

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – JULY 5, 2022

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on July 5, 2022. Mr. Solor called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Peter Solor, Chair  
Matthew Connors, Vice Chair  
Judi Reiss, Secretary  
James Dougherty, Member  
Mike McVan, Member

Others: James Majewski, Community Development Director  
Barbara Kirk, Township Solicitor  
Adam Flager, Zoning Hearing Board Solicitor  
Fredric K. Weiss, Supervisor Liaison

APPEAL #22-1969 – SUZANNE DEMPSEY KULESSA  
Tax Parcel #20-003-036-009  
1221 SILVER STREAM DRIVE, YARDLEY, PA 19067

Ms. Suzanne Kulesa was sworn in and stated she submitted an Application for the pool fence which would have to cross a Stormwater Easement and a Sewer Easement in the back of the property. She stated it is a newer development, and there have been other houses that have already gone through this, and they were permitted to have the fence go to the back of the property. She stated it is an open-rail fence so it will not affect surface water flow.

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

Ms. Kulesa stated they are requesting a Variance to allow an open-rail, aluminum fence to go from the side of the property back to the fence at the back of the property. She stated the two Easements at the back of the property would cut the yard in half.

Mr. Connors stated the fence on the left side of the Plan is inside the property line by a few feet. Ms. Kulesa stated the intent was for it to be about 1' in because there is a tree in the back and 85% of it is on the neighbor's property, and they do not want it taken down.

Mr. Connors asked Ms. Kulesa if she is aware that if this is approved, she will be responsible for removal and replacement of the fence if the Township has to do any utility work, and Ms. Kulesa stated she is.

Ms. Kulesa stated with regard to the fence on the one side by the tree, they had asked the fence company if they could go around the tree and over to the property line. Mr. Solor stated the Appeal is only for the Variance, and the Fence Permit will be applied for separately. Mr. Majewski stated the fence has to be on the Applicant's property, and it cannot go onto the neighbor's property without their written permission.

Mr. Solor asked if the fence type is acceptable to the Township, and Mr. Majewski stated it is. Mr. Solor asked if it is known what the depth of the pipes are in the area, and Mr. Majewski stated that will be coordinated when they put the fence in.

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

Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal based on the fact that they agree somehow in conjunction with the Township to provide authorized personnel access to the Easements at all times and take on the responsibility of removing and replacing sections of the fence that may have to come down while that area is accessed or maintained by the Township.

APPEAL #22-1970 – YARDLEY KIDS ACADEMY, INC.  
Tax Parcel #20-042-033  
1700 MAKEFIELD ROAD, YARDLEY, PA 19067

A woman from the audience asked when it would be the appropriate time to make it known that she wants to be a Party to the proceedings, and Mr. Solor stated that will be when they ask for public comment.

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. The Reasons for the Requested Relief authored by Mr. Murphy 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. Flager stated there were a number of e-mails received from neighbors, and while those are not entered into the Record the Board can take note of them. He added if any of those neighbors are present, they can ask that they be entered into the Record; however, if they are not present, we generally do not enter them into the Record.

Mr. Edward Murphy, attorney, was present with Mr. Michael Brunner and Ms. Katrina Brunner who are the owners of Yardley Kids Academy which is the Applicant this evening.

Mr. Michael Brunner and Ms. Katrina Brunner were sworn in.

Mr. Murphy stated this Application is a request for several items of Zoning relief associated with the desire of Yardley Kids Academy to relocate from its long-existing location on Main Street in Yardley Borough to a portion of the Lutheran Church of the Resurrection place of worship located at Makefield and Sutphin Roads. He stated the scope of relief involves the Use, the size of the outdoor play area that would be fenced, and the adequacy of the play area as described as it relates to a specific, and somewhat contradictory, Zoning Ordinance provision that requires more play area for children than the State regulations would otherwise require.

Mr. Murphy stated the Yardley Kids Academy has for many years been located on S. Main Street in Yardley, and he asked Ms. Brunner to discuss how long they have been there and why remaining there is no longer an option. Ms. Brunner stated they had been at 215 S. Main Street for thirty years, but financially they were not able to continue there; and they lost the Lease.

Mr. Murphy stated they have identified an alternate location now as opposed to the American Legion location where they had been for all that time. He asked what it was about the Lutheran Church of the Resurrection property that appealed to them as it relates to their operation. Ms. Brunner stated it was a very warm environment for the children which is the most important to them.

Mr. Murphy asked Ms. Brunner to explain what Yardley Kids Academy is and what segment of the population it serves. Ms. Brunner stated it is a child care facility, and they care for children from infant to School-age. She stated they can do Before and After Care, but because of COVID, they have not been doing that. She stated usually their oldest child is about six years old. Mr. Murphy stated it would be infants to six years old, and Ms. Brunner agreed. Mr. Murphy stated they indicated in the Application that the census of the School has changed over the years, and most dramatically as a result of COVID. Ms. Brunner stated when COVID hit, they went from 50 children down to 1. She stated they recently went up to 32 children. She stated they therefore could not continue where they were.

Mr. Murphy stated as part of the COVID impact on Yardley Kids Academy, it is not just the availability of families to take children there, it is also the lack of appropriately-skilled workers to help take care of the children; and Ms. Brunner agreed that their staff has dwindled drastically. Mr. Murphy stated in the Application it was indicated that at its height, they were serving between 60 and 70 children on a daily basis and had as many as thirteen employees; and now both of those have been cut in half, and Ms. Brunner agreed. Mr. Murphy stated they are now at a census of about 30 to 35 children and a staff of 7, and Ms. Brunner agreed.

Mr. Murphy asked Ms. Brunner to explain to the Board, assuming they obtain approval, what the hours of operation would be at the new location. Ms. Brunner stated when they initially start, it will be 7:30 a.m. to 5:30 p.m.; and when they get back up to where they hope to be, it will be 7:00 a.m. to 6:00 p.m. Mr. Murphy stated they are hoping to get to pre-COVID levels, and Ms. Brunner agreed adding that it will take them a couple of years to regain where they were.

Mr. Murphy stated in anticipation of questions about drop-off and pick-up of children at this location, a note was circulated to the prospective parents establishing some procedures as to how traffic would be controlled – entering and exiting the site. This letter was marked as Exhibit A-4.

Ms. Brunner stated upon enrollment, parents receive a letter explaining how to enter and exit the building as well as being cautious, rate of speeds, and other safety measures. Mr. Murphy asked what route has it been suggested that parents take in entering and exiting, and Ms. Brunner stated they are to enter on Sutphin Road and exit onto Makefield.

Mr. Murphy asked if they have identified what the level of traffic would be at any given fifteen or thirty-minute interval throughout the day recognizing that with the impact of COVID on work schedules, the traditional rush hours for drop off and pick up have been altered. Ms. Brunner stated prior to COVID there were more parents, but they always have looked to minimize the amount of time that any parent is in the building. She stated at pick-up time, they always have the child's bag packed and their coat ready so that when the parent enters the building everything is ready.

Mr. Murphy asked when the traffic would start in the morning, and Ms. Brunner stated currently it would start at 7:30 a.m. and 10:00 a.m. would be the latest that any child would be dropped off. She stated the maximum amount of traffic would be between 7:30 a.m. and 8:30 a.m. post-COVID as that is their main drop-off time.

Mr. Murphy stated based on experience, they have projected out what the typical flow of typical would be. A document was marked as Exhibit A-5. Ms. Brunner stated this is a breakdown of the traffic within fifteen-minute increments and how many cars at any given time would be in the parking lot. She stated usually any parent that is dropping off is there a maximum of five minutes. She stated between 7:30 a.m. and 7:45 p.m. there would be three cars. She stated the document shows the amount of children that have been picked up and/or dropped off at different times. Mr. Murphy stated it appears that in any fifteen-minute interval the maximum would be five cars. Ms. Brunner it shows the 8:15 a.m. period with five cars and six children.

Mr. Murphy stated they are asking for relief with regard to the outside play area. He asked Ms. Brunner to discuss the location of the play area and the proposed fence. Ms. Brunner stated they want to keep the play area connected to the building itself, and that is why it is shown in the location on the Plan. She stated if they were to locate it at any other place, the children would have to go through the parking lot, and that is not a good option. Mr. Murphy stated the play area is proposed to be directly adjacent to an area where they would have immediate access to the inside of the building, and Ms. Brunner agreed.

Mr. Murphy noted the Plan being shown, and it was noted the area where the fenced-in play area will be. Mr. Murphy asked the type of fence to be installed, and Mr. Brunner stated it will be a tan vinyl fence which will match the color of the building. Mr. Brunner stated there are trees along the road which are low

enough so that the fence will not be an eyesore from the road. The fence will be located on the inside of the existing tree line. Mr. Brunner stated the fence will be about 5' high.

Mr. Murphy stated the play area as shown on the Plan is 4,500 square feet, and he asked how that size was determined. Mr. Brunner stated it fit well with the building and the lay-out of the property. Mr. Murphy stated the 4,500 square feet is well in excess of any State requirements for outdoor play areas for children, and Mr. Brunner agreed. Mr. Brunner stated even if they were full, they would still have excess of at least 500 square feet more than what the State regulations would require. Mr. Murphy stated because of the specific regulation in the Township Zoning Ordinance, it would otherwise require over a half-acre of area for a play area; and Mr. Brunner agreed.

Mr. Murphy stated in their judgment the 4,500 square feet is more than sufficient to accommodate the census now and in the future, and Mr. Brunner agreed.

Mr. Murphy stated the Application indicates that in terms of the amount of area within the Church they are using is about 5,000 square feet, and Mr. Brunner agreed. Mr. Murphy asked what portion of the Church that represents and what discussions they have had with the Church as to what happens in that area so as not to be inconsistent with the principal use of the place of worship.

Mr. Brunner stated when the day care is in operation, the newer part of the Church will be fully inhabited just by the child care facility; and on the weekends, the Church will use the indoor court from time-to-time. He stated the spaces will not be shared at any time together – only separately. He stated the Church will be on weekends, and the day care will be on week days. Mr. Murphy stated at no point during the day care's weekly schedule Monday through Friday from 7:00 a.m. or 7:30 a.m. to 5:30 p.m. or 6:00 p.m. would there be any conflict or competition between what Yardley Kids Academy would be doing and what the Church would be doing, and Mr. Brunner agreed.

Mr. Connors asked for a clarification of square footage per student based on State standards. Mr. Brunner stated the State standard is 65 square feet for three-year olds and over and 50 square feet for toddlers. Mr. Connor asked if they are looking to have 50 students as a max, and Mr. Brunner stated if they were maxed out, they would be at 40 three and four-year olds, and they would need 2,600 square feet; and with 30 one and two-year olds, they would need 1,500 square feet. He stated that brings them to 4,100 square feet on a 4,500 square foot lot.

Mr. Connors asked if this is just an open area or is any type of play equipment required. Mr. Brunner stated there will be play equipment. Mr. Murphy stated it would not require the installation of any additional impervious, but there would be play equipment installed within the fenced area, and Mr. Brunner agreed.

Ms. Kirk stated the Township is participating. Ms. Kirk noted the existing Church building faces Makefield Road, and there are two sections behind it that state on the Plan “existing one-story masonry structure.” Ms. Kirk asked if the day care will be occupying both of those areas that are listed as classroom areas. Mr. Murphy stated that is the rectangular area that is adjacent to the fenced play area, and Mr. Brunner stated that is the area that they will occupy.

Ms. Kirk stated where it is noted “classrooms,” those are no longer being used by the Church during the week as classrooms, and Mr. Brunner agreed. Ms. Kirk asked if that is the area that is about 5,000 square feet, and Mr. Brunner agreed.

Ms. Kirk stated behind the Church building there is another section marked as “offices,” and she asked if they are going to occupy any portion of that part of the building, and Mr. Brunner stated they are not.

Ms. Kirk asked if there is an access door already provided from the area of the classrooms to the outside play area that will be fenced, and Mr. Brunner agreed. Ms. Kirk stated that play area is on that side of the building because to put it on the other side, they would interfere with the existing parking lot, and Mr. Brunner agreed.

Ms. Kirk stated it was noted that the access onto the property will be one-way from Sutphin Road, and she asked if there is any signage existing that says “entrance only;” however, Mr. Brunner was not sure. Mr. Brunner stated they would approach the Township for that. Ms. Kirk asked if there are plans if the day care is approved to put a sign there saying “entrance only,” and Mr. Brunner stated there is. Ms. Kirk asked if there will be any kind of restriction for the turn from Sutphin can be left only or right only or is there no restriction, and Mr. Brunner stated there is no restriction.

Ms. Kirk stated the rear part of the building shows a series of marked spaces that are the parking lot for the Church, and she asked if that is where the parents are going to be directed to park; and Mr. Brunner agreed. Ms. Kirk stated there will not be an aisle along the building where parents can pull their car up, leave it idling, and run in with their child; and Mr. Brunner stated there will not. Ms. Kirk

stated the parents will be required to park, get their child out of the car, and walk them into the building; and Ms. Brunner agreed. Ms. Kirk asked if the Board were to approve the request, would the Applicants agree to include a provision in the letter that was provide earlier this evening advising the parents that parking is not permitted alongside the building, and they must use the existing parking spaces; and Ms. Brunner agreed.

Ms. Kirk asked where the access will be from the Church property onto Makefield Road. The location of the existing blacktop driveway out to Makefield Road was shown on the Plan. Ms. Kirk asked if they would agree to put up a sign saying “exit only” at the point where the parking spaces lead into that exit driveway if this were approved, and the Applicants agreed. Mr. Murphy stated the intention is to put up directional signs so that everyone is clear how to come in and how to exit.

Ms. Kirk asked if Yardley Kids Academy provides transportation for school-age children for before and after school care. Ms. Brunner stated while they do, they have not had it within the last two years. Ms. Kirk asked if that is a process that they hope to be able to resume, and Ms. Brunner stated she would hope so. Ms. Kirk asked if they are going to have their own vehicle to use to provide that transportation for those children if the before and after school program starts up, and Ms. Brunner stated they currently have a vehicle. Ms. Kirk asked where that vehicle would be kept overnight, and Ms. Brunner stated it would be kept on site at the Church in the parking lot. Mr. Brunner stated it would probably be parked in the corner out of the way. He added that it is a small bus that holds six to eight passengers.

Ms. Kirk asked if the before and after school program resumes, how many additional children would be at the day care. Mr. Brunner stated usually it is for children who have graduated from their program and still have a sibling in the building so that the parents can pick them up at one time. He stated it is a convenience for the parents. Ms. Brunner stated on an average it would be no more than two or three additional children. Ms. Kirk stated they do not therefore have a very large before and after school program where children are dropped off at 7:30 a.m. and the Yardley Kids Academy takes them to school, and Ms. Brunner stated they do not have a large before and after program. Ms. Kirk stated those additional before and after school children are going to be included in the estimate of up to 70 children, and Ms. Brunner agreed.



Ms. Kirk stated the outdoor fenced-in play area is about 4,500 square feet, and Ms. Brunner agreed. Ms. Kirk asked if that meets all requirements by the Department of Human Services, and Ms. Brunner stated it does.

Ms. Kirk asked if they are Licensed by the Commonwealth, and Ms. Brunner stated they are. Ms. Kirk asked how often they get inspected by the Commonwealth, and Ms. Brunner stated they get inspected once a year.

Ms. Kirk asked about the play equipment, and Ms. Brunner stated it is Little Tykes play equipment. Ms. Kirk asked if it is a play set that the children can climb on, and Ms. Brunner agreed. Ms. Kirk asked if the outdoor play area will be finished with the rubberized surface, and Ms. Brunner stated they use wood chips. Ms. Kirk stated they could not put the play area any place else on the property due to the location of the parking lot, and Ms. Brunner agreed.

Ms. Kirk stated the Church does not use the building/offices during the week, and use it only on weekends; and Ms. Brunner agreed.

Ms. Kirk asked how soon they anticipate going to the extended hours of 7:00 a.m. to 6:00 p.m., and Mr. Brunner stated it would be at least a year. Ms. Kirk asked if there is a possibility that they would keep it from 7:30 a.m. to 5:30 p.m.; and Ms. Brunner stated with COVID restrictions and people not going into the office, there is a possibility that could happen.

Ms. Kirk stated currently there are seven staff members, and Ms. Brunner agreed. Ms. Kirk asked if they are all full-time, and Ms. Brunner stated one is part-time. Ms. Kirk asked if they will have designated parking located at the property, and Ms. Brunner stated they will in the rear. Ms. Kirk asked if all seven staff members drive their own vehicles; and Ms. Brunner stated other than herself who gets dropped off, they drive their own vehicles.

Mr. Solor asked if there is a requirement for a Variance for the installation of the fence, and Mr. Majewski stated there is not. Mr. Solor asked if it is set back enough from the street at that height, and Mr. Majewski agreed.

Ms. Miranda Franclose, 1660 Makefield Road, stated she owns the property adjacent to the Church. Ms. Franclose was sworn in. She stated she has concerns with operating a day care center at 1700 Makefield. She stated she is the mother of two children under the age of four and she appreciates how challenging it is to find quality child care in Lower Makefield Township

post-Pandemic and with the teacher shortages that all day care facilities are currently facing. She stated both her children are currently in child care; and she is very familiar with the operational components, the traffic that comes through, and the amount of time that it takes to “get through a day care center.” Ms. Franclose stated she does not want to deprive the community of access to this day care facility which is a family-owned business that has operated here for thirty years. She stated she is not here because of any concern about operating a Commercial business at 1700 will depreciate her property value, adding that while she knows that will be the case, but that is a sacrifice she and her family would be willing to make in order for there to be access to more child care.

Ms. Franclose stated she is here because she is concerned that a Variance permitting a day care center that will have a 75-child capacity at 1700 Makefield will present a “real and foreseeable risk” to her family. She stated her property is the one that runs alongside the Makefield access road. She stated she has pictures that could be Entered as an Exhibit if needed showing the two driveways and the proximity of her driveway to that of the Makefield access road at 1700. Ms. Franclose did not submit the photographs at this time.

Ms. Franclose stated there are two access roads to 1700 Makefield – one off of Sutphin Road and one off of Makefield Road. She stated her driveway is 14’ from the Makefield Road access point, and it runs along the entire length of her property. She stated if a child care center of the size being discussed were to be operated there, she would expect the amount of cars on the access road to increase exponentially. She stated there will be cars from 75 families plus the faculty and staff of the day care center going down that access road. She stated it is being proposed that would be the only exit point from 1700 Makefield which means that every car will be coming down that access road. Ms. Franclose stated the peak hours they would see that traffic would be the time that her children are getting to be in her driveway which is only “feet away from that access road.” She stated her children would be trying to get in and out of vehicles trying to get to and from school. She is very concerned about the safety of her family.

Ms. Franclose stated in accordance with the Code Variance approvals should be granted when the Ordinance inflicts unnecessary hardship that was not created by the Appellant. She stated from what she has heard she feels that the hardship they are experiencing is not the result of the Ordinance, but it is the result of the actions of their prior landlord in “essentially pricing them

out of being able to be part of the community area that they were before combined with the fact that they opted to lease a property that is not Zoned for their business.” Ms. Franclose stated she is not certain that there is an unnecessary hardship here.

Ms. Franclose stated if the Board is going to approve the Variances without some conditions and safeguards in place, there will be a substantial impairment to the use of her property. She stated one of the conditions of the “Variance Ordinance,” is that a Variance approval should not be provided if it would substantially impair the appropriate use of adjacent property or be detrimental to the public welfare. She stated given the circumstances, it is reasonable to anticipate that operating a 75-child day care facility will substantially impact the use of her property. She stated as it is they already observe people mistaking their driveway for that of 1700 Makefield, and they expect that will increase exponentially with the child care center operating there. She stated it would be expected that ingress and egress to her own property will be impeded substantially because of the traffic coming out and into that Makefield access, and it will block her driveway especially now that she is hearing that all traffic will have to exit that way. She stated it will block the ability for her to get into her driveway as it is only 14’ from the entryway of that access road.

Ms. Franclose stated with regard to the public welfare, there will be substantial traffic on the access road with 75 families plus staff up and down the access road “which is feet away from her driveway.” She stated there is no barrier “whatsoever between her property and the access road - none.” She stated during the peak hours of the use of the road will coincide when her children will be in her driveway.

Ms. Franclose stated according to the Code, a Variance approval should be limited to the minimum Variance which would afford relief to the Appellant. She stated she understands that the current enrollment is 35, but the Variance they are seeking is for 75 which is substantially greater than what is needed to address the hardship the “Academy” is experiencing at this time.

Ms. Franclose stated she is asking that the Board not grant the Variances without specific conditions and safeguards. She stated she agrees that there is a “greater good here for the day care center that needs a home and for the Church which probably needs additional revenue,” but she is asking for a couple of safeguards to be considered if the Variances are granted. She stated if this is granted, it will create a “non-Residential property which abuts up

against a Residential property;” and because of that, she is asking that the Board attach some conditions onto the approval that require the Academy to comply with the “non-Residential/Residential separation buffer requirements that are outlined in the Code.” She also asked that the Board attach a limitation on the use of the Makefield access road, and that it not be the one point of egress from the property. She asked that they limit non-emergency and Government vehicles and that all others be required to use the Sutphin entrance as that would further protect her property that has no barrier from this traffic. She also asked that the Board limit the Variance approval to accommodate the current size of the Academy which is the current hardship that they are experiencing and not to the potential future growth of the business.

Ms. Franclose requested Party Status.

Ms. Reiss asked Ms. Franclose if she has a problem on Sunday since she assumes the Church is heavily used on Sunday mornings, and she believes that they exit onto Makefield Road now. Ms. Franclose agreed that is one of the exit points, and they exist there as well as the Sutphin entrance. Ms. Reiss stated Makefield Road is a major artery now, and there are several School buses and parents driving their children to Schools in the area so that it is a busy road all the time. Ms. Franclose agreed. Ms. Reiss asked if she has had a problem with the Church on Sunday, and she is sure that there are more than 75 cars on Sunday. Ms. Franclose stated she does not believe that there are that many cars on Sunday, and they have worked with the Church throughout the Pandemic to allow them to worship outside without impacting that with yard work, and the Church has been very appreciative of that. She stated they have had a very good relationship with the Church. She stated she does not see 75 cars leaving the Church on Sunday morning; however, even if that were the case, that is one time a day.

Ms. Reiss stated she does not feel it would be 75 cars since at the most at any given time, there could be six cars. Ms. Franclose stated 75 families would come in 75 vehicles. Ms. Reiss stated they were not talking about 75 families as they were talking about 70 children, and two and three could be going there from one family at the same time. Ms. Franclose stated it may not be that high, but she feels there could be 75 children and the faculty/staff that would be required to attend to them would equate to almost 75 cars.

Ms. Franclose stated she is the parent of two children under four who are in full-time child care, and she feels that their estimate on the six cars is based upon there being five minutes for drop-off and pick-up of the children which in practicality is not reasonable. She stated that does not take into account the time it takes to get debriefed by a teacher as to the child's day although she agrees that is very limited with COVID. She stated it also takes time to get the children in and out of the car, so while the time in the buildings may be five minutes, time at the property is not five minutes. She stated she believes that the traffic will be higher than what has been projected this evening.

Mr. Clyde Beury, 299 Hickory Road, was sworn in. He stated there had been concern about improvement and expansion of the footprint, and that has since been dismissed. He stated the Board has been provided a copy of the letter which the Church sent out to individuals within a mile of the Church to explain things. He stated they discovered that there are a number of people who currently have children enrolled at Yardley Kids Academy who were "thrilled" that they were going to be able to walk their children to school now from the neighborhood so they will not be driving.

Mr. Beury stated there is a wooden fence separating the property of the prior speaker from the Church although it does not run all the way out to Makefield Road.

Mr. Beury stated with regard to concerns about traffic, he believes that Pennsbury School District will have to find a different place for their buses to idle while they are in between pick-ups and drop-offs within the area. He stated the only other Commercial traffic that would have any reason to transit the area would be the U. S. Mail service which makes delivery and exits "via that particular spot," so he does not believe that those are salient issues to address at this particular time.

Mr. Beury stated COVID has impacted houses of worship across denominations with about a 40% decline in those participating in worship. He stated it also has a negative effect on income. He stated he is a member of the congregation at the Lutheran Church of the Resurrection, and he is a Deacon which means he fills in in the absence of the Pastor by providing worship on Sunday mornings, etc.

Mr. Beury stated there have been a number of other entities which have used the property up until COVID including a chess club and AHTN (Advocates for the Homeless and Those in Need) would use the facilities once a month on Sunday driving their buses to pick up people who are food distressed and bring them in to provide meals at the Church, and that no longer happens unfortunately. He stated the Church does provide bagged meals that are delivered to the various homeless locations which is what they feel it means to be a Church. He stated being a Church is not just on Sunday mornings when people attend Church service. He stated the Church also has a number of other missions including the garden on the property off the parking lot which last year delivered over 1 ton of fresh produce and herbs to various entities within the community.

Mr. Beury stated for the benefit of Seniors within the community, there was a free Tai Chi class offered to focus on balance, flexibility, and range of motion which he led; and while they take a break over the summer, this will resume the first Saturday after Labor Day.

Mr. Beury stated the Church is more than the building in which people come to worship on Sunday. He stated for all the neighbors who are concerned about traffic, if the Church is unable to sustain itself, we will be obliged to close. He noted what happened when Marrazzo's moved out of the Sutphin Road property. He stated the Church building is technically owned by the Synod of the Evangelical Lutheran Church of America. He stated he believes that Realtors would love to have the property where the Church building is located as well as their large field behind it which could accommodate a number of townhouses. He stated he feels while this proposal may not be perfect, it is a better opportunity.

Mr. Solor asked if the Applicants would be willing to consider an extension of the fence that divides the property up closer to Makefield Road, and the Applicants agreed.

Ms. Andrea Scherer, 1631 Makefield Road, was sworn in. She stated she shares Ms. Franclose's concerns for the exit onto Makefield Road. She stated it is posted for 35 miles per hour, but rarely anyone follows that. She stated anyone coming out of that one exit will have a problem turning left or right particularly during the 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. She stated if the numbers are correct, they were told there could be four to five cars every fifteen minutes; and if the objective is to get from 35 children to 75 children, that would be ten vehicles every fifteen minutes coming down that long driveway.

Ms. Scherer stated she feels there must have been a reason if the property was not Zoned for this. She stated there are also a lot of students on the street, and they never really put in any traffic-calming measures like speed humps to get people to slow down. She stated she is concerned that there will be so many people coming in and out of here that there will be more accidents.

Ms. Scherer requested Party Status.

Mr. Chris Nelan, 1231 Yardley Road, was sworn in. He stated he and his wife are working parents and they have two children, and they have been with Yardley Kids Academy including through the Pandemic. He stated both of their children started there at around three months of age, and Yardley Kids Academy would never do anything to put any child at harm, and they have thirty years of experience to prove that. He stated he understands there are traffic concerns, but Makefield Road is a busy road with constant traffic; and this will be a small fraction of the volume of the normal traffic on that day. He stated he lives on Yardley Road which is also a busy road so he understands what it is like to have little children on a busy road.

Mr. Nelan stated he supports Yardley Kids Academy, and he hopes the Board will grant the Variance. He stated he has seen many Zoning Variances granted over the seven years he has lived here including Wegmans, “over-priced townhomes; and none of that is needed,” but this is actually a need. He asked that the Board support working families. He stated it will be valuable to have a quality establishment and business such as Yardley Kids Academy within Lower Makefield.

Ms. Joanne Walchli, 691 Friar Drive, was sworn in. She stated she moved here in 1983 and bought a house in a Residential area. She stated when she was at Settlement, she was told that the property of the Church that backs up to her could not be built upon because of the water problems. She stated that land is “totally useless.” She stated there have been numerous problems, and that is why the Church has not been able to extend back there. She stated if they “think they can sell it, she does not know what would happen to it as it is not buildable according to the rules that were told to her in 1983.”

Ms. Walchli stated there has been a drastic change in the traffic on her street since she retired recently, and you cannot get out of Sutphin Road so people are coming up Sutphin, turn into Milton, and come up Friar; and the traffic on her street has tripled since when you get up to Sutphin you cannot make a left or a right as there is a lot of traffic backed up. She stated she appreciates

the driveway that parallel the “Church’s road,” and she sympathizes with the woman who spoke. Ms. Walchli stated she does not know of any child you can get out of a car in one to two minutes, and it would take “a good fifteen to twenty minutes and counseling possibly” with the teacher. Ms. Walchli stated she has increased traffic on her street and it is noisier. She stated this is a Residential area; and if the Board gives them permission to have this, they are changing a portion of the property to Commercial.

Ms. Walchli stated she sympathizes with the Church as all Churches are suffering; however, she is suffering also. She stated she has worked hard for the last thirty-three years, she is concerned who will buy her house with a child care center behind her house. She stated it will depreciate her value, and she talked with a Realtor about it. She stated she would like to be able to relax and enjoy peace and quiet in her own yard. She stated every Sunday she counts the cars in the parking lot, and there are between thirteen to thirty-two – not seventy-five.

Ms. Robin Potter, 415 S. Milton, was sworn in. She asked for Party Status. She stated she understands Churches are suffering right now and it is probably worse for day care centers. She stated about fifteen years ago when the Church wanted to expand, they needed to put in a pervious pavement in order to extend the parking lot; and she asked if it is made Commercial will “that go away.” Mr. Flager stated they are not changing the Zoning and they are selling the Use. Ms. Potter asked what if they sell the property now that it is Zoned Commercial. Mr. Flager stated it is not Zoned Commercial. He stated they would need to go through a formal process in order to request a Zoning change. He added that the Variance would run with the property, but it is not being re-Zoned Commercial so they would still have all the same restrictions that they have now. He stated they are requesting a Use Variance, and you are allowed certain Uses in Residential Zones, Commercial, and Industrial. He stated this is a Variance from those requirements which would normally not allow a day care center in this Zoning District. Ms. Potter stated the impervious area cannot increase even if it was sold; and Mr. Flager stated they would have to come to the Zoning Hearing Board for a Variance if they wanted to increase the impervious.

Ms. Kathleen Cook-Lyle, 148 Riverview Avenue, was sworn in. She stated she has worked for Katrina and Mike for over eighteen years, and is a part-time worker there. She stated her full-time job is at Bristol Township School District where she is a Teaching Assistant. She stated she stayed at Yardley Kids



Academy because she has seen a family environment, and people who love children, and the families who come to their center become their family as well. She stated they watch the children grow, and when they leave “Katrina cries because that is another child moving on.”

Ms. Lyle stated while traffic is a valid concern, where they are located now is across from Yardley Commons which is a large condo area and is also where the speed limit changes so people “fly through there” because they do not realize that they have to drop the speed to 25. She stated the Police try to be vigilant and stop the people. She stated it is a concern there, but they have made it work. She stated there are never 75 cars in the parking lot at one time, and it always varies. She stated parents drop their children off quickly so that they can get to work. She stated when the children are picked up it is quick.

Ms. Cheryl Varga, 1703 Makefield Road, was sworn in. She stated she lives across the street from the Church, and she is also an active member of the Church, and she walks to Church so there would not be a car in the parking lot for her. She stated the Church is a “loving place.” She stated the back is not being used, and it would be put to such wonderful use to help children. She stated here children were in child care when she was working.

Ms. Varga stated she pulls out onto Makefield Road every morning to go to work and does not feel that five or six cars will make that big of a difference with the traffic that is already on the road. She asked that they do this for the parents, the families, and the Church.

Mr. Michael Tedesco, 5 E. School Lane, was sworn in. He stated his three children have gone to Yardley Kids Academy for almost six years from infant to Kindergarten, and he does have a vested interest in the approval of this Variance. He stated he has first-hand knowledge that “YKA” is an incredible asset to the community. He stated it is a loving place, and he strongly supports this Variance.

Mr. Tedesco stated there is a child care crisis in America, and there are countless articles on the Internet on this issue. He stated his family has experienced this first hand. He stated since YKA announced that they would have to leave their current location, they have tried to find alternatives if they were unable to re-open; and they have come to the conclusion that quality, accessible child care is not a given in this day and age even in Lower Makefield. He stated there are

many wonderful child care locations in the area, but there is not widespread availability particularly for the needs and services that YKA provides. He stated they are on several wait lists, but they do not have a current solution for their family, and he knows that they are not alone. He stated they have heard stories from friends whose child care providers have been forced to cut hours and close classrooms for certain ages. He stated YKA is a respected, established, known facility that has long been an asset to this town.

Mr. Tedesco stated he understands that denying a Variance for this location would not preclude them from moving to an alternate location, but that is “easier said than done.” He stated he feels this Variance is a perfect fit at the proposed location. He stated within than one mile on Makefield Road, there is a Middle School and an Elementary School; and he feels putting a pre-School in the middle would naturally fit into the fabric of the area. He stated it is also not unusual for Houses of Worship to serve as locations for child care centers. He stated this particular one has a large lot; and for the most part will not effect the quiet enjoyment of most of the people in the area.

Mr. Tedesco stated the main objection he is hearing has to do with the increased traffic in the area. He stated as someone who lives on a street with no sidewalks and is a narrow, unlined cut-through between two bigger roads, he is sympathetic to those concerns; however, this location is already on the corner of two feeder roads – Makefield and Sutphin. He stated pedestrians and children in that area are “probably already aware to use caution in that area,” and there are sidewalks for use. He stated he feels that any increase in traffic will be relatively minimal in comparison to the volume that is already on the road, and it would likely be limited to the two feeder roads and would not have a huge impact on the surrounding neighborhoods. Mr. Tedesco stated the nature of the child care business lends itself to staggered pick-up times which limits the effects of the increase in traffic. He stated in his time there, outside of special events pre-COVID, during COVID, and post-COVID, he rarely sees more than four or five cars picking up at one time. He stated generally parents dropping off and picking up their children are not the most aggressive drivers so he feels there is some comfort that people will be exercising concern when driving.

Mr. Tedesco stated he feels that “big-money developers in the Township usually get Variances granted very regularly,” and a prime example is the development on the other side of Sutphin. He stated he knows that the Zoning Hearing Board puts a great deal of time and effort into those Variances

and he is not trying to say anything negative about the granting of those Variances; however, he feels that it would “send a terrible message to the community if big-money developers can build whenever or wherever,” but a local, respected small business which has been providing the community with needed service for thirty years cannot get a “seemingly, fairly innocuous Variance.” He stated he strongly supports the Variance, and he hopes that the Board will approve it.

Dr. Noah Kubissa, 1225 Yardley Road, was sworn in. He stated both of his children go to Yardley Kids Academy, and they transitioned there during the height of the Pandemic in May, 2020. He stated since that time there has been no shut down and outbreaks, and they follow CDC Guidelines to insure the health and safety of all of the children. He stated they have been able to maintain consistent child care throughout that time, and he knows many others do struggle with this. He commented on the unparalleled education given to the children at Yardley Kids Academy compared to the cost of their tuition, and he is extremely thankful to Yardley Kids Academy in looking to move the location so as “not to continue to jack up the prices for day care as you see throughout the community.” He stated once they realized Yardley Kids Academy was moving, they looked at other day cares in the community to see if there was a similar location that could provide the high level of education at a reasonable cost that Yardley Kids Academy does, but they found that unfortunately not to be true. He stated throughout the community the rates are significantly higher for the value provided.

Dr. Kubissa stated in looking at where Yardley Kids Academy will be located, he understands concerns about having it close to their house; however, he strongly disagrees that it would de-value any of their houses as he would love to have a day care within walking distance. He stated if the Variance is approved, they will be much closer to the day care, and they would be able to walk there.

Dr. Kubissa stated it has never taken him more than five minutes to get his children in and out of the car as “they are always in a rush, and they are very mindful of everyone needing to come and go as we all have lives outside of day care.”

Dr. Kubissa stated he strongly supports approval for the “Ordinances” to help maintain the high-level of education and the great value that Yardley Kids Academy provides and open up more opportunities for our children especially in proximity to the other Schools nearby.

Mr. Steven Sherman, 32 Penn Valley Drive, was sworn in. He stated he submitted written comments which he hopes will be put into the Record. He stated he is the parent of two children who go to Yardley Kids Academy and have been going there for about one year. He stated with regard to the number of cars in the parking lot at any one time, he has only seen about three or four cars in the parking lot time when he does drop-off in the morning. He stated he usually sees the same two to four people during drop-off, and they are all very quick. He stated he can drop off his two children in about two minutes. He stated pick-up is the same way, and “Katrina is super efficient handing the kids to the parents and the guardians.” He stated she has all the bags ready, and there are notes in the bags about their day – what they ate, when they napped, and other useful information; and that is all in a “paper” so there is no need to stand and talk. He stated they have not been going into the day care so it is a “hand off from the door” and they then go back to their cars. He stated at no time is there a line of cars waiting to get their children dropped off or picked up.

Mr. Sherman stated this is a place for child care for the community. He stated “there was one, and if it is not approved, there won’t be one so it will be a net loss.” He stated he and his wife have no other option because this day care is “fantastic,” and they do not want to look for other options because they do not want to take their children out of the environment that they are in now because they are learning so much and the “kids love it.” He stated he does not want to move his children to a new day care for the “fourth time in a row in four years.” He asked that the Board consider approving this Appeal for the community.

Mr. Steve Correll, 683 Friar Drive, was sworn in. He asked if the driveway that goes to Makefield Road “currently within the Zoning.” He stated when they had the Hearings before, they were going to expand and he thought he heard at that Hearing that the driveway was not “in the Code,” and was put in place without getting a Variance. Mr. Majewski stated he does not recall that being the case. He stated they did have a Site Plan approval over the years to allow that driveway. He stated the Church went in originally in 1972, and they got a Variance in 1987; and he believes that all of the improvements that are out there are Permitted.

Mr. Correll stated the separation between the house’s driveway and the Church’s driveway is “14 inches.” Mr. Dougherty stated it was Testified that it is 14 feet. Mr. Majewski stated a larger separation would be required under the current Code, but this was back from 1987. Mr. Correll stated it seems

like the driveway is “right on her property line – inches.” He stated 14 feet is really from driveway to driveway. He stated it is not 14’ within the Church’s property, and Mr. Majewski agreed. Mr. Majewski stated he estimates it to be 8’ to 10’, and Ms. Franclose’s driveway would probably be about 5’ off the property line.

Mr. Correll stated he feels a lot of people who have come up would like to be a Party, but they were not asked and probably forgot so they may want to give them an opportunity if they have spoken already to become a Party.

Ms. Joanne Walchli stated she neglected to ask previously but she would like to have Party Status.

Mr. Murphy asked if all of those who have requested Party Status were those who received Notice, and Mr. Flager stated they did.

Ms. Walchli stated a lot of her neighbors did not get this letter, and she went door to door, and they were totally unaware of it. She stated they had a total of five business days, and none of them knew anything was going on. She stated she tried to get legal advice and it was the weekend before the 4<sup>th</sup> of July and it “sounds like this whole procedure has been going on for some time negotiating, and the people who it has an impact on just got five days’ notice.” Mr. Solor stated the Public Notice process was followed correctly, and it was posted. He stated there is a large crowd present in the meeting, and there was Public Comment on-line. He stated it was also covered in the newspaper as a front-page article so there was significantly more Notice than 90% of what comes before the Zoning Hearing Board.

Mr. Murphy Moved for the Admission of his Exhibits.

Mr. Murphy stated he recognizes the thoughtful comments that were made by those who were not in support of the location of this use at this location. He stated looking historically from a Zoning perspective, typically Places of Worship were always located “for better or worse” in Residential areas. He stated inherently over time, those Places of Worship in Residential areas created conflict because a Place of Worship is not a Residential Use. He stated it could be argued that the planners years ago probably should be re-thought where Places of Worship were located; however, at the time it seemed appropriate from a planning standpoint to put Churches adjacent to Residential neighborhoods. He stated over time the different ministries in Churches and

Places of Worship expanded, and historically Churches have multiple ministries and ministries continue to grow and more and more activities take place not just on weekends but throughout the week.

Mr. Murphy stated he feels that in this situation it is a little bit different because what is different about this Application is that the Lutheran Church of the Resurrection is located on two Collector Roads. He stated Ms. Reiss had previously noted that in Lower Makefield there is hierarchy and an Ordinance that classifies roadways. He stated both Makefield and Sutphin Roads are classified as Collector Roads; and that is significant because it presumes Collector Roads handle a greater degree and a greater volume of traffic and to accommodate that, there are larger setbacks required in Lower Makefield from Collector Roads. He stated in this case, there are special setbacks that set back 100' as opposed to 80'.

Mr. Murphy stated in many cases, most Places of Worship have Schools associated with them so the "marriage in this case of a day care facility with a Place of Worship is not at all unusual." He stated in many other cases you could argue that this day care facility would be an Accessory Use to the Principal Use of the property as a Place of Worship. He stated Lower Makefield calls it out differently, but his point is it "is not at all a stretch" to consider the marriage of a day care facility with a Place of Worship in this particular location adjacent to two Collector Roads. He stated it can be argued that parents drop off their children in two minutes, five minutes, or ten minutes; but the point is throughout an eleven-hour day, traffic, coming, leaving, and the permanent full-time employees that are there represent a fraction of the overall traffic on either Makefield or Sutphin. He stated he feels that Mike and Katrina were thoughtful in trying to identify and split up the traffic between Makefield and Sutphin so as not to overly burden either one. Mr. Murphy stated it could be argued that the pattern might be reversed if that would be better, and he does not feel the Applicants have an issue with that.

Mr. Murphy stated multiple speakers tonight have noted that there is a crisis today created by COVID where it is not just this Church that is at risk, but many other Places of Worship are at risk. He stated he knows this because he has counseled many of them of all different faiths and denominations of what to do with their property. He stated there are multiple places in Lower Makefield that are having this same kind of internal conversation.

Mr. Murphy stated it also seems apparent from many of the speakers that this seems like a good marriage between two “caring congregations/businesses” the Church that would welcome as an additional ministry having a day care facility on its grounds that provides the service that everyone has acknowledged is thoughtful, caring, and compassionate and it is in a location close to where they are today on Main Street so that it would not inconvenience the parents that are regular customers. He stated he feels this is a “win to keep the Church vibrant” and staying in Lower Makefield as it has been since the 1960s and an operation like Yardley Kids Academy that has been here for thirty years and provides by all accounts a wonderful, community-based need.

He stated they would agree to directional signage, extending the fence, and any other safeguards the Board feels are appropriate; and he feels it is a situation that can be made workable for everyone and all concerns addressed.

Mr. Dougherty noted what is required in our Ordinance for 75 children is “way above” what is required by the State. He asked what would be the procedure for having the Ordinance re-written to something more reasonable. Ms. Kirk stated it would be either something that the Zoning Hearing Board would undertake or make a request to the Planning Commission to look at that provision, and ask them to come up with alternate language that would then be presented to the Board of Supervisors. She stated it would be published, and a formal Hearing would be held.

Mr. Dougherty stated he agrees with Mr. Murphy that this is a natural fit and it serves a need. He stated he does not see how 75 children will be a problem, and he does not think that traffic in and out will be a problem either. He stated Yardley Kids Academy representatives did say that they would put a fence up extending out to Makefield Road if that would help the neighbor.

Mr. Dougherty stated the play area does conform with the State requirements. He stated he would like to get the Ordinance changed at the same time as they are considering this Appeal. Ms. Reiss stated if the Board is inclined to do so, she would ask that it be put in the Minutes, and Mr. Majewski can then formally present it to the Planning Commission indicating the Zoning Hearing Board’s desire for that Section of the Ordinance to be reconsidered due to the amount of space being imposed for an outdoor area. Ms. Kirk stated the Zoning Hearing Board’s Decision would pre-date that. Mr. Solor stated the Board could make their Decision, and that would be considered separately. Mr. Majewski stated that suggested change is on their list of items to be changed.

Ms. Reiss spoke of the difficulty of finding reliable child care when she was raising her children. She spoke of her children's experiences now with regard to child care. She stated she feels this is a "welcome issue," and she agrees with Mr. Murphy. She stated most Churches do have child care – nursery school, after-school care, and after-school religious lessons. She would request that the fence be continued to Makefield Road. She stated Makefield Road and Sutphin are normally extremely busy, and she does not have any opposition.

Ms. Reiss moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal with the provision of the fence being extended to Makefield Road and improvements with directional signage.

Mr. Dougherty stated part of the signage should probably be a "Do Not Enter" sign so people do not go out Sutphin Road. Mr. Murphy stated perhaps the Motion could include that there be directional signage as recommended by Mr. Majewski or the Township's traffic consultant so that it is done professionally. Mr. Flager stated if they do need to change the street, they would not want the Condition to be one way if the "facts on the ground change." Mr. Majewski suggested that it be subject to approval of the Township traffic engineer.

Ms. Reiss moved to Amend the Motion, and Mr. Connors seconded that the directional signage be subject to approval by the Township traffic engineer.

Mr. Murphy stated the Township traffic engineer may have other recommendations to improve the access.

Motion as amended carried unanimously.

There being no further business, Mr. Dougherty moved, Mr. Connors seconded and it was unanimously carried to adjourn the meeting at 9:20 p.m.

Respectfully Submitted,

Judi Reiss, Secretary



