

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – NOVEMBER 18, 2025

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on November 18, 2025. Mr. Dougherty called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: James Dougherty, Chair
 Peter Solor, Vice Chair
 Christian Schwartz, Secretary
 Mike McVan, Member
 Robert Heinz, Alternate Member

Others: James Majewski, Community Development Director
 Dan McLoone, Planner
 Maureen Burke-Carlton, Township Solicitor
 Michael Levin, Zoning Hearing Board Solicitor
 Suzanne Blundi, Supervisor Liaison

Absent: Judi Reiss, Zoning Hearing Board Member

APPEAL #Z-25-39 – KONYVES/FIORELLI
Tax Parcel #20-043-023-043
1509 YARDLEY-MORRISVILLE ROD, YARDLEY, PA 19067

Mr. Levin marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plans consisting of four sheets was marked as Exhibit A-2. The Pool Drawings and Plans consisting of ten sheets was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Anthony James Fiorelli was sworn in. Mr. Fiorelli stated he wants to install a pool in his back yard, but he will go over the impervious surface which will go from 19.2% to 20% with a maximum permitted of 18%.

Mr. Thomas Schreiber from K & S Pools was sworn in. Mr. Schreiber stated they are putting in a swimming pool and a 300 square foot pad/walkway around the pool. He stated the site was already over, and they are only adding 300 square feet. He stated they are proposing an infiltration trench as shown on the Plan. He stated it will be 13' long, 6' deep, and 3' wide.

Mr. Schwartz asked if the proposed trench will bring it back to 18%, and Mr. Schreiber stated he believes that is how they did the calculations. Mr. McLoone stated it will be a little below 18%.

Mr. Solor stated there is no contour line on the drawing. He asked how this will capture water. Mr. Schreiber noted Page 4 explains the trench, and it can be seen that there are two yard drains. Mr. Solor asked if they will grade to those drains, and Mr. Schreiber agreed.

There was no one from wishing to make public comment on this matter.

Mr. Schwartz moved, Mr. Solor seconded and it was unanimously carried to approve the Appeal as presented with effective impervious surface at 18% or below subject to approval of the Township engineer.

APPEAL #Z-25-40 – MULHOLLAND
Tax Parcel #20-022-156
1327 UNIVERSITY DRIVE, YARDLEY, PA 19067

Mr. Levin marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan was marked as Exhibit A-2. A Work Order Estimate which displays the dimensions of the fence outline was marked as Exhibit A-3. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Matthew Mulholland was sworn in. Mr. Mulholland stated he wants to put up a fence around his property to replace a split rail fence that is falling down. He stated there is an Easement for a sewer between Albright Drive and University Drive, and the fence would be on the property line significantly above where the sewer piping is so he does not anticipate that there would be any conflict. He stated he understands that should he need to remove the fence, it would be at his own cost.

Mr. Solor asked Mr. McLoone if there is an existing sewer there, and Mr. McLoone stated there is existing piping for drainage. Mr. Solor stated in the past the Board has sometimes asked for an offset of a few feet off the center line of the pipe. Mr. McLoone stated he spoke to Mr. Fuller, the Public Works Director, who stated that in this Subdivision, Sandy Run, the pipes are not in the best condition, and may need to be repaired or

replaced within the next ten years, so the fence should be at least 3' off of the property line or away from the center line of the pipe. He stated 3' off of the property line would suffice.

Ms. Carlton stated while the Township is participating, Mr. McLoone just summarized their concerns; and if the fence is placed 3' off of the Sewer line and will be removed by the homeowner at the homeowner's expense if needed in the future, the Township would be fine with approval of the Variance request.

Mr. Mulholland stated he would agree to what has been requested.

There was no one wishing to make public comment on this matter.

Mr. Solor moved and Mr. Schwartz seconded to approve the Appeal with the fence to be located at least 3' off the property line and subject to removal at the cost of the property owner if needed by the Township to access the line.

Ms. Carlton asked if this is a Sewer Easement, and Mr. McLoone stated it is a Storm Sewer Easement. Ms. Carlton suggested amending the Motion to stated that if it needs to be accessed by the Township and/or the Sewer owner, which in this case is Aqua. Mr. McLoone stated if it were a Sanitary Sewer it would be Aqua, but this is a Storm Sewer Easement. Ms. Carlton stated there is therefore no need to amend.

Motion carried unanimously.

APPEAL #Z-25-41 VETTORI/HOPF

Tax Parcel #20-049-288

300 ROBIN HOOD ROAD, YARDLEY, PA 19067

Mr. Levin marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Site Plan consisting of two sheets was marked as Exhibit A-2. The Proof of Publication was marked as Exhibit B-1. The Proof of Posting was marked as Exhibit B-2. The Notice to the neighbors was marked as Exhibit B-3.

Mr. Justin Hopf and Mr. Samuel D'Alessandro, engineer, were sworn in. Mr. Hopf stated he wants to put in a pool, and he hired Premier Pool Company, and they set it up with an engineer.

Mr. D'Alessandro stated their Variance request is from the requirements of Section #200-23B of the Zoning Ordinance which limits impervious area on lots created before December 14, 1987 to 18%. He stated the existing lot is 19,681 square feet in the R-2 Zone. He stated currently there is a single-family dwelling with attached garage, a deck, a walkway, and a driveway. He stated the impervious coverage is 4,538 square feet or 23.1%. He stated the proposed improvements would be to install a 20' by 40' fiberglass swimming pool, a 3' perimeter lock collar around three sides of the pool, and an 11'8" combination lock collar and deck along the shallow 20' side. He stated they also propose to install a 27 square foot pad for the pool filtering equipment. He stated the new impervious coverage is 688 square feet for a 3.5% increase. He stated the new total would be 5,226 square feet or 26.6% coverage.

Mr. D'Alessandro stated if the lot was created after December 14, 1987, the Ordinance would allow a total of 28%; and after the construction they will be at 26.6%.

Mr. D'Alessandro stated their stormwater management system consists of an infiltration basin and utilizing existing tree cover which would mitigate the additional volume from the 688 square feet, and it would bring the lot back to its current condition of 23.6%. He stated the pool will also utilize a cartridge filter so there will be no backwash.

Mr. D'Alessandro stated Section #297 Variance Appeal items #1 states that the hardship is a result of the lot being developed prior to 1987. He stated the relief sought is the minimum necessary to allow the installation of the swimming pool, the lock collar, and filtration equipment. He stated the hardship was not created by the Applicant. He stated the area immediately down slope of the site is a strip of land that provides a driveway access to another lot that appears to be landlocked. He stated the development of the swimming pool will not adversely affect the use of that driveway or that lot.

Mr. D'Alessandro stated they are requesting a Variance to allow the 26.6% coverage mitigating back to the exiting 23.1%.

Mr. Schwartz asked Mr. McLoone how much larger would the proposed seepage pit need to be to get it to 18%. Mr. McLoone stated while he does not have the numbers tonight, he would be willing to talk with the Applicant to determine the numbers to get it back to 18%. Mr. Schwartz stated the

Zoning Hearing Board has been working with Applicants to get back to the 18% to mitigate all of the stormwater that we can. Mr. Hopf stated he would be willing to do that. Mr. Solor stated there are a lot of stormwater management issues in the Township; and when Variances are requested, if it is a reasonable addition, the Board does ask for the additional mitigation back to improve the situation.

Mr. Schwartz stated they are already digging to put in a trench, and they would like to see it accommodate the additional rain run-off to get it to the 18%. Mr. Solor stated it also addresses any neighbor concerns since the stormwater situation should actually be better after construction.

Mr. Dougherty stated Mr. D'Alessandro testified that the pool would be 20' by 40' but on the Plans it shows 16' by 40' inside the pool perimeter. Mr. D'Alessandro stated the fiberglass pool itself has a 16' width.

There was no one wishing to make public comment on this matter.

Mr. Schwartz moved to approve the Appeal as presented subject to approval by the Township engineer to an effective rate of 18%. There was no second.

Mr. Levin stated the only issue he sees is that the plan was to offset along with preserving 15 trees, and he believes the goal was to mitigate back without reliance on the existing trees; and Mr. Solor agreed.

Mr. Schwartz moved to approve the Appeal as presented with the infiltration trench mitigating all of the additional run-off over 18% approved by the Township engineer to an effective 18%. Mr. McVan seconded, and the Motion carried unanimously.

APPEAL #Z-25-38 MCSHEA/JONAS/BTC INTERMEDIATE HOLDINGS, LLC
Tax Parcel #20-012-030
600 TOWNSHIP LINE ROAD, YARDLEY, PA 19067

Mr. Levin marked the Exhibits as follows: The Application was marked as Exhibit A-1. The Addendum to the Application with reasons for relief was marked as Exhibit A-2. The Aerial Plan was marked as Exhibit A-3. The Conditional Use Plan was marked as Exhibit A-4. Site photographs (9 photographs on one sheet) was marked as Exhibit A-5. The Traffic Study was marked as Exhibit A-6.

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. Levin stated the Applicant is submitting additional Exhibits tonight as follows: A Purchase and Sale Agreement was marked as Exhibit C-1. A Lease Agreement was marked as Exhibit C-2. Operating Agreement was marked as Exhibit C-3. Zoning Hearing Board Decision dated February 7, 1995 was marked as Exhibit C-4. The CV of Gregory Elko was marked as Exhibit C-5. An Aerial Plan was marked as Exhibit C-6. Photographs of the property consisting of the existing building photograph, street frontage photographs, driveway photographs, and existing signage photographs were marked as Exhibit C-7. Township Sign Permit Report 18-1239 was marked as Exhibit C-8. Township Sign Permit Report 19-1841 was marked as Exhibit C-9. A Site Plan was marked as Exhibit C-10. Memorandum of Greg Elko dated October 6, 2025 was marked as Exhibit C-11. CV of Michelle Parks was marked as Exhibit C-12.

Ms. Michelle Parks and Mr. Gregory Elko were sworn in.

Mr. Marc Jonas, attorney with Eastburn & Gray, was present. He stated the property is Zoned O/R, and they are requesting relief for a 65-bed, in-patient treatment and rehabilitation facility. He stated the O/R District has a number of institutional uses that are permitted; however, it does not permit what they are proposing as determined by the Zoning Officer. He stated other institutional uses in the Zoning District include a community treatment and rehabilitation facility although that does not squarely fit within what is proposed tonight. He stated the Zoning District also allows for a hospital use as a permitted use, and hospital use in the Zoning Ordinance refers to mental health care. He stated there is also a permitted use of nursing homes that is also a use that allows for mental health care and rehabilitation. He stated the Variances that they are seeking are for a use that is very similar to what is permitted; and it is possible that the Ordinance does not permit this land use anywhere in the Township, although that is not a legal issue that is before the Board tonight.

Mr. Jonas stated with regard to this property, there was a previous Zoning Hearing Board Decision which granted three Variances. He stated the Zoning was different at that time, but the Variances related to lot size, front yard, and side yard setbacks. He stated there is also history with regard to signage, and no new signage is proposed by the Applicant.

Mr. Jonas stated they are seeking a Use Variance for this particular Use; or alternatively, they are requesting a reasonable accommodation. He stated that invokes Federal Law under the Fair Housing Act and the ADA, and that is an issue before the Board tonight as an alternative to the request for a Use Variance. He stated as advertised, they are also seeking a Variance for parking; although the question is if the Use is not expressly permitted, and you are seeking a Use Variance, the question is what parking formula applies. He stated to be conservative they are seeking Zoning relief with regard to parking.

Mr. Jonas stated with regard to the Federal issue, both the Fair Housing Amendments Act and the Americans with Disabilities Act require that Municipal Zoning Hearing Boards make reasonable accommodations in order to provide qualified individuals with an equal opportunity to receive benefits and participate in programs run by such entities. He stated under the FHAA and the ADA a Government entity engages in a discriminatory practice if it refuses to make a reasonable accommodation. He stated the ADA defines an individual with a disability as anyone with a mental impairment that substantially limits one or more major life activities. He stated in terms of the O/R District, there are institutional uses that are permitted that might be of even more concern to neighbors or the Township than a facility that provides for mental health treatment.

Mr. Jonas stated the Exhibit booklet which was identified as C-1 through C-12 includes the Purchase and Sale Agreement with regard to the buyer and the seller of the property as well as a Lease Agreement from the buyer to a tenant and an Operating Agreement that identifies the operator which is the Applicant before the Board. He stated they are asking the Board to consider Exhibits C-1, C-2, and C-3, and ask the Board's solicitor if the Board will agree that for the purpose of Standing that they have the requisite Standing to be heard tonight and proceed with the substantive issues. Mr. Dougherty stated he does not have a problem with this, and Mr. Levin stated he has no dispute with that.

Mr. Jonas stated Exhibit C-4 is the 1995 Zoning Hearing Board Decision that granted Variances for the property. He stated Exhibit C-5 is the Curriculum Vitae of Mr. Elko. Exhibit C-6 is an Aerial Plan that Mr. Elko will describe. Exhibit C-7 includes photographs that Mr. Elko will discuss. Mr. Jonas stated Exhibit C-8 and Exhibit C-9 are the Sign Permit Reports, and they ask the Board to take Judicial Notice of these without the need for Testimony since they are Township Records. Exhibit C-10 is the Site Plan. Mr. Jonas stated Exhibit C-11 is a Traffic and Parking Memorandum, and Exhibit C-12 is the Curriculum Vitae of Michelle Parks, who is the representative for the Applicant.

Mr. Jonas noted Exhibit C-5 and asked Mr. Elko to identify his profession; and Mr. Elko stated he is a Civil Engineer practicing for over 32 years and is a Managing Principal at the firm of Langan Engineering and Environmental Services. He reviewed his education and Licenses. He stated he has testified before numerous Boards throughout the region and been offered and accepted as an Expert Witness in the area of Civil Engineering. The Board accepted Mr. Elko as an Expert in Civil Engineering with regard to Zoning, Subdivision, and Land Development.

Mr. Elko stated he is familiar with the property being discussed tonight as well as the Zoning regulations for Lower Makefield Township. Mr. Jonas noted Exhibit C-6, and Mr. Elko stated that is their drawing #CS102 dated October 6, 2025, and is an aerial view of the property. He stated the property is about 4.37 acres in size, and it is triangular in shape. He stated it is bounded by Langhorne-Yardley Road to the southeast and Township Line Road to the west.

Mr. Elko stated the property is in the O/R Office/Research Zoning District. He stated to the due north is a wooded area beyond which is a Day Care facility to the immediate north, and northeast of that is predominantly Office uses and some Medical Office as well. He stated to the southeast across Langhorne-Yardley Road is a multi-family Residential District in the R-4 Residential Multiple Family High-Density Zoning District. He stated east across Township Line Road, there is are single-family Residential uses along the Road; and those are in Middletown Township in the RA2 Residential Agricultural District. He stated to the northwest of the site, there is a single-family Residential use also in Middletown Township which is in the RA1 Residential Agricultural District.

Mr. Elko stated the subject property is currently a Senior Living Facility in Floral Vale. He stated it is an approximately 28,960 square foot building with 46 beds. He noted the parking areas, driveways, sidewalks, and stormwater management facilities. He stated there are three free-standing signs one at the main entrance on Township Line Road, one at the south corner where the two roads intersect, and the third is along Langhorne-Yardley Road about halfway along the site frontage.

Mr. Jonas asked how many street frontages the property has, and Mr. Elko stated it has two – Langhorne-Yardley Road and Township Line Road. Mr. Jonas asked about the shape of the lot, and Mr. Elko stated it is triangular in shape.

Mr. Jonas noted Exhibit C-7 which is a series of photographs. Mr. Elko stated he took the photos of the property on September 30 when he inspected the site. He stated Photo 1 is the view looking east from Township Line Road of the front of the facility. He stated Photo B2 is a view along the roadway frontage looking northeast of the landscaped area along Langhorne-Yardley Road with the road on the right-hand side of the photo. He stated Photo 3 is the same orientation but looking toward the site with a large green area behind the building as seen from Langhorne-Yardley Road. He stated Photo 5 is a view of the Residential area south across Langhorne-Yardley Road. He stated Section C Photo 4 is a view of the internal driveway to the north of the facility looking west out toward Township Line Road. He stated Photo 6 is a view of the open space that is behind the building while standing on the driveway described in Photo 4 looking east along the row of trees and the open area behind the building. It was noted that there is no Photo 5.

Mr. Elko stated Section D shows the photos of the existing signs. He stated Photo 7 is the view of sign 1 which is at the main entrance looking north on Township Line Road, Photo 8 is a view of sign 2 which is at the corner of Langhorne-Yardley Road and Township Line Road looking north, and Photo 9 is sign 3 which is the existing sign along Langhorne-Yardley Road.

Mr. Jonas asked Mr. Elko if the photographs fairly and accurately depict the existing conditions, and Mr. Elko stated they do.

Mr. Jonas stated based upon previous Zoning Amendments and Variances, the property has certain aspects currently that are non-conforming, and Mr. Elko agreed. Mr. Elko stated the first three are from Section #200-49. He stated the first non-conformity is for lot size. He stated the existing lot is about 4.37 acres in size where the Ordinance requires a minimum of 25 acres in size for this Zoning District. He stated there is also an existing non-conforming front yard setback of 64.3' which is the distance from the building to the property line along Langhorne-Yardley Road, and the Ordinance requires a minimum of 100'. He stated there is also a non-conforming side yard that is 37.5' where a minimum of 75' is required, and that is the setback along the northern property line.

Mr. Elko stated there are also two other non-conformities related to signs. He stated Section #200-85.C.3.c permits a maximum of one sign for this property, and there are three signs that exist currently. He stated Section #200-85.C.4 does not permit directly-illuminated signs, and two of the three signs that exist today are directly-illuminated. Mr. Jonas stated there are no

proposals to change the existing signs or their characteristics; and Mr. Elko stated the only thing that will change on the signs is swapping out the logos and the text on the signs, but the signs themselves will stay the same dimensions, height, and locations.

Mr. Jonas stated Exhibits 8 and 9 are copies of Township Records related to Permits for the signs, and Mr. Elko agreed. Mr. Elko stated Exhibit 8 is Township Sign Permit Report 18-1239 and is a Sign Permit Application made on August 16, 2018 and was approved on August 22, 2018. He stated the description of this Permit stated that it is approved for a 40" by 30" post and panel sign and a 60" by 50" post and panel sign in accordance with the submitted scope of work. He stated Exhibit 9 is Township Sign Permit #19-1841, and this was applied for on November 26, 2019 and approved on December 16, 2019, and the Permit describes that the work is approved to install illuminated sign 43.3 square feet and illuminated vertical sign 23.25 square feet in accordance with submitted Plan.

Mr. Jonas stated the Applicant is not proposing any sign improvements, and Mr. Elko stated the only change is the replacement of the two handicap signs that are in the front of the building that are currently non-conforming.

Mr. Elko noted the Site Plan (Tab 10) which is their drawing CS-101 dated October 6, 2025. He stated the Plan shows the existing site and the Zoning analysis they performed to convert the facility from a 48-bed Senior Assisted Living Facility to a 65-bed Community Treatment and Rehabilitation Facility. He stated there is an extensive Zoning chart, and they compared each item of the Zoning requirements to what is being proposed; and the chart notes where the individual requirements comply with the Ordinance, the existing non-conformities which he previously reviewed, and shows the Variances that are being requested – one for the Use and the other for the parking.

Mr. Jonas stated with regard to parking, the analysis Mr. Elko did was based upon a land use that is different from what they are proposing because their land use is not identified in the parking regulations of the Township, and Mr. Elko agreed. Mr. Jonas asked Mr. Elko what category of land use he used for preparing the parking demands, and Mr. Elko stated he used the Community Treatment and Rehabilitation Center used to apply the parking standards. Mr. Jonas stated that is a use that is permitted in the O/R District, and Mr. Elko agreed it is as a Conditional Use.

Mr. Elko noted Township Ordinance Section #200-50.F as well Section #200-79 which refers to this use. He stated those Sections explain how to calculate the required parking. He stated for a Community and Rehabilitation Center, you look at the number of beds and the number of employees. He stated the facility will have 65 beds, and the requirement is 1 parking space for every 3 beds. He stated using that standard, they would need 22 spaces. He stated the Ordinance requires 1 space for every employee on the maximum shift. He stated this facility will have 32 employees on the maximum shift thereby requiring 32 spaces. He stated the total would therefore be 54 spaces using the Ordinance requirements for a Community Treatment and Rehabilitation Center.

Mr. Jonas stated he could not find in the Ordinance a category for parking requirements for the proposed use that is before the Board tonight, and Mr. Elko agreed.

Mr. Jonas asked Mr. Elko if he also prepared a memorandum with regard to parking and traffic with regard to the site; and Mr. Elko stated he did, and it is Exhibit 11 dated October 6, 2025 and was submitted with the Application materials. Mr. Elko stated he looked at the parking requirements per the Ordinance which he just described and compared that to the existing amount of parking that is at the site today which is 38 spaces so there is a difference of 16 spaces between the 54 spaces that would be required per that use and the 38 spaces which are there.

Mr. Elko stated in consultation with the Applicant and his review of the parking requirements, he concluded that the 38 spaces are adequate for the facility. He stated the biggest parking users are the employees; and with 32 employees on the maximum shift would mean that 32 spaces would be occupied if all of those employees came to the site. He stated there could also be visitors; but in consultation with the Applicant, he understands that there are very strict visitation requirements that will be set for this facility. He stated visitation is scheduled, reviewed, and supervised. He stated parking spaces that are occupied by visitors will never be more than what would be available at the site. Mr. Elko stated patients do not keep cars at the facility as they are dropped off at the facility, and they stay at the facility. He stated they will not drive at the facility so no parking is needed for the patients. He stated if patients have to be transported, the Applicant will either operate their own vehicles to transport those patients or a third party will do so.

Mr. Elko stated they also reviewed the Americans with Disabilities Act, and it is required to provide a barrier-free access to care like this. He stated in consultation with the Applicant, the imposition of parking that would be needed to meet the Ordinance requirement if they had to construct the 16 parking spaces, would create a barrier to access because of the associated delay and costs that would come with constructing those 16 extra parking spaces. He stated not only is there design and Permitting, but there is also site work costs, and investigations that have to be done; and it could significantly postpone the opening of this facility which would be a barrier to care for individuals coming to the facility.

Mr. Elko stated they also looked at trip generation; and based on the analysis the number of trips that will increase by increasing the number of beds from 46 beds to 65 beds at the site is insignificant. He stated there will be only three additional trips in the weekday morning peak hour period, which is one trip extra every 20 minutes to the site. He stated there will be less during all of the other hours of the day. He stated in the evening peak hour there were five extra trips which would be one extra trip every 12 minutes on the peak hour only and less trips after that. He stated he concluded that the parking provided would be adequate and that the traffic that results from the change of use would not have an impact to the site or the surrounding road network.

Mr. Jonas asked Mr. Elko as a Civil Engineer and with his knowledge of the use and the site, if he feels the grant of the Variances have an adverse effect on neighboring properties or the character of the neighborhood, and Mr. Elko stated it will not.

Mr. Dougherty stated the Township solicitor, Ms. Carlton, is participating in this matter.

Mr. Dougherty stated Mr. Jonas had indicated in his opening remarks that the Federal Government recommends that this type of accommodation be made when possible, and he asked Mr. Jonas to discuss this further and advise which agency recommends that. Mr. Jonas stated what makes this case different from other cases is the implications of Federal Law. He stated that is why they have requested what is referred to as a “reasonable accommodation,” and this is under two separate Federal Statutes. He stated one is the Fair Housing Amendments Act and the other is the Americans with Disabilities Act. He stated under those two Acts a Governmental entity engages in a discriminatory practice if it refuses to make a reasonable accommodation, and the ADA (Americans with Disabilities Act) defines an individual

with a disability as anyone with a mental impairment that substantially limits one or more major life activities. Mr. Jonas stated based on their investigation into the Township, they do not believe that this type of land use exists anywhere in Lower Makefield Township so they believe that there is a need for reasonable accommodation under Federal Law. He stated the Board is considering not only legal arguments under land use, the Municipalities Planning Code and the Lower Makefield Township Zoning Ordinance, but they are also considering the Federal implication of providing a treatment facility for people with mental health needs.

Mr. Dougherty asked if it would be fair to say that often these types of projects do face discriminatory attitudes in different communities, and that is why those laws exist; and Mr. Jonas stated there are people who are opposed to almost anything. Mr. Jonas stated the needs for mental health are recognized in the Township's Ordinance in the nursing home definition and the hospital definition. He stated there is a need in Lower Makefield Township, and they believe that this property is suited for it.

Mr. Jonas stated the Board should also consider that the Commonwealth Court with the Intermediate Appellant Court in Pennsylvania decided in 2025 that there is such a thing as a De Minimus Use Variance, which is up for review by the Pennsylvania Supreme Court. He stated given what is already permitted in the Zoning District for where this property is located, which includes hospital and nursing home, and given that the definition of a community treatment rehabilitation facility is also a use that is permitted either by right, Conditional Use, or Special Exception, which includes persons under sub-paragraph A of the definition Section #200-7 that have been duly convicted of any crime or have been adjudicated or judged delinquent, have or rehabilitated from alcohol or substance abuse problems, or have committed or threatened any violent act against themselves or others, he would suggest that what they are proposing is potentially far less objectionable. He stated they are hoping that at the conclusion of this, the Zoning Hearing Board will look favorably on this Application.

Mr. Dougherty stated he wants everyone to choose their words respectfully, not use inflammatory language adding that the Board is to render a decision based not on whether we understand the needs of the patients of this facility or possibly we have pre-conceived notions. He stated the Board should ask questions as to whether this makes sense in our community not based on discriminatory decisions and give a balanced decision.

Mr. Solor stated it does not look like if the additional 16 parking spaces were added there would be any need for a Variance to install the additional parking. Mr. Elko stated while that is correct, the spaces are not needed and parking lots come with impervious coverage and removal of vegetation and trees. He stated due to the shape of the lot, there is no space to put parking that is near the building; and the only place to put parking would be in the green field, and he does not feel that would be useful parking as no one would park back there. Mr. Solor stated adding parking would not trigger any other need for Variances because of the impervious limit, and Mr. Elko stated that is correct.

Mr. McVan asked if they have considered snow, and Mr. Elko stated they have. Mr. McVan stated 32 employees could be coming in, but there could be the need for snow removal, and he asked if there would still be enough spots. Mr. Elko stated there are plenty of spaces along the perimeter of the parking driveways to put snow. He stated access to areas without parking are plentiful at this site as the driveways are very long, and there is a “hammerhead” driveway in the front where snow could be pushed. He stated the back is also conducive to push snow where there are no parking spaces so there are a lot of opportunities to get snow off of the pavement.

Mr. Dougherty stated there 38 existing spaces, but if this use were granted 54 spaces would be required. He stated Mr. Elko is indicating that 38 spaces would be adequate, and he asked if there is data to support that. Mr. Elko stated it is in the parking analysis, and he could testify to it again. He stated it is Tab 11. He stated it indicates that there are 38 existing spaces which are 10' by 20'. He stated it discusses the Ordinance calculation, and he had selected a Community Treatment and Rehabilitation Facility Use as the parking standard, and that parking standard requires 1 space for every 3 beds plus 1 space for every employee; and based on 65 beds and a maximum of 32 employees for the largest shift, the use would require 54 spaces. He stated there are no exterior site improvements proposed so they are requesting a Variance from that Ordinance Section. Mr. Elko stated he had referenced back to the operational narrative, and it states that the maximum shift of 32 warrants 32 spaces which leaves 6 additional spaces for visitors; however, visitation is very strictly controlled and scheduled. He stated visitation is conducted in a limited and supervised process. He stated parking is not needed for patients because they will not have cars at the site. He stated transportation is provided for patients when they are coming into or out of the facility as well. Mr. Elko stated the last paragraph discussed conformance with the ADA Act and the fact that requirements for parking could create a barrier to health

care for these individuals. Mr. Elko stated it is his opinion that there is an adequate number of parking spaces at the facility.

Mr. Dougherty asked if it is fair to say that Mr. Elko's opinion is not quantifiable. He stated the maximum shift is 32 which requires 32 parking space and leaves 6 additional parking spaces for visitors which he has indicated is sufficient given the strict visitation restrictions for the facility. Mr. Dougherty stated there is nothing quantifiable with that. Mr. Elko stated he feel that means that they will never need more than 6 parking spaces for visitors. Mr. Dougherty asked Mr. Elko if he is asserting that or he knows that; and Mr. Elko stated he is asserting that, and he knows that from talking to the client.

Mr. Jonas again stated if the Board looks at Section #200-79 of the Township Zoning Ordinance which has standards for off-street parking according to use, it lists a variety of Residential and non-Residential uses, but it lacks a catch-all provision for a legitimate land use that is not identified. He stated in Section #200-79A2 there is a catch-all provision for Residential uses that are not specifically identified, but in their case there is a unique situation. Mr. Jonas stated he feels the Township Ordinance does not allow for this legitimate and existing land use, and they missed providing for it as a land use by Right, Conditional Use, or Special Exception. Mr. Dougherty stated that is his point; and because it is not in our Ordinance, we are not going to have a carve-out for what the allowable parking should be. He stated this is something the Board of Supervisors could consider in the future. He stated he does not want to assume that our Code has a gap in it.

Mr. Dougherty asked Mr. Jonas if he is saying that this is not an allowable land use in our Township, and Mr. Jonas stated he is saying that it is a possibility that you will not find this land use provided for in the Township. He stated they are not present on a Substitutive Validity Challenge, but should the Board deny the Use Variance or deny the Reasonable Accommodation, he feels that is a case that might be made that the Ordinance is deficient in not providing for the use. He stated with regard to the narrow question of the parking standards, there is no parking standard for this use; and therefore they may not need any Variance at all for parking which is a legal question that the Board's solicitor will have to advise them on.

Ms. Carlton stated she knows there was an assertion that there is enough parking, but it seems that with 38 parking spaces for 32 employees at the peak, it leaves only 6 spaces. She stated it was also indicated that visitors are strictly regulated and scheduled, and that there would never be more than 6 visitors at any time; however, she asked what would happen if staffing changes should occur as required by law in the future or outside providers come in since facilities such as this often have occupational therapists, physical therapists, etc. who come in frequently often on a daily basis. She also asked about deliveries to the facility. She stated this is a 65-bed use at this facility where previously there were 46 beds permitted. She stated this would be an increased delivery burden on the parking spaces.

Ms. Carlton stated while she is not an expert on the ADA or the Fair Housing Amendments Act, she questions whether this falls under the purview of that given the fact that this is a Commercial endeavor and not strictly a Residential use. She stated she believes that discrimination under the Fair Housing Act is targeted more toward landlords discriminating against renting or leasing to those with disabilities, etc.; and she does not know if this is applicable to the Commercial endeavor that they are proposing.

Ms. Carlton stated the Township is particularly concerned about parking. Mr. Elko stated deliveries tend to be temporary in nature, and they have the circular driveway in the front where deliveries can be made as well as an area in the back; and while it is not technically a loading area, there is a lot of space there for a truck to stop, unload, and move off. He stated he does not feel deliveries need to occupy parking spaces at all for this facility.

Mr. Elko stated he would rely on Ms. Parks to address the staffing changes, outside therapists, and providers as well as the Fair Housing Act which is outside of his area of expertise.

Mr. McVan asked about mechanical maintenance and trucks for HVAC, landscapers, etc. which would result in parking spaces being tied up. Mr. Elko stated his experience is that those trucks come and go and are there for an hour or too, and he does not see them parking in one of the parking spots. He stated Ms. Parks can speak to that as well.

Mr. Dougherty stated Mr. Elko indicated that there is a circular driveway in front of the facility where trucks could park temporarily and he asked Mr. Majewski if he is aware whether that is a fire lane or a no-parking zone

at the current facility. Mr. Majewski stated he believes that the fire services prefer to have that circle kept clear of vehicles although he is not sure it is designated as a fire lane.

Mr. Schwartz stated he understands that there will be no changes to the building footprint, parking configuration, curb lines, entrances, exits, or exterior lighting; and Mr. Elko stated the only change they are proposing is to replace the two handicap signs in the front currently. Mr. Schwartz stated there is no process where this will have to go through our Planning Commission, and Mr. Elko stated he believes that this is correct. Mr. Schwartz asked if any approval is required from the Board of Supervisors; and Ms. Carlton stated at this point as presented, they would not have to go to the Board of Supervisors. Mr. Schwartz stated the Zoning Hearing Board's decision is going to be final, and Mr. Carlton stated that is correct unless there is an Appeal by any Party.

Mr. Jonas stated early on when they were looking to apply, they investigated with Township staff whether a Conditional Use would be required by the Board of Supervisors, and the Township staff directed them to apply to the Zoning Hearing Board as a Conditional Use was not needed.

Ms. Carlton stated in Mr. Elko's memo, the second to last paragraph states: "Constructing additional parking would trigger costly engineering and Permitting delays and the costs could significantly postpone or prevent the facility from opening." Ms. Carlton asked if that is really something that should be a concern to the Zoning Hearing Board that his client would have to absorb additional costs and delays for something like this if so required. Mr. Elko stated while he feels Ms. Parks can answer that question specifically, the reason why he put it in his analysis was because he understood that the facility could more quickly open without those types of improvements which he had concluded they did not need, any additional parking design, Permitting, and construction would take a lot of money especially if extra parking is not needed.

Mr. Schwartz asked if they are of the belief that the facility is move-in ready, and he asked if there are not interior changes that need to be made to increase the bed space; and Mr. Elko stated Ms. Parks will answer that.

Ms. Parks stated she is the Vice President of Operations for Banyan Treatment Centers. Mr. Jonas noted Exhibit 12, and Ms. Parks stated that is her CV. She stated she is a Licensed Clinical Social Worker by trade and also has a Master's in Business Administration with a concentration in Health Care Management. She stated she has worked in the behavioral health field her entire career working with behavioral health and addiction for most of her career.

Mr. Jonas asked Ms. Parks to speak about the Applicant and its related entity, Banyan. Ms. Parks stated Banyan is a leading provider in the behavioral health space. She stated they serve individuals Nationwide that are facing mental health and addiction challenges. She stated they provide a full continuum of care from medical detoxification all the way to outpatient services to wrap that support in resources for these clients to have a healthy recovery path.

Mr. Jonas asked Ms. Parks if the proposed use is unique with regard to Banyan or do Banyan and other providers have similar facilities in Pennsylvania or beyond. Ms. Parks stated what they have found is that they have not found another facility that is providing this level of care in this Township and in this area. She stated there are some gaps in the levels of care provided in Pennsylvania; and when they look back at the Community Health Needs Assessment in 2022, because those are done every few years, the top priority was mental health for this area and this Township; and it was the number one priority in need, separate from addiction wrapped up in that. Ms. Parks stated when they looked at some of the other numbers that are just in Bucks County, there was a very large number of hospitalizations due to mental health and substance-abuse crisis within Bucks County in this last year's period. She stated when she looked at the data it was over 1,600 acute hospitalizations just from the County area for this purpose. She stated they know that this is a need that is prevalent in this area and a service that they can provide for these clients.

Mr. Jonas asked Ms. Parks to discuss the services they would provide at this facility. Ms. Parks stated this facility would be an in-patient, residential and rehabilitation facility. She stated they have a very structured program that includes medical detoxification, clinical stabilization, and some wrap-around resources so clients are prepared to go to the next level of care. She stated they want to make sure that they have a very long continuum of care for clients who are facing these mental health crisis so that they are successful in the community when they discharge.

Mr. Jonas stated there was reference tonight to some Federal Statutes including the Americans with Disabilities Act, and he asked what requirements they have under those Acts for this proposed land use. Ms. Parks stated the clients they are proposing to see at this facility do fit both the ADA and the FHA Acts because they are actively seeking treatment for their disability. She stated mental health and substance use are defined as disabilities by both of those Federal standards, and that is the care that they provide.

Mr. Jonas asked about the age of the people they would serve, and Ms. Parks stated they would serve adult individuals 18 years and older at this facility both males and females.

Mr. Jonas asked Ms. Parks to describe the in-patient mental health treatment component of what is proposed. Ms. Parks stated this level of treatment that they are proposing is a Residential level of treatment which provides a little bit more comprehensive care, integrated services for clients that are with their care. She stated some of their differentiators that you might see from a community center/treatment center which is an allocated use for this time now is that they have 24/7 medical staff on site; and with that it is not just a housing focus, it is more of a focus on their medical and their clinical needs while they are in their care. She stated they have medical and clinical professionals including nurses, therapists, and psychiatric staff on site twenty-four hours a day at this place. She stated the level of care is also a little bit different than what you would see in a community housing environment. She stated it is a high-level, acute care so if you are looking at the ASAM it is a 3.7 level Residential care or a LOCUS 5 for the mental health area. She stated that includes more-structured programming, more intensive sessions, and more medical monitoring and medication management. She stated aside from that is their Licensure because they will be Licensed in the State by DDAP, which is the Department of Drug and Alcohol Programs, and also the Department of Human Services and Officers of Mental Health and Substance Abuse Services.

Ms. Parks stated they are a treatment provider and not focused just for housing for these clients, and the purpose of their treatment is an intensive short-term treatment and stabilization.

Mr. Jonas asked if the in-patient aspect is necessary for the reasonable care of the people they would serve, and Ms. Parks agreed. Ms. Parks stated if you look at best practice in any research standards, it is confirmed that you

must treat SUD and mental health conditions concurrently; and for most of their patients, this 24/7 stability that they provide in this Residential level of care is the only setting where they can be safely treated.

Mr. Jonas asked if the existing building is suitable for the proposed facility, and Ms. Parks agreed. Mr. Jonas asked what changes, if any, do they have to make to the interior. Ms. Parks stated they will probably paint, and they might change the showers as they are a little bit outdated that are in there; but it is very minimal that they have to change inside.

Mr. Jonas asked Ms. Parks if, based on her experience, are the requested Variances or the reasonable accommodation necessary to provide disabled persons with meaningful access to in-patient rehabilitation services in Lower Makefield; and Ms. Parks stated they believe that this level of care that they are providing is a gap in services in the community from doing their research on what is available now, and it is needed to be able to serve these disabled patients.

Mr. Jonas asked what would the peak number of patients be, and Ms. Parks stated the maximum would be 65 patients. Mr. Jonas asked if the maximum number of staff will be 32; and Ms. Parks agreed, adding often it is less than that on a typical day. Mr. Jonas asked if there is a possibility that they would need to expand the peak number of staff for this facility of 65 patients, and Ms. Parks stated there would not currently with the regulations that are in place because they do their staffing grids based on the State requirements for their License and any accreditation that they have.

Mr. Jonas asked if staff are present 24/7, and Ms. Parks agreed. Mr. Jonas asked what are the other hours of operation that would pertain. Ms. Parks stated they are functional 24/7, and there is staff present at all times on site. She stated to answer one of Ms. Carlton's questions, they do not have outside providers come on site; and they have all of their staff on site, and in their License, and that is counted in the 32. She stated any therapists are all theirs so that is already accounted for in the 32.

Ms. Parks stated there was also a question about maintenance, and those are also their own staff, and they are included in the count of 32 that provides the maintenance service to the property.

Mr. Jonas asked Ms. Parks to discuss the security for the facility. Ms. Parks stated they have many layers of security, and she knows that can sometimes be a concern with the population that they are working with. She stated their facility is staffed in accordance with the State and accreditation standards first to insure safety for their clients and for their staff. She stated they have medical and clinical accountability rounds performed at intervals throughout the day and at night to insure that their clients are safe and present and to mitigate any potential elopement risks. She stated separately employees receive training on security and expectations that they have for security upon hire and annually every year after that as well.

Ms. Parks stated with regard to security monitoring, they have security cameras installed at all primary access points, any common area, and in strategic locations around the outside of the building as well. She stated camera feeds are viewable in the nurse's stations, the behavioral health technician offices, and all Department Head offices so activities can be seen live time and reviewed at that moment. She stated they also have a recording feature so they do post-review to double check and see if they are monitoring everything after the fact as well. She stated there is camera monitoring integrated into their general safety oversight for the facility. She stated authorized personnel may also review that footage after the fact if need be. She stated recorded footage is retained and reviewed according to facility policy and applicable regulations, and they have access limited to authorized personnel only.

Ms. Parks stated with regard to external security, she has talked about internal and where they have camera placement on campus; and for external security they have all of their access points to get into the facility locked and secured. She stated they have closely-monitoring of staff of those points, and that is part of their regular perimeter check by their staff. She stated they also have individual patient rounds that are conducted at intervals throughout the day and evening to make sure that their clients are always safe, on property; and any unauthorized visitors are not permitted onto the property as well.

Mr. Jonas asked if there are outdoor areas the residents can access. Ms. Parks stated at this property the external areas are attached to the facility so they have internal patios and outside spaces that are connected. She stated their residents will do all of their activities inside/outside but connected to the facility within the perimeter of the building.

Mr. Jonas asked if residents are permitted to leave the property. Ms. Parks stated residents are not permitted to leave freely. She stated they are brought to campus by a pre-determined admission. She stated how their intake and admission process works is the intakes are processed through their Corporate Intake Facility, and there are designated facility vans that bring them to the site. She stated Mr. Elko has mentioned that they do not need parking spots because it is a moving piece for them. She stated they drop them off and leave. She stated at discharge, they insure that they have proper discharge, and they also take patients at discharge as well in transport vehicles. Ms. Parks stated if the patients were to leave the property for an outing or for an appointment, they would leave with their staff in their facility vehicle.

Mr. Jonas asked Ms. Parks to discuss the adequacy of the parking that is on site without adding parking and eliminating the green areas. Ms. Parks stated their patients are not allowed to have cars on site so they do not need any parking at all for patients. She stated visitation is strictly monitored and only approved through the clinical channel so they limit when patients' families come on site and how many come on site at a time. She stated with the permitted parking that they have, they do not concerns that they do not enough parking spaces for people on this site.

Mr. Jonas asked how visitation is controlled. Ms. Parks stated it is controlled through the clinical team, through the Clinical Director, and through their primary therapist. She stated those are assigned and reviewed and in accordance with what they have availability for space for.

Mr. Jonas stated based on the testimony of Mr. Elko and what Ms. Parks has discussed in terms of the operational aspects and security, he asked Ms. Parks what would the impact be, if any, on abutting properties and the character of the neighborhood by utilizing this existing building; and Ms. Parks stated they feel that they will have limited impact on the neighbors since their property is self-contained, and their clients remain on the property during the duration of their treatment stay.

Mr. Jonas moved for the admission of their Exhibits into the Record.
Mr. Dougherty so moved.

Mr. Schwartz asked if the temporary residents that will be there are they there voluntarily or are there some Court-ordered who may not want to be there, and Ms. Park stated they are all voluntary. Mr. Schwartz asked if they are 100% in-patient, and Ms. Parks agreed adding they are Residential-level care.

Mr. Schwartz stated there was a lot of information uploaded to the Board this afternoon, and he did some quick searching and found that Bayan has other facilities including one by the Oxford Valley Mall that appears to be out-patient; and Ms. Parks agreed. Ms. Parks stated there are two facilities in Pennsylvania – one in Langhorne which Mr. Schwartz mentioned which is an out-patient facility which was opened in 2018/2019; and the other is in Laurel Run about two hours from here, and it is very similar in nature to the facility that they want to bring to Yardley. She stated it is also Residential for mental health and co-occurring disorder clients. She stated they have been there since 2019.

Mr. Schwartz asked with regard to the parking spaces, have they considered reducing the number of beds that they are requesting to have; and Ms. Parks stated they have not had that discussion of reduction of beds because they feel that this is probably a need. She stated they have an out-patient facility that is here already so they do know the volume and the number of requests that are needed in this community, and they think that is the number of beds that we need to meet that need.

Ms. Parks stated the two programs that they have in Pennsylvania, just to share some information that might be pertinent especially if you are not from the world of mental health or behavioral health, both of their programs that they have had here since 2018 and 2019 have satisfaction scores of 90% or greater. She stated this is from clients and residents that have been with them and/or partners who have worked with them in the community. She stated they have a very, very low re-admission rate meaning that it is very much lower than the National standard, that once their clients receive treatment from them, it is very unlikely that they re-admit for that same issue again. She stated they have been very successful in both of their Pennsylvania locations that they are already currently working in now. She stated they have a very, very strong presence in providing for the community. She stated Banyan is very much drawn to provide service for those in need, and that is what they do, and that is their mission. She stated they have already served in Pennsylvania over 11,500 clients and residents in the surrounding area and in the Laurel Run area in Pennsylvania since they have already part of the community – just not in the Yardley community which is where they would like to put this facility. She stated they usually see over a 1,000 residents in a year in each of their facilities that have currently in place.

Mr. Schwartz stated a lot of facilities in our area whether it is a nursing home, assisted living, etc. have community rooms; and sometimes to be part of the community they allow private organizations to use those as meeting spaces. He stated he is a member of a Lion's Club, and when they started, they were using the community room at Sunrise Assisted Living; and there were nights when there were cars all over because they did not have enough parking. He asked if there is a plan for a community space in the building, and if there are any guidelines already in place in the organization for use or non-use of that space for outside organizations.

Ms. Parks stated they do not have a community space for outside organizations. She stated due to the sensitivity of the nature of the clients that they are serving, they have to be very careful to not violate HIPAA privacy with their patients on site, which is why security is very tight. She stated they want privacy for their clients who are in their treatment, and they do not allow outside organizations to come in for that purpose to provide that security for their clients.

Mr. Solor stated they are not being asked many questions by the Board since most of the non-conformities have already for the most part been accepted, although someone may have a different opinion. He stated the issue is with the parking which is the one thing that is variable depending on the use of the building. He stated they are saying that 6 spaces is adequate for visitors so less than 10% of their patients would have visitors at any time. Ms. Parks stated that is actually pretty accurate. She stated unfortunately many of their residents do not have families that will come and visit. She stated they have been in this field for a very long time and have 16 facilities all over the Country, and their experience has been that they think that will be adequate based on the number of visitors that they typically see for clients.

Mr. Solor stated the other aspect of why parking is such a huge issue is the existing property has no street parking on the adjacent streets, and there is no connection to the existing parking lots that are associated with the Commercial space adjacent so they have to be self-sufficient; and that is why there is a lot of concern about the level of parking here.

Mr. Dougherty asked how many resident rooms exist in the facility. He stated there are 48 residents, and they are going to be going to 65. Ms. Parks stated they have some rooms that have two patients per room, they have a couple of rooms that have three patients, and there are some rooms that they can make

for one patient so they have varying configurations based on the needs of the clients. She stated if they have a client that needs to be in a private room, they can do so. Mr. Dougherty asked if there are Federal guidelines for space, and Ms. Parks agreed. Mr. Dougherty asked if they will be able to adhere to the regulations; and Ms. Parks stated they absolutely will, and that is how they built their design/their plan in the beginning from the regulations.

Mr. Dougherty stated earlier Ms. Parks was explaining that they use vans to transport coming and going, and it is a rotation, and they are not parking; and Ms. Parks agreed. He asked if the vans are owned by the company. and Ms. Parks agreed. Mr. Dougherty asked where are the vans when they are not physically moving people. Ms. Parks stated typically they are never sitting anywhere because they have multiple facilities; and they are moving to admit at some facilities, and if it is not this one at Yardley, it could be the one in Laurel Run or it could be the one in Langhorne. She stated they also have some additional parking in some of their other sites, so if for some reason they needed to put a van down, meaning they needed a space, they would use the Langhorne site which has ample parking on site already. She stated typically they do not sit because they are transporting on admissions not just for this facility but for other facilities as well. She stated they do admissions and discharges at all facilities.

Mr. Dougherty stated with regard to the patients/residents of the facility, Mr. Schwartz had asked if they voluntarily entered or if some were Court-ordered; and the answer was that they were primarily voluntary. Mr. Dougherty asked if they have the ability to sign themselves out if they want to leave, and Ms. Parks stated they can. Mr. Dougherty stated they could sign themselves out and walk out the front door and walk down the driveway and walk down the street; and Ms. Parks stated that is an option, and they would not physically restrain them.

Mr. Dougherty stated a comment was made that the 32 person staff includes basically everybody, and it is a self-contained facility; and Ms. Parks agreed. Mr. Dougherty asked for a breakdown of the staff when they are at capacity with 32 staff on the property. He asked how many would be in the kitchen, how many are doctors, nurses, therapists, social workers, or housekeepers. Ms. Parks stated she can give generalities, and she stated they base their staffing regulations based on what the regulations are from the State. She stated for nurses it would be 1 to 15 or 16 roughly. She stated for the

providers, it depends on the day on how many clients they are going to be seeing for that day so that will vary. She stated it could be one provider or it could be two providers on a day depending on what their schedule is. She stated for BHTs they typically run about 1 to 16 on their ratio on the day shift and around 1 to 20 on the evening shift. Mr. Dougherty asked what is a BHT, and Ms. Parks stated it is a Behavioral Health Technician, and those are the psychiatric staff that are with the patients doing the rounding, daily care, they do group, some psychoeducational groups – a plethora of duties.

Mr. Dougherty asked if it would be fair to say at full capacity when they are at 32 employees on site, you might be at the 1 for every 16; and Ms. Parks agreed. Ms. Parks stated for that site there will be one maintenance probably on the shift, and kitchen people you might have 3 people on a shift. She stated while she did not come prepared to break it all down, she can give it to the Board since they have it in a grid. She stated that is how they got to the 32 because it was everybody that might be there on the highest possible day. She stated when you do staffing in health care there are some days when you have heavier groups because if they work 12 hour shifts, they are going to work 3 days during the week.

Mr. Dougherty stated earlier Ms. Park stated it was self-contained and everyone is included; but he finds it hard to believe that there is an electrician sitting on site, and a plumber sitting on site, and an HVAC mechanic sitting on site. Ms. Parks stated they have a maintenance person on site who will do as much as they can for plumbing and electrical; and if it is beyond their scope, they will call a provider on the site for that. She asked if that is helpful, and Mr. Dougherty stated it is helpful since the word it was worded previously was a little misleading unintentionally.

Mr. Dougherty stated it was indicated that there was one landscaper for the property, and Ms. Parks stated they have an outsourcing landscaping crew that will come. Mr. Dougherty stated he believes that earlier she stated that was part of the self-containment. Mr. McVan stated earlier it was stated that they drop the equipment off, but he has never seen that and usually they come and take up four spots and cut the grass, and they are there for an hour. Mr. Elko stated there is a curb cut in the back to access the green area, and the landscapers can go right up onto the green area and park there and do what they need to do and leave. Mr. Dougherty stated they will probably not do that after a heavy rain when their equipment would sink into the grass.

Mr. Dougherty asked Ms. Parks how many facilities does Banyan across the County, and Ms. Parks stated they have 16. Mr. Dougherty asked if any of those 16 facilities have similar constrained parking, and Ms. Parks stated they do. Mr. Dougherty asked Ms. Parks to identify them. Ms. Parks stated Banyan Boca in Florida. She stated there are a lot. She stated they have a lot of sites that have limited parking but none of their clients ever bring their cars there so there are several. Mr. Dougherty stated if Ms. Parks could list them it would be helpful. Ms. Parks Banyan stated Seabring in Florida, Banyan Delaware, and Banyan Palm Springs in California are a few.

Mr. Heinz stated Ms. Parks had stated that this facility would be similar to the other Pennsylvania facility in the Wilkes Barre area, and Ms. Parks agreed. Mr. Heinz stated on the Website it says that the facility there that there are both in-patient and out-patient programs; and Ms. Parks stated they have both services there, and they are not going to have out-patient at Yardley, but the in-patient portion is similar in nature to what they want to bring to Yardley.

Mr. Heinz stated he understood that Ms. Parks had stated that all the patients were transported to the facility from another location, and he asked if that would be from the Langhorne location. Ms. Parks stated their clients come multiple ways. She stated some come from another facility, some are picked up from home, some are picked up wherever they are at that time; and they come to them from many different places. She stated some come from hospitals, and there are many ways and places that clients come to them from; but they pick them up and bring them on-site.

Mr. Schwartz stated it was asked earlier prior to Ms. Parks' testimony about what it would take to add the parking spaces, and it was indicated that Ms. Parks would explain what hardship that creates. Ms. Parks stated she believes that Mr. Elko was mentioning that if they were to add parking spaces, they would have to get drawings created because it is a triangular shape, and they would have to put it in the grass spot because that is the only place on that property really that they could put that. She stated that would require drawings, it will require Permits, it will require an extended period of time. She stated she hears what Ms. Carlton was saying that maybe that is not for the Zoning Board, but it is just inclusive in their Plan of the additional steps.

Mr. Heinz stated some of the setbacks are not met, and he asked when that situation occurred. Mr. Majewski stated as Mr. Jonas noted during his presentation, when they initially built the facility, they built it and got Variances for those setbacks so this is an existing non-conformity. Mr. Jonas stated that was in 1995.

Mr. Dougherty stated in the Exhibit submitted it states that there are “strict visitation restrictions for the facility,” and he asked Ms. Parks to define what that means. Ms. Parks stated what that means is that they do not have open visitation meaning that every Wednesday from 5 to 10 anyone can come for visitation. She stated strict visitation means that it is decided by the treatment team and by the clinical professional that this is necessary and part of the treatment and will be considered part of that treatment for that visitation with that family member. She stated then the persons that are able to come to visit are approved, and then the time is approved as to when they are going to come for visitation.

Ms. Blundi asked Ms. Parks what State entities they will be regulated by, and Ms. Parks stated they are regulated by DDAP (Department of Drug and Alcohol) and also by OMHSAS (Office of Mental Health and Substance Abuse Services). Ms. Blundi asked if either of those entities already looked at the proposal to confirm that it could house 65 in-patients. Ms. Parks stated are not that far in the process yet; however, they followed the same regulations that they do for any of their sites, and part of that process is knowing the square footage requirement per patient, per room, and they are abiding by all of those regulations with that number. She stated that is how they generate the number of clients that they can serve.

Ms. Blundi stated she is adjacent to Ms. Parks’ field, and she is startled when she thinks about the facility that is there, which she has been to, housing 46 adults; and now they will have 65 adults who will be more active and there is not as many open rooms/community rooms for them. Ms. Parks stated they feel pretty blessed with this site to be very transparent. She stated they have a very large courtyard in the middle, and there are enclosed patios that are on different sides of the pods that are all activity rooms that are generated for activities outside of the clinical space. She stated they feel that there is plenty of adequate space in there for clients for extra-curricular activities because that is part of their wellness plan for clients when they are with them. She stated with OMHSAS, which is the one they are really regulated by, they do not have hardly any regulations for room size; and they go ahead and abide by the stricter size which would be DDAP.

Ms. Blundi stated as residents successfully transition to different stages of the program might those vans take them to a gym or to community outings. Ms. Parks stated that is part of their curriculum, and part of their program is extra-curricular activities in a community outing. She stated they have those as planned activities weekly, physically for all of their clients; and their staff go with the clients on those activities. She stated the gym is one, they go to the movies, maybe bowling, and they do a lot of different activities.

Ms. Carlton asked Ms. Parks what is their typical patient like. She stated the description that accompanied the Application stated that their patient is an adult over 18 male and female – substance use and co-occurring mental health conditions. Ms. Parks stated for this facility the clients that would be coming into program would have a primary mental health diagnosis. She stated if you work in the behavioral health field rarely do you see one without another which is where the co-occurring disorder comes in. She stated where they might have a primary mental health challenge or diagnosis like anxiety, depression, a trauma that has occurred, they may also have some substance use issues that are in tandem with that.

Ms. Parks stated their typical patient that they would treat would be a patient that would have generalized anxiety disorder, general depressive disorder, could be an acute set of psychosis and have some use history in there. She stated they are treating both issues at the same time. She stated if you look at good clinical practice and research it says the only successful treatment is a treatment that looks at both at once, and you cannot treat just the mental health component and forget about the other piece; and you cannot just treat a substance problem and not address the anxiety, depression, or trauma that may have led that person to that use.

Ms. Carlton asked if some of the patients are one or the other and can some just have mental health issues. Ms. Parks stated some can be just primarily mental health and no substance use. Ms. Parks stated there could be a patient that has just generalized depression, but often they see both in a lot of patients. She stated it could be in varying degrees, and it might be very tiny substance abuse or no substance abuse at all and just be mental health.

Ms. Carlton asked how long is the typical patient with them, and Ms. Parks stated every plan is individualized for the client. She stated usually their typical length of stay is between 18 and 21 days.

Ms. Carlton stated she understands that Ms. Parks testified that they cannot keep the patients there without their consent, and she believes that to be true. Ms. Carlton stated if the patient decides that they have had enough on day 3, and they want to sign themselves out, they have the ability to do so; and Ms. Parks agreed. Ms. Carlton stated she understands that Ms. Parks testified that many do not have family relationships so a patient could sign themselves out; and since they have no car there, there is no control when they leave.

Ms. Parks stated they would not physically prevent someone from walking out the door; however, they have a very lengthy process in what they do in their clinical program. She stated they can tell when people are not happy and where they are at. She stated they have a very integral clinical program in place to intervene early to prevent that from occurring. She stated they have a multi-step process that is encouraged by all of those people on the site that Mr. Dougherty had mentioned, and all of the different levels are intervening with these clients in order to prevent that. She stated what this is called is leaving against medical advice, and their AMA rate where that is considered is very low in Pennsylvania compared to the National average; and it is under 9%. She stated it is a very small percentage of their patients that just say "I'm leaving." She stated that even when they say "I'm leaving," that does not necessarily mean that they are not going to provide them help to get somewhere. She stated it is a very, very small number of patients that might walk out the door and walk down the street, which is where she knows Ms. Carlton is going with that. She stated they could not physically stop someone from doing that, but they have a very lengthy process in place to prevent them from getting that far down the path.

Ms. Carlton stated part of the questioning is related to security, which is one of the first things that Ms. Parks spoke about. Ms. Carlton stated based on the 16 facilities that they have across the Country, she is sure that she has empirical data, etc. She asked how many patients leave either unattended, unauthorized, and really are just then wandering in the general population.

Ms. Carlton stated the reason for the questioning is how often they have to involve either EMS and/or local Police to assist in retrieving or speaking with the patients and try to bring them back. Ms. Carlton asked how often the local Police or EMS are engaged by Banyan. Ms. Parks stated while she does not have the exact numbers, and she did not drill that down for Pennsylvania, she could find that for Ms. Carlton. Ms. Parks stated that it tied to the AMA rate; and when they track, and they do track that for any location that they have, how many people are leaving against their advice, and in that number would

be the one that Ms. Carlton is mentioning how many walk off that are wandering around. She stated she does not have that number, but it is very, very small. She stated they have to call the Police a very few number of times, although it does occur, and it is going to occur when you are dealing with clients that have mental health issues it occurs; but it is a very small number.

Ms. Carlton asked about EMS services to the facility. She stated she knows that they have staff 24/7; but for things that are out of the purview or out of the capability of their staff. Ms. Parks stated if it is a medical emergency that someone is having that is something that they cannot contain, they would call EMS for that if it is a medical emergency with something with the chest, a heart issue, something like that. She stated if someone is in danger of harming themselves and they need to be at a higher level of care, they would call for that purpose. Ms. Parks stated often that does not happen. She stated part of their admission process, and they have a Corporate call center that does this, is to really identify and make sure that they are placing the client in the right place at the right level of care. She stated she talked a little bit about that today about level of care, with in-patient/out-patient and all of these different levels; and that is something that start with at the very beginning when a client says they want to come to Banyan – what are their needs, where are they going to fit best so that they have the most success rate for the client.

Ms. Carlton stated Ms. Parks stated earlier that based on the perceived need in the this area, 65 beds is optimum; and is needed in this area. Ms. Carlton stated obviously the 65 beds requires the additional staff which requires going back to parking. Ms. Carlton asked if there would ever be a consideration to reduce the number of beds. She stated they are jumping from a 46-bed facility to a 65-bed facility; and she stated she knows that Ms. Parks said they could put people in singles, doubles, and triples. She asked if there would ever be any consideration just to reduce the number of beds which would reduce everything else that is being requested this evening.

Ms. Parks stated that is not an area that they want to move from because they do feel that when they did their initial research and looking at the needs that are in this area and the gaps of services that are in this Township and particularly in this area, that they will need that to be able to serve the clients that are here. She stated when they look a little bit deeper at some of those gaps in services, it is not just that we do not have another facility similar to this, because she did not find one. She stated there is one close in Morrisville but it is only Residential for males so there are no female beds anywhere around here

at all. She stated then you have a higher level of care which is a hospital but they are also not a detox unit, and they cannot have anyone who needs detox there. She stated there are significant gaps in this area and in this community for this level of care, which is why they are pretty solidified that they think that this is the number of beds that they need to do for this area and be able to serve the most clients.

Mr. Dougherty advised that those wishing to make public comment will need to be sworn in, and he asked that they be concise as possible. He stated the Applicants have the right to cross examine and ask questions of those making public comment.

Mr. Jonas stated the Pennsylvania Municipalities Planning Code in Section 50908 talks about Parties to Hearings who have the right to be sworn and present evidence and cross examine witnesses and to be cross examined. He stated if someone is not a Party, then there would be no reason for that person to be sworn because they are not a Party, and they do not have the right to provide evidence although they can provide public comment.

Mr. Dougherty stated historically the Board takes their public comment. He stated he agrees with Mr. Jonas that if they are not going to be a Party to the matter, they do not have the right to directly ask questions. He stated we will ask them if they are requesting Party Status when they come forward. Mr. Levin stated the Notice provisions for this particular project since it is a Use Variance, it is people within 400' of the facility itself which is who they have to provide notice to the neighbors to; and those are the people who are entitled to be considered as Parties. He stated outside that Zone, they lack standing. Mr. Dougherty stated those coming forward will be asked if they are requesting Party Status, and their address will be needed to verify if they are within the Party Status perimeter.

Mr. Frank Falkow was sworn in. He stated he is not requesting Party Status; and while he lives in close proximity, it is not within 400'.

Mr. Falkow asked Ms. Parks what will be the name of the facility. Mr. Jonas stated Mr. Falkow does not have the right to ask questions of the witnesses. Mr. Dougherty stated he can ask the Board, and the Board can ask Ms. Parks. He stated Mr. Falkow can ask the question, and Ms. Parks can decline to answer it; and if the Board finds it is relevant, one of the Board members can then ask the question. Mr. Jonas stated he is just trying to follow the

Statutory Law as it is important. Mr. Dougherty asked Mr. Levin if he would be violating Statutory Law in this regard. Mr. Levine stated technically you cannot really do it through the back door, and they either have Party Status or they do not. He added that the Board can ask any questions. Mr. Dougherty stated it sounds like Mr. Falkow will not be able to directly ask questions of the Applicants because he does not have Party Status. Mr. Jonas stated that is correct unless they can show Standing outside of the Zone.

Mr. Falkow stated he would like to know what the name of the facility will be, and if it will follow the Florida facility naming protocol so that it would be Banyan Lower Makefield or Banyan Yardley, and if it will say drug and mental health treatment on the signs. Mr. Falkow stated with regard to parking, currently there are a couple of vehicles that are on the site of the company who held the property before. He stated it appears that there will be outings from the new facility. He asked if, outside of the employees bringing their own vehicles and parking in the 38 parking spots, will there be any company-owned vehicles on the property whether that would be security, a maintenance van, etc. He stated because the patients will have the ability to leave at will or voluntarily sign themselves out, he asked if the rooms would be secured with the windows locked or will anyone have access to leave through a window even if doors are locked inside; and he asked if the windows would be secured.

Ms. Parks stated the name of the facility will be Clearbrook Behavioral Health, and that follows their naming conventions for their other locations that they have in Pennsylvania; and that is what will be on the sign. Ms. Parks stated windows are locked, and the only exit would be the doors that are also locked on their facility. Ms. Parks stated the only company-owned vehicles that they have are the transportation vehicles that bring clients to and take clients from. She stated they are a white passenger van or a Ford Explorer SUV and maybe one every so often, but not routinely sitting there.

Ms. Karen Smeltz was sworn in. Ms. Smeltz stated the building they are talking about using has never been a secure building, and it was never built to be a secure building. She stated from the first day it opened as Clare Bridge of Lower Makefield patients were walking out. She stated they were Alzheimer's patients who did not know where they were going and did not know where they were. She stated it was a very dangerous situation. She stated she became aware of it a week later when they hired her to monitor the front doors so that at least the patients could not get out that way. Ms. Smeltz stated they had four-digit codes on every door that led to the outside; but within hours, some of the patients had picked

up on that and would just watch the employees punch in the codes, and then do it themselves so they could get out without setting off an alarm. Ms. Smeltz stated in this case, they are dealing with patients who are not handicapped in the same way as the Alzheimer's patients were, and they will not have any trouble figuring out how to get out of that building if they want to. She stated the building is next to a very large nursery school, which is protected only by a very low fence about 3' or 4' high, and the children play outside there every day; and she asked what is to prevent an interaction between these preschool age children and the residents who just wander off from this facility.

Ms. Smeltz stated she is also concerned about the safety of the residents in the area. She stated her husband's family lived in Lewisburg, Pennsylvania, which is the home of a large Federal penitentiary. She stated while you would think they would have extremely good security and people could not just walk out, there were numerous stories about how people had their cars stolen from their driveways or their houses were broken into by people looking for resources to escape from the area because they had walked away from that prison. Ms. Smeltz asked what is to prevent people who do not want to be in this facility from doing the same thing.

Ms. Smeltz stated this is a safety issue not only for elderly people who live on the road but also people who have young children there and people whose grandchildren visit them regularly on that street and play out in their yards. She asked how they can consider allowing this kind of insecure situation with people who are not making good decisions or are not capable of making good decision when so many innocents are involved in this situation and are potential victims of what could happen there. She asked that the Board consider not just the legalities of the situation but what they owe to their fellow citizens. She stated her house is directly across the street from this place. She stated she has lived there almost fifty years, and she intends to stay there until she dies if she is well enough to stay in that place. She stated she is terrified of something going wrong in this situation, and of the people who are not making good decisions on their own just deciding to leave and seeing a car in her driveway and deciding they want to steal it or break into the house to see what else they can find. She asked that the Board consider the people they are putting at risk if they allow this to go forward as there are a lot of them.

Mr. Richard Adams, 902 Village Road, was sworn in. He stated he lives across the street and is within the borders. Mr. Dougherty asked if he is seeking Party Status. Mr. Levine stated he believe that he is within the Zone. Mr. Dougherty stated if Mr. Adams wants the right to directly ask questions of the Applicant, he has to declare that he wants Party Status; and Mr. Adams stated he wants Party Status.

Mr. Jonas asked Mr. Adams what are his concerns that are different than any other member of the public including Ms. Smeltz and the gentleman who spoke previously. He asked Mr. Adams what are the impacts or concerns that distinguish him from any other member of the general public. Mr. Adams stated they stated there was a 90% success rate which means that they have a 10% unsuccessful rate which leaves about 6 people who are unsuccessful in their treatment plans.

Mr. Jonas stated his question is what is it about his concerns that are different than any member of the general public who are concerned for any reason. Mr. Adams stated they have 16 facilities across the Country, and he asked how many of them are put next to a child day care center.

Mr. Jonas objected to Mr. Adams' Party Status.

Mr. Dougherty asked Mr. Levine who makes the decision on this, and Mr. Levine stated he feels the Board is entitled to make the decision. Mr. Levine stated he believes that if the gentleman is within the Zone, he is generally entitled to Party Status; and he does not feel that merely have a duplicative type of concern is necessarily a reason not to give him Party Status. Mr. Dougherty stated they are choosing to grant Mr. Adams Party Status, and Mr. Jonas' objection will be noted on the Record.

Mr. Adams again stated they had stated that they had 16 facilities across the Country, and he asked how many of them are next door to a child care center. Ms. Parks stated she does not know that answer. Mr. Adams asked if they have considered any other locations. Ms. Parks stated that while she was not part of that process, she knows that they have looked at other locations prior to obtaining this location. Mr. Adams stated he is aware that there is a facility near Core Creek Park that does the same type of thing which is another one that is in Langhorne. Mr. Adams stated they stated the doors are all locked, and he asked what if there is a fire. Ms. Parks stated there are magnetic locks that unlock when the fire alarm goes off, and that is part of the Code that is required.

Ms. Melissa Zerbe was sworn in. She stated she owns a business at 207 and 208 Floral Vale Boulevard in the Floral Vale Professional Park, and she is requesting Party Status so as to preserve her rights for Appeal.

Mr. Jonas stated he objects since the witness is not in the room and deprives them of the reasonable ability to cross examine. Mr. Dougherty stated Mr. Jonas' objection is noted.

Ms. Zerbe stated her business is a dance studio and she serves numerous families with children from three to seventeen, and young children are at her studio. She stated they are there often in evening hours when there are not a lot of people or activity in the park so she has great concerns. She stated it has already been stated that people cannot be stopped, and it does not sound like there is any kind of significant security there at all. She stated we need to think about this where children are concerned, and they are talking about people with mental illness. She stated she is strongly objecting to the granting of this Variance. She stated she does not begrudge anyone to get treatment, but she feels that this is the wrong location for that. She stated someone has already mentioned the preschool, and they are in stone's throw of two schools; and she wonders if these things are often set up with education systems nearby.

Mr. Dougherty asked Ms. Parks if there is security on site such as people who play security roles or are the doors are just locked. He asked if they have professional people trained to deal with that, and Ms. Parks stated they have professional people on site trained to deal with that.

Mr. Jonas asked for the address of the person who just spoke, and Mr. Dougherty stated that she owns 207 and 208 Floral Vale Boulevard. Mr. Jonas asked if anyone is present who can confirm whether that address was on the list of people within 400'. Mr. Majewski stated it is as is the next caller, at 307 Floral Vale Boulevard.

Ms. Elaine Torres-Melendez, stated she is requesting Party Status and she has had a dental practice for the last 34 years. She was sworn in. She stated she is in support of the previous individuals who have come forth to express their concerns. She stated as she noted earlier, she has been in practice for 34 years in that area since the complex was established. She stated from her rear "operatory" she can visualize the rear portion of what she would call the nursing home facility. She stated it is very crowded as it is, and it is a 4.3 acre facility in an area that requires 25 acres. She stated she has safety concerns, and she is very concerned about the changing of the usage of the building, the nursery school, the dance school, and her very vulnerable patients who

come in and are disabled and vulnerable. She stated she also thinks that a 9% walk-out rate away from treatment is not a small amount, and it should be given due consideration. She stated she thinks that there are plenty of open spaces to locate a much-needed facility like this but not at the corner of Township Line Road and Langhorne-Yardley Road.

Mr. Michael Evon was sworn in. Mr. Evon stated his address is 201, 202, and 206 Floral Vale Boulevard. He stated he received letters, and he is requesting full Party Status. Mr. Evon stated he is the owner of the properties.

Mr. Jonas stated he notes his objection to persons who are granted Party Status who are not in the room and available for cross examination.

Mr. Evon stated he is a representative of Floral Vale Professional Park, as he is the President. He stated he is a business owner, and he wanted to voice his concerns also for the day care which abuts the property. He stated as was previously mentioned there is a very small chain link fence that is between that property and the day care. He stated he believes that as Dr. Torres has stated this type of property is really a little undersized, and it should be a larger size. He stated he believes that with the current Variance it actually extends onto our property as being Floral Vale Professional Park. He stated it is also a concern with the dance studio. Mr. Evon stated he just left his office to be able to be on this meeting, and it is a very dark area; and he is concerned about the safety of the girls at the dance studio and some boys and also the young children during the day.

Mr. Evon asked what would the local impact be on the Police, and is this something that would put more burden on our local Police force. Ms. Parks stated she does not have any specific numbers that she can give about impact to the Police Department. She stated Police are rarely called to a facility site, and it should not be a high impact.

Mr. Evon stated he is also concerned because the parking in his complex is rather limited; and if there is any overflow from their units from not having enough he could see people parking in his complex and walking over.

Mr. Evon stated he just wanted to be on the Record saying that it seems that the facility is a little undersized for the location even though it does seem to work rather well for them, and he admits that this is a service that would definitely be used by the community; but it seems that location may be a little bit too small of a parcel size to be able to comply with the current Variances that they are looking for.

Mr. Schwartz stated with regard to the safety concerns, everybody keeps forgetting that the people seeking treatment are going voluntarily, and they are not being held against their will. He stated he doubts that they are violent, dangerous criminals like those that would come out of a prison. He stated it is different comparing Alzheimer's and mental health issues as they are completely different, and he does not think that is a fair comparison.

A short recess was taken at this time.

Mr. Dougherty stated he feels this community and every community has a need for this type of facility; and drug abuse, substance abuse, and mental health are epidemics in this County. He stated earlier Mr. Jonas had indicated that this is not a land use that is recognized in our Code, and he asked Mr. Majewski if that is correct. Mr. Majewski stated the way they described their use does not fit into any of the categories that we have. Mr. Dougherty stated they are asking for a Use Variance for a Use that is not recognized in our Township, and the Use that is being proposed is concerning to him. He stated Ms. Smeltz' comments were compelling with her living across the street. He stated the residents of the facility suffer from instabilities and are prone to making bad decisions. He stated there is no way to physically keep them on the property. He stated historically people with substance abuse issues will make bad decisions and are prone to theft. He stated they will be coming into a building that is currently for age 55. He stated he has less of a concern with the beds; and if the regulations say they can have 65 beds, he is okay with that, but he has a problem with the Use change

Mr. Dougherty stated he also has a problem with the parking, and he feels the parking is far from adequate. He stated he feels when this facility is at capacity there will be 6 extra spaces, and he feels that on any given day those 6 spaces could be taken by people supporting the facility whether it is tradesmen, deliveries, landscapers, etc. He stated at this point he is a no vote.

Mr. Schwartz stated he is a retired tradesperson who has parked his work van around many facilities; and they rarely take up a parking space, and they usually park up against the curb next to the nearest exit they can so they do not have to carry their tools very far, and then they get out. He stated he does not have an issue with the tradespeople that may have to come and go to do service from time to time.

Mr. Schwartz stated if anybody has known anyone who has gone through any kind of counseling like this in-patient or they were staying at a facility, you would know that you cannot just show up any time you want to visit. He stated he believes that a strict visitation policy will be adhered to as he has seen it first-hand.

Mr. Schwartz stated a lot of this information was e-mailed to the Board today, and he had the opportunity to do some searches on Banyan. He stated he searched for neighbor complaints around existing facilities, and he could not find any. He stated he is not concerned with it at all.

Mr. McVan stated he agrees with Mr. Dougherty with regard to the parking. He stated they indicated that there would be 65 beds because of the square footage of the facility, but there is not enough square footage for the parking. He stated when they are looking at this facility, they should line up with all of the requirements. He stated if they have enough room for beds, but they do not have enough room for parking, they need to lower the number of beds.

Mr. Solor stated the other alternative would be to increase the amount of parking. Mr. Solor stated the staffing is being driven by the State minimum requirement, and the State minimum requirement could change and there would need to be more or people could overlap on a shift change. He stated the parking concerns him. He stated he sees the reason for a facility of this type, and there is a lot of demand since COVID has increased the need in the general population; and he knows people who have used facilities around here. He stated he does not believe that people will just wander off given his personal experience. He stated the parking situation has to be dealt with as it is way too tight, and any change or missing assumption means that there will not be enough space. He stated the only place that people could park would be Floral Vale and walk across the grass which does not make sense. He stated it is also tight in Floral Vale in the middle of the business day.

Mr. Jonas stated there is a concept in land use, Zoning, and Subdivision and Land Development of reserve parking. He stated there is a shortfall although the formula does not specifically apply to this use, and it seems close. He stated if it would persuade the Board to grant the Application, the Applicant would agree to design reserve parking; and at some point in the future should it be determined by the Township engineer or the Township traffic engineer that additional parking were needed, they would then go through the process to implement the designed reserved parking.

Mr. Dougherty stated he does not know what the concept of reserved parking is, and he asked Mr. Jonas for a further clarification. Mr. Jonas stated sometimes there is the opposite concern that something proposed is going to have too much parking and parking that is never going to be used. He stated what Applicants will offer to a Township is that they will comply with the total number of parking spaces by utilizing the spaces that are already built. He stated in this case there is a 16-space shortfall. He stated they would design in accordance with Township regulations, impervious surface, and stormwater management, per the approval of the Township engineer for the additional parking for 16 spaces on the site. Mr. Jonas stated Mr. Elko does not feel that there will be an impervious issue, and it would be designed in a way that would be acceptable. He stated if there is an issue, the Township engineer or Township traffic engineer would report to the Board of Supervisors that they believe that the existing parking spaces are not adequate, and the Applicant should implement and go through the process to get approval and construct the additional parking and then be fully compliant.

Mr. Dougherty asked if they would engineer the Plan, and it would be Recorded, and Mr. Jonas agreed. Mr. Dougherty stated there would be some kind of legal document that would give the Township engineers the ability to make the demand. Mr. Jonas stated the Board's solicitor would provide a condition of approval by the Zoning Hearing Board that would accomplish all of that.

Mr. Dougherty stated while that will not change his vote, it is a compelling point for those who have concerns with the parking.

Mr. Heinz asked Mr. Majewski what Land Use was granted for the current business that was there. Mr. Majewski stated the prior use was for an Assisted Living Facility. Mr. Heinz stated that is part of our Ordinances, and Mr. Majewski agreed. Mr. Heinz asked Mr. Elko if that is what the Statutes were calculated for. Mr. Heinz stated the Assisted Living Facility has 38 spaces, and that conforms with that Use. He stated the 54 spaces is what would be needed for the Treatment Rehabilitation Center Use. Mr. Heinz asked if that is because of the additional head count; and Mr. Elko stated it is because of the way the Township calculates the parking, and it is based on beds and employees.

Mr. Heinz stated he reviewed the original Variance that was granted in 1995, and it did not say anything about there being only one egress; and he asked if there is not a requirement to have more than one egress. He asked if that is in the Fire Code. Mr. Majewski stated typically one egress is acceptable, and he is not sure if they have provisions for emergency access to the site on there; and he could look into that.

Mr. Heinz asked Ms. Parks if at other sites, they have similar multiple entrances or exits, and Ms. Parks agreed depending on the site and locations.

Mr. Heinz stated his background is facilities management, and he identified a couple of places where he could put some parking spaces.

Mr. Heinz stated with regard to the requirement for a number of contractors on site, he does not know how much of an infrastructure they are going to re-build as that will influence how many people they need to bring in to service that equipment. He stated for the roof itself, he has seen four HVAC units plus individual units around the outside of the building just from the limited video observation that we saw.

Mr. Heinz stated since there is really no guidance as far as Land Use, he is leaning toward voting for this.

Mr. Dougherty asked the members with concerns about parking to consider Mr. Jonas' discussion about reserve parking. Mr. Solor stated he likes the concept of the reserve parking with having the design there, but he does not know how that is executed from a legal perspective; and he would like to hear some advice in that regard. Mr. Levin stated he has a limited understanding of it, but he believes that it is a Recorded Plan that is generated based on whatever the perceived need is. He stated as the Township engineer moves forward and the facilities and operation, if it is determined that there are observable problems with insufficient parking or people double parking in what should be a fire lane and any type of obstruction, it would be a Condition of the original approval that the Township or its engineer could require that Plan to go into effect and the facilities to be constructed.

Mr. Dougherty asked if money would be held in escrow or because it is so ambiguous that they would maybe not hold money in escrow. Mr. Majewski stated the concept of reserve parking for non-Residential properties is contemplated in our Zoning Ordinance, and it was recognized when they

did that that sometimes our parking requirements may be a little onerous or did not fit all situations. He stated they established that the Township may allow for the reservation of parking provided they can demonstrate there is sufficient room on the site in order to accomplish that. He stated they would need to prepare a Plan or Exhibit and Record a document and establish a Performance Bond that would guarantee that if that became necessary in the future, they could do that.

Mr. Majewski stated as Mr. Heinz noted, looking at the Site Plan he also noted room for three or four extra parking spaces that could be added easily. He stated they have 10' wide spaces, and the Township now permits smaller spaces if approved by the Board of Supervisors which they generally approve except for high turn-over areas. Mr. Majewski stated they could get closer to what is needed and design an area based on their Site Plan that would effectuate that.

Mr. Solor asked the Code reference, and Mr. Majewski stated it is #200-78K.

Ms. Carlton stated the Township sent her this evening to oppose because of the health, safety, and welfare concern of its residents. She stated parking is an issue, and possibly the reserve parking concept addresses that although increasing impervious surface for parking purposes is not a "great love" of the Supervisors because of the stormwater issues. Ms. Carlton stated they would rather see a reduction in beds as opposed to an increase in the parking. She stated if the Zoning Hearing Board is inclined to approve this, one thing that goes with the Use change is the security issue and the use of our Police and EMS. She stated given the nature of the residents and how it was described how they operate the facility, the Township would like to see some cooperation between the Applicant or the owner and our EMS and our Police Force to make sure that our residents are safe and that the security systems in place are more than adequate and really do protect our citizens.

Mr. Dougherty asked if that is something that we could include legally in making a Motion; and Ms. Carlton stated while the Board should ask their solicitor, she would like to see it in a Motion if the Board were inclined to vote affirmatively. Mr. Dougherty asked how they would frame such a Motion, and Ms. Carlton stated that the Applicant would cooperate with the Township's local Police force and EMS services to provide security to their reasonable satisfaction. Mr. Dougherty stated they are not considering anything additional such as additional taxation, and Ms. Carlton stated she is not suggesting that.

Mr. Jonas stated the Applicant would accept what Ms. Carlton has indicated.

Mr. Solor moved and Mr. Schwartz seconded to approve the Appeal as presented with the additional comments that reserve parking per Code paragraph 200-78K is to be provided for the calculated 16 spaces difference that was shown in the Applicant's Parking Plan/Parking Quantification and that the Applicant will cooperate and meet with the local Police and EMS forces to work on plans to reduce demands on the local system.

Motion carried with Mr. Dougherty and Mr. McVan opposed.

CANCEL DECEMBER 16, 2025 MEETING

Mr. Majewski stated there is no need for a meeting on December 16.

Mr. Schwartz moved, Mr. Solor seconded and it was unanimously carried to cancel the meeting of December 16, 2025.

There being no further business, Mr. Schwartz moved, Mr. Dougherty seconded and it was unanimously carried to adjourn the meeting at 10:45 p.m.

Respectfully Submitted,

Christian Schwartz, Secretary

