there is nothing in front of that but grass."

Mr. Zamparelli asked Mr. Kirk if he has been to the property, and Mr. Kirk stated he has been there many times; and Mr. Hoover, the neighbor can also attest to what he is saying. Mr. Augustin stated they need to prove that there is something in front of it. Mr. Zamparelli stated Mr. Augustin is giving a lot of conflicting information, and he feels there will be lot of people Testifying who do not agree with Mr. Augustin.

Mr. Augustin stated he would like to send them the picture which he had submitted. Mr. Majewski asked Mr. Augustin to e-mail the pictures to him, and he will bring them up for the Board. Mr. Augustin stated he had actually submitted more than one picture, and he does not know why the Board does not have them.

Mr. Kirk stated the Variance is for the roof structure itself; and the patio in question whether it was there or not at this point does not really matter. He stated the problem is the roof that Mr. Augustin decided to add on which encroached further into the rear yard setback, and that is all that they really need to look at. Mr. Augustin added the roof structure, and then he applied for a Permit which was denied.

The picture Mr. Augustin was referring to was shown, and Mr. Kirk showed the cement pad that he was discussing. Mr. Kirk noted the blue tarp which is the area where he added all the pavers, and there had been no patio there.

It was noted that Mr. Kirk had not previously been sworn in, and he sworn in at this time.

Mr. Connors showed a concrete patio which Mr. Augustin is saying was existing when he bought the house. Mr. Augustin noted the area where he added the pavers. Mr. Augustin noted in the picture the portico on top

of the concrete area, and he added he did get a Permit for the portico; however he took that down and then made it longer. Mr. Connors showed where the patio extends now all the way down to the wall.

Mr. Zamparelli asked if there is a patio there now where the blue tarp is shown in the picture. Mr. Kirk stated the red brick pavers that are seen in the bottom of the picture are now also in the area where the blue tarp is in the photograph. He stated the roof structure that Mr. Augustin added comes from the house and extends 16' out. Mr. Augustin stated that is what he had stated. He added that he had stated that there was an existing patio there, and he added red brick pavers to the side. Mr. Zamparelli stated he feels Mr. Augustin's Testimony has been conflicting from the beginning; however, Mr. Augustin disagreed.

Mr. Augustin stated what he had stated was that it was 12' existing wide "all the way." He stated it was a concrete patio, and he added pavers to it all the way from the wall which is another 16'. He stated that is what he had stated from the beginning. He stated he submitted these pictures before. He stated there was a portico over top, and he took it down, and put up the roof over the whole thing; and that is what he is here for.

Mr. Connors stated the patio did not violate the Zoning, it does not exceed the impervious, and there is no setback limitation to it; and Mr. Kirk agreed. Mr. Kirk stated the roof that he added on to the house is considered an addition, and an addition needs to abide by the building setback lines. Mr. Connors stated they are here to solely look at the roof issue, and Mr. Kirk agreed.

Mr. Zamparelli asked if this would also increase the impervious surface calculations, and Mr. Kirk agreed that it would. Mr. Augustin stated he submitted the numbers, and he is below the numbers.

Mr. Connors asked what is the front yard setback requirement. Mr. Kirk stated while he does not have that number, the property the way it was built is non-conforming. Mr. Connors stated corner Lots are difficult.

Mr. Zamparelli asked the purpose of the picture Mr. Augustin was showing other than to show what it looked like before he added the roof. He stated the roof in that picture looks to be 2' out, and he asked Mr. Kirk if the roof is now further out, and Mr. Kirk stated the roof Mr. Augustin put up now is

16' out. Mr. Kirk stated the Variance is for the roof that Mr. Augustin put on without a Permit, which he was then rejected for. Mr. Kirk advised that the front yard setback is 40'.

Mr. Connors stated they are evaluating a roof that is currently installed without a Permit for a Variance. He stated the width of the roof from the face of the rear building wall to the rear yard is 12' in depth; however, Mr. Kirk stated it is 16' out. Mr. Connors stated the patio as depicted on the Plan was 12' and it should say 16'. Mr. Kirk stated the roof structure extended further than the existing, what Mr. Augustin is calling a cement patio. Mr. Connors stated he does not care about the patio, and he wants to know the distance from the face of the building toward the rear property line. He added it says 12' on the Plan. Mr. Kirk stated it is 16'.

Mr. Zamparelli asked what that distance should be; and Mr. Kirk stated it is supposed to be 50', but it cannot increase beyond 32' as a non-conforming Lot, and anything past that would automatically require a Variance.

Mr. Connors stated because the property is a corner Lot, it was built in this manner with the 32' rear yard because you could not fit a house on it otherwise. Mr. Kirk stated that is most likely correct, adding that the house was built before the Ordinance was enacted.

Mr. Duffy stated he also has a photograph to introduce that shows the covered porch if that would be helpful or his Witness, could clarify. Mr. Connors asked if they need the Witness to validate the photo or can the Board accept the photo. The photo submitted by Mr. Duffy was shown, and Mr. Duffy asked Mr. Augustin if he can confirm that the photo being shown is his property; and Mr. Augustin agreed that is his property, and the covered porch is what he put in. Mr. Augustin stated he put in the roof and the red brick. Mr. Duffy asked about the yellow posts, and Mr. Augustin stated that is to hold the roof. Mr. Duffy stated he did this work without Permits; and Mr. Augustin stated he did, but he then put a Permit through. Mr. Duffy stated Mr. Augustin did not find out he needed a Variance until he had already started construction. Mr. Augustin stated he did not until they told him. He stated he is a "property owner not a property builder." He stated when they told him he needed to get a Variance, he applied for it.

When Mr. Zamparelli attempted to make a comment, Mr. Augustin advised him to “change his attitude and let him talk.” Mr. Augustin stated he “put it up” and then Mike told him he needed to get a Variance and send measurements, and he did. He stated he is “not sure what all this is about.” He stated it is the same with this and the Bed and Breakfast, and he stated he wants to have the roof.

Mr. Duffy asked why he needs the roof. Mr. Augustin stated when he bought the house the area they are looking at “was a mess.” He stated there was bamboo, and his neighbors told him he had to do something about the bamboo; and he discussed what he tried to do about the bamboo. He stated it created a leak in his basement, and the roof “saves him from getting water in the basement,” and that is the only reason why he built the roof. He stated now the water goes into the gutter and goes out to the street. He stated he “hardly ever goes there,” and this is just a piece of his back yard, and his back yard goes all the way to the other side.

Mr. Zamparelli stated he does not believe that Mr. Augustin did not know that the roof needed a Permit. Mr. Augustin stated “he really did not think so.” Mr. Zamparelli stated he feels Mr. Augustin is “disingenuous.” Mr. Augustin asked if he believes he would be doing this work in the open if he knew that a Permit was required.

Ms. VanBlunk asked if they need to take Public Comment if they are going to make a Motion to deny the Application. Mr. Flager stated they still have to have Public Comment, but it would be limited to the Variance and not about the Bed and Breakfast/Boarding.

Mr. Christian Hoover was sworn in. Mr. Duffy stated his side yard backs up to the back of Mr. Augustin’s home, and Mr. Hoover agreed. Mr. Duffy stated he has a view of the patio and roof, and Mr. Hoover stated it is right up against his house. Mr. Duffy asked if concrete footers went in where the posts are as shown on the Plan Mr. Augustin submitted to the Township when the roof was built. Mr. Hoover stated they did not. He stated no concrete footers were put in. He stated the posts are laying on either pavers or sand, and then there was some concrete poured around the posts to “give the illusion that they was concrete near the posts.” Mr. Duffy asked about the French drain that Mr. Augustin showed on the Plans to be put in, and Mr. Hoover stated there is no French drain, and he gets storm drainage that drains into his driveway from that structure.

Mr. Hoover stated there is a reason why there has not been any construction done to that house through the various owners because of the Ordinance. He stated the structure is now within less than 20' of his property, and he can hear every word being said when he is sitting on his sunporch; and it is too close. Mr. Hoover stated there is plenty of room in the front of the house where he could construct whatever he wants as far as a covered porch since that is where he has all the room, and it should be put out there and not right up against his property. Mr. Duffy asked if there is not already covered porch elsewhere in the back further down, and Mr. Hoover agreed. He stated he believes it covers the basement steps.

Mr. Augustin stated he just sent Mr. Majewski pictures which he would like to enter into the Record.

Dr. Weiss asked if there is a Motion on the floor, and Mr. Zamparelli stated there is not yet. Dr. Weiss asked Mr. Duffy on behalf of the Township if it would be appropriate to have a Motion at this time before they go to Public Comment. Mr. Zamparelli stated while he would defer to Mr. Flager, he feels they should hear Public Comment and then make a Motion; and Mr. Flager stated they can have Public Comment, and then the Board can make a Motion.

Mr. Flager asked if this is the third photo they have seen. Mr. Majewski stated there is one photo so far from Mr. Augustin, one photo from the Township, and he will be bringing up two additional photos on behalf of the Applicant. Mr. Flager stated the first photo from Mr. Augustin will be marked as Exhibit A-4. The next two will be Exhibit A-5 and Exhibit A-6. The one provided by Mr. Duffy was marked as Township-1.

A photo was shown of a brick wall. Mr. Augustin stated his roof "disturbs his neighbor and ends about 12' away from his property line." Mr. Augustin stated the picture shows his neighbor's house. Mr. Augustin asked how close is Mr. Hoover's property to his as he feels it is about 3'. He asked why Mr. Hoover is allowed to have that, but he cannot do his. Mr. Zamparelli stated corner Lots are difficult. Mr. Augustin asked how far his neighbor's garage is supposed to be off of his property line. Mr. Zamparelli stated the issue before the Board is not a concern.

Mr. Duffy Objected.

Mr. Augustin asked Mr. Hoover how far his property is supposed to be from his property. Mr. Duffy stated he is instructing Mr. Hoover not to answer the question as it is completely irrelevant. Mr. Zamparelli agreed. Mr. Connors advised Mr. Augustin that they are here for his property, and not for his neighbor's. Mr. Connors stated this is a retaliatory question, and he asked that they stick with what Mr. Augustin wants to do with his property and not another property regardless of its location that has nothing to do with the Application. Mr. Augustin stated while he understands that, he wanted to put it into perspective.

Mr. Connors asked Mr. Augustin if there was another photo he wished to share, and Mr. Augustin stated there is not. Mr. Flager stated there is therefore no Exhibit A-6, and it is just Exhibit A-4 and Exhibit A-5.

Mr. Kelliher stated that there are over twenty people wishing to speak at Public Comment, and there may be people who want to speak about the Bed and Breakfast. Mr. Zamparelli stated Mr. Augustin has withdrawn the Bed and Breakfast so they do not need to take comment regarding that.

Mr. Steve Young was sworn in, and he stated his comment is about the general condition of the property and what they have been living through for the last five to six years. He stated the "roof patio" was built without a Permit, and it is a "scourge" in the neighborhood, and it never should have been built. He stated the bigger issue is what has been going on with the property with the boarders and people coming and going. Mr. Young stated he is raising four children on this street, and he tells them to walk in the other direction. He stated this is "ridiculous, and it needs to end." Mr. Young stated after this meeting, "Jean will do what he wants to do." He stated he will keep putting boarders in there, and he asked what is their recourse to stop this from happening. Mr. Zamparelli stated there is recourse, but it would be through the Township.

Ms. VanBlunk stated the Board is not ruling on that and the Applicant withdrew his Application for Boarding/Bed and Breakfast so they are only discussing his request for a Variance for the roof. She stated they will take Mr. Young's comment with regard to the roof into consideration in their decision.

Mr. Augustin stated they need to understand that there is no one living in the house.

Ms. Lisa Tenney, was sworn in. She stated he is a property owner. She stated she has listened to a lot of Zoning meetings during 2020 and 2021 about pools, and impervious surface, and Prickett Preserve. She stated she thinks that a patio roof over his “little patio,” seems “fine and in the rights of a landowner.” She stated it is his property. She stated it is “not blight and not a blighted property hopefully.” She stated she does not “even know what property it is. She stated she does not think it is over the impervious surface “based on he has a lot of front yard.” She stated unlike most that come before the Zoning Board with lawyers and representation and “helpers,” he is coming himself trying to work with the Board in “she would hope good diligence.” She stated the Board should take that into consideration. She stated he is asking for assistance, but they are “treating him with disrespect, cutting him off.” She stated the Board should remember that he is without representation. She stated he is “a person of color and maybe not even U.S. born.”

She stated where she lives, she goes outside and hears road noise; and if her neighbors are outside, she hears them talking. She stated this is a fact of life if you live on a “.25 acre or .5 acre Lot.” She stated if you go out and your neighbor is also outside, this is “neighbor trouble.” Ms. Tenney stated they should put up a fence. Ms. Tenney asked if he is over the impervious, and they should “make the calculations and decide.” She stated they are talking about a roof. She stated in the back of her yard in Connecticut she put out a hot tub, a “side brick thing,” and extended her deck, and “no Zoning.” Mr. Zamparelli stated it is different in Lower Makefield. Ms. Tenney stated they should make the Zoning equitable.

Ms. Marianne Hoover was sworn in and stated the structure is unsafe and is too close to her house. She stated if there was a patio there before, they did not see it; but that is completely different than a whole structure now coming out toward their house.

Mr. Dan Small was sworn in and stated he has concerns like many of those in Edgehill Gardens about the state of repair in general of Mr. Augustin’s properties and the quality of work that has been done. He stated if this roof addition was done without a Permit and without inspection, he has considerable concern about the quality and safety of that work. He stated he feels it is an eyesore as certain other neighbors have suggested. He stated he wants to support the other neighbors in their opposition to letting the structure stand.

Ms. Deborah Chmielecki was sworn in and stated the roof that they built was built before he went for a Permit. She stated she agrees with what others have stated about the condition of the property. She stated they see from past experience that any of the work that has been done there is not done to “great standards.” She stated a lot of the people who were waiting to speak were going to talk about the other issue which seems to have been “taken off the table again” about the Airbnb. She stated she does not know how many more years they are going to have to sit through all of this and “keep doing it again and again.” She stated he will “just do what he wants,” and they will then have to go back to Court again in Doylestown and in Morrisville and keep going to the Town meetings. She stated she does not know when there will ever be an end to this. She stated it was indicated that there is recourse, but she does not see any recourse after all these years. She stated there is a lot of unhappiness “around here because of what is going on.” She stated it is very “sad to see the neighborhood turning like this.”

Mr. Christopher Nork was sworn in and stated he is new to the neighborhood as of November. He stated those structures were existing, and he has seen a lot of work being done on the property over the past three to four months with people in and out doing work on the property. He stated this is a great neighborhood, but he is concerned about transients although he understands that is being tabled today. He stated when he sees work being done that is not necessarily up to Code, that is a concern. He stated he has witnessed various projects going on in the house both interior and exterior with multiple people in and out of the house.

Ms. Juliette Brown was sworn in and stated she has been a resident of Edgemoor Gardens for fifteen years. She stated with regard to the issue of “respect” which a prior called discussed; and while things have gotten heated there is a history here with “other Hearings and the dynamics here do tend to disintegrate.” She stated the disrespect that Mr. Augustin has tended to show seems to be indicative of an attempt to confuse matters. She stated that causes the residents of the neighborhood to have difficulty understanding exactly it is he wants to do, plans to do, and will do in the future with regard to boarders or renovations, etc. She stated this is a great neighborhood and “cannot really understand clearly what has happened.” Ms. Brown stated the same caller also brought up the issue of blight, and she disagrees with that caller as this is blight visually and safety wise. She stated it is going to affect property values. She stated there are also children here, and it is unsafe.

Ms. Brown stated while she understands the Bed and Breakfast was withdrawn, she does not feel that and the Variance can be extricated because she feels having a porch to stem the flow of water into the basement seems to be over-kill and missing the mark in solving that problem. She stated she feels that roof will enable him to draw boarders; and they all feel that even though he is withdrawing that request, he will continue to try to bring in boarders.

Ms. Adrianna Korb was sworn in and stated she understands from previous “issues and meetings about this gentleman” he knew that it was an issue to construct this. She stated visually it is “overt and in very poor condition.” She stated it is obvious that it is not steady and is not a good structure, and it also implies “that people were brought in that were not regulated so they do not know who was there.” She stated she disagrees with his “ignorance of understanding what the rules and regulations are given the nature of the history with this gentleman. She stated she has only been in the area for three years, and this has been a problem. She stated she was going to make a comment about the Airbnb request because that has been extremely problematic. Mr. Zamparelli stated that has been withdrawn.

Mr. Logan Gould was sworn in and stated he moved in last December, and he is concerned with work being done that was not regulated or controlled. He stated the condition of the house is “unbecoming,” but the concern is really the construction which he feels is a safety hazard as there are many children outside in this neighborhood; and to have homes that could “cause injury or death” is problematic. Mr. Gould requested Party Status and noted his address is 102 Tower Circle.

Mr. Chris Hoover also requested Party Status.

There was not further Public Comment.

The Board went into Executive Session at this time.

When the Board reconvened at 10:20 p.m., Mr. Flager noted that the Board met in Executive Session to discuss legal and procedural issues.

Mr. Augustin stated some people have stated that “this is a blight and the porch looks bad; and it should look bad because they made him stop in the middle of it. He stated that is why he put in the Permit so he can finish it. He stated he listened to the comments made, and they stated that the porch was too close

to his neighbor; and his neighbor said that he could hear everything he said because the porch was too close to his property. Mr. Augustin stated no one is ever in that back yard. He stated his purpose for the roof is to protect his property. He stated the only reason he went back there was to open the door if it was rain or snow to see if it was wet, and that does not happen anymore. He stated he has a “big space in front and patios everywhere and if he wants to he can go there.” He stated the reason for the roof is because water was coming into his basement.

Mr. Augustin stated “way back when the Township took him to Court, he explained that he needed to put the patio down and put a roof there because the water was coming into his property because of the pitch.” Mr. Augustin stated he wanted to get as much of that water and put it in the street. He stated they heard that some of the water would go into his neighbor’s driveway, but the roof actually helped that neighbor because he is catching all of that water and putting it in the street “to the right.” He stated the downspout is going to the right. He stated there is a French drain under there. He stated putting all of that water into the street is helpful to him and to his neighbor.

Mr. Augustin stated it was stated that his porch was too close to his neighbor, but his neighbor’s property is 3’ from him. He stated he has a porch that is 10’ from him. He stated if his neighbor is allowed to have his property that close to him, he can go 10’ close to him. He stated if that cannot happen, he needs an explanation as to why his neighbor is okay, but he is not okay.

Mr. Connors stated the only issue before the Board is the rear yard setback.

Mr. Connors moved and Ms. VanBlunk seconded to deny the Application.

Mr. Augustin stated he met the requirements to have the roof and he submitted the numbers and he is below the calculations. He stated he needs this to manage the water running into the basement.

Mr. Connors stated he understands he has a need to remove water from the basement which is valid; however, the application of putting a roof in the rear yard setback to mitigate that is not a valid one. He stated it would be far easier for him to implement downspouts, drainage structures, or re-grading of the side yard to achieve mitigation of run-off into the basement than it is to impact the rear yard which does have Zoning requirements associated with it.

Mr. Augustin stated he has done those things, and those things exist. He stated he has a French drain and “all kinds of stuff there,” and he has been able to reduce some of the water. He stated he has done grading. He stated where the “concrete thing ends there is a 4’ canal which he built to get the water down.” He stated it stopped 60% of the water, but 40% is still coming in; and that is why he wanted “that thing there so that it goes into the gutter and goes to his side.”

Mr. Connors stated Mr. Augustin still had a problem with his Application, and he would suggest that he contact a professional because they could help him achieve the remainder. He stated “drainage is not a big deal,” but impacting a rear yard setback with this structure that he built is a problem.

Mr. Augustin stated he is within the numbers. Mr. Connors stated he is within the impervious numbers, but not within the setback. Mr. Connors stated Zoning is more than the coverage of the property and it also encompasses Uses and setback to other properties, and buffer requirements. He stated Mr. Augustin built into a setback which is a Zoning issue, and he has not provide a reasonable hardship for the Application.

Mr. Zamparelli stated Mr. Augustin stated that he feels he could use some representation; and Mr. Augustin stated he “has plenty of representation.”

Mr. Augustin stated he was given the Code and he was given “the mathematics of what he needed to be able to do this, and he did it.” He stated the only thing he cannot do is make it “50 because he does not have 50.” He stated he did the math. He stated “he guesses the roof is the problem because there are other stuff in the back yard.” He stated he does not understand what the problem is.

Mr. Connors stated the issue is the Zoning Code as written, he is within a setback from a built structure. He stated the roof is the problem in this circumstance. He stated the patio is not necessarily a problem. He stated they understand that he wants to cover the patio and move stormwater away from the house; but in the application of the Zoning Code, you cannot put the roof within the rear yard setback without a Variance. He stated for a Variance they typically need something that is a hardship on the property; and there are other methods that could be used to achieve the remediation of the hardship that does not require a Zoning Application

March 2, 2021

Zoning Hearing Board – page 29 of 29

Mr. Augustin stated he has had people come, and he has had engineers come.

Mr. Duffy asked if the Record has not been closed. He stated Mr. Augustin is Testifying and the Record is closed.

Mr. Augustin stated he is trying to get an understanding.

Mr. Duffy stated there is a Motion on the floor. Mr. Duffy stated he Objects to any further Testimony.

Mr. Augustin stated he did what he was asked and came before the Board to be able to build the roof.

Motion to deny carried unanimously.

There being no further business, Mr. Connors moved, Ms. VanBlunk seconded and it was unanimously carried to adjourn the meeting at 10:35 p.m.

Respectfully Submitted,

Matthew Connors, Secretary