

TOWNSHIP OF LOWER MAKFIELD  
ZONING HEARING BOARD  
MINUTES – JUNE 21, 2022

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on June 21, 2022. Mr. Connors called the meeting to order at 7:38 p.m.

Those present:

Zoning Hearing Board: Matthew Connors, Vice Chair  
Judi Reiss, Zoning Hearing Board 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

Absent: Peter Solor, Zoning Hearing Board Chair

APPEAL #21-1941 – CAMERON & OLGA JEAN TROILO

Tax Parcel #20-021-003

1674 EDGEWOOD ROAD, YARDLEY, PA 19067

Mr. Flager stated he received an e-mail from Mr. Edward Murphy, attorney for the Applicants, requesting a Continuance until August 2, 2022 to afford the Applicant some time to resolve some of the issues with the Township. He stated he believes that Revised Plans will be submitted in the future and the Continuance will afford time for those Plans to be reviewed.

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to Continue the Appeal to August 2, 2022.

APPEAL #22-1957 – CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS

Tax Parcel #20-034-001

499 STONY HILL ROAD, YARDLEY, PA 19067

Mr. Flager stated the Applicant's attorney has requested an open-ended/ indefinite Continuance and has waived all of the provisions of the MPC and the relevant FCC Codes. The purpose of the Continuance is to work with the

Township to see if they can come up with a solution that works. By having the open-ended Continuance, this will give them enough time to work with the Township. Once they decide they want to have the Hearing, they will give forty-five days' notice, and have agreed to pay for the re-advertisement if that is necessary.

Mr. Connors moved, Ms. Reiss seconded and it was unanimously carried to Continue Appeal #22-1957 as requested.

APPEAL #22-1960 – JESSICA & LUKAS RAMS  
Tax Parcel #20-025-002  
879 SANDY RUN ROAD, YARDLEY, PA 19067

Mr. Flager marked the Exhibits as follows: The Site Plans were marked as Exhibit A-1. The Elevations were marked as Exhibit A-2 along with Site Plans that show Existing versus Proposed. The house plans showing the garage and first floor were marked as Exhibit A-3. The house plans that show the second floor and roof were marked as Exhibit A-4. The front façade of the house was marked as Exhibit A-5. The rear of the house was marked as Exhibit A-6. The Application was marked as Exhibit A-7. The Site Plans that were submitted were marked as Exhibit A-8. The reasons for the requested relief dated 3/10 from Counsel, Alex Shnyder, was marked as Exhibit A-9. The 6/21/22 letter outlining the relief was marked as Exhibit A-10. The Wetlands Study Summary dated January 26, 2022 from Penn's Trail Environmental was marked as Exhibit A-11. 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. Lukas Rams was sworn in.

Mr. Shnyder stated the property is currently Zoned R-2 – Medium-Density Residential Zone and consists of approximately 17,800 square feet. He stated the Applicants are proposing to construct a single-family, detached dwelling that would conform to the nature and the character of the surrounding, single, detached dwellings; and it would not be detrimental to the public welfare.

Mr. Rams stated he is the owner of the property which he and his wife purchased in March, 2021. Mr. Shnyder asked if their intention was to build on the property when they initially purchased it, and Mr. Rams agreed they planned to build a single-family dwellings for themselves. Mr. Shnyder asked Mr. Rams if he is aware that there is a creek behind and property and a floodplain on the property, and Mr. Rams agreed.

Mr. Shnyder asked Mr. Rams if he is familiar with the surrounding properties, and Mr. Rams agreed he is. Mr. Shnyder noted a map being shown and asked if that is a proper depiction of the former improved dwelling that was on the property and the outline of the property as it sits in the area, and Mr. Rams agreed. Mr. Shnyder stated looking at the map away from Mr. Rams' property onto Sandy Run Road, there is an improved dwelling to the right, and he asked Mr. Rams if that is an accurate depiction of how the property sits; and Mr. Rams agreed. Mr. Shnyder asked if that home seems to sit very closer to the front yard, and Mr. Rams stated it seems that it is right up to the road.

Mr. Shnyder asked Mr. Rams if he is aware of any reason why building this home on this property will be detrimental to the surrounding area, and Mr. Rams stated he is not.

Mr. Shnyder asked Mr. Rams if he engaged the services of a wetlands scientist, and Mr. Rams stated he did that the end of last year/beginning of this year. Mr. Shnyder showed a Summary of Findings from that wetlands study, and he asked Mr. Rams if it is an accurate depiction.; and Mr. Rams stated it is. Mr. Shnyder asked why Mr. Rams engaged a scientist for this Study, and Mr. Rams stated they wanted to make sure that they did not have any wetlands on their property. Mr. Shnyder asked if that was pursuant to a letter from RVE Engineers, and Mr. Shnyder agreed that was one of the comments. Mr. Shnyder asked what was the conclusion of the Report, and Mr. Rams stated it was found that there were no wetlands on the property. Mr. Shnyder asked Mr. Rams he is aware of any additional reports from any other wetland scientists, and Mr. Rams stated he is not.

Mr. Shnyder stated they are requesting Variances from Township Zoning Ordinance #200-22 for a front yard of 20.13' where 30' is required and a rear yard of 34.43' where 45' is required, and Mr. Rams agreed. Mr. Shnyder stated they are also requesting relief from Ordinance #200-51.B.1 for 77.1% disturbance within a floodplain, Ordinance #200-51.B.4.c.2b to permit a 66.15% disturbance within the 100' water course buffer, relief from Ordinance #200-51.b.6 to permit 61.1% disturbance of woodlands where 25% is allowed, and relief from Ordinance #200-61.c to permit setbacks from resource-protected lands to be measured from lot lines where the setbacks would otherwise be measured from the limit of the resource-protected lands; and Mr. Rams agreed.

Mr. Shnyder stated the Hearing was originally scheduled for early May which was Continued so that they could discuss with the Township some of their concerns, and Mr. Rams agreed. Mr. Rams added that a meeting was held shortly thereafter.

Ms. Kirk stated when the meeting was held there were three other Variances that were discussed, two of which Mr. Shnyder addressed with the Wetlands Study. She asked if they are still looking for a Variance for the disturbance of Type II steep slopes under #200-51.B.5.a, and Mr. Shnyder agreed they are. Ms. Kirk stated that means that there are a total of seven Variances being sought, and Mr. Shnyder agreed.

Mr. Flager stated he does not believe a Variance for the steep slopes was advertised. Mr. Majewski stated the steep slopes is not applicable. He added our Ordinance has an exception for smaller areas of steep slopes, and their disturbance falls below that threshold and therefore no Variance was required. Mr. Lawrence Byrne, engineer, was sworn in, and stated he is a Licensed, Professional Civil Engineer in the Commonwealth of Pennsylvania. Mr. Shnyder stated he was admitted in Lower Makefield previously as an expert. Mr. Byrne stated he graduated from Penn State and has thirty-five years of experience as a Civil Engineer. There was no opposition to Mr. Byrne being accepted as a Professional, Civil Engineer for this matter.

Mr. Byrne stated he is familiar with the subject property and was involved in the preparation of the Plans for the property. Mr. Byrne stated they prepared a Plot Plan showing the existing features on the property and the proposed features to be the house, driveway, and stormwater management improvements. He stated the existing features show the elevations via contour lines as well as the other natural resources those being trees, and the floodplain line from Brock Creek which is adjacent to the site.

Mr. Shnyder asked Mr. Byrne to describe the overall shape of the property and some of the unique characteristics of the property. Mr. Byrne stated as shown on the Plan, the property is somewhat triangular in nature which makes it irregular as opposed to being a rectangular lot. He showed on the Plan Sandy Run Road, and the area adjacent to Sandy Run Road which has some of the steep slopes. He also noted the woodlands and the floodplain elevation. He showed on the Plan the proposed locations for the house, the driveway, and the rain garden for stormwater management which is a requirement of the Township Ordinances.

Mr. Shnyder asked Mr. Byrne to review the calculations he did to determine what is buildable on the lot. Mr. Byrne showed the calculations for the buildable area; and after they subtract out the natural resources from the property and the rights-of-way, the amount is 1,681 square feet or approximately 10% of the property that could be considered buildable. He stated they had to subtract out the natural resources which consisted of floodplain, trees, and steep slopes. Mr. Shnyder stated the net site area is therefore significantly reduced from the gross area of the property, and Mr. Byrne agreed.

Mr. Shnyder asked if not for the deductions, would the property be compliant with the Ordinance otherwise; and Mr. Byrne stated it would be compliant with the minimum lot size and the other dimensional criteria would be less. Mr. Shnyder asked if he were to measure the setbacks from the limits of all natural resource protections, what would the resulting building envelope be; and Mr. Byrne stated there would no building envelope because the setbacks from the required natural resources would overlap each other, and there would be no buildable area.

Mr. Shnyder asked Mr. Byrne when he was planning this out with Mr. Rams and his architect, did he try to lay this out in such a way to try to minimize the steep slope, woodlands, floodplain, and natural resource buffers; and Mr. Byrne stated he did. Mr. Byrne stated the house was specifically designed for this particular lot so as to minimize the impact. He added he feels that the architect and the owner did a very good job in putting in a house that conforms to the natural features of the property.

Mr. Shnyder asked if there was an existing, improved property on this lot; and Mr. Byrne stated there was a building on the property previously, but that was long before he was involved. Mr. Byrne stated he does not know when the building was removed; however, going through the historical images on Google Earth, you could tell that there was a building on the property, and he believes it was referenced in some of the Tax Maps. Mr. Shnyder stated as it sits today it is vacant, and Mr. Byrne agreed. Mr. Shnyder showed an image and asked if it a fair depiction of what the old house looked like superimposed on the lot, and Mr. Byrne stated it is based on the historical aerial images. Mr. Shnyder asked if there was also an existing driveway, and Mr. Byrne agreed. Mr. Shnyder asked if there trying to utilize the existing curb cuts and driveway as well, and Mr. Byrne stated he was. He showed the location of the proposed driveway adding that is where the existing driveway and access to the site is now.

Mr. Shnyder stated there were multiple discussions with the engineer for the Township over the course of preparing the Plans, and Mr. Byrne agreed. He stated when Mr. Rams first came to him to put together a Plot Plan, he recognized that it was a very unique property. He stated he was aware that the Township Zoning Ordinance with regard to natural resources is fairly complicated, and he prepared to Plan which they submitted to the Township before coming to the Zoning Hearing Board. He stated they wanted to have the Plan reviewed as a Building Permit so that the Township would identify the Zoning issues. A letter was issued from the Township on December 10, 2021 and a subsequent letter on December 20, 2021 which identified all of the Variances that would be needed. Mr. Byrne stated with regard to grading, stormwater management, and erosion control the Plan complied; however, it did not comply with the Zoning Ordinance with regard to natural resources. Mr. Byrne stated he revised the Plan to address the comments, identified the specific natural resources, and developed the calculations as accurately as possible address the Township's comments and made sure they identified all of the applicable Variances. He stated they then submitted that Plan to the Township, and they issued another review letter. He stated that is when they filed the Application for the Zoning Hearing Board.

Mr. Shnyder asked Mr. Byrne to discuss the wetlands buffer. Mr. Byrne stated it is not a wetlands buffer – it is a buffer from the edge of Brock Creek. He showed the location of Brock Creek and where it is indicated on the Plan. He stated the type of vegetation adjacent to the creek determines the width of the buffer. He stated if it is wooded, it is 50'; and if it is not wooded, it is 100'. He stated they had indicated the buffer on the Plan as required and placed the house as far away from it as possible from the creek.

Mr. Shnyder asked if it is possible that if it was found that they needed a 100' buffer, it could be reduced with the planting of additional vegetation around the perimeter; and Mr. Byrne stated he is not sure that would be permitted. Mr. Shnyder asked if there have been discussions with Mr. and Mrs. Rams about planting additional vegetation to impede and slow down water flow downstream by placing additional vegetation along the property line and within the floodplain, and Mr. Byrne stated there was. He stated that was also one of the items that was discussed when they met with the Township staff a month ago, and it was indicated that they would provide a buffer of supplemental trees. He added that there is also a rain garden proposed at a location he showed on the Plan. He stated that will be planted with natural vegetation.

Mr. Shnayder stated the steep slopes are shown on the Plan, and Mr. Byrne agreed. Mr. Shnayder asked the Class of the steep slopes. Mr. Byrne stated the Township has three classifications for steep slopes – 8% to 15% range, 15% to 25% range, and over 25% range. He stated the numbers are indicated on the Plan. He stated they estimated the steep slopes over 25% to be 786 square feet, and they are not disturbing any of them; and there is a 0% ratio permitted to be disturbed. He stated for the slope range of 15% to 25%, they have calculated 3,919 square feet, and the permitted disturbance is 30%, and they are slightly over that. Mr. Byrne noted Mr. Majewski's prior comments; and Mr. Byrne stated while the percentages seem large, the amounts are actually small because it is not a very large property to begin with at 17,800 square feet. He stated if there is a small area, and you are disturbing a small area, percentage wise it seems to be a lot. He stated they are disturbing approximately 2,000 square feet which is 51% of the steep slopes; however, in reality it is not that much area to begin with. He stated the only one they are technically over is the 15% to 25% range.

Mr. Shnayder stated one of the reasons for placing the home where it is was because they were moving it further away from the stream, and because of that they are encroaching more into the front yard setback; and Mr. Byrne agreed.

Mr. Shnayder asked how far away from the creek is the disturbance going to be, and Mr. Byrne stated it varies. He showed the location of the creek, and he stated it will be about 90' from the edge of the creek to the proposed house.

Mr. Shnayder noted an aerial view of the property which Mr. Byrne had provided him. Mr. Byrne stated he got it from the Bucks County Planning Commission's GIS Website a few weeks ago. Mr. Shnayder asked if he feels this is a true depiction of what this property and the surrounding properties look like, and Mr. Byrne agreed. Mr. Shnayder stated looking at the property to the right it appears that property is almost sitting on the street, and Mr. Byrne showed a number of houses that are along the road.

Mr. Shnayder asked Mr. Byrne if he came across Ordinance #200-61.D where the Applicant may not need a Variance because the building is directly abutting within 50' of street allowing for close alignment with the neighboring buildings as long as the front yard is no less than 20', and Mr. Byrne agreed. Mr. Shnayder stated the setback they are looking for is 20.13', and Mr. Byrne. Mr. Shnayder stated if #200.61.D was to apply, the Applicant might not need that Variance; and Mr. Byrne agreed. Mr. Shnayder asked if the Board were to find that the Variance were still necessary, would Mr. Byrne agree that the spirit and intent of #200.61.D is met here; and Mr. Byrne agreed.

Mr. Shnyder noted Exhibit A-2, and he asked Mr. Byrne if that is a fairly accurate representation of the improved pieces that are on the various properties that surround the Rams property, and Mr. Byrne agreed. Mr. Byrne showed on the Exhibit a dwelling, a foot bridge, a shed, and a number of other dwellings. Mr. Shnyder asked Mr. Byrne if he agrees that the shed/accessory building looks like it is right on the creek, and Mr. Byrne agreed.

Mr. Shnyder asked Mr. Byrne if it is his professional opinion that this property is suitable for development of a single-family, detached dwelling such as the one proposed by the Applicant; and Mr. Byrne agreed. Mr. Shnyder asked Mr. Byrne if he believes the property meets the characteristics of the surrounding neighborhood, and Mr. Byrne agreed. Mr. Shnyder asked Mr. Byrne if the relief being requested the minimum needed to afford the Rams' the ability to use their home in a manner similar to the surrounding homes, and Mr. Byrne stated it is a modest house for the neighborhood. Mr. Shnyder asked Mr. Byrne if it is his professional opinion that the Rams' home will be detrimental to the public welfare, and Mr. Byrne stated it will not.

Mr. Shnyder stated his next Witness is the architect, and Ms. Kirk asked for an Offer of Proof for the architect. Mr. Shnyder stated she will talk about the flood vents and the garage.

Ms. Cheryl Poulos was sworn in. She stated she is an architect and graduated from Drexel University and worked in architecture firms for twenty-three years, and has been Registered in the State of Pennsylvania for sixteen years. She stated she has had her own firm for about ten years. She stated she generally does new homes and large-scale additions and renovations. There was no objection to Ms. Poulos.

Mr. Shnyder asked Ms. Poulos if she helped Mr. and Mrs. Rams as they were designing the home on the property, and Ms. Poulos agreed. Mr. Shnyder asked when they were discussing where to put the home on the Lot were there several things they were looking at in addition to trying to stay away as much as possible from the natural resources. Ms. Poulos stated they were trying to be in keeping with the style of all of the homes in the neighborhood and trying to keep away from the stream as much as they could which put them a little bit more into the steep slopes so the design of the house is smaller and taller than what was there. She stated they are trying to not build on as much land as they could. She stated the orientation of the house is because there is a road across the street from the property, and the owners were concerned with oncoming traffic shining lights into their living space which is why it is not perpendicular to the property.



Mr. Shnyder noted Exhibit A-1, and he asked Ms. Poulos to explain what it is. Ms. Poulos stated they did a cross section of the house dealing with the slopes, and they were conscious of trying to keep all of the livable building area above the floodplain line. The cross section is illustrating that wherever water could come into the house would be concrete and unfinished which is the garage and storage areas. It is not intended that these would ever be livable spaces.

A rendering was shown of the front and back of the proposed house. Ms. Poulos stated that because of the existing slopes and the living space being elevated, the grade will be “pretty high” on the front to low in the back, and the steps are seen on one side of the rendering with the garages below. She stated they tried to make the house as compact as they could so it is a little taller but still under the height requirement. She stated they wanted to minimize the grading that would need to be done.

Mr. Shnyder stated on either side of the garage there are two flood vents. Ms. Poulos stated they need to have flood vents on at least two sides of the property so that if any water would get in, it is able to come in and flow out. She stated the flood vents are on the rear side, which is the lowest side. A different slide was shown which shows where the other flood vents are located which was the only other side they could put them in because they are trying not to touch the slopes and the grade where they do not have to.

Mr. Shnyder asked Ms. Poulos if in designing the property and seeing the surrounding properties, does she feel it meets the characteristics of the surrounding neighborhood; and Ms. Poulos agreed. Mr. Shnyder asked Ms. Poulos if she believes that this is the minimum relief that can be requested in order to allow the Rams use of their property similar to the surrounding homes, and Ms. Poulos agreed.

Ms. Kirk noted Exhibit A-2 where the proposed house is toward the left there appears to be a hatched area, and she asked if that is designed to be a front porch area. Ms. Poulos stated those are steps to the front door and they go up the existing slope of the house. Ms. Kirk stated that is in keeping with Ms. Poulos’ Testimony that it was designed not perpendicular to the road, and Ms. Poulos agreed. Ms. Kirk asked if there was an issue with headlights going into what would have been the second floor which is the main part of the house. Ms. Poulos stated because of the slope when you get to the roadside, the headlights would be at the floor where the living room and the kitchen area.

Ms. Kirk stated she understands that the first floor will be mostly concrete and would be the garage. Ms. Poulos stated it would be a basement. Ms. Kirk stated there would not be any livable space designed there, and Ms. Poulos agreed. Ms. Kirk asked if there was any discussion with the property owner as to how to insure that the first level will only be used exclusively for storage and garage space as opposed to in the future someone converting it to a livable area. Ms. Poulos stated it is on the drawings. Mr. Shnyder stated the Applicants would be open to finding a way to do that. Ms. Kirk stated that would be a restriction/Plan that is Recorded, and Mr. Shnyder stated that is possible.

Mr. Majewski stated our Floodplain Management Ordinance within the Zoning Ordinance does require that they enter into a Non-Conversion Agreement for that space so that it is in the Deed.

Ms. Kirk asked if the Plan shows a total of four vents on the building, and Ms. Poulos stated she believes that there are four on the side and two on the back. Ms. Kirk stated that is to insure the flow of water, and Ms. Poulos agreed. Ms. Kirk asked if the lot is higher near Sandy Run Road and then decreases, and Ms. Poulos agreed. Ms. Kirk stated the flow is from Sandy Run Road across the lot down to the creek, and Ms. Poulos agreed. Ms. Kirk stated because of the vents, they will not have to worry about a flow of water going the opposite direction; and Ms. Poulos agreed.

Ms. Kirk noted the Plan that was provided showing the old house and the proposed house which had a dark gray hatched area superimposed where the old house was, and she asked if that is an extension of the driveway. Ms. Poulos stated part of the driveway that is not shaded was existing up to the house, and she was trying to show the new driveway that they would need. She stated she also did a calculation that the proposed house is actually half the size of the house that was there; and even though we are adding the driveway, we are still decreasing the impervious that was there. Ms. Kirk stated even by adding the extra slab of driveway, they are not maximizing the impervious surface, and Ms. Poulos stated the house coverage went from 15.5% down to 6.3% with total impervious with the driveway going from 19.9% down to 15.2% because the old house was so large.

Ms. Kirk asked why is the new section of the driveway so angular; and Ms. Poulos stated it does not have to be, and they were just thinking about a future fence line.

Ms. Kirk noted on Exhibit A-2 a section stating “new vegetation planted by owners in accordance with Township requirements and recommendations,” and she stated this was the result of the meeting that was held, and Ms. Poulos agreed. Ms. Kirk asked if those plantings already been put on the property, and Ms. Poulos stated they have not. Ms. Kirk asked what the proposed plantings will consist of, and Ms. Poulos stated that has not been decided. Ms. Kirk stated the property owner had agreed that he would do it subject to Township approval of the list of plants, and Ms. Poulos agreed. Ms. Kirk stated that will go along the rear of the house and up the side section as shown on the Plan, and Mr. Shnyder agreed.

Ms. Kirk asked Mr. Byrne to provide more description as to the size of the proposed rain garden and how much water it will hold. Mr. Byrne stated the calculations for the rain garden are on the Plan. He stated it is sized for the proposed impervious on the property. He stated when they sized the rain garden they did not account for any existing impervious from the old house, and they assumed that the house was vacant. He stated it is a volume calculation with a certain amount of run-off times the area of impervious, and the numbers are on the Plan. Ms. Kirk stated the numbers that are intended to be used for the proposed rain garden are those that are shown on the Plan, and Mr. Byrne agreed.

Ms. Kirk asked where the rain garden is going to be constructed, and Mr. Byrne showed the location on the Plan. Ms. Kirk stated that would be rear yard area, and Mr. Byrne agreed it is behind the house. He added it is designed to capture the water from the property, collect it in the rain garden, have it filter through the vegetation and amended soils, and there is then a level spreader that will let the water seep out over time. Ms. Kirk stated that area is higher in elevation than the front, and she asked how the rain garden going to be constructed to insure the flow of water into it. Mr. Byrne stated it is the lowest part of the lot. A Plan was shown which shows the location of the rain garden and Sandy Run, and the water flows back. Mr. Byrne stated there is a swale to collect the water from the driveway and direct it into the rain garden.

Ms. Kirk asked if the rain garden will be filled with gravel and plantings. Mr. Byrne stated they will dig it out, and there will be a small berm that is built to retain the water. It is then planted with wetland-type vegetation which is a rain garden seed mix. He added that the Applicant has agreed to supplement that with some plantings along the property line. Ms. Kirk asked if it will be fenced in any way to avoid a child from getting into it, and Mr. Byrne stated it will not. He stated the rain garden is designed to have a maximum of depth of 9” and it is not like a regular detention basin that is multiple feet deep.

Ms. Kirk asked Mr. Byrne if based on his engineering of the Plan and his review of the prior property, he believes that the placement of the house in its proposed location has less disturbance of the natural resources than the prior house did; and Mr. Byrne agreed.

Ms. Kirk asked if the Board were to approve the Variance request, would Mr. Byrne agree on behalf of the Applicant that they enter into the Non-Conversion Agreement with respect to floodplain management for the first level as well as include the additional plantings subject to the Township's approval as shown on Exhibit A-2, and Mr. Byrne agreed.

Mr. Dougherty stated Mr. Byrne Testified that the orientation, size, and location of the house will have the least amount of disturbance on the lot; and he asked Mr. Majewski if he would agree with that. Mr. Majewski stated he believes that while it may not have the least disturbance, it is in the best location. He added that they could have put it closer into the floodplain, but that would not be preferred. He stated they have tucked it a little bit into the hillside which disturbs a little bit more, but it actually has less disturbance on the more critical feature which is the floodplain and slightly more disturbance on a less critical resource feature which is the steep slope. He stated that is minimal disturbance, and they are under the exemption criteria of allowable disturbance to the steep slopes.

Mr. Dougherty stated his experience with flood vents is that they if they are in the front of the house, they are also in the back of the house; and it appears that there are at 45 degree angles. Ms. Poulos stated the Code requires that they be on a minimum of two exterior walls, and it does not have to be opposite walls.

Mr. McVan asked if there has been any research into the history of the flooding events of Brock Creek in relation to the property. He stated he recalls that ten years ago there was foundation damage done to the house behind this property, and the walking bridge was knocked off of its foundation. Mr. Byrne stated the floodplain is indicated on the Plan at elevation 66, and it is calculated from the FEMA Flood Insurance Rate Maps. He stated the proposed basement level of the house is elevation 66. He stated any water would have to come from Brock Creek up about 6' to 7' to get to the house. Mr. McVan stated he is concerned as he has seen that creek become "pretty violent." He stated he wants to make sure that they have the vegetation in place along the driveway to protect the property from any type of event.

Mr. Connors asked Mr. Byrne if he mapped the floodway on the property, and Mr. Byrne stated he did not adding that he does not know if there is a floodway associated with this. He stated he did indicate the 100-year floodplain elevation. Mr. Connors stated there is a floodway associated with FEMA Map 420191 for the stream, and he would like to make sure that the proposed building is outside of that floodway. Mr. Majewski stated he did check that, and all of the building is located outside of the floodway. He stated the floodway touches the southeast corner of the property where the existing driveway comes in. Mr. Majewski stated the livable area of the house is about 10' above the floodplain. He stated with regard to Mr. McVan's comments about the flood, the house that was there was damaged in the flood in 1999, and it sat abandoned for a number of years. He stated he believes that house sat a few feet lower than this one.

Mr. Connors asked if there will be filling in the floodway as there are a lot of proposed contours and grade adjustments. Mr. Byrne stated they are not working in the floodway. He added that they are doing some work in the floodplain which would be some excavation for the rain garden and some fill for the driveway. Mr. Byrne stated he did not have exact number for the cut and fill, but they did try to keep everything as close to the existing grade as possible.

Mr. Connors asked about the front yard which appears to be where the majority of the slope impacts are, and it seems that they are grading out from the building to create front yard area. Mr. Byrne stated they are fitting the house onto the lot, and it was designed to be built into the hill. He stated all they are doing is tying in the existing grades to the house.

A rendering of the house was shown, and Ms. Poulos stated the image on the left is the front of the house. She noted the location of the vents, which are the sides perpendicular to Sandy Run Road, and that shows the slope.

A rendering of the house was shown, and Mr. Connors noted the front door and the stairwell to get down to the front. He stated in the Site Plan they are "pulling grade from what looks like the right-of-way," but in the Plan shown, there is a "bit of a drop." Mr. Byrne noted the grading in the front, and he stated they are tying in the existing grades from the road into the front of the house. He noted on the Plan where they drop down to the lower level. He noted the steps as well. Mr. Byrne stated they are matching the existing grades as it slopes down in the area. Mr. Connors asked if that area is intended to be the front yard area of the property at the street area.

Mr. Byrne noted the location of the driveway. Mr. Shnyder stated it is where the prior driveway was, and Mr. Byrne agreed. Mr. Connors stated it is just a front-entry, lawn area to dress up the access point. Mr. Byrne stated there is no access to the road where Mr. Connors is indicating. Ms. Poulos stated there is no actual front path that goes to the road, and the intention is that the owners will always go through the driveway and up the side of the house to the front door. She stated there are a couple of steps going down toward Sandy Run, but that is more for access so that “you do not have to walk all the way around.” Mr. Connors stated there is no intent to go from the house to Sandy Run through an area he noted on the Plan, and Ms. Poulos agreed. Ms. Poulos stated since there is a long run of stairs from the front door to the driveway, she was trying to give them another “kind of access.” Mr. Connors noted on the Plan an area where they are impacting the 15% to 25% slopes, and Mr. Byrne agreed.

Mr. Connors asked what storm the stormwater system was designed for; and Mr. Byrne stated it was designed in accordance with the Lower Makefield Township’s Stormwater Management Ordinance, and was not designed for a specific storm. Mr. Byrne stated it is required to have volume control, and they are not dealing with the peak rate because it is considered a small project. He stated Note #9 on the Plan relates to this.

Mr. Connors stated the rain garden is in the floodplain, and Mr. Byrne agreed. Mr. Connors asked how it operates during a flood. Mr. Byrne stated the intent is for the stormwater from the site to flow into the rain garden and weep out through the level spreader. He stated in the event of a 100-year storm, it would be under water, but it is intended to manage the higher-frequency storms.

Mr. McVan asked about the mechanicals; and Ms. Poulos stated they did not yet revise the floorplan since the meeting with the Township, but they did discuss not putting any mechanicals in the basement or storage area so they will have to redesign the floorplan if this gets approved to make room for them. Mr. Majewski stated the mechanicals will have to be raised a minimum of 1 ½’ above the floodplain.

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

Mr. Dougherty stated he understands that there is not specific language needed to be included in a Motion since the Ordinance governs the fact that they will not be able to do any development of the basement/garage area.

Mr. Majewski stated they could not get a Permit without that restriction so that is covered.

Mr. Dougherty moved, Ms. Reiss seconded and it was unanimously carried to approve Appeal #22-1960 with the Condition of the owner putting in the additional plantings along the property as shown on Exhibit A-2 and subject to the Township engineer approval of the plantings.

APPEAL #22-1967 – DARIN BODOLOSKY  
Tax Parcel #20-052-127-001  
116 WALNUT LANE, MORRISVILLE, PA 19067

Mr. Darin Bodolosky and Mr. Jason Weaver were present and reminded that they were still under Oath.

Mr. Flager marked Exhibits as follows: The Revised Plans were marked as Exhibit A-6. The Post-Construction Stormwater Management Report was marked as Exhibit A-7.

Mr. Bodolosky stated he and his partner moved into this neighborhood in 2016 and found their “forever home.” He stated when they moved in, it was probably the worst house on the block and needed a lot of work. He stated it was overgrown and there was “junk” in the back from construction debris from the previous owners. He stated they have since cleaned that up, and they are working to make it something nice not only for themselves but also for the neighborhood.

Mr. Bodolosky stated at the last meeting, someone brought up trees; and he would like to confirm that he and his partner “adore” the trees that are in the area so much so that when they got a letter from PECO stating that they were coming to remove an ash tree on the property, that they went all the way to the Attorney General’s office because they have an arborist come in every year to evaluate the trees and tell which ones need to come down, which ones need to be trimmed, and which ones are healthy. He stated he treat all of the trees and the ash gets treated for the emerald ash borer every two years, and all the trees get fertilized every year. He stated if they have to take down a dead tree, they replace it with at least one, two shrubs, and other plantings. He stated he wanted the Board to know that is their protocol, and is what they are doing regardless of whether it is mandatory or not.

Mr. Bodolosky stated since moving in, they have realized that the neighborhood is not the most safe even though the Lower Makefield Township Police are “awesome,” and they cannot be everywhere at once. He stated they have already had one vehicle stolen from their property, and they have also had vehicles vandalized and/or damaged on their property in the neighborhood. He stated that is the primary reason that he has “scoped” the Plans that the Board has for that size of storage facility for all of his Classic cars. He stated Classic cars require upkeep, and it is very difficult to find parts. He stated when you try to keep something in good working order, you do not want it vandalized and/or targeted for theft. Mr. Bodolosky stated you can read the “blotter, Lower Makefield Township Police, and the Next Door App,” and you see people once every couple weeks saying their car has been stolen or broken into, vandalized, etc. He stated they are trying to mitigate that with this storage facility.

Mr. Bodolosky stated their property is on the pre-1987 impervious rules, and with the stormwater mitigation that they are proposing, they will be at or above the post-1987 rules for those management features. He stated he is asking for the impervious number to be “bumped up” to what would be allowed in the post-1987 numbers so that it is not exorbitant.

Mr. Bodolosky stated he has a 1,000 aerial Plan. He stated at the last meeting it was mentioned that this is a “monstrosity,” and there are numerous properties in the area that have if not a combination of out-buildings, the same or larger out-buildings in the area so it is not uncommon for the neighborhood to have a large out-building of this size. Mr. Bodolosky stated several structures that are in the neighborhood are over the 15’ height limit. He stated the neighboring property is approximately 18’ to 20’ above grade so the Variance for the height should not also be outside of the norm as he has seen that at times the Board has allowed that Variance to go for higher heights for the extra storage within a storage facility.

Mr. Bodolosky stated no one’s views will be obstructed, and this will not encompass the entire property. He stated you may have to look left or right a little more; but the one neighbor who mentioned that his view was obstructed, if nothing is built, his direct view is another fence and garage within 50’ so he does not understand where that obstruction of view was coming from.



Mr. Bodolosky stated with the number provided for the runoff and all of the stormwater management, he asked that the Board re-consider the Variance that was Continued from last meeting.

Mr. Connors asked about the calculations that were submitted in the report. Mr. Bodolosky stated he asked his engineer to over-engineer for his property because he has a large amount of run-off that comes from other properties as they are one of the lowest in the area. He stated his neighbor, Deb Shaffer, is the lowest; and they share the one spot that is extremely low. He stated he asked the engineer to figure for the ponding that happens for a 100-year storm as well as managing everything that faces that low spot so that any runoff that is produced will be captured and contained until it can perc. He stated at the last meeting it was stated that they did not know if it was going to perc; and he stated while they do not know that yet, his site excavator absolutely knows that when he is digging if he gets to the point where it is still clay or he is still not getting pervious, he has the autonomy to move the location to someplace that will perc. He stated if required by the Township, they will test.

Mr. Flager marked the aerial as Exhibit A-8.

Mr. Connors stated in the report submitted, the engineer indicates that the stone pit system is designed for half of the existing dwelling roof top, the ponding area, and the new garage structure; and Mr. Bodolosky agreed. Mr. Bodolosky stated that is because the front does not face that slope so everything that runs off the back collects in the middle back, and the front actually rolls off to the storm drain on Walnut and goes down to the creek.

Mr. Connors asked Mr. Majewski if he has reviewed the Stormwater Management Report, and Mr. Majewski stated he has reviewed it. Mr. Majewski stated the stormwater management system is designed for the 100-year storm. He stated as was stated previously, typically for smaller projects we require that they control the volume of run-off from typically what is considered a 2" rainfall or one-year storm, and this was sized for the 100-year storm for the areas mentioned.

Mr. Connors asked if there is a new design for the building. He asked if Mr. Bodolosky is still asking for the height as submitted. Mr. Bodolosky stated he would like to keep that as Option A.

Mr. Dougherty stated he feels we have the Ordinance for a reason and 25' is excessively higher than what our Ordinance allows. He added that he is against a 25' high outbuilding. Mr. Bodolosky asked if that would be even if adjacent buildings are above the Ordinance. Mr. Dougherty stated he understands Mr. Bodolosky's feeling on that; however, a lot of those pre-date the current Zoning Ordinance, and those out-buildings were put in prior to the current Ordinance so they are grandfathered in. He stated they have been told that the neighbor is at 18' to 20', and Mr. Bodolosky is requesting 25'.

Mr. Dougherty stated there were neighbors on both side of Mr. Bodolosky who spoke at public comment and indicated what was proposed was a problem for them, and he finds that compelling. He stated he does understand what Mr. Bodolosky is trying to do to protect his cars, create attic space for tools and seasonal decorations, and clean up the yard as that case was made very well. He stated when he looks at a building that is 50' by 35', he feels that there is room to bring the height down to something much more reasonable than 25' and still find storage along with space for the Classic cars.

Mr. Connors stated he understands that Mr. Bodolosky is trying to protect his cars which are a big investment but he agrees that this is a big structure with the tall height associated with it for an accessory use. He stated if Mr. Bodolosky were to find a way to reduce the overall height, he would be more open to it; and he believes that the Board would be as well. Mr. Bodolosky stated he could come down to 20' if that would appease the Board. He stated he feels that would give him enough crawlspace to put some seasonal items and landscaping items; and he would not have more than 6' at the peak to get into, but he could bring it down to that level so that he could "split the difference."

Mr. Dougherty stated 20' would work better for him. He stated he agrees that from an elevation stand point, the higher roof ridge is a more attractive building; however, we have the Ordinance for a reason. Mr. Dougherty stated he would be willing to compromise, and he likes that Mr. Bodolosky came forward and is trying to solve a problem in terms of the stormwater that collects on his property and his neighbor's property. He added that he is hoping that when this project is done, he will have solved that problem. He stated since he is trying to solve something that he does not have to solve, he is willing to compromise; and he would be okay with 20'.

Ms. Reiss stated 25' was high as the average two-story home is about 18'. She stated with 20' she feels Mr. Bodolosky should have more than enough space for storage. She stated she would be in favor of 20'.

Mr. McVan stated he would be fine with 25' which he feels would be a better looking building. He stated it increases the property value, and it goes along with what the neighborhood is trying to do. Mr. Bodolosky stated they were trying for an aesthetic that fit the neighborhood that did not look out of place or "trashy," and that he could actually get into and store the things that "are not cars." Mr. McVan stated he feels it looks like a barn. He stated he has driven around the neighborhood, and he feels it looks like a barn/carriage house. He stated he feels the 25' is okay, and he does not feel the 20' will look as good.

Ms. Kirk stated she was directed by the Township to oppose the Application primarily due to the height of the structure, and it would look like two houses sitting on one lot as opposed to a house with an accessory structure. She stated if the Board were inclined to grant the relief, she would ask that any approval be subject to the inclusion specifically of the stormwater plan that was presented. She stated he has indicated that he is going to put in 85 to 90 tanks, and she would ask that be made a specific condition in light of all of the research and information provided as to how this stormwater management system is designed to not only take care of the additional impervious surface, but also to help reduce what is existing on the property as it is now.

Mr. Dougherty stated he agrees with Mr. McVan that aesthetically a 25' high building would look better than a 20' high building.

Mr. Connors stated he feels that there is a way to dress up either a 25' high or 20' high building to make it look appealing. He stated they could do a gable or something to dress up the roof line, and there are a lot of opportunities so that it does not look like a second house on one lot which is his primary concern.

Mr. Bodolosky stated he would be willing to explore those options with the Board if so needed to make some aesthetic adjustments so it does not look out of place. Mr. Dougherty stated what he believes Mr. Connors was stating was that if they are granting him 20', he feels that there is a way to make that aesthetically pleasing; and Mr. Connors agreed.

Ms. Deborah Shaffer stated she was sworn in previously. She stated her property is part of the Makefield Terrace development, and her Deed is subject to certain restrictions as far as Makefield Terrace is concerned. She stated

included in the restriction is specific to any garage or other building that may properly go with the dwelling shall be in the rear of the dwelling and shall harmonize with the architecture “or the same.” She stated she realizes that is subjective as far as what it really means, but she feels that 25’ was excessive based on her interpretation of this.

Ms. Shaffer stated she believes that based on the topographic map that was conducted prior to the re-doing of the pool, the stormwater retention area is undersized. She stated that is mostly due to the topo elevations as far what the 116.3 contour is that is on both of the properties although she is at the low spot. She stated the area that is being managed is actually a little bit less than the actual issue based on pictures which she can provide.

Mr. Flager stated at the last Hearing Ms. Shaffer submitted photos which were Shaffer-1 and the Survey was Shaffer-2. Ms. Shaffer stated the only difference is that she isolated the contour of the 116.3 topographic elevation that is on 116 going into 119, which is her property. The photos submitted tonight were marked as Shaffer-3. Ms. Shaffer stated this is from an April 6 rain event and based on the supporting documentation it was 2” of rain. She stated low spots can be seen relative to 116 Walnut as well as her property which she feels are undersized and still need to be addressed.

Mr. Connors asked if Ms. Shaffer recognizes that the Applicant only has to provide stormwater for his addition, and everything else he is doing is “out of the goodness of his heart.” Ms. Shaffer stated based on his addition, based on the low spot in the center of his property. Mr. Connors stated the Township Code only requires him to do stormwater for his addition, and everything above and beyond that he is doing because he wants to. Ms. Shaffer stated she understands that, but she was making the point that what he is suggesting doing is still undersized for his property.

Mr. Flager asked Ms. Shaffer if the photos are new or old, and Ms. Shaffer stated they were from April 6, but she is not sure if they submitted from that angle previously. Ms. Shaffer stated she also included rainfall precipitation from that period. Mr. Flager stated the new Plans were marked as Shaffer-3 and the information about the rainfall was marked as Shaffer-4. Ms. Shaffer apologized for being redundant as she did not remember exactly what photos she provided previously.

Ms. Shaffer stated she can also submit an Exhibit which she did not submit “prior to her first point.” She stated it is “subjective to the properties that about the lane which is properties 35, 34, which is his, and hers is 35.” She stated that is the reason why all the properties that are subjected under the Makefield Terrace Development are subject to those restrictions.” She stated while she does not know what his Deed reads, she would assume it would probably read the same because that is also part of the tennis court. Mr. Flager stated this was marked as Shaffer-5. He read from the information submitted by Ms. Shaffer.

Ms. Shaffer stated her garage was Permitted in 1995, and the Permit on Record has it at 16’ high; and it is 25’ by 35’.

Mr. Bruce Witt, 122 Walnut Lane, was sworn in; and he added that he was present at the last Hearing. He stated Mr. Connors had indicated that all the owner has to address is what is going to be happening as far as the current addition, and he knows that Mr. Bodolosky is going above and beyond that. Mr. Witt stated some things have changed a little bit as Mr. Majewski had indicated he had been out there multiple times before; but with the re-paving of Walnut Lane that happened last year, there has been some changes as it has increased as far the drainage coming through. He stated with the current situation, there was a heavy rain after the last meeting, and at his own property there was water that was covering half of the driveway coming to the front of the house because of the increased water that is coming down Walnut Lane to where the intermittent stream is. Mr. Witt stated he appreciates what is being done as far as the drainage is concerned, but there seems to be additional water overall from when the re-paving was done.

Ms. Jill Olivant and Mr. Walter Olivant, 9 Oak Avenue, were sworn in. Ms. Olivant stated she knows that Mr. Bodolosky does not think it is an issue to have that size of a building, but the back of their house and especially their sunroom is in direct line with where he is going to build the building. She invited Mr. Bodolosky and the Board to sit in her sunroom to see that she will not be able to see any trees after the building is built if it is at 20’ or above. She stated she asked the Board to reconsider allowing this Variance. She stated someone had stated it will increase Mr. Bodolosky’s property value, but it will certainly decrease her property value. She stated they have been there for twenty-three years, and one of the selling points was the parklike setting in the back of their house. She discussed what has taken place at other neighboring properties.

She stated she will have a hard time selling her house if that building is allowed to be over 20'. She stated Ms. Shaffer indicated her building in the back is 16' so it is within reason of what can be built. Ms. Olivant stated the Board had asked Mr. Bodolosky to try to speak with the neighbors, but he never made an effort; and they cannot work with him if he is not going to speak with them about this.

Mr. Olivant stated the proposed structure is larger than everyone's house coming from Oak Avenue. He stated it is larger than Mr. Bodolosky's house and Ms. Shaffer's house, and it is not conforming to what look like a storage building or access building behind his house. He stated Mr. Bodolosky's pool is behind his house, and then there is water, and that water has been sitting there. Mr. Olivant stated there have been some rain storms, and there has been a 20' by 30' pool of water a half foot deep that has been sitting in the back yard, and is still sitting in the back yard. Mr. Olivant stated that is an existing water issue, and no Variance over the allowable 18% should be allowed. Mr. Olivant stated Ms. Shaffer's building is about 16' to 17'. Mr. Olivant stated if the proposed building will be taller than 15' or 16', they will not be able to see the tree line of the preserved area that is behind the tennis courts. He stated Mr. Bodolosky took down a lot of the bushes and a lot of the trees; and although Mr. Bodolosky stated maybe the trees needed to come down, he does not know if that is a valid point or not. He stated he took down ten trees, and this has to add to the water sitting there now since now it is ten trees that are not drinking the water even if he planted saplings. Mr. Olivant stated he does not know where they are because he cannot see any "but a couple which is two or three not ten." He stated they are not taking up that water.

Mr. Olivant stated this is going to decrease their view and the value of their property because no one is going to want to buy their property, "although if they will it will just decrease their property value by 10% or 20% or 5%." He stated the building height should not be allowed to be over "15', 16', 17', 18'." He stated a Board member indicated that the barn size was not bad at 25', and he stated they should put it 75' behind his house. He stated this will be to the far extent of Mr. Bodolosky's property.

Mr. Olivant stated Mr. Bodolosky's idea of putting in this storm management system is going to improve anything that is there now, but that is not adding a building that is 3,500 square feet or any additional concrete; and that is just the water that is there right now. Mr. Olivant stated the building would not be over 15' or 16', and the size needs to be reduced not to exacerbate the existing water problem. Mr. Olivant stated in 1999 when they moved in

there were floods from Hurricane Floyd, and there was almost 1 ½' to 2' of water on Ms. Shaffer's property, Mr. Bodolosky's property, and some of his own property.

Mr. Olivant stated the "big question" he has is that he does not see a driveway shown to get to this building from the front of Mr. Bodolosky's property. He stated his only access that the Township has approved for access on this property is through Walnut Lane. He stated there is an access in the back that is basically an alley access, and all the neighbors can walk back there by foot, but the "three people who are owners are 9 Oak Avenue, 11 Oak Avenue, and the tennis court" have been using this as an Easement and right-of-way for many years, and that has been an Agreement with those property owners. Mr. Olivant stated he "asked everybody around here how is there access to this proposed access storage building other than through Walnut Lane." Mr. Olivant stated as the only adjacent property owner to Mr. Bodolosky he is not going to say yes through his property or through the Easement that he had been maintaining for over twenty-one years to allow him "construction/operation of this building" through that Easement. He stated the Township wanted nothing to do with the Easement, and they do not want to maintain it, and they have said that when he tried to move in twenty-some years ago. He stated he is "claiming as a right-of-way/the Easement for the property owners at 9 Oak, where he lives, 11 Oak Avenue, and the tennis court they have been using for convenience purposes for vehicles." He stated he maintains it. He stated the neighbor at 11 Oak Avenue on the opposite side of this Easement does not even have access to their own property in the back because the garage blocks it. Mr. Olivant stated Mr. Bodolosky does not have any rightful legal access other than what the Township may approve, and he would like the Township to address this; and that any approval of a building whether it is 15' or 20' high should be from Walnut Lane. He stated unless Mr. Bodolosky wants to sit down and come to an Agreement, he will say no as the only person who has maintained it for over twenty-one years along with the tennis court and the other neighbor "that we have access along Oak Ave;" and this is not meant for his access. Mr. Olivant stated he would like the Township to address this.

Mr. Olivant stated if this is for the primary use of classic vehicles and Mr. Bodolosky is going to be repairing and storing vehicle and parts "back there, he does not know how he is going to get any vehicle back to this storage building unless it is flown in."

Mr. Dougherty stated he just checked the Tax Map for this property, and it appears to be a public alley. He stated while it may be in a Deed as a right-of-way, it is on the Tax Map; and if it were purely a right-of-way or an Easement, it is his experience that you would not see it on the Tax Map.

Mr. Majewski stated the alley that is behind the property is shown on the Recorded Plan for this Development. Mr. Majewski stated Mr. Olivant would have to consult an attorney about who has rights to it, but it is his understanding that all the people who abut that alley have the right of access through it.

Mr. Olivant stated if they want to call it an alley, an alley by designation in terms of the "Department of Vehicle Use" is meant for an urban area, and people can bicycle "back there and he sees women go back there with their dogs and their babies" and it is meant for alley access by foot. He stated Mr. Bodolosky could walk in by foot. He stated the tennis court along with "us and the other property owners before me back in the 1950's" used only the access from either Walnut Lane or Oak where they lived. He stated this was used for the tennis court as a convenience since it is not a true right-of-way, "they were using it as a right-of-way." He stated "since they did use it for over twenty or thirty years, it could be considered as such." Mr. Olivant stated he asked the Township, and they said they were not going to maintain it, and the property owners at 11 Oak Avenue had been maintaining it. He stated the property owner at 11 Oak Avenue told her in 2000 "that she was getting old and did not want to keep doing it, and he said he would take it all year." Mr. Olivant stated the "tennis court is back there for six or seven months, and they did not want to do it, and the Township said they could not do it because it was not 33' wide, and it is 16' and is meant as an alley for walking purposes only." Mr. Olivant stated it is not for driving, but as a right-of-way the "tennis court and he go back and forth; and he says if the tennis court does not want to obey their nice speed limit that they came up with because we all have children, that is it – no more access." Mr. Olivant stated that the prior owner of Mr. Bodolosky's property, "Jim Harm, said that he was only going to use it temporarily here or there." Mr. Olivant stated he has allowed Mr. Bodolosky "in a sense because he had to re-construct the pool; and he did not mind the vehicles going back there, but it totally trashed the entire yard." Mr. Olivant stated Mr. Bodolosky is not going to have access by vehicle unless there is some Agreement with him as a "primary because he connects to Mr. Bodolosky's property, and he can drive from Oak through his property, and into his back yard property." Mr. Olivant stated



Mr. Bodolosky can get his vehicles “legally through his property, but he cannot go through 11 Oak Ave as they cannot even get to their property behind their storage garage.” He stated he cannot access it through the tennis courts although the secondary property, Ms. Shaffer, access it through the tennis court.

Ms. Kirk stated this is getting far off the topic, and it is going into a different realm that is not necessary to the Zoning Application as to who owns the alley, whether it is to be used for vehicular traffic or pedestrian; and this is above and beyond the Zoning Hearing Board.

Mr. Olivant he hopes that the only approval the Township is giving is the “only legal access through Walnut Lane because any other access the Township has given up their right to maintain this Easement, that the tennis court, 9 Oak Avenue, and 11 Oak Avenue use.” He stated they can “cut that down to vehicle access or no vehicle access, but nothing gives Mr. Bodolosky the right to access that because the Township does not maintain it as a right-of-way or anything.”

Mr. Flager stated there is the Township and there is the Zoning Hearing Board. He stated the Zoning Hearing Board has no control over a Township Easement or Right-of-Way so that is outside of the powers and purview of the Zoning Hearing Board. Mr. Flager stated the Township will have to deal with that or whatever is on the Deeds would govern that, and that is not before the Zoning Hearing Board. He stated what the Zoning Hearing Board is dealing with is the impervious surface and the height.

Mr. Olivant stated Mr. Bodolosky is going to have to increase his impervious cover a lot to make his driveway from Walnut Avenue to access the back of his storage building. Mr. Flager stated that potential for a future access point is not in front of the Board. He stated if that were to come before the Zoning Hearing Board, that would be an additional Application for impervious and anything else; and they would have to show stormwater remediation and the like. He stated that is a speculative Variance in the future. Mr. Olivant stated it is not speculative in the sense that if they are going to give him approval in any way for this oversized building and over the impervious surface amount, they are going to add water and add this building. He stated they are not saying how he is going to access the building he wants to put vehicles in when he has no vehicle access drawn.

Mr. Connors stated according to the Plan presented, he has vehicle access by alley. Mr. Connors stated this is outside of the scope of the Board's purview. Ms. Olivant asked who they should contact about the Easement. She stated when they first moved in, they went to the Township about this Easement; and they "said they had nothing to do with it." Mr. Connors stated it is not an Easement. Ms. Olivant stated if it is a public accessway, who is going to maintain it. Mr. Connors stated this is outside the scope of this discussion.

Mr. Olivant stated they are giving access approval but there is no way to access it. Mr. Dougherty stated they understand Mr. Olivant's point, but that will be an "argument for a different day based on how the Board renders a decision."

Mr. Majewski stated if they wanted to lower the height of the building, if they made it 30' deep rather than 35' deep, they could still fit a car and a lot of storage, and keep close to the roof pitch and get down to 20'. He stated that would reduce the impervious surface and reduce the roof height to be closer to being in conformance. He stated this would be a slightly flatter roof pitch and the height could be reduced from 25' at the peak down to 20'.

Mr. Bodolosky stated he was prepared to come down to 20' on the structure. He stated with regard to the impervious, looking at the 1987 pre and post numbers, they are at the post 1987 impervious limit with the stormwater mitigation; and he feels that with all of the mitigation they are doing, they should be allowed to be in that impervious range instead of the pre-1987.

Mr. Flager asked Mr. Majewski what the effective rate would be with their proposed stormwater management, but Mr. Majewski was not sure. Mr. Flager asked if would be down to the current 14.1%, and Mr. Connors stated he feels it would be more than that because they are also mitigating off-site run-off. Mr. Majewski stated it would be significantly reduced below what is currently there; however, as Mr. Bodolosky and some of the residents have pointed out, there is the flooding problem that he is helping to address. He stated there will be a significant reduction.

Mr. Dougherty stated from an impervious standpoint, he is very happy with the stormwater management plan because there is currently a flooding problem. He stated he is confident that the plan will give relief, and that is factoring in the fact that he is trying to build a 35' by 50' building with a 20' roof. He stated he is in favor of this if he comes down to a 20' roof.

Mr. McVan stated he is in favor of the 20' roof, and feels it is a great plan.

Ms. Reiss stated she agrees, and mitigating the problem was the foremost thing that will help not only Mr. Bodolosky but also his neighbors and the neighborhood. She stated she would be happier with the 20' than the 25'.

Mr. McVan moved, Mr. Dougherty seconded and it was unanimously carried to approve the Variance with the change to a 20' roof subject to conformance with the Site Plan and Stormwater Management Plan as submitted and subject to review by the Township engineer.

#### OTHER BUSINESS

Mr. Majewski stated the next meeting is July 5, 2022, and when he polled the members previously, three were available; and Ms. Reiss has just advised that she is also available.

There being no further business, Mr. Connors moved, Mr. Dougherty seconded and it was unanimously carried to adjourn the meeting at 9:48 p.m.

Respectfully Submitted,

Judi Reiss, Secretary

