

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – JANUARY 3, 2024

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on January 3, 2024. Mr. Flager called the meeting to order at 7:35 p.m.

Those present:

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

Others: Dan McLoone, Planner  
David Truelove, Township Solicitor  
Adam Flager, Zoning Hearing Board Solicitor  
Daniel Grenier, Supervisor Liaison (joined meeting in progress)

Absent: James Dougherty, Zoning Hearing Board Vice Chair

REORGANIZATION OF THE BOARD

Election of Chair

Ms. Reiss moved, Mr. Connors seconded and it was unanimously carried to elect Peter Solor to remain as Chair.

The meeting was turned over to Mr. Solor.

Election of Vice Chair

Mr. Brand moved, Mr. Connors seconded and it was unanimously carried to elect James Dougherty as Vice Chair.

Election of Secretary

Mr. Connors moved, Mr. Brand seconded and it was unanimously carried to elect Judi Reiss as Secretary

APPOINTMENT OF SOLICITOR

Mr. Connors moved, Mr. McVan seconded and it was unanimously carried to continue with Flager & Associates as solicitor.

APPOINTMENT OF COURT REPORTER

It was unanimously carried to appoint Ed McKenna as Court Reporter.

APPEAL #Z-4-2042 – WILLIAM SZABLEWSKI

Tax Parcel #20-004-057

2154 W WELLINGTON ROAD, NEWTOWN, PA 18940

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to approve a Continuance to February 6, 2024.

APPEAL #Z-24-2043 – PATEL

Tax Parcel #20-060-305

518 CLARENDON COURT, YARDLEY, PA 19067

Mr. Ronak Patel was sworn in. He stated in front of the Easement, they had planted arborvitaes. He stated twenty years ago they approached the Board requesting to put up a fence, but it was denied. He stated they are again looking to install a fence. He stated the arborvitaes keep dying, and it is unsightly. He stated they also want to put up a fence because of increased traffic and visibility from the road. He stated there are also people using the Easement with motor vehicles. He stated they go across with ATVs and golf carts and other things.

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 Bucks County Parcel and Floodplain Aerial Overview was marked as Exhibit A-3. Two Google photographs of the property and trees were marked as Exhibit A-4. An aerial photograph of the property with the existing and proposed fence was marked as Exhibit A-5. 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. Reiss asked if there are any other fences that would be considered a front yard fence in the neighborhood. Mr. Majewski showed the aerial photograph that shows the site and this property. He stated the property is at the end of Clarendon Court and backs up to Stony Hill Road. He stated there is a row of arborvitaes, and Mr. Patel would like to place a fence along that area extending up to the cul-de-sac. He stated there are other properties on nearby properties up and down the road, but in this neighborhood, his property is at the end of the road.

Mr. Brand stated Mr. Patel indicated there are motor vehicles going by in the Easement, and he asked if this is parallel to Stony Hill Road. Mr. Patel stated it is parallel to where the fence is proposed and perpendicular to Stony Hill. He pointed out the white van in the cul-de-sac on the slide, adding that behind it there is a ramp, and that ramp follows through to Stony Hill, and that is the Easement. Mr. Brand stated people are driving through the cul-de-sac, and Mr. Patel agreed. He added that there are two posts with a chain close to the Stony Hill side, but that does not stop anybody.

Mr. McVan asked if they are driving cars through that area, and Mr. Patel stated it is ATVs, golf carts, and smaller vehicles.

Mr. Connors stated he wants to put a fence along the red line that is shown as a fence is already installed along the yellow line; and Mr. Patel agreed.

Mr. McVan stated he understands that because the fence is proposed in the front yard, he is not permitted to have the white 6' high fence. Mr. Solor stated that rule was recently revised with regard to setback versus height.

Mr. Majewski stated that was for corner lots where we pushed it back 3' for every 1' in height you go up.

Mr. Patel stated the other issue is that there is an Easement as there is a stormwater drain on the other side where there is a swale.

Mr. Solor stated if the Board were to grant approval, they would Condition it on the Applicant removing the fence at no cost if needed by the Township to access the Easement. Mr. Patel stated he would agree to that.

Mr. Brand stated you can see on the Google maps photo that the arborvitaes they have are dead.

Mr. Truelove stated the Township is not participating in this matter.

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

Mr. McVan stated while it is the front yard, looking at the picture it feels like it is the side yard, and Mr. Connors agreed.

Mr. Connors moved, Mr. Brand seconded and it was unanimously carried to approve as submitted subject to the Applicant removing the fence if the Township needs to access the Easement.

APPEAL #Z-23-2028 – TURCHI  
Tax Parcel #20-032-023-002  
0 BIG OAK ROAD, YARDLEY, PA 19067  
(Continued from 11/21/23)

Mr. Flager marked the Exhibits as follows: The Application was marked as Exhibit A-1. The 15-sheet Plan Set was marked as Exhibit A-2. The Rockwell Associates Tree Review Woodland Plot Sampling dated January 24, 2023 was marked as Exhibit A-3. The Revised Zoning Plan dated 9/19/23 was marked as Exhibit A-4. The Keystone Tree Experts 12/7/23 Report was marked as Exhibit A-5. 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. Bryce McGuigan, attorney, was present with Mr. Rich Turchi, Applicant who was sworn in.

Mr. McGuigan stated Mr. Turchi and his wife, Cheri, are the owners of the vacant property located along Big Oak Road. He stated the property is 1.39 acres, and is currently Zoned as R-3 Residential. He stated it is presently unimproved, and the land is otherwise covered in woodlands. He stated the Plan is to construct a single-family home on the property. Mr. McGuigan stated that while Mr. Turchi is a contractor with decades of experience building homes, this is not an investment; and this will be the personal home for Mr. Turchi and his wife. Mr. McGuigan stated Mr. Turchi is committed to the project and has done quite a bit outside of this context tonight which he suspects an investor would not do in terms of talking to neighbors and trying to address concerns.

Mr. McGuigan stated Mr. Turchi and his wife currently live in Bensalem in a very nice neighborhood, but it does not have the nature that there is in Lower Makefield Township which is one of the reasons that they purchased the property, and is one of the reasons that they want to build their home there. He stated they do not want to clear cut the lot, and they want to live on a wooded parcel which has nature in it. Mr. McGuigan stated to develop the lot, they do have to remove some of the existing woodlands in order to facilitate building the home.

Mr. McGuigan stated the issue is the nature and the scope of the woodlands on the property are causing certain problems for Mr. Turchi. Mr. McGuigan stated Mr. Turchi had a tree survey done by Rockwell Associates, and they understand that Rockwell has also done certain tree survey work for Lower Makefield Township as well. He stated John Hosbach went out to the site and looked at the trees, and his commentary was that because these trees in an undeveloped, unkept way, what there is now is a collection of very densely packed together, tall and thin trees; and when you start removing some of these trees not only will it interfere with the tree roots of other trees as they are all intertwined, but also when the outer trees are gone, the inner trees are not able to cope with some of the wind and weather elements that they have been shielded from for decades of growth. He stated because of that there will be some issues with maintaining the woodlands in such close proximity to a Residential home.

Mr. McGuigan stated with that opinion in mind, Mr. Turchi submitted an initial Zoning Application requesting to preserve only 27% of the woodlands on the parcel when the requirement is to preserve 70%. Mr. McGuigan stated since that time, Mr. Turchi has learned of the importance of the natural resource protection standards in Lower Makefield. He stated Mr. Turchi had another tree expert take a look at the property and do a secondary tree survey; and he has tried to re-visit his Plans. Mr. McGuigan stated the second arborist, Keystone, confirmed the initial report.

Mr. McGuigan stated Mr. Turchi understands the concerns of the neighbors and the Township, and some new Plans were submitted, with the most recent one showing a woodlands preservation ratio of 56.4%. Mr. McGuigan stated that is the only Variance that they are requesting. He stated they are trying to strike a balance between developing the property but also preserving what is on site.

A slide was shown of Page 1 of the Initial Plan that was submitted, and it shows the trees being taken back almost to the property line. Mr. McGuigan stated this is not the Plan that they are present with tonight. He stated initially their goal was to take the tree line back to where it is shown, but the Turchis were going to re-forest much of that area with trees that are designed to be planted near homes which are heartier, more robust, can better withstand the elements, and are safer. He stated while that was always their plan, when they realized that certain woodlands protection standards were in play, they retained the arborists and looked into this further.

The current Plan was shown which shows the tree line has been contoured to the site. Mr. McGuigan stated what they are now proposing is to remove only the trees that are necessary to allow them to build the home. The front of the property was shown where trees are proposed to be removed because that space is needed for the underground stormwater management system, the driveway, and the parking area. He stated they are proposing to be able to park three vehicles there because the property is on Big Oak Road, and there is not a lot of street parking so they wanted to have a much off-street parking as possible. He stated they are trying to be reasonable and strike a balance.

Mr. McGuigan stated to the rear, they are showing a small, in-ground pool, and a small backyard. He showed an area to the top left which is the connection to the sewer where there is a Sewer Easement to the rear of the property. He stated there could not be trees too close to where you are connecting to a sewer main as that could be a problem.

Mr. McGuigan stated because of the nature of the trees being “tall and scraggly,” you do not want them overly close to the home since they would be in “striking distance.” He stated what they are proposing is to maintain the tree line on all sides of the development; and as certain trees likely die given what has been indicated in both tree reports, they will be replaced with hearty, robust trees that are designed to co-exist with a Residential development. He stated they are not proposing to clear cut the lot, and the goal is for the Turchis to live in a wooded area. He stated that is all that they are asking for tonight, and they just need a little bit more relief than what the Ordinance would otherwise require. He stated they need this because of the orientation of the lot and the required setbacks from Big Oak Road.

A slide was shown of Page 3. Mr. McGuigan stated when they were previously before the Board, there were approximately 20 neighbors present who were very interested in the project. Mr. McGuigan stated at that time, he and Mr. Turchi spoke to most of those neighbors outside of the meeting for about 45 minutes to an hour. He stated one of the biggest concerns that they heard was that a lot of the neighbors thought that Mr. Turchi was the owner of the property to the right, and they are not; and someone else owns that lot. Mr. McGuigan stated apparently that individual did not go through the proper process to seek relief to disturb the woodlands. He stated that is not what Mr. Turchi is doing. Mr. McGuigan stated shown in blue on the slide to the right of the drawing shows “more or less” the trees that the adjacent property has removed to build their home. He added that based on Google maps, it seems that they removed even more than what he highlighted, and he was trying to be conservative. He stated they went through the site and “hacked down a whole bunch of trees.” He stated the woodland border that the three homes that border that property, are now gone; and that is not what Mr. Turchi is doing. He stated they are only removing the trees that they have to, and the tree line that they are keeping will be maintained in perpetuity. He stated they would agree to any conditions or restrictions to codify that so that future property owners do not take liberties. He stated they are trying to do something materially different from what the other property owner did.

Mr. McGuigan stated they also understand that when the other property owner built the home, they did not add the stormwater management for quite a while, and that some of the neighboring property owners experienced water issues during that time; and as Mr. Turchi will testify, he is going to do things differently.

Page 8 of the Tree Report was shown with a view from floor of the wooded area skyward. He stated it can be seen how long and narrow the trees are. Page 9 shows what is seen throughout the lot which are dense trees packed closely together which are narrow in nature and tall. Mr. McGuigan stated these are not the kind of trees that you want in close proximity to a home. He stated they are not against trees, but they are against the wrong trees. He stated they are requesting the one Variance for the 56.4% preservation ratio with a Deed Restriction that would require maintaining that ratio moving forward, and that they will maintain a woodlands there using the advice that Mr. Turchi received from two separate, certified arborists to reforest the area with something that would be more beneficial to the area than what is there which is “a bit of a mess.”

Mr. McGuigan stated Mr. Turchi is a long-time contractor in the Lower Bucks County area and a Lower Bucks County resident. He stated he builds Residential and Commercial structures. He stated Mr. Turchi is highly committed to this project because it will be his home. Mr. Turchi stated since the last Hearing which was Continued and when they spoke to neighbors outside, Mr. Turchi visited approximately fifteen to twenty of the neighbors to the rear of his property to discuss with them their concerns and his development and to answer any questions that they had. Mr. McGuigan stated he hopes that had a positive impact; and while he knows that there are some neighbors present tonight, there are a lot less than the number of neighbors who were present previously.

Mr. Turchi stated he owns Turchi Construction which is based out of Bensalem. He stated he has been in business for thirty-three years. He stated he is a working boss, and he is on every job. He stated he and his wife reside in Bensalem; and when they were deciding to move and build their own home, they chose Lower Makefield. He stated he has done a lot of work in Lower Makefield, and they love it here. He stated Bensalem is very congested compared to what it was when he moved in Bensalem when he was sixteen. He stated he and his wife looked at ten properties, but his wife fell in love with the property on Big Oak Road because it is a wooded property. He stated they love trees and privacy. He stated he has four children and six grandchildren.

Mr. Turchi stated he is asking for 14% relief in the name of safety. He stated when he was fourteen a tree came down and his house and severely hurt his brother. He stated he does not want that to happen here. He stated their original plan was to take out the sweet gum trees which are “nasty, dirty tree which would clog his stormwater.” He stated if they were to leave the trees as they are, it will be a disaster. He stated they were originally requesting leaving 26% of the trees but have their landscaper/arborist try to preserve what is left and do what can be done to save them. He stated they were then going to plant other trees in place of the trees taken out. He stated he then “looked at the limited disturbance and the kickback they were getting from the neighbors.”

Mr. Turchi stated he understood the neighbor’s reaction because the “guy who is building the house to the right and the left of him, he had nothing to do with him.” He stated he knows Prime Builders and “George K,” but George K is not building his house, as he is building his own house.



Mr. Turchi stated he now is trying to preserve what they have, and he is asking for 14%. He stated he will have his arborist go in, “manicure, clean, fertilize, and save what is there and build from there.” He stated he understands the concerns of the neighbors since they have had to look at the “property that has been under construction for a year and a half.” He stated it is an eyesore. He stated he told the neighbors and will tell the Board that if they read his reviews and look him up, they will repeatedly hear “integrity.” He stated he told the neighbors was that from the “time the bucket hits the ground, four months’ time, he will have grass growing on his property.”

Mr. Turchi stated he has been involved in “about eight tree strikes in his career.” He stated one of which was no more than two years ago in Bensalem Township when a tree came down and took the family room out of a property where someone had been sitting just moments prior to. He stated there was also an instance in Southampton a year and half ago when a tree came down and killed a two-year-old boy who was playing in the yard. He also noted an incidence in Upper Dublin two years ago when a tree came down and hit house which killed the wife and severely hurt the husband and two other family members. He stated that is what he is trying to avoid. He stated that is the only reason that he is trying to back the trees up away from his house. He stated this is not an apartment complex or a townhome, and these are \$1 million homes that are being erected on these three properties. He stated he is sure that all three are going to be very similar and will all have the curb appeal that he feels Lower Makefield Township is looking for. He stated if his plan is granted, he is sure that his home will be built before the ones on either side of him are finished.

Mr. Turchi stated he originally submitted for his Permits last November. He stated he pulls Permits in every Township in Bucks County, and he has never “been through something like this.” He stated he was rightfully Denied his Permit because he was asking for more than the limit allowed. He stated he did not hear anything for eight weeks, and he decided to try to build it within the limits. He stated when he had his engineer design that, and he saw that the trees were 15’ off of his property, he hired John Rockwell. He stated he has never dealt with him before, and he got a referral from a “tree guy” that he knew. Mr. Turchi stated he met with Mr. Rockwell on the property and advised his that he wanted to build his home where it would be safe. He stated Mr. Rockwell’s report was very scientific and to the point. He submitted the report to the Township but did not hear anything for another eight to ten weeks. He stated he finally got a reply and was told, “they do not know who John Rockwell is, and

nor do they understand his report so they are going to discredit his findings. Mr. Turchi stated he heard that it was implied that “John Rockwell fudged his report for monetary reasons just to get paid for the report.” Mr. Turchi stated “to think that somebody would say that about a guy that is in business for twenty-five years and that he would jeopardize his company over monetary numbers would be the same as somebody saying the same thing about me, and he would be flabbergasted to hear that.” Mr. Turchi stated when he heard that, he asked himself if it was possible “that John Rockwell fudged his report just to make a fee.” He stated he then decided to have another report done, and he had it done by Keystone by Herb Hickmott who has been an arborist for forty years. He stated he knew nothing of Keystone nor of Herb Hickmott, and he got his name from an attorney. He showed him his plans and the limits of disturbance, and asked him if he could build his house there.

Mr. Turchi stated he never said anything about John Rockwell to Herb Hickmott. He stated when he received the report from Mr. Hickmott, “it was very to the point, and a two-year-old could read it and understand it.” Mr. Turchi stated it also mirrored what John Rockwell had already said. Mr. Turchi stated he then told Mr. Hickmott that he had a report done and it was the same as his report, and he told him that it was John Rockwell. Mr. Hickmott then told him that he did a report at 1101 Big Oak Road, “and that guy is going to build five homes, and when Herb did that report he said the Township said the same thing that they did not like what he was saying and they were going to discredit the report and hire their own expert.” Mr. Turchi stated the expert that the Township hired was John Rockwell. He stated this is “a little unsettling.”

Mr. Turchi asked “that they not save a tree to give a life.” He stated both of the reports say that a tree will be coming down and take out the house “or kill one of his grandkids.” Mr. Turchi stated he is willing to answer anything that the neighbors ask. He asked the Board that his request be granted, and that they let him build his home.

Mr. Turchi stated when he was present the last time, numerous neighbors said that they have had water problems for twenty years. He asked them if they feel that by having these trees it is helping their water problem because it has not helped for twenty years. He stated he told them that what will help the water problem is the three new homes putting in stormwater management and the Township will tell them where to divert the water. He stated he believes that it will be diverted into the basins which will help the neighbors. He stated when his home is built, it will look like a

wooded lot. He stated he understands that they do not him to clear cut the woods down like “the guy on the corner did.” He stated that is not what he is looking for, and all he is asking for is that the Board grant him the 14%.

Mr. McGuigan stated it is not a 14% Variance, and it is 13.4%. Mr. Solor stated it is actually 13.6%.

Mr. Truelove stated as a builder Mr. Turchi knew that this was an R-3 Zoning District, and Mr. Turchi agreed. Mr. Truelove stated under the applicable Zoning Ordinance, this has the lowest percent of resource-protected percentage of any in the Township. Mr. Turchi stated he was not aware of that. Mr. Truelove stated 70% is the lowest in accordance with the Table in the applicable Ordinance depending on the Zoning. Mr. Truelove stated Mr. Turchi was aware that there were woodlands on the site which is why he wanted to buy it, and Mr. Turchi agreed.

Mr. Truelove stated percentages are based on numbers, and you have to have a number from which to have a percentage to work against, and Mr. Turchi agreed. Mr. Truelove stated he looked at both of the reports, and the one thing they do not have is a survey number of the number of trees. He asked how they know where they got the percentage based on what the Plans show. Mr. Turchi stated there are 248 trees on the property. Mr. Truelove stated he does not see in the second report how that number works against the total number of trees to get the percentage requested. Mr. Turchi stated he only knows that it is 248 trees. He stated even if they stayed with the 70% that has already been approved, where the house goes, those trees come out. He stated he agrees that they do not know that 130 of those trees are not in the area where the house is, and whatever the remaining balance is on the perimeter of the outside. Mr. Truelove stated that he is what he is struggling with which is how you get to that number.

Mr. Truelove stated Mr. McGuigan mentioned the possibility of a Deed Restriction, and he stated they could consider a Deed Restriction that would outline what is the actual tree line that is being talked about; and he asked Mr. Turchi if he would agree to that. Mr. Truelove stated it would be a Deed Restriction attached to the Deed so that it shows the delineation of the tree line that Mr. Turchi discussed where the limits would be. Mr. Truelove noted the Plan A-4 which shows the outline of the trees, and that could be attached as a Deed Restriction to show a delineation if that is the Final Plan that is agreed to by everyone. He stated that tree line could not be invaded by Mr. Turchi or any successor owners of the property going forward; and Mr. Turchi stated he would agree to that.

Mr. McGuigan stated that is a Condition that they would agree to. He advised Mr. Turchi that he would agree that the tree line in the Plan presented with the 56.4% would be maintained in perpetuity; and if any of those trees died, he would agree to maintain that area as woodland, and he would consult with his arborist and plant something else there that makes sense. He stated this would apply to Mr. Turchi and whoever owns the property in the future in perpetuity so that the area shown on the Plan would be maintained as woodlands. He stated this would involve a Recorded Deed Restriction so that future owners would be bound to maintain that as woodlands, and the property would remain wooded forever. Mr. Turchi asked if a tree died he would have to replace it. Mr. Truelove stated he would have to maintain the tree line. Mr. McGuigan stated he would have to maintain it as woodlands. He added that if one to three trees were to die, if he wanted to put in one larger, more lush tree instead, he believes that the Township would accept that.

Mr. Turchi stated he would agree to that. Mr. Truelove stated that is something they would work on with more specifics.

Mr. Truelove stated Mr. Turchi indicated that the Rockwell report and the Keystone report were essentially the same; however, once he had the Keystone report he asked for a less percentage so he assumes Mr. Turchi recognizes that there is a lot of room for a variation of the relief requested.

Mr. Turchi stated while he does recognize that; however, when he looked at both of the reports, they both said the same thing. He stated they said that “all the trees were basically bad, decaying, and a lot of them were dead.” He stated was what raised his concerns about a tree coming down and hurting someone.

Mr. Truelove asked if Mr. Majewski had advised Mr. Turchi that if he were to adjust the lay-out of the house, that he could meet the Ordinance requirements for resource protection. Mr. Turchi stated he did speak to him about that, but when he saw the sketch that Mr. Majewski gave him, the trees were still right on top of the property; and they were back to possibly coming down and hitting the house. Mr. Truelove stated that was a rough sketch, but it was indicated that was something that could possibly be considered. Mr. Turchi stated he did look at the 70%, and he had his engineer do it at 70%; but it brought him “back to these issues that it was close to the house.” Mr. Turchi added that he is not saying that they could not build the house within the limit of disturbance, but there will be a tree that comes down and take out the house and could kill someone.

Mr. Truelove asked Mr. Turchi if it was also indicated in his discussions with Mr. Majewski that even after the property was built, he might have the opportunity to remove trees as part of the process by showing the Township that there are dead and decaying trees that are not worth keeping, and Mr. Turchi stated Mr. Majewski did state that if they were to build it within the limits and found that a tree was dead or dying, that they could take that tree down.

Mr. McVan asked with regard to the percentage if that is the square footage of where trees are located or if it is the number of trees. Mr. Solor stated it is the square footage, and it is related to the ratio on the property by area. Mr. McVan stated the trees are not growing to their full potential; and if they went through and thinned it out and cut it to the lines they are proposing, technically they would have a better, more-thriving property than it is now. He stated currently the trees are overgrown and on top of each other, and it is an unhealthy situation. He stated he sees it as the Applicant is trying to make it a healthier piece of property. Mr. McGuigan stated they agree.

Mr. Solor asked that those from the public wishing to speak also indicate if they want Party Status. Mr. Flager stated Party Status gives you legal rights. He stated you would have Appellant rights if they disagree with the Decision, and they could Appeal it. He stated it is not necessary to have Party Status in order to make comments to the Board.

Mr. Cory Rand, 165 Aspen Road, was sworn in. He stated his back yard abuts the new property at issue. He requested Party Status and stated he is opposed to this Application. He stated a number of other neighbors are here tonight and more were present two months ago. He stated he has spoken to all of them; and the reason those who were present last time that are not here tonight is because they are either sick, on vacation, or have a “conflict of interest.” He stated he believes a number may appear on-line.

Mr. Rand stated when he moved here eight years ago, the area behind Aspen and Big Oak was 100% wooded and undeveloped. He stated there were told it could not be built on because it was protected and because of the significant water issue it would not be feasible. He stated those water issues are ones that they have experienced firsthand. He stated the standing water in their back yard “is terrible and frequent.” He stated it does not matter if it rained within the past few days, the past few weeks, or the past few months.”

He stated they have graded, re-graded, installed French drains, but they are still dealing with standing water. He stated it is so bad that his next-door neighbor will not let their children in the back yard unsupervised because they consider it to be a “drowning hazard.” He stated there are pictures that could be shared with the Board.

Mr. Rand stated removal of the trees will make this worse. He added that it is already happening with the property next door to the Applicant’s. He stated they understand that they are not related and is not owned by the same person; but since those trees were removed, and that lot was cleared, their water issues have gotten significantly worse. He stated they understand that a stormwater drain was installed, but it has done nothing for the properties on his side of Aspen Road. Mr. Rand stated while some of the trees on the Applicant’s property may be decaying or dead, and they have no issue with those being taken down as needed; but the trees provide canopy cover, and their roots help with the water issues and drainage problems that we have. He stated every time a tree gets taken down, it is that much more water that is coming into all of their back yards. Mr. Rand stated that is the main reason a lot of the neighbors on Aspen Road and surrounding properties have vocalized their objection, but it is also the general detriment to the character of the community and the surrounding properties. He stated when they moved in everyone had a “beautiful green space,” and if you look out the back of your house, you cannot see into somebody else’s house; and that is how every property on Aspen Road on their side is. He stated that was the house until the other house behind them was built, and now all they see are piles of dirt, an empty house, and tall, overgrown weeds. He stated it is greatly impacting the aesthetics of their neighborhood.

Mr. Rand stated the question is can the property be developed while still preserving the beauty of the lot and the bulk of its natural resources. He stated that is the reason why we have the 70% preservation requirement. He stated he has reviewed the reports and the Plans and listened to all of the Testimony, and none of that says that this property cannot be developed without a Variance. He stated those who prepared the Rockwell or the Keystone reports are not present this evening so we cannot ask them any questions. Mr. Rand stated Mr. Turchi had indicated that the reports were so straight-forward a two-year-old could understand it; and he stated he agrees because they “say almost nothing of substance.” He stated they do not look at all of the trees on the property, and they just show a picture of a few of them that are in bad shape. Mr. Rand stated neither of the reports say that a Variance is needed to be able to build on the property or that it cannot be developed in strict conformity with the current Zoning Ordinance.

Mr. Rand added that Mr. Truelove pointed out that the Ordinance is the most lenient of all of the Residential Zoning Ordinances in the Township. He stated there is nothing unique about the characteristics of this property, and the owner is not being deprived economic use of the property if the Variance is not granted. He stated the property can still be built on, and there is no undue hardship. He stated if there is any hardship, that has existed since Mr. Turchi purchased the property.

Mr. Rand stated his Lot is .33 acres and the Applicant's lot is 1.39 acres. He stated he does not understand why they need to tear down approximately 45% of the trees on the property in order to build 6,200 square feet of impervious surface. He stated there has been no basis or justification for that. He stated they know that want to put a pool in, but they are not entitled to maximize profitability. He asked if they want to put a pool in, why are they building on one of the most heavily-wooded lots in Lower Makefield. He stated any hardship is self-inflicted.

Mr. Rand stated he has nothing against Mr. Turchi personally or professionally, but this is not a matter of whether he likes him or not. He stated Mr. Turchi mentioned a "sad story about somebody who was injured when he was much younger which is absolutely terrible," but he asked why he would try to build on a property that has over 240 trees on it if he is worrying about trees falling down onto the property if it is "that big of an issue, and it does not really add up or make sense."

Mr. Rand stated originally he asked for a 72.4% disturbance, and that has now been reduced to 44.6%, and he feels that there is plenty of space to build on this lot. He stated neither of the reports say all these trees are "bad, or dangerous, or decaying, or hazardous; although the most recent one says many of them are." Mr. Rand stated he does not know if "many is 5, 150, or 220." Mr. Rand stated the burden to prove the justification for a grant of a Variance includes the showing of undue and unnecessary hardship, and he does not feel that has been met.

Mr. Emil Lester, 177 Aspen Road, was sworn in. He stated he moved in thirty-seven years ago. He stated Mr. Turchi indicated that he and his wife loved the wooded property, and that is what he and his wife felt with their property. He stated at that time, they did not consider the property taxes in Lower Makefield, and they just loved the area. He stated they have suffered water problems in their yard for thirty-seven years. He stated they have done everything they could think of and afford to fix the problem,

but they have never succeeded 100%. He stated if there was a drought, they might not see a lot of water for a long time; but other than that, they do suffer with water. He stated he has photographs to submit of the water problems that they have had.

Mr. Lester stated diversion of stormwater is proposed around the Turchi's house in the blueprints. He stated when Mr. Turchi grades his property, he will not direct the water toward his house or his in-ground pool; and it will be directed away from those structures, and the water will be directed toward Mr. Lester's property although not intentionally. Mr. Lester stated he already has standing groundwater in his back yard, and they would like to know what the Township is doing to assure them that the construction of the proposed house and in-ground pool will not worsen their existing standing water problem.

Mr. Majewski stated all new construction done in the Township is required to provide stormwater management on their lot or in the vicinity. He stated this house is proposed to have an underground seepage bed, which is basically like a big French drain. He stated they dig down 3' to 4', line it with a fabric that soil cannot migrate in, fill it with clean stone, and water is piped to it so that water is stored between the pores in the stone; and it will then slowly seep into the ground and not impact run-off on adjoining properties. He stated this is required for all new development.

Mr. Lester stated he believes that particular structure is 24" by 24", and Mr. Majewski stated he believes that is one of the inlets that they have in the yard. He added they will grade the yard and then have smaller 2' by 2' drains that will be piped into this much-larger bed. Mr. Solor stated it is 50' by 30' by 4', which is a substantial amount of space.

Mr. McGuigan showed Mr. Lester Page 2 of the current Plan particularly the seepage bed which will be in front of Mr. Turchi's house and that is the opposite side of Mr. Lester's house. He added they will direct all of the water from their site into that seepage bed, and slowly over time it will drain into the surrounding soil. He stated that is the plan for stormwater management in addition to whatever the pool holds which would be a technically impervious surface in the Township. Mr. Truelove stated this is shown on Exhibit A-4.

Mr. Lester asked if the grading of the property will be such that in the back it would be graded so that the water would flow toward the front. Mr. Turchi stated what will happen with the property is that every downspout and gutter will be tied into this system, and it will be diverted to the 20' by 50' seepage



pit. He stated he believes the neighboring houses will also have their own seepage pits, and any water that is accumulating from these properties will be diverted to the seepage pit. He stated in reality the water issues that Mr. Lester is having should lessen. He added that Mr. Lester must have been dealing with the “wrong people since if he had sent his crew in there to take care of a French drain, and he was having a water problem, he would not have a water problem again when they were done.” He stated if he had water issues in the back of his property for twenty years, he would make sure to hire the right contractor to do it.

Mr. McGuigan stated while it is difficult to see on the drawing, he showed where all the gutters will drain to, and there will be inlets along the ground which will also drain into the seepage bed. He added that along the back there is not as much development there, so there will not be as much in terms of inlets and re-direction; but all the areas where they are added concrete and removing trees, that will go into the seepage bed. He stated the Township has Ordinances that they are required to follow; and even if they received relief tonight, if they cannot make the situation better than it is today, they cannot build anything. He stated the Township has to review the Plans that they provide, and the Township engineer has to be satisfied.

Mr. Brand asked if the 20' by 50' seepage bed that large based on cutting this down to 56.4%. Mr. Solor stated it is based on impervious surface. He stated it is not the trees – it is the pavement, the house, and anything that will shed water. Mr. Majewski stated since they have modified the Plan, we have not reviewed in great detail their proposed stormwater management. He stated the stormwater management will take into account the change in the cover conditions from woods to grass since woods theoretically absorb more water than grass does. He stated that will be taken into account in the calculations when they do review it; and if they need to make adjustments to the size of their stormwater management system, they will be required to do so.

Mr. Brand stated it is possible that the seepage bed may need to be even larger. Mr. Solor stated their original Plan had that size seepage bed; and while he does not know how they did the calculations the first time, if it was calculated based on their original Plan and included the change in ground cover, it would be over-sized if it was done correctly the first time. Mr. Brand stated it is possible that with the seepage bed, some of the water situations that are happening at the residences on Aspen could be made better, and Mr. Majewski stated that is a possibility.

Mr. Flager marked the photographs that Mr. Lester provided as Lester 1 to 7.

Mr. Lester was asked if he wanted to request Party Status, and Mr. Lester stated he did not really understand it. Mr. Solor stated if you have Party Status you retain legal rights to Appeal a Decision made by the Zoning Hearing Board or to participate legally in future actions regarding this Application. Mr. Lester stated he would like to request Party Status.

Mr. Lester stated he wanted the Board to know about their feelings because of their experience with water problems and there was a concern about the number of trees.

Ms. Susan Zimmerman, 189 Aspen Road, was sworn in. She stated she would like to welcome Mr. Turchi to the neighborhood. She stated she has lived in her home for thirty-eight years, and she takes great pride in her yard, has worked hard at it, and she would like to maintain it. She stated her concern is more about the property that is behind her property which is the third parcel that has been purchased and will be developed. She stated that property is not the one owned by Mr. Turchi. She stated she has heard that it is going to start soon and that they are “going to clean cut the place.” She stated she does not know if this is true, and she asked the Board if the same restrictions, the 70% preservation and all of the other regulations, pertain to all of the properties. She stated it seems that the first developer on the corner set a very bad precedent “and got ahead of everything.” She stated “calling in the Township to supervise and control was a little bit after the fact.” She stated she does not want that to happen again with the property that is behind her.

She stated she would welcome neighbors, but she wants to know that her yard will not be directly impacted by any construction and that all of the wooded façade is not going to be destroyed. She asked how the Township intends to be on top of that.

Mr. Solor stated while the Board is only addressing this particular Appeal, Mr. Majewski could comment briefly on the overall Township process.

Mr. Majewski stated the third property has submitted a Building Permit, which is currently being reviewed. He stated it had been rejected for a number of reasons, and they are still working on trying to make it comply with the Township Ordinances. Mr. Truelove stated that would include the Woodlands Ordinance and the 70%, and Mr. Majewski agreed.

Ms. Zimmerman requested Party Status.

Mr. Brand stated from her comments it seems Ms. Zimmerman was most concerned about the property behind her home, and he asked her what is her opinion about the property being considered this evening. She stated she appreciates all of her neighbors' concerns. She stated her yard is at the tip of where the water accumulates, and over the years she has done the best she can to direct the water to go downstream. She stated they all have some type of swale. She stated it has gotten worse since the far corner lot was developed. She stated she has lost trees on her property, and she has a stand of about eight to ten sweet gum trees "upwind" of her property; and she is in favor of taking down every sweet gum tree within miles within reason. Ms. Zimmerman stated she would welcome neighbors, but she believes that we need to be within limits. She stated she would like to believe what Mr. Turchi has stated, and that he is looking to move onto a wooded lot and not take advantage of a situation here. She stated the neighbors did move in with a suggestion that it was wetlands and that it would not be developed, and they selected their property because it was unlikely to be further developed. She stated she will trust the process.

Mr. James Foulds, 1479 Big Oak Road, was sworn in. He stated he is across the street from where they are building. He stated while his property does not touch theirs, he understands that there is a right-of-way from the edge of the road to where the houses are being built. Mr. Majewski stated there is a right-of-way. Mr. Foulds stated the house "that is prior to theirs down the street" is all sweet gum, thin trees. He stated when it was windy the other day, they were touching the high-tension wires. Mr. Foulds asked if the Applicant is going to remove all of the trees in the front where the right-of-way is.

Mr. McGuigan noted Exhibit A-4 and he showed the trees to be removed in the front, but he added that there will be trees left to the sides. Mr. Foulds stated he is concerned about the trees that will still be in the right-of-way which will cause problems in the future. He stated trees have come down, and there are dead trees in that right-of-way.

Mr. Foulds stated he has lived on his property for seventy-two years, and the property being discussed has always been wet. He stated about thirty years ago the Army Corps of Engineers came in because the owner paid for an extensive survey and a significant number of holes were dug, and they hit water 3' down. Mr. Foulds stated his home has a cellar and he runs two sump pumps when it rains to keep the water out. He stated he also has an old well which is only 18' deep, but with the development

across the street, they have already diverted some of the underground aquifer onto his side. He stated he now has standing water where he has never had standing water before. Mr. Foulds stated he also knows that when you go down 6', there is clay.

Mr. Foulds stated he is most concerned about safety along Big Oak Road because if the trees hit the high-tension wires, the sewer pumping station will go out. Mr. Majewski stated the Township can contact PECO and advise them of the issue with the trees hitting the wires. Mr. Majewski added that Big Oak Road is also a PennDOT road. He stated the only thing the Township can do is try to facilitate getting the work done.

Mr. Foulds advised Mr. Turchi that he is going to have difficulty getting out of his driveway.

Ms. Nicole Josko, 165 Aspen Road, was sworn in. She requested Party Status. Ms. Josko stated there is not decreased opposition by the neighbors. She stated this is a very busy time of year, and there are a number of people including herself who could not be present due to medical issues or commitments. She stated she and her husband chose Lower Makefield to move to eight years ago because it still had green space. She stated with regard to the tree preservation being at 56%. She stated that mean they are cutting down 44% of the tree coverage on the property, which is almost half of the trees on the property. She stated she cannot tell if that includes whatever clearing is needed around the sewer line; and if additional trees need to be cleared there she feels it will be more than 44% that is actually getting cleared.

Ms. Josko stated no one is disputing that the owner of the property is allowed to build a single-family residence, that there are trees that need to be cut down in order to build the house, or that safety is a top priority. She stated "with that being said, the story here is not adding up." She stated a wooded lot was purchased, and the owners knew that there were restrictions on the lot, and they are proposing to cut down "decades' worth of growth." She stated it is a "scientific fact" that trees are a vital part of stormwater control.

Ms. Josko stated there are spots in her yard where she has had 5" of standing water, and cutting down trees is going to exacerbate this. She stated she understands that there will be stormwater controls in place, but they are talking about cutting down "decades and decade's worth of growth in that forest." She stated if you are talking about safety issues, "she has a drowning hazard in her backyard as do many of her neighbors."

Ms. Josko stated she is an environmental lawyer not a Real Estate lawyer or a Zoning expert; but from the Case Law she has read, it is clear that a Zoning Variance should be granted if a property cannot be developed for its intended purpose which in this case is a single-family residence. She stated she has heard repeatedly that Mr. Turchi is a skilled, reputable contractor; and she has no reason to doubt that. She asked why this Plan was not developed according to the restrictions that were known. She stated there are ways that he could keep the house and stay within the permitted clearing. She stated they do not need to have a side entrance to the driveway, and they do not need to have a big turn-around area. She stated if they put the garage in the front of the house, that would eliminate a lot of impervious cover. She stated they could also do a smaller garage. She stated they do not need a pool, and there is nothing under the Law that says you are allowed to build a single-family residence with a certain size garage and have a big driveway and a pool in your back yard.

Ms. Josko stated it is “non-sensical” that none of the trees near the house are healthy. She stated if safety was a concern there would be some trees that are healthy kept near the house; and the ones that are outside of the area would be addressed. She stated she is sure that there are some trees that need to be taken down, and no one is disputing that. She stated this is not about safety, it is about aesthetics. She stated it is “very convenient” that there is a clear area with a pool and a big driveway and that area needs to be cleared. She stated if they were to get rid of the pool, the big driveway, and the side entrance she feels they could keep the same buffer that is currently proposed with the same distance between the house and the tree edge if they “got rid of those things.”

Ms. Josko stated the lot had restrictions when they bought it, they knew that, and they should have “worked backwards” from what is permissible. She stated there are rules in place for a reason which are to protect our natural resources, to protect the character of Lower Makefield, and to protect the character of the neighborhood. She stated the rules should not be bent to accommodate someone’s “whim to accommodate plans that were built with knowing the restrictions.”

Mr. Brand stated Mr. Majewski had done a drawing that was adhering to the 70%, and he asked if they adhered to the 70% would they be able to come back if other trees were falling down or it was unsafe. Mr. Majewski stated that is something that our Ordinance does contemplate; and in the event that there are trees that are dying, diseased, dead, or unsafe, that they can be removed by a property owner. Mr. Majewski stated he did a sketch that showed that

they could build what they wanted to do within the 70% although they may need a little more room around the house for safety, although probably not to the extent that they are requesting.

Mr. McGuigan stated he believes that the Board has a solid understanding of the case; however, he would like to address some of the issues heard during Public Comment by some of the other Parties to the Case. He stated with regard to the 70% number, they understand they can build a home and comply with the 70% ratio. Mr. McGuigan stated Mr. Majewski drew up a rough sketch, and Mr. Turchi also asked his engineer to draw a rough sketch as well to see what it would look like; and what they found was that it was not workable. He stated there are trees that would be within 15' to 20' away from the home on a number of sides as well as trees that are too close to the back yard, too close to the driveway, and too close to Sewer Easement.

Mr. McGuigan stated with regard to the trees, they are not saying that every tree they are removing is dead; and they are also not saying that a tree next to the house is going to “randomly die and that is a big concern.” Mr. McGuigan stated the big concern is what was in the Rockwell report which is there are tall, spindly trees that have developed over time in an unplanned way. He stated when you remove the outer trees, a lot of the inner trees that have never been exposed to the elements, would then be the ones that are facing that. He stated Mr. Foulds stated that the stronger trees on the outside are already wavering and hitting the PECO wires. Mr. McGuigan stated once those trees are gone, the weaker trees are within 15' of the house; and while the tree might not be dead, if there is a strong wind, the tree could come down, and that is what Mr. Turchi is afraid of. Mr. McGuigan stated that is why they are asking for “a little bit extra.” He stated what they are trying to do is to balance the proposed development with the trees that are onsite and keep the natural condition. He added that is one of the reason why they are proposing some kind of Deed Restriction in order to mandate that the line be followed in the future; and this is what they believe is a safe buffer that still provides a buffer to the neighbors, a wooded lot, and also provides a safe residence for Mr. Turchi and for people in the future to live in.

Mr. Truelove asked Mr. McGuigan if he would agree that neither the Rockwell report nor the Keystone report indicated where some of the weaker trees were located as it pertains to the location of the house. Mr. McGuigan stated while they do not address that specifically, it does address that there are number of these trees growing in a dense manner, and the average size of the trees is 12” which is not a very hefty tree. He stated the Rockwell report

specifically indicates that the trees to the interior of the lot are the ones that have been sheltered over time, and they do not provide an adequate canopy since they are too small. Mr. McGuigan stated the Keystone report addresses the root structure; and because they are so close together that when you disturb some of the trees, you disturb the root structure of the remainder of the trees that are nearby. He stated that is a concern that Mr. Turchi has and is why they are going through this effort for what is about 5,000 square feet of trees.

Mr. McGuigan stated everyone agrees that stormwater is a problem here. He stated nothing they do with this parcel will solve the problem or cause the problem to be significantly worse. He stated it is a global issue in this area, and the only thing that they can do is to follow the Ordinance and make the situation better “within their power.” He stated currently there is no formal stormwater management on site, and water pools and water flows freely across the property. Mr. McGuigan stated what they are proposing to do is to have formal stormwater management that will redirect and control the stormwater to the satisfaction of the Township. He stated none of the neighbors have to worry about “trusting Mr. Turchi because they trusted the neighbor next door, and he did not do what he was supposed to do.” Mr. McGuigan stated they understand that person started building the home and stormwater management was last. Mr. McGuigan stated that meant that there was a year plus of additional impervious, additional work, fewer trees, and no stormwater management; and that was a problem. Mr. McGuigan stated they are not going to get that with Mr. Turchi. He added that whatever the Township engineer decrees with regard to changes that they need to make, they will do that as they want to be an asset to the community; and Mr. Turchi wants to make friends with his neighbors.

Mr. Truelove stated with regard to the tree clearing, according to the Plan it shows approximately 70' of clearing behind the house for the pool, and he asked why that extend of clearing is necessary for that area. Mr. McGuigan stated it is so that they can have somewhat of a backyard. He stated the main point of the house is twofold – one is for Mr. Turchi and his wife to retire to and secondly it is for his children and grandchildren. He stated they are showing that area as a place for his grandchildren to be able to enjoy. He stated they understand that a pool is an accessory use to a dwelling unit, but they are trying to build a house that will be in keeping with the community with a small pool for their family to enjoy and a tree line that allows them some sort of a back yard. He stated even if there was no pool, they would probably want a tree line about that size so that

there would be a back yard. He stated they would not want anyone playing in the front yard given that it is on Big Oak Road. He stated they also have to maintain a large setback from Big Oak Road per the Ordinance.

Mr. Truelove stated Mr. Majewski's proposed Concept Plan adjusted the location of the pool, and Mr. McGuigan stated he has not seen that Plan. Mr. Turchi stated Mr. Majewski's Plan's adjusted how they were going to put the seepage bed.

Mr. McGuigan stated there was public comment related to the large turn-around and the driveway. He stated that is very important and they need that because they do not want people backing out onto Big Oak Road. He stated they just heard from Mr. Foulds about how difficult it is to get out of there. Mr. Majewski stated that would be a requirement by the Township and probably PennDOT as well.

Mr. Turchi stated the neighbors should understand that he is not taking the trees out from the back of his property that backs up to the back of the neighbors' properties, and there will be a tree line that will separate the properties. He stated they will not be looking out their window at his house. He stated his property will not look anything like what the property owner on the end did. He stated he is only asking to have a home just like the neighbors have. He stated Ms. Josko asked why he had to have a big driveway; however, her driveway is three times the size of what he is going to do.

Mr. Truelove stated Mr. Turchi indicated that in the back quadrant he had to take trees out in order to enable the sewer line to be dug, and Mr. Turchi stated that is a mistake. He added that when he looked to purchase the property, the original Easement went through the "back of his house through 183 to get to Aspen Road." He stated that is no longer in effect because now there is no gravity flow of sewer, and it is now laterals coming across the back of the property going down to Acorn Road, and each individual house will have an "E1" system which is a grinder pump. Mr. Truelove stated that tree line that is shown as interrupted will no longer be interrupted and it will continue to be connected, and Mr. Turchi agreed. Mr. Truelove stated that would have to be part of any Motion if one is made this evening. Mr. Truelove stated this is on Exhibit A-4 – the back left quadrant as you face the "item" and it shows where the entrance for the Sewer Easement would not be necessary based upon the statement made by Mr. Turchi, and the tree line would continue where it was otherwise broken for that purpose. Mr. McGuigan apologized for not having an updated Plan to show that; and if the Board is inclined to provide any relief tonight, that would be Conditioned on the Applicant providing a new,



updated Plan with that amount filled in, and the percentage appropriately updated and that would be subject to the approval of the Township Zoning Office upon their review.

Mr. Connors asked about the location of the sewer line. Mr. Turchi stated it is coming directly across the back of the property. He noted on the Plan where there are three markings that say LPFM, and the Plan is accurate except for the Easement that is going through 184. He stated the LPFM are laterals that are going to tie to a grinder pump and it will “shoot out” to Acorn Road and those laterals will be done as a “directional drill.”

Mr. Solor stated recognizing that there is a lot of concern about the 70% as well as Mr. Turchi’s concern about the trees that are in poor shape particularly near the house which is why he wants the larger clearance, he suggested that it remain 70% wooded and that trees be replaced with trees that comply with the “Plant Ordinance” to bring it from the 56% to the 70% “area” but allow him to clear to the 56% to do the work and remove trees. Mr. Turchi stated that means he would be allowed to clear it, but he would have to replace to get it back to 70%. Mr. Solor stated as discussed, there is the large area in the front of the house facing Big Oak and perhaps the sides along the driveway; and once he cleared it to do the work and got the trees away from the building, this would address his safety concerns, and then he would be required to “plant back” new trees as both of the arborists have suggested and as per the Township Native Plant Ordinance with plants that would be a better mix than what is there right now in the area that is cleared to get it back to 70% woodlands. Mr. Turchi stated he would be willing to do that.

Mr. Brand noted the piece in the rear of the property that was said was not needed, and he asked if that means that over the entire rear of the property there will be a wooded area and not what can be seen in the drawing. Mr. Truelove stated that is his understanding based upon his questions related to the Sewer Easement which is no longer necessary, and that break in the tree line that is shown would not be necessary. Mr. McGuigan stated the break in the tree line is no longer necessary; however, the Sewer Easement to the rear of the property must still remain free of trees. Mr. Solor stated not removing some of those trees in that particular area would not get him to 70%.

Ms. Reiss stated she pulls out of her driveway, and she feels that what is being shown is a huge amount of blacktop. Mr. McGuigan stated the point of that area is obviously to be able to turn around, but it is also to provide

additional off-street parking because there is nowhere else to park on Big Oak Road. He stated if there were to be one or two extra cars parked in the driveway, there would still be enough room for a car to turn around safely.

Ms. Reiss stated she has been in her home for forty-eight years, and the only tree that they lost was one that they planted that lasted for forty years. She stated they put in a pool as well. She stated trees provide a great deal of shade for a home especially in summer which lowers the usage of power. She stated she is concerned that there is such a large expanse without any trees.

Mr. McGuigan stated that is why it is so important to make sure that the tree line where the trees start again is done right. He stated if they are able to have a compromise where Mr. Turchi is allowed to disturb a percentage so that he can build the house and remove some dangerous trees and then re-forest it up to the 70% limit, he feels that would work for everyone; and Mr. Turchi would be able to have a property that he would use as a single-family home and one that would be wooded in the correct way. He stated Mr. Turchi has already hired two arborists.

Ms. Reiss stated she recognized that some of those trees are not in great condition, but she wants to make sure that they are not cutting down more than what would be necessary, and that they replace what they do cut down. Mr. McGuigan stated they do not want to do what the neighboring property owner did. He stated Mr. Turchi is trying to be an “open book.”

Mr. David Bushen, 178 Pine Cone Drive, was sworn in. He stated his concern is that if under the guise of safety this gets approved, it will set a precedent for the other parcels, and they will all do the same thing. He stated he was in that forest the other day, and some of those trees are spindly and some are dying, but there are also “massive ones” that are not seen in the pictures. He stated if one of those trees were to go down, it would probably take out three quarters of the forest. He stated he does not feel that these measures are going to make any difference at all. He stated if someone moves into a forested area, they are going to have to deal with that.

Mr. Connors stated there is a lot of space on the property that they could “tighten up on” to get to the 70%. He stated he understands that the larger trees root systems are different when they start getting wind loads on them, and there is the potential for them to come down. He stated he does not

think it is as great an issue under normal circumstances. He stated he has an area where he cleared an area, and he has significant hemlocks, and none of them have come down; although he has seen that on other properties.

Mr. Connors likes the idea of allowing the construction and then infilling back in with trees to regain the 70%. He stated he has concerned about whether Mr. Majewski's staff is going to be able to oversee that replanting. Mr. Majewski stated they would need to have the Township engineer involved in that and a landscape architect to be intimately involved as well. Mr. Solor stated he believes the Township has accomplished similar levels of efforts for plantings elsewhere; and Mr. Majewski agreed, although he added that it is not easy. Mr. Connors stated ideally he would prefer that they give a limit of disturbance at 70% and to not go outside of it as that would be easier for the Township to monitor.

Mr. McGuigan stated Mr. Turchi does want a forested lot, but he wants the right trees to be near his home. He stated if they were allowed a Variance conditioned on the re-forestation of the lot back to 70%, Mr. Turchi's engineer will supply a Plan to the Township Zoning Office for their review showing that 70% number, and that might help the Township's enforcement efforts even if they went forward and did not ask for any relief whatsoever, they would still be bound by a 70% Plan that they would have to submit to the Township anyway. He stated this would give Mr. Turchi the right to change some of the trees in close proximity to the house, but the same barriers and the same buffer area would be policed by the Township and would be policed the same either way.

Mr. Truelove asked Mr. Majewski if monitoring the re-forestation would be part of the 18-month Maintenance period after construction.. Mr. Majewski stated this is a development that would require a Development Agreement, and it would be required that the plantings be maintained.

Mr. Connors asked Mr. Flager if we are stating that he can cut more than the 70% allowed but they are going to need to replant to maintain it, is that actually a Variance. Mr. Flager stated they do need the Variance to be able to do it in the first place. He stated he is getting permission for the disturbance, and the Condition being put on that is to re-forest it so that it would then be in compliance; but he needs the Variance to disturb.

Mr. McVan stated he feels that this sets a good precedent, and everyone is getting what they want. He stated they are making the forest better than what it is today. He stated if he replants with the species that have been suggested, it could be a beautiful lot that is better for everyone around it.

Mr. Connors stated he agrees adding that sweet gum likes to take over areas. He stated in the re-forestation, he would want to see native species and not ornamental species. Mr. Solor stated that is why he was referencing the Township's Native Plant Ordinance in his proposal.

Mr. Grenier stated based on his reading of the two tree reports that were provided, all of the trees that were listed are native trees in Lower Makefield. Mr. Connors stated there is the potential that they will get more diversity in this forest. Mr. Solor stated there would probably be understory as well that is currently shaded out.

Mr. Solor moved, Mr. Connors seconded and it was unanimously carried to approve the Appeal to disturb a maximum of 43.6% of the woodland area with the Condition that it is re-forested back to 70% of the property with species in compliance with the Township's Native Plant Ordinance and to the satisfaction of the Township engineer and landscape architect.

#### OTHER BUSINESS

Mr. McLoone stated the only thing scheduled for the next meeting is the Verizon Appeal. Mr. Solor stated it is important that all Board members who are not recused need to make an effort to attend including the Board Alternates if possible. It was noted that Conflict Counsel will also be in attendance for the Township and for the Zoning Hearing Board. Mr. Majewski stated if there is a change in the schedule, he will let everyone know as soon as he finds out.

There being no further business, Ms. Reiss moved, Mr. Brand seconded and it was unanimously carried to adjourn the meeting at 9:45 p.m.

Respectfully Submitted,

Judi Reiss, Secretary