

**MINUTES**

**NOVEMBER 15, 2011**

**BOARD OF ADJUSTMENT**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman, Dr. Behr, called the meeting to order at 8:07 P.M.

He then read the following statement:

Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2011.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

On a call of the roll the following were present:

E. Thomas Behr, Chairman  
Sandi Raimer, Vice Chairman  
John Fargnoli, Member  
Edwin F. Gerecht, Jr., Member  
Maureen Malloy, Member  
Felix Ruiz, Member

Michael Pesce, 1st Alternate  
Richard Keegan, 2<sup>nd</sup> Alternate

Barry Hoffman, Bd. Attorney  
Thomas Lemanowicz, Bd. Engineer  
Kevin O'Brien, Twp. Planner

Excused: Christopher Collins, Member

Dawn Wolfe, Planning & Zoning Administrator

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**EXECUTIVE SESSION**

It was determined that there was no need to hold an executive session.

**APPROVAL OF MINUTES**

The minutes of September 20, 2011 were approved as written on motion by Mr. Gerecht and seconded by Mr. Ruiz.

**RESOLUTION OF MEMORIALIZATION**

**DAVID & LAURA SCHELHORN**

15 Ave Maria Court  
Block 11102, Lot 47.06

**#11-01Z**  
**Use Variance (Height)**  
**Bulk Variances**

The Board of Adjustment memorialized the annexed Resolution of approval for David & Laura Schelhorn (App. No. 11-01Z), as amended, on motion by Mrs. Raimer and seconded by Mr. Gerecht.

A roll call vote was taken. Those in favor: Mrs. Raimer, Mr. Fagnoli, Mr. Gerecht, Mrs. Malloy, Mr. Ruiz, Mr. Pesce and Dr. Behr. Those opposed: None.

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**PUBLIC HEARING**

**ROBERT & ALLISON LA HOFF**

58 Highland Avenue  
Block 11102, Lot 46.01

**#11-07Z**

**Bulk Variance**

Present: Joseph A. Paparo, attorney for the applicants  
Robert LaHoff, co-applicant  
William G. Hollows, licensed professional engineer and land surveyor

Lucille Grozinski, certified shorthand reporter

Proof of service was submitted.

Mr. O'Brien and Mr. Lemanowicz were sworn.

Mr. Joseph Paparo, attorney for the applicants, said that his clients are proposing to construct an in-ground swimming pool and patio in the rear yard of their home. He said that the installation of the pool and patio triggers a lot coverage variance. The maximum coverage permitted is 20% and the installation of the pool and associated patio results in a total lot coverage of 21.7%. He said that that is the only variance they are seeking this evening.

He said that his office has submitted documentation to the Morris County Planning Board and has received an exemption letter in response. He also said that he has had an opportunity to review all of the department comments and reports from the municipality with his clients and will discuss those items in detail through his witnesses. He said that Mr. Robert LaHoff, co-applicant is present to testify, as well as Mr. William G. Hollows, licensed professional engineer and land surveyor.

Mr. Behr explained that for scheduling issues and problems that were nobody's fault, this Board has not been able to receive a report from the Environmental Commission regarding this application. Although a report was submitted from the Shade Tree Commission, but the Environmental Commission was unable to meet on this particular application in time for this meeting. He said that the Board will take this into consideration moving forward. He noted that the applicants are in no way responsible for not having responded to a report that was not received.

Mr. Paparo appreciated the clarification.

In response to Dr. Behr, Mr. O'Brien confirmed that he had produced photographs of the subject property which are a part of the application.

Mr. Robert LaHoff, co-applicant, was sworn. He said that he and his wife built the house on the subject property and moved into it in May, 2005. They are now proposing to construct an in-ground swimming pool and associated patio in their rear yard. He described the proposed patio as "insignificant" and said that it is really a 3' wide concrete lip that goes around the pool rather than one which will contain tables and chairs.

In response to Mr. Paparo, Mr. LaHoff said that he is one of the owners and operators of Hall's Garden Center in Berkeley Heights. He said that he incorporated landscaping in the construction of his home based upon his experience and knowledge in the industry. He said that it is his proposal to supplement where necessary plantings and landscaping as part of the pool construction. Part of the reason he and his wife do not want to have a large patio is because they want to do some formal gardening around the pool and the absence of a walkway from their home to the pool was strictly by design. He said that the proposed pool will measure 13' wide x

29' long. It will not have a diving board or sliding board and will contain depths between 3' 6" to 5' 6". He noted that two of his adjacent neighbors have swimming pools on their property.

Mr. O'Brien noted that Pg. 4 of the photographs he had submitted contains an aerial photograph (Photograph #6) and the house located in the middle is the property in question. The pools which Mr. LaHoff referred to are located at the top of the photograph and to the right, both of which are adjoining properties to the subject property.

Mr. LaHoff said that the filter equipment will be operated with a cartridge proposal, so there will be no lines running out to the street discharging water. He said that his understanding is that he will only have to take the cartridge out, clean it, and then put it back.

Mr. Paparo said that his client had some photographs of the property which were taken by a friend about 4 or 5 days ago. They were marked for identification and described by Mr. LaHoff as follows:

- A-1** – Photo of the side of the LaHoff residence where the necessary equipment to run the pool is proposed to be located.
- A-2** – Close up photo of an existing rear yard evergreen buffer depicting its height.
- A-3** – Photo of the rear yard with Mr. LaHoff standing in the location of the proposed pool.
- A-4** - Photo of the rear left side of the dwelling.

In response to Mr. Pesce, Mr. LaHoff said that he would prefer that the pool equipment sit on a concrete pad, pavers, or some type of pervious coverage, although he will leave it to the pool company to decide.

In response to Dr. Behr, it was confirmed that such a pad was *not* considered in the proposed impervious coverage figure.

Mr. LaHoff said that the pad does not necessarily have to be made of concrete and that he could easily do ¾" clean stone, river jacks, or something to keep it tidy.

Mr. Hoffman believed that it would still be treated and classified impervious and, therefore, would have some affect or impact on the present lot coverage proposal.

Mr. Paparo requested that the matter be deferred until Mr. Hollows' testimony is presented. He said that the purpose of **A-1 through A-3** is to show the extent of the existing landscaping, the rear yard, and the existing natural buffer between the subject property and adjacent neighbors.

In response to Mrs. Raimer, Mr. LaHoff said that he is proposing to move the existing play set in his yard to the far end of the property in the rear.

Referring to Mr. O'Brien's Photo #5, Mrs. Raimer noted the existence of a walkway on the perimeter of the house and asked for the width of the walkway in comparison to the proposed width of the walkway around the pool.

Mr. LaHoff replied that it is 3' wide, the same as the proposed lip around the pool.

In response to Mr. Paparo, Mr. LaHoff confirmed that he had reviewed all of the comments contained in the reports received regarding his application. Referring to the report of the Shade Tree Commission dated 11/7/11, Mr. LaHoff said that he would not have issues with complying with the recommendations contained therein. He said that the existing trees noted in the report will be provided with protection, as will other trees on the site also.

In response to Mrs. Raimer, Mr. LaHoff confirmed that the area of the pool (which is currently grassed) will be disturbed to dig the pool. Getting the equipment from the front of the house to the back of the house to dig may also disturb some plants, but they will all be fixed/replaced.

In response to Mr. Paparo, Mr. LaHoff said that in order to construct his home, about 20 trees were removed, and he put back over 100. He said that when he was done with his project, he invited Mr. Joseph Dunn of the Morris County Soil Conservation District to come back and look at the property so that he would see that he did what he said he was going to do. He said that he would continue that same philosophy as part of the pool construction because when it is built, they want to create an allay and have trees mimicking on both sides of the pool going down. He said that there will be some existing landscaping that they will “touch up” and, going forward, they will be adding more plants to the backyard which is now just grass.

Mr. Gerecht referred to the brochure which the applicants had provided regarding the proposed filter which indicates that it is a “Top-Mount Sand Filter”. He asked if that is what is proposed?

Mr. LaHoff replied that he was unsure, however when he called the pool company and asked them how to address the question about backwash, he was told that he would not have backwash, it will be a cartridge system.

Mr. Gerecht was more concerned with the amount of space that it will take up. He said that, if a sand filter *and* a heater are proposed, it may take up more room.

Mr. LaHoff replied that the depth of the bed of the foundation plantings in the front and rear of the house would more than cover that. He also repeated that he would be amenable to using some type of pervious component to place the mechanicals upon.

Mr. Hoffman thought the Shade Tree Commission had specifically requested that the plans be modified or revised to designate on the plan the areas that will be disturbed and note that they will be restored. Rather than just a general philosophy that the plantings will be repaired/restored, he said that they would like it marked on the plan.

Mr. Paparo referred to Item #4 in Mr. Lemanowicz’s report dated 9/16/11 in which he noted that the plans indicate that a gravel anti-tracking pad is to be installed on the existing driveway if the existing gravel driveway proves unsuitable for cleaning vehicle tires. However, he noted that the limit of disturbance shown on the plan suggests that the existing driveway will not be used to access the construction area. He requested clarification on the issue.

Mr. LaHoff replied that the pool company would not be using the driveway, they will be going down the north side of his property where there is some existing landscaping that will need to be disturbed. However, he said that they would make any necessary amends to comply and look at it as an opportunity later on to finish new beds and new gardens.

Mr. Lemanowicz said that the reason he had made his comment is that the anti-tracking pad is shown to be on the driveway rather than on the path that will actually be used.

Mr. Fagnoli asked Mr. LaHoff if the existing driveway or walkway is proposed to be reduced, noting that the driveway contains over 2,200 S.F.

Mr. LaHoff replied that he has been considering digging up a large apron at the beginning of the driveway by Highland Ave. and replacing it with pervious pavers.

In response to Mr. Fagnoli, Mr. O’Brien said that there are definitions of pervious pavers which are pavers that are open, allowing a certain amount of drainage to pass through.

Mr. Lemanowicz said that there are things such as porous asphalt and porous concrete which is similar to a Rice Krispie’s Treat. It is stiff, but water goes through it. There are also certain pavers that have open areas and are filled with pea-gravel or a similar material. They have a 2” x 2” opening and a pattern that is filled with stone and actually do help with drainage. He said that a basic paver is very tight together with a slight sand joint and they become impervious over time. He said that the issue with the site is that, if the ground below it is impervious with heavy clay, for example, pervious pavers would really not do anything. He said that we would have to get some information on the soils to see if they would actually work.

Mr. O'Brien said that our Ordinance would allow them and we would give credit for the perviousness of the pavers.

Dr. Behr asked Mr. LaHoff if, during the construction of his dwelling, he had gotten any data or information about the soil condition underneath his existing paved driveway.

Mr. LaHoff replied that he did not.

Dr. Behr said that what Mr. LaHoff is recommending doing would need to be indicated on the plans dimensionally so that the appropriate credit could be given for the issue of impervious coverage, but to Mr. Lemanowicz's point for that to happen, information on the quality of the soil underneath the apron would need to be provided to insure that some kind of infiltration could actually take place.

Mr. Paparo understood and added that he also talked to Mr. Hollows about other possibilities that they are hoping to look at.

It was noted that there being no members of the public present, there was no need to open the meeting to the public for questions.

Mr. William G. Hollows, licensed professional engineer and land surveyor, was sworn. He has appeared before the Board on many occasions and was accepted as an expert.

He referred to and described a colored rendering of Sheet 1 of 2 of a Pool Grading Plan dated 6/15/11, last rev. 10/6/11 which he prepared and was marked into identification as **A-5**. He said that the existing lot is located on Highland Ave. and is improved with a two-story dwelling, a paved driveway, and a lawn and landscaped area around the perimeter of the property. He said that the location of the proposed in-ground pool is depicted on the plan with a 3' walkway around it. He said that his firm prepared the plot plan for the dwelling when the house was constructed in 2004 and, therefore, he is well familiar with the stormwater management, coverage, and various aspects from a drainage perspective. He said that in 2004 they were required to control the stormwater from the roof of the house by utilizing 3 drywells in the back which controlled 3" of rainfall from the roof at that time. He acknowledged that the requirement is now to capture 4" of rainfall, including the patio, driveway and the walkway. He said that there is some additional volume available in the existing drywells and he is proposing to install a trench drain across the patio and pipe it to the drywells. He said that that area is approximately 500 S.F. which is similar to the area of the pool although a little bit smaller. He pointed out that a swimming pool can hold 4"-6" of water when it rains.

In response to Mr. Paparo, Mr. Hollows said that the pool equipment is proposed to be located in the area by the existing chimney which is approximately 20' from the pool. He felt that an area of 6' x 6' or 6' x 8' would be more than ample for the pool equipment which would bring the total lot coverage from 21.7% to 21.8%. He said that the pad could be placed on gravel.

In response to Dr. Behr, Mr. Hollows said that he did not have any information as to the type of soil beneath the area where the equipment will be placed. He noted that the applicants have not experienced any problems with surcharging from the roof leaders, so it appeared to him that the drywells are taking the water which would appear to mean that the general area would accept some stormwater. He acknowledged that that is a supposition and he has not taken any soil samples. With regard to the driveway, he said that he realized that it is a bit oversized when you look at it, but when you think of Highland Ave., it is a very narrow 16' wide paved roadway. If the applicants have company, there is really no place for them to park and, therefore, he felt there is a need for the oversized driveway. He felt that, if the soil is acceptable, the idea of installing pervious pavers in the area of the driveway apron would be an acceptable thing to do. He said that there would have to be agreement on the percentages of what would actually be realized, whether it be 20% or 30%. He said that he knew that the Township Engineer has accepted pervious pavers on other projects in the Township. In his opinion, he felt that, as proposed, the additional coverage will not have any significant impact from a drainage perspective because the swimming pool itself will take 4" – 6" of rainfall. He said that that the additional impervious

coverage is really only the 3' patio around the pool. He said that a trench grate is proposed on the patio to capture the water coming off the patio and put it into the drywells for the extra volume that is there. He said that the square footage of the patio is 500 S.F. and it would have to be piped about 75'.

Mrs. Raimer asked how much extra volume it would be able to absorb in addition to what extra volume is already in the 3 existing drywells.

Mr. Hollows replied that if they use that 500 S.F., that will max out the drywells. He also agreed to address the technical comments contained in Mr. Lemanowicz's report.

Dr. Behr said that he was interested in what landscaping is proposed in front of the chain link fence shown on the plans.

Mr. LaHoff replied that the chain link fence is on the north side of his property. He said that his existing 15' hedge wraps the entire property and all of the fencing that runs around the property is behind the hedge. He produced another photograph that was marked for identification as **A-6** which shows the hedge which he had installed with a metal fence behind it. He said that the photo was taken from the Heller's property looking towards the rear yard of the subject property. He said that he took the photo a couple of weeks earlier than the previous photos which had been marked for identification.

Referring to Mr. O'Brien's report dated 10/27/11, Mr. Paparo believed that Mr. LaHoff and or Mr. Hollows had answered the questions/comments under IV. – Planning Comments, Item B regarding the play set; Item C regarding the pathway; Item D regarding stormwater; and Item E regarding visual impacts. He noted that Mr. O'Brien has stated that upon his visit he noted a lush evergreen buffer which makes it difficult to see adjoining properties.

Mr. Hollows agreed that the subject property is very well landscaped and is probably one of the nicest landscaped properties in the Township.

Referring to Item F regarding exterior lighting, Mr. Paparo said that his client is not proposing any additional lighting. Mr. Hollows agreed. Referring to Item G, Mr. Paparo said that we have spoken at length regarding pool mechanicals

Dr. Behr said that the filter itself had been discussed. He asked where the chemicals, tools and toys would be stored.

Mr. Hollows replied that it was his understanding that they would be stored in the garage, noting that there is no shed on the premises.

Mr. Paparo referred to each of the technical comments contained in Mr. Lemanowicz's report dated 10/27/11 and Mr. Hollows agreed to address each of them. He also noted that the Police Dept. and Fire Dept. issued reports stating that they had no comments.

Mr. Hollows confirmed that, in his professional opinion with his knowledge of the site, the excess lot coverage of 1.8% can be handled by the existing system with no negative impacts on adjacent property owners.

In response to Mr. Gerecht, Mr. LaHoff confirmed that there will be lighting under the water in the pool. He said that, at this time, he is not proposing any type of lantern/walkway lighting. He also confirmed that there will only be landscaping around the mechanicals (and no fencing).

In response to Mr. Keegan, Mr. Lemanowicz said that the way we have counted pools is that they are impervious and, while Mr. Hollows explained that there is storage capacity in the pool is correct, however that has not been something that the Board has typically acknowledged.

Mr. Hoffman said that, unless there is something special or unique about the water storage capacity of this particular pool he felt that, as Mr. Lemanowicz had stated, it has always been the

practice or interpretation of the Board of Adjustment to count that area as impervious rather than allowing for expansion of areas in which water can collect. He said that it may happen that way,

but the so called “free board capacity”, or space where water can fill up the pool, has traditionally not been counted as a way to reduce the amount of lot coverage that otherwise would be needed.

Mr. Hollows replied that they realize it is impervious, but from a practical standpoint he felt that anyone that owns a pool knows that it can take 4” – 6” of rainfall.

Mr. Paparo said his client is offering it as a mitigation and acknowledged that it is pervious and that is why they are seeking a variance.

Mr. O’Brien said that, as part of that consideration, is that as Mr. Hollows rightly points out, each pool has a little bit of wiggle room with several inches of “free board” and that works most of the time. However, as the Board is well aware in this community, there have been 3 storms since 2007 that have exceeded 10”.

Mr. Lemanowicz said that he was not familiar with the *current* technology in pools, but some of the winter covers used to be impervious and when you put them over the pool, the water would sheet off of them.

Mr. Gerecht replied that most covers for this size pool would be mesh. He also noted that winterized pools are usually drained down by about 3’.

In response to Dr. Behr, Mr. Paparo said that he has spoken to his clients and they are willing to install an additional drywell.

Mr. Hollows replied that that would probably allow for 4” of rainfall for the house and patio, where they are at 3” now (since that was all that was required in 2004). He said that he would just add one more drywell to the existing line of 3 drywells in order to increase capacity. He said that the existing drywells are solid and buried.

In response to Mr. Pesce, Mr. Hollows agreed that pool and the surrounding walkway are about 600 S.F., but he is already mitigating that by putting the trench drain beyond the existing patio which already offsets 500 S.F. of the 600 S.F.

Mr. Lemanowicz said that the pervious paver systems are more prone to maintenance issues than a drywell would be. He said that the discussion regarded putting it in as an apron, which is typically where the snowplows dump all the snow mixed with the snow grits which are not good for these systems. He said that you would also have to deal with the soils underneath and you are also having compaction since you are driving over these things. He said that his personal preference would be to expand the drywell system and just make sure we get enough water to that system so that it does something.

In response to Mr. Gerecht, Mr. Lemanowicz said that you could put a drywell in that new line from the trench drain into the existing drywells. This way you would not disturb all that gravel, because if you disturb the existing drywells, there is a chance you could affect it. So, if you put the pipe from the trench drain to the drywell where it says 35.2’ (which is the setback to the pool) and put an independent drywell there and just connect it by pipe to the existings, if they ever overflow or fill because of the roof leader, it would back up into the other drywell, so it will still work as a unit.

Mr. Hollows said that Mr. Lemanowicz’s idea sounded fine.

Mr. LaHoff noted that when he built his house and designed the system, they specifically ran the lines to the drywells to the outside because they thought at some point they may put a pool in. Therefore, for the grading of the pipes they should be undisturbed.

Mr. Lemanowicz's only comment was the issue of what the preference is for under the pool equipment. He said that a concrete pad would add roughly .10%. If gravel is put underneath, it has been the policy of the Board to count gravel driveways as impervious because they are compacted. In this case, he said that it would be more of a gravel mulch. For instance, he said that you can put decorative mulch in flower beds and we do not consider that impervious.

Mr. Fagnoli asked what is the best practice.

Mr. Lemanowicz replied that a concrete pad allows you to keep water from being up against the house. If you put gravel right up against the foundation, you are almost encouraging water to get down by the foundation.

Dr. Behr said that the issue being talked about here is the applicants' willingness to add another drywell and to view that as the mitigating factor that would reduce the potential damage from increasing the impervious coverage from the permitted 20% to 21.8%.

Mr. Lemanowicz said that he wanted to get a definite response from the Board as to which they wanted.

Mr. Hoffman said that there is another element which the Board has dealt with previously and that is should an applicant for developing his/her property be able to totally exempt themselves from compliance with lot coverage standards and variance relief by increasing the stormwater management facilities by adding another 1, 2, or 5 drywells. He asked if that exempts them from meeting the positive and negative criteria necessary to be shown for a lot coverage variance.

Mr. O'Brien replied, "No". He agreed that applicants should always try to get their lot coverage as low as possible, but added that everybody has the right to come in and apply for anything that they see fit to do. He said that part of the give and take that is the nature of the Board is to try to work things to the Township's advantage.

Dr. Behr added that the Board, in the past when taken into consideration the positive and negative criteria, has very often taken into account additional stormwater management capabilities in terms of determining that the overall positives of a given application outweigh the potential negatives.

Mr. O'Brien agreed and said that that is where the benefits come in and take care of that coverage.

Mr. Hoffman said that the argument that was advanced for having such a large driveway is that it is needed because the street is narrow and guests need places to park. The occasions when there would be a large number of guests would probably not be all that frequent and the guests, as well as the owners, could park their vehicles on a less than 100% impervious type of surface.

Dr. Behr asked Mr. Lemanowicz if he felt that there was any need to take a look at the applicants' assertion that the expanse of paved drive is, in fact, necessary because of the limitations of parking on Highland Avenue.

Mr. Lemanowicz replied that everyone has their own family size and such. He said that there was testimony that Highland Ave. is very narrow and so street side parking is really not practical.

Mrs. Malloy was familiar with the area and said that it is very narrow and agreed that there is really no room there to park.

Mr. O'Brien added that there is also curbing in that area as well.

It was again noted that no members of the public were present to ask questions of the witness or make comments.

Mr. Paparo gave his summation. He said that his clients moved into the Township in 2004 and constructed a beautiful home which is meticulously taken care of. He said that landscaping is



their life and have demonstrated that over the time that they have been here. It is both their business and their passion. He said that the proposed pool is relatively modest sized and it has been the testimony of Mr. Hollows that, as it exists, he feels that in his professional opinion that the stormwater facilities can handle the additional runoff. However, in light of the uncertainty, the applicants have graciously offered to add another drywell as an added measure. He said that we are talking about 1.8% over, which he felt is a de minimis excess. He believed that Mr. O'Brien has noted that the property is well buffered from the neighbors and testimony was given that the neighbors have pools and it does not appear from the photos that you can see their property, nor will they be able to see the subject property. He said that the limitations that the applicants have included in this design (no walkway, no large paver patio with grills or furniture) – they have essentially an island which is a pool in their tremendously landscaped back yard. He said that they have proposed the bare minimum by code of a surround and said that they have done the minimal possible in order to enjoy a pool as evidenced by the size of the pool and limitations around it. For those reasons and the testimony of Mr. Hollows, he said that they would respectfully ask the Board to grant the variances requested on the condition that an additional drywell be sized and installed with the workings of the Board Engineer and his input.

In response to Mrs. Raimer, Mr. Paparo said that he believed that Mr. Hollows' testimony regarding the mitigation factor addresses whether or not there would be any detriments. From a visual standpoint, he believed that Mr. O'Brien had stated, and he concurred, that the property is so heavily landscaped around the buffer that there is no visual detriment that will result from the installation of the pool. He said that, in his opinion, the proposed coverage is de minimis and the solution to add another stormwater management facility, such as a drywell, will address any negative attributes. He felt that the requested relief can be granted and that there will be no substantial detriment to the public good. He felt that the Board can reasonably agree that 1.8% doesn't qualify as *substantial*. Even in a vacuum, he felt that the variance can be granted. He felt that his clients have gone above and beyond this evening with the agreement to include the additional drywell. With those factors and concessions, he felt that there will be no adverse impact from the application.

Mr. O'Brien reviewed the required proofs as outlined in his report.

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The Board began its deliberations.

Mr. Gerecht said that after reviewing all of the paperwork and listening to the testimony of Mr. LaHoff, Mr. Hollows, and Mr. Paparo, he feel that the applicants have presented a very coordinated effort and the felt that the plans were well prepared. With the addition of the proposed landscaping indicated on the plans around the pool and additional items discussed, such as the additional drywell, he felt that the applicants have shown that there will be no negative impact on the surrounding neighborhood. He noted that there are other pools in the neighborhood and there were no indications from the audience and any facts that we have that those pools negatively impacted the applicants' property and he felt that it appears that they can co-exist with each other. He said that it also appears that the property is situated so that any minor runoff will be caught by the existing and proposed drywells and any other runoff will most likely be taken up the grass before it reaches anyone else's property. From the testimony presented, he did not feel that there will be any negative impacts in any of the surrounding areas and he felt that the proposal will work in this case. He felt that the proposed measures will adequately compensate for the 1.8% overage in lot coverage and he said that he would be in favor of the application.

Mr. Fargnoli said that we have yet another instance where a fairly new home was built at the nearly the maximum permitted lot coverage. However, he acknowledged that that is the Township's fault rather than the applicants' fault and that the home and landscaping are very nice and he felt that the addition of a proposed new drywell will be fine. He felt that the benefits will definitely outweigh the negatives in this case and, therefore, he said that he would vote in favor of the application.

Mr. Ruiz agreed with Mr. Gerecht and felt that the applicants went the extra mile to add the drywell which was the “icing on the cake” for him. He said that he was in favor of the application.

Mrs. Malloy agreed. She felt that the applicants have done everything possible to step forward if there were any issues. She felt that the biggest issue was with regard to stormwater and the applicants have expressed their willingness to change anything, install a new drywell, and change the driveway. She said that it is a beautiful property and that she is in favor of the application.

Mr. Keegan concurred with his colleagues. He felt that the addition of the drywell will offset the increase in impervious coverage. He was in favor of the application.

Mr. Pesce said that the only thing he would add is that the Board should be careful to add the pad for the equipment on the plans. He said that if the applicants choose to do something less impervious than that, so be it, but they ought to be protected by the plan permitting it. Otherwise, he felt that the applicants have done all that they needed to do in order to satisfy the statutory criteria to gain approval of the application.

Mrs. Raimer said that the applicants are proposing a bulk variance for proposed lot coverage in an otherwise conforming lot. She felt that they have made a compelling case where the benefits outweigh the detriments. She felt that the addition of a new drywell and a trench drain would offset any stormwater concerns. She did not feel that there will be an impact on the surrounding properties or on the Township as a whole. She felt that, as her colleagues had pointed out, the applicants have done an exemplary job of proving that a living fence is preferable to that which can be created out of wood or wire. However, she noted that the Environmental Commission has not commented on this application and it is not the Board’s usual practice to proceed without their recommendation, or at least have the benefit of considering them. Her suggestion was that, if the Environmental Commission should issue a report within a reasonable date in the foreseeable future and have some additional requests, provided that they don’t substantially effect what the Board may approve here tonight, the applicants should consider them. Having said that, she said that she would approve the application.

Mr. Paparo replied, “So noted”.

Dr. Behr concurred with his fellow Board members. He felt that the applicants have done a commendable job in demonstrating that their application advances the purposes of the M.L.U.L. and that the benefits of granting the variance substantially outweigh any detriments. He did not have a concern about any negative criteria. He felt that there are a number of conditions that the Board needs to make sure are included in a Resolution. The plans need to be modified to include the location of the mechanicals in the plan and, as has been stated by other Board members, whatever that calculation is needs to be included in the final summary of the impervious coverage. He said that we also need to get a note on the plans with regard to the landscaping that would be in place following construction. He said that it is our practice to say that when an applicant is going to add additional stormwater management facilities, that these be installed to the satisfaction of the Board Engineer. He also said that, assuming that the Environmental Commission can get its report to the Board and to its consultants in a reasonably expeditious timeframe, Mr. Lemanowicz take those considerations into account in his final recommendations on what any stormwater management procedure would be. He strongly agreed with Mrs. Raimer that it is not the practice of the Board to typically hear an application without first having a report from the Environmental Commission. He said that he has spoken to the Chairman of the Environmental Commission this evening and he will be meeting with them to make sure that this type of scheduling anomaly never happens again so that they will have fair opportunity to present their findings to the Board and its consultants, as well as the applicant. He requested Mr. O’Brien to read his list of conditions and said that he would vote to approve the application.

Mr. O’Brien read his list of conditions as follows:

- Any disturbed plantings to be replaced.

- Shade Tree comments concerning snow fencing protection and the pool equipment area to be noted.
- The gravel anti-tracking pad to be shown correctly at the proper location.
- Revise the final plans to show the concrete apron size and the pad size.
- Show landscaping around the mechanicals and the pool.
- An additional drywell to be installed to the satisfaction of the Board Engineer.
- The Environmental Commission report to be considered.

Mr. Lemanowicz said that the only addition to the list which he had was that the original house construction plans showing the drywell design be provided in order to verify the numbers provided on the proposed plan.

Dr. Behr agreed that Mr. Hollows had indicated that he would provide them to Mr. Lemanowicz.

Mr. Hoffman suggested that it would be appropriate for someone to move to approve the requested bulk variance for lot coverage with same not to exceed a figure of 21.8% to be shown on the plans, subject to the conditions discussed.

Mrs. Raimer made such motion which was seconded by Mr. Gerecht.

A roll call vote was taken. Those in favor: Mrs. Raimer, Mr. Fagnoli, Mr. Gerecht, Mrs. Malloy, Mr. Ruiz, Mr. Pesce and Dr. Behr. Those opposed: none.

There being no further business, the meeting adjourned at 9:54 P.M.

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DAWN V. WOLFE  
Planning & Zoning Administrator







