

**NORTH FAYETTE TOWNSHIP
ZONING HEARING BOARD**

**THURSDAY, SEPTEMBER 25, 2014
7:30 P.M.**

The meeting was called to order with Chairman George Bartha presiding.

MEMBER PRESENT:

George Bartha, Chairman
Jim Bruni, Member
Tim Bish, Solicitor
Cheryl Cherico, Secretary

MEMBERS ABSENT:

Chip McCarthy, Vice Chairman

OTHERS PRESENT:

Robert Grimm, Township Manager
Michael Saville, Township Code Enforcement Official
Leah M. Attanucci, Court Reporter
Blanche Sherman, 28 Walden Way, Imperial
Georgia Meyers, 107 Pinoak Lane, Imperial
Martin Cwynar, 103 Pinoak Lane, Imperial
Stacy Pierce, 104 Pinoak Lane, Imperial
Karey Pogonovich, 104 Pinoak Lane, Imperial
Patrick Diskin, 111 Pinoak Lane, Imperial
Dan Dorman, 109 Pinoak Lane, Imperial
Jess Vishner, 102 Pinoak Lane, Imperial
Katie Mazzocco, 102 Pinoak Lane, Imperial

ADMINISTRATIVE:

Mr. Bartha asked for a motion to approve minutes from the August 28, 2014, meeting.

A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. GEORGE BARTHA, TO APPROVE THE MINUTES FROM THE AUGUST 28, 2014, MEETING. MOTION CARRIED.

ROLL CALL

**JIM BRUNI
GEORGE BARTHA**

**YES
YES**

Mr. Bartha announced that prior to this meeting, the Board held an executive session to receive advice of the Solicitor.

Mr. Bartha said notice of tonight's hearing was advertised and the subject property posted pursuant to the requirements of the PA Municipalities Planning Code.

Mr. Bartha asked the Court Reporter to swear in witnesses and any members of the public wishing to comment during the hearing.

The Court Reporter swore in the witnesses.

UNFINISHED BUSINESS:

1. Montour Place, LLC and/or Montour Church road, L.P. Variance Request (Continued Hearing).

Montour Place, LLC and/or Montour Church Road, L.P. is requesting the following relief under Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended (the "Zoning Ordinance") in order to permit the installation of an additional sign panel on the existing business identification pole sign for the Montour Church Place at the Pointe development on property located on Montour Church Road in the B-2 General Business District, known as 300 Davis Boulevard and currently designated as Allegheny County Block/Lot No. 412-G-4: (1) approval of a non-conforming use expansion under Section 27-1102.B(1) of the Zoning Ordinance to permit the expansion of the non-conforming sign which advertises businesses that are not located on the subject property; (2) a variance from the maximum business identification pole sign size restriction under Section 27-1007.1.A and Table 27-11 of the Zoning Ordinance; and (3) a variance from the minimum business identification pole sign height at bottom requirement under Section 27-1007.1.A and Table 27-11 of the Zoning Ordinance.

Mr. Bartha said the applicant is out of the country and would not be in attendance. He said the applicant consented in writing to the revision of the variance application on the record of this hearing to clarify that the correct owner of the subject property is Montour Church Road Limited Partnership. Furthermore, he said the applicant provided the Board supplemental information related to and in support of the pole sign variance requests. Based upon this information, an amended variance from the minimum business identification pole sign height at bottom requirement under Section 1405.3(d)(5) of Township Zoning Ordinance No. 290 granted by the Board on October 4, 2001 is not necessary.

Mr. Bartha entered Exhibits 15 through 20 referenced on the Exhibit List into the record of this hearing. He asked the Court Reporter to insert those exhibits into the transcript as if the Exhibit List was read into the record.

The Exhibit list included:

15. Correspondence from Timothy J. Bish, Zoning Hearing Board Solicitor, to Norman McHolme dated September 3, 2014 regarding continuance of public hearing and outstanding issues related to Mr. McHolme's variance requests.

16. Correspondence from Norman McHolme to the Zoning Hearing Board dated September 8, 2014 addressing outstanding issues related to his variance requests in response to September 3, 2014 correspondence from Timothy J. Bish, Zoning Hearing Board Solicitor.
17. Deed dated June 30, 2000 between Wal-Mart Stores, Inc. (Grantor) and Montour Church Road Limited Partnership (Grantee) recorded with the Allegheny County Department of Real Estate at Deed Book Volume 10806, Page 262.
18. Public Notice and Proof of Publication for tonight's public hearing.
19. Letter from Board Secretary dated September 8, 2014 to Montour Church Road L.P. regarding notice of hearing.
20. Photograph of Notice of Posting.

Mr. Bartha asked the Board's Solicitor to clarify what was added to the record.

Mr. Bish said there were several items that were requested from the applicant. He said one was clarification of the property owner as Montour Church Road Limited Partnership and that was provided. He said a deed to the subject property was also requested and provided. Another request was for the proposed expanded aggregate sign area with the addition of the proposed sign panel. He said that was provided to increase from 215.8 sq. ft. to 234.55 sq. ft. The proposed height of the pole sign at the bottom with the addition of the proposed sign panel was requested and received as 7'2". Finally, he said the dimensions of the new proposed sign panel were requested and received as 1'10.5 x 10'.

Mr. Bartha asked if there were any comments or questions from the Township.

Mr. Saville said no.

Mr. Bartha asked if there were any comments or questions from the public.

There were none.

Mr. Bartha asked for a motion to close the public hearing.

A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. GEORGE BARTHA, AND CARRIED, TO CLOSE THE PUBLIC HEARING.

ROLL CALL:	JIM BRUNI	YES
	GEORGE BARTHA	YES

Mr. Bartha asked for a motion on the application.

A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. GEORGE BARTHA, AND CARRIED, TO APPROVE THE APPLICATION FILED BY MONTOUR CHURCH ROAD, LIMITED PARTNERSHIP (THE "APPLICANT")

REQUESTING AN AMENDMENT TO THE VARIANCE FROM THE MAXIMUM BUSINESS IDENTIFICATION POLE SIGN SIZE RESTRICTION UNDER SECTION 1405.3(D)(4) OF TOWNSHIP ZONING ORDINANCE NO. 290 GRANTED BY THE ZONING HEARING BOARD ON OCTOBER 4, 2001, TO NORMAN McHOLME, (THE “ORIGINAL VARIANCE”) RELATED TO THE INSTALLATION OF AN ADDITIONAL SIGN PANEL (THE “PROPOSED SIGN PANEL”) ON THE EXISTING BUSINESS IDENTIFICATION POLE SIGN FOR THE MONTOUR CHURCH PLACE AT THE POINTE DEVELOPMENT (THE “EXISTING POLE SIGN”) ON PROPERTY LOCATED AT MONTOUR CHURCH ROAD IN THE B-2 GENERAL BUSINESS DISTRICT, KNOWN AS 300 DAVIS BOULEVARD AND CURRENTLY DESIGNATED AS ALLEGHENY COUNTY BLOCK/LOT NO. 412-G-4, (THE “SUBJECT PROPERTY”) IN ACCORDANCE WITH THE APPLICATION MATERIALS, PLANS, AND TESTIMONY ACCEPTED INTO THE HEARING RECORD BY THE BOARD AND SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Compliance with Laws.** The Applicant and the use and development of the Subject Property shall comply with all applicable Federal, State, County, and Township laws, statutes, ordinances, resolutions and regulations.
2. **Permits and Approvals.** The Applicant shall apply for and obtain any and all necessary federal, State, County, and Township permits and approvals for the installation of the Proposed Sign Panel on the Existing Pole Sign located on the Subject Property. The Applicant and the use and development of the Subject Property shall comply with all such Federal, State, County, and Township permits and approvals.
3. **Maximum Sign Size Variance.** The amendment to the variance from the maximum business identification pole sign size restriction under Section 1405.3(d)(4) of Township Zoning Ordinance No. 290 granted by the Zoning Hearing Board on October 4, 2001, to Norman McHolme, permits the existing Pole Sign to be expanded to no more than 234.55 square feet in size for the express purpose of adding the Proposed Sign Panel, which is 18.75 square feet in size.
4. **Sign Panel Installation.** The design of the Proposed Sign panel and its location on the Existing Pole Sign shall strictly conform to the color photographs entered into the hearing record by the board as Exhibit “5” and otherwise in conformity with the testimony and evidence entered into the hearing record.
5. **Sign Restriction.** In light of the grant of this amended variance for the Existing Pole Sign, no further permanent or temporary signs for businesses located within the Montour Church Place at the Pointe development shall be installed, applied, or placed which do not comply with applicable Federal, State, County, and Township laws, statutes, ordinances, resolutions, and regulations, including but not limited to Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended. For purposes of this decision, the Montour Church Place at the Pointe development shall include properties owned by the Applicant and currently referenced as Allegheny

County Block/Lot Nos. 412-G-1, 412-G-2, 412-G-3, 412-G-4, 412-G-5, 412-G-6, 412-G-7, and 412-F-2.

6. **Sign Panel Installation Deadline.** The installation of the Proposed Sign Panel shall be completed no later than six (6) months from the date of this decision.
7. **Maintenance of Existing Pole Sign.** The maintenance and physical appearance of the Existing Pole Sign shall be maintained by the Applicant in a manner acceptable to the Township.
8. **Variance Clarification.** The Original Variance and the amended variance granted by this decision (the “Amended Variance”) are specific to the Existing Pole Sign as referenced in the exhibits and testimony entered into the hearing record by the Board.
9. **Failure to Comply.** Failure to comply with the above referenced terms and conditions of this decision shall result in the original Variance and the Amended Variance being rendered null and void.

ROLL CALL:	JIM BRUNI	YES
	GEORGE BARTHA	YES

NEW BUSINESS:

1. Karey Pogonovich and Stacy Pierce Variance Request

Karey Pogonovich and Stacy Pierce are requesting a variance from the 10 foot minimum principal building side yard setback requirement of Section 27-205.3.A and Table 27-2 of Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended, to permit the construction of an addition (for purposes of a garage) to the existing single-family dwelling on property located at 104 Pinoak Lane in the Township R-3 Medium Density Residential District, currently designated as Allegheny County Block/Lot No. 690-b-15.

Mr. Bartha entered Exhibits 1 through 12 referenced on the Exhibit List into the Record of this hearing. He asked the Court Reporter to insert the exhibits into the transcript as if the Exhibit List was read into the Record.

The Exhibit List included:

1. Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended.
2. Application to Zoning Hearing Board dated August 24, 2014, along with the following attachments:
 - a. List of additional adjacent property owners in response to Application Item No. 9.
 - b. Explanation of need for requested variance in response to Application Item No. 6 (dated August 6, 2014).

- c. Aerial map dated August 5, 2014 showing parcel boundaries with subject property, currently designated as Allegheny County Block/Lot No. 690-B-15, highlighted.
 - d. Special Warranty Deed dated May 16, 2007 between First American Asset Closing Services as Attorney in Fact for Citimortgage, Inc. by Reason of Merger with Citifinancial Mortgage Company Inc., by Power of Attorney Recorded November 8, 2006 Instrument #2006-2406 (Grantor) and Karey L. Pogonovich and Stacy Pierce (Grantee) recorded with the Allegheny County Department of Real Estate at Deed Book Volume 13248, Page 415.
 - e. Plan entitled "Plan of Property", dated July 2010, prepared by Lawrence R. Elliott Surveying, Inc. with handwritten notations of the location of the proposed addition (for purposes of a garage) on the subject property.
3. Allegheny County Property Assessment Office webpages dated August 19, 2014 for property designated as Allegheny County Block/Lot No. 690-B-15 and providing aerial map showing parcel boundaries with subject property highlighted (4 pages).
 4. Public Notice and Proof of Publication for tonight's public hearing.
 5. Letter from Board Secretary dated September 8, 2014 to Karey Pogonovich and Stacy Pierce regarding notice of hearing.
 6. Letters from Board Secretary dated September 8, 2014 to neighboring property owners regarding notice of hearing (6 letters).
 7. Letters from Board Secretary dated September 11, 2014 to neighboring property owners regarding notice of hearing (7 letters).
 8. Photograph of Notice of Posting.
 9. E-mail from neighboring property owners Charles Meyers and Georgia Meyers dated September 19, 2014 objecting to the setback variance request.
 10. E-mail from neighboring property owner Janet Bebski dated September 19, 2014 objecting to the setback variance request.
 11. E-mail from neighboring property owner Dustin Augustin dated September 22, 2014 objecting to the setback variance request.
 12. E-mail from neighboring property owner Blanche Y. Sherman dated September 23, 2014 objecting to the setback variance request.
 13. Photograph taken by Katie Mazzocco on Sept. 25, 2014 at 3 p.m. from her property line at 102 Pinoak Lane showing the privacy fence located on her property and the railroad ties and retaining wall allegedly located on the subject property. (Submitted during the hearing).

14. Photograph taken by Katie Mazzocco on Sept. 25, 2014 at 3 p.m. from her property line at 102 Pinoak Lane with measuring tape showing proximity of the privacy fence located on her property to the railroad ties allegedly located on the subject property. (Submitted during the hearing).
15. Photographs taken by Katie Mazzocco on Sept. 25, 2014 at 3 p.m. from the deck on her property at 102 Pinoak Lane showing the side and rear views of the subject property (2 photos). (Submitted during the hearing).
16. Petition submitted by Georgia Meyers. (Submitted during the hearing).
17. Photographs taken by Charles Meyers approximately one week prior to hearing showing the subject property (3 photos). (Submitted during the hearing).
18. Survey, dated April 16, 1984, and prepared by Richard A. Kasmer, PLS, of property owned by Albert Mazzocco and Gloria Mazzocco located at 102 Pinoak Lane. (Submitted during the hearing).

Mr. Bartha asked everyone that wanted to speak tonight, to stand and state and spell their name for the accuracy of the Court Reporter's record. He asked a representative to approach the Board and state their case.

Mr. Pogonovich and Ms. Pierce approached the Board.

Mr. Pogonovich said they originally bought the foreclosed house in 2007. At that time, he said they were given a plot map from the Walden Woods Homeowners' Association. He said that is the only map in existence for this piece of property. He said the county doesn't have it and he had a lawyer try to find it and he couldn't find it either. He said he did an approximate survey; he worked for a mapping company for almost nine years. He said the markings on the ground were relatively close to what was on the map that he had.

Ms. Pierce said they applied for the building permit in 2007 to add the additions and the garage. She said in 2007, the building permit was approved including a garage pad. She said when they realized there was an issue with the setback line and the property line, they found a surveyor in McMurray which is part of the documentation given, the surveyor came out and did the survey. She said the back corner of the garage is 4.7 feet over the setback line off the property line because of the way the property line runs. She said they came down to the Township and was informed that they needed a variance to go over the 10' setback line. She said they applied for the variance. She said when they got their mortgage in 2007 because the garage pad was approved on the original building permit, the second garage was contingent in that mortgage. She said right now they cannot refinance the construction loan until this garage is done. She said not only is this preventing them from adding the value to their property and the other properties in the neighborhood, it's preventing them from financially refinancing the construction loan which is causing an issue with their bank. She said she took the documentation that she gave the Board for the meeting down to their bank. The bank is waiting for a decision on this variance because they have the financing to finish the garage, but the bank won't refinance the construction mortgage until the garage is done.

Mr. Pogonovich said he could show the Board where the issue is on the two maps if they would like to see the difference in them.

Mr. Bartha said sure, that would be great.

Mr. Pogonovich said part of the problem is right there (he pointed to the maps).

The Court Reporter asked Mr. Pogonovich to please speak up.

Mr. Pogonovich said this is the property right here and the board members can see here is a point where it stops and here is a point where it stops, another point where it stops, point where it stops and nobody has this dimension right here (he pointed to the map). He said this line (he pointed to the map) should actually go like that according to what was originally staked out on the property. He said that dimension is missing and nobody can find that dimension anywhere without the originals. He said if he had that dimension right there, they wouldn't be here right now.

Mr. Bartha asked Mr. Bish if this document has been entered into the record yet or if this is an additional document.

Mr. Bish said no, it has not been entered into the record and it appears to be a photocopy of what may have been a recorded plan. Recorded plans are available at the county office building. The applicant could obtain that by going down to the county office building at the department of real estate. They could obtain a recorded version. They could also obtain the recorded version from a website where they are available too. The county may have a version of this on microfiche or microfilm paper, but this is basically not legible. If they want to submit something into the record, it needs to be the recorded format, recorded version. We can view this and the board members can give it whatever relevance they feel they can give to it, but it is very difficult to read and can't even tell what document this is.

Mr. Bartha said so it is Mr. Bish's recommendation not to rely on this document and an original from the county would need to be provided.

Mr. Bish said that was correct.

Mr. Pogonovich said they paid to find the original and they could not find the original. He said he was just putting that out there and the Board could hang onto this one if they want.

Mr. Bish said he could not even read it because it isn't legible. At a later time if he feels he has exhausted all options in trying to locate an original or a version that is legible, he could bring it back.

Mr. Bartha said it could be submitted as part of the record at that time.

Mr. Bish said correct.

Mr. Pogonovich said that was all he had.

Mr. Bartha said for clarification, it is Mr. Pogonovich's understanding that he had a survey done.

Mr. Pogonovich said the only survey that was done is the last survey that the Board has right there.

Mr. Bish said he is referring to the survey that was done by Mr. Lawrence R. Elliott.

Mr. Pogonovich said yes. He said they are the company that originally surveyed the property in 1976, 1977. They were the original surveyors. He said that was the only way for them to try to find the original documents which they don't have either. He said they went off this as best they could.

Mr. Bartha said for purpose of the record this evening, what was submitted by that survey prepared by Elliott Surveying Incorporated is Mr. Pogonovich's and Ms. Pierce's presentation and their understanding of the property and why they are requested the variance tonight.

Mr. Pogonovich said yes.

Mr. Bartha said he just wanted to make sure which document they are referring to in terms of the discussion for the application for tonight.

Mr. Pogonovich said yes, right now that is the only legal description they have of the property.

Mr. Bish said in reference for the record that the Elliott Surveying Inc. plan of property is in the hearing record as Exhibit 2.E.

Mr. Bartha said very good, that was his understanding. He asked in reference to Exhibit 2.E, the block foundation is highlighted in pink. He said there are no dimensions on that as far as length or width.

Mr. Pogonovich said that information was submitted as part of the building permit.

Mr. Bish said that would have to be submitted to the Board as part of the application.

Mr. Pogonovich said the township has copies on file already and it was just closed a month or so ago.

Mr. Saville said it was closed a couple months ago.

Mr. Grimm asked if that was in 2007 or the original permit.

Mr. Saville said that was the original permit.

Mr. Bartha asked if Mr. Saville could clarify which permit he was talking about on behalf of the Township.

Mr. Saville said yes, he would also like to clarify how this all came to be. He said when Mr. Pogonovich & Ms. Pierce applied for the building permit, they did not have a registered survey

so the township allowed them to submit a hand drawn survey which is typical. On the hand drawn survey that was submitted, they do have the concrete pad shown as well as the wall. On that hand drawn survey, it shows 15' to the side property line thus it was approved. He said they pretty much finished the two additions and they had some minor things that took them a few years to complete so the building permit itself didn't get closed out until a few months ago. He said the building permit itself was issued for two additions onto the house, the concrete pad and the block foundation wall. He said it almost looks like a retaining wall right now with the concrete pad. He said Mr. Pogonovich wanted to do that in advance in preparation for the future. While he was building his first two additions, he wanted to put the block foundation and footer in place for the future garage. Subsequently after that was put in, the next door neighbor had brought to the township a survey of her own that clearly showed that the hand drawn plot plan did not appear accurate as it showed the garage to be 5' or so from the property line. He said that was in September of 2009. In December of 2009 . . .

Mr. Bish asked if he could interrupt for a moment to clarify if the neighbor's survey showed the garage 5.3' from the side lot line. He asked if he was talking about the pad that was placed there.

Mr. Saville said yes, the pad.

Mr. Bish said thank you.

In December of 2009, Mr. Saville said he contacted Mr. Pogonovich and discussed with him the fact that he had received the registered survey from the neighbor and that the Township had to go by that and not the hand drawn survey. He said he was basically giving Mr. Pogonovich a heads up that he was going to need a variance for the garage now that the Township found out this information unless he got a property survey that showed otherwise. He said at that time, Mr. Pogonovich said he believed the property line was different and was what he submitted originally. In the meantime, Mr. Pogonovich got a survey himself, the Lawrence Elliott survey from 2010 that clarified that the garage foundation was 5.3' from the property line. He said that is how everything came to be.

Mr. Bruni said the applicant indicated that they had hired an attorney to locate the original survey that they were discussing earlier and they were unable to do so. He asked if they tried to find the original survey of the property next door that would also give a clear indication as to where the property line would be.

Mr. Pogonovich said he didn't know what the attorney had looked for. He said that was when they were first buying the house and wanted something other than the hardly legible thing that was given by the homeowners' association. He said he doesn't know what the lawyer looked for.

Mr. Bruni said he was thinking that if he couldn't find lot 22, maybe he could find lot 23 and that would also give a clear indication as to where the property line would be.

Mr. Pogonovich said that would make sense. He said he worked in mapping for nine years and mapped the entire state of Connecticut and found mistakes all the time.

Mr. Bruni said that's fine, he just wanted to ask if Mr. Pogonovich knew if the attorney had searched.

Mr. Bartha said he wanted to go all the way back to his original question of the dimensions of the pad for the garage. He said it is not on the exhibit that was presented tonight. Correct?

Mr. Bish said that was correct.

Mr. Bartha said they would need that information. He said the other thing relates to the structure that the applicant is proposing to put on that pad. He said there are no pictures, description, size, how many stories, what would be placed on the outside in terms of finish on it, nothing has been presented that relates to any of that tonight. Correct.

Mr. Bish said that was correct.

Mr. Bartha said that is additional information that is needed. When a structure is to be built and approved as part of a variance, the Board needs to have some rendering or photograph of something similar in order to make a determination if it is in the characteristic of the existing structure and the existing neighborhood. He said the fact that they want to put a garage on the property is not sufficient information for the Board to render a decision on it because they don't have enough information as to what that exact physical structure would look like in the applicant's proposal for the variance.

Mr. Pogonovich asked if they would get a building permit at the end if the variance was approved. He said he thought he needed to do all of that for the building permit and this was just a variance to let him know whether he could go forward with the permit.

Mr. Bish said it is the applicant's responsibility to prove the five criteria under the state municipalities planning code for the grant of a variance and those were referenced on the application form. He said it is on Page 2 of the application form under the box where the applicant checked "Dimensional Variance". In order for the Board to determine whether or not the applicant has met some of those criteria, he said the applicant needs to provide the dimensions on the parking pad, the design of the addition, what it is going to look like, how many stories and that type of information.

Mr. Saville said looking at Mr. Pogonovich's hand drawn plot plan from the building permit application, it (the garage pad) appears to be 15' wide by 25' deep. He said that would be out 15' from the side of the house and as deep as the house which is indicated as 25' on the hand drawn survey that was submitted with the permit (for the additions and concrete pad).

Mr. Pogonovich said that is what it is.

Mr. Bartha said he appreciated that, but again the Board members look to the Solicitor to make sure they understand what is required. He said that being on the application for the permit is not relevant to this and the applicant would still have to provide that to the Zoning Hearing Board as part of the application for a variance.

Mr. Bish said correct.

Mr. Bartha said so that is still an outstanding item that he is going to have to submit to the Board.

Mr. Bish said correct.

Mr. Bartha asked what the intended use of the garage would be.

Mr. Pogonovich said it would be to park cars in it.

Ms. Pierce said it would be just a residential garage, a second garage.

Mr. Bruni asked if any consideration was given to place the garage anywhere else on the property given the fact that it would be within the 10 feet. He said he isn't that familiar with the property other than he knows where it is located.

Mr. Pogonovich said this would be the only place for it to go. He said there is already one garage there. The other side is. . .

Ms. Pierce said the living room.

Mr. Saville said he is on a corner lot.

Mr. Bruni said he didn't know if the slope of the property precluded the placement of the garage anywhere else or if there was anything that would inhibit it.

Mr. Bartha said the basic answer to this question is no.

Ms. Pierce said no.

Mr. Bartha said they did not consider other places on the property or deem another place suitable for placement.

Mr. Pogonovich said that is actually the only suitable place for it.

Mr. Bartha asked if the Board had any further questions.

There were none.

Mr. Bartha asked if the Township had any further questions or comments.

Mr. Saville said he did not.

Mr. Bartha said it was now time for public comment. He asked if anyone from the public had any comments or questions to please stand and state and spell their name the first time they speak.

Mr. Vishner and Ms. Mazzocco, residents of 102 Pinoak Lane which is abutting 104 Pinoak Lane on the side in question, approached the Board.

Mr. Vishner presented the Board with a copy of a survey from 1984. He said he has the original as well as copies for the Board if they would like to see the original. He said he had to copy it in two pages because it wouldn't fit. As the Board can see, they are Lot No. 23 and they are talking about Lot No. 22. He said the space that is being discussed is actually the line between Lot 22 and Lot 23. He said the house at 102 Pinoak Lane has been in his wife's family for the past 30 years and he and his wife currently reside there now. He said his issue is that the garage is coming too close. He said they discussed that it is 5' over as Mr. Saville pointed out it is within 5' of our property line. He said currently on the property line is the retaining wall for their (Mr. Pogonovich's & Ms. Pierce's) driveway and set back 12" from that is our fence. He said originally prior to this construction, there used to be between six and eight trees there that were left by the builders back in 1979.

Ms. Mazzocco said before anything started happening with driveways and garages or anything with the plot confusion, line confusion, her fence was shorter – she said she has pictures. Now, she said they have a privacy fence that is 8' tall. She said the shorter fence was set back about six' more than where the fence is now. She said the current privacy fence is 12" off the property line per the survey which is the standard for building fences in Walden Woods. She said outside of that original fence was still part of their property but her mother didn't build the fence there because of the trees. She said those are the trees that her husband was referring to and that had been cut down after Mr. Pogonovich and Ms. Pierce had moved in because they thought the trees were on their property because of the plot confusion.

Mr. Vishner said when the original driveway at 104 Pinoak Lane was expanded, it was expanded onto the 102 Pinoak Lane property line as indicated by the survey. He said what happened is that this is the line right here (he pointed to the survey) and the beginning of the driveway was here at the street and went around a magnolia tree and cut in towards 102 Pinoak Lane.

Ms. Mazzocco said the driveway fanned out and right now there is currently a big retaining wall on the property line.

Mr. Vishner said you can actually see . . .

Mr. Bartha asked to interrupt for a second. He said there are a lot of documents in front of the Board. He asked if the Board wanted to start admitting these into the record. He asked if that was their intention and does the Board allow that.

Mr. Bish said this is getting into a property boundary issue. The variance is for them to locate the proposed garage between 9.7' and 5.3' from the property line. The lot line that they are showing on the Elliott survey, which was entered in as Exhibit 2.E, has the same bearings and distances as the common lot line shown on the survey that was just handed in that was provided and prepared in 1984. He said what is relevant to the Board here tonight is what that impact of the garage would be on Mr. Vishner's and Ms. Mazzocco's property. What happened in the past, the Board doesn't have any control about disputes between property lines, about someone cutting trees on someone else's property. He asked the couple if they could focus on that.

Mr. Vishner said sure.

Ms. Mazzocco asked if they could reference the retaining wall since it's supporting the ability for them to even build the garage.

Mr. Bish said if they want to offer those photos into the record and state what is shown in those photos.

Mr. Bartha said because it has relevance to what is proposed.

Mr. Bish said correct. He said the court reporter has to take down what is being said so they need to be descriptive on how they are describing the photos.

Ms. Mazzocco said okay.

Mr. Bish asked Ms. Cherico if she could make copies on legal size paper whenever the Board takes a break.

Ms. Cherico said yes.

Mr. Vishner said what they see as the greatest issue is what this will do to their property value with having a potential looming garage so close to their property line and that this will devalue the property value that they have invested in. He said they also have questions as to how close this will end up. He said the foundation is 5.3' but once all of the siding and all of the other pieces are added, how close will it ultimately end up as well as what the actual dimensions will be, 15' x 25'. He said it seems like a fairly sizable structure, especially if they don't know the height dimensions. One thing the Board will see in some of the photos that they want to present to the Board is that there's rather large equipment that is parked often times at this residence. He said it is in the order of a dump truck or other commercial size trucks with trailers. He said that is one thing that they kind of worry about is the noise impact as well as the impact on the community in terms of it being a residential area with trucks such as these. He said the Board can see (in one of the pictures) a red dump truck as well as a boxed in white truck built on a pick up chassis. He said this is what is typically parked at night there as well. Looking at a structure that would accommodate those, they have to wonder what the size and implication would be in terms of property values.

Mr. Bruni said Mr. Bartha has already requested that they provide that detail.

Mr. Bartha said again just to clarify for the record, the applicant stated that the intended purpose of the garage is for residential cars in a garage, not trucks or not commercial vehicles.

Mr. Vishner said he understands that is the stated purpose, but this is just a question that they have. He said it is what they see out of the window on a daily basis. He said there's a garage being built and there's already a two-car garage in place.

Ms. Mazzocco said a one-car garage.

Mr. Vishner said there's a one-car garage, but there's two pieces of equipment there. He said it's just a question that they have.

Mr. Bish asked if the photo Mr. Vishner has is the same photo taken by Mrs. Meyers.

Mr. Vishner said yes.

Mr. Bish said if that is to be entered into the record, Mrs. Meyers would have to speak about when she took the photo.

Mr. Vishner said sure.

Mr. Bish said they would be given a chance to do that.

Mr. Bartha asked if they wanted to enter some of the photos and some other exhibits.

Ms. Mazzocco said she wanted to enter this one (she pointed to the photograph) that show the proximity. She said this is the privacy fence and then the retaining wall that is 12" away. She said this is actually the wall of the (garage), a cinder block wall behind the pad that they poured.

Mr. Bartha asked Mr. Bish if this could be marked for the record as Exhibit 13.

Mr. Bish said yes, 13.

Mr. Bartha said as presented by Katie Mazzocco. He asked if she could describe for the Board when that photograph was taken and for the record describe the photo.

Ms. Mazzocco said it was taken today at 3 p.m. from beneath her magnolia bush and it is of her property line looking onto their property from the beginning of her fence looking back at their house.

Mr. Bartha said on the right-hand side of the photo is the existing fence structure on the property line and then approximately a foot or so to the left of that is the retaining wall that exists on their property line.

Ms. Mazzocco said no, the fence is 12" off of the property line and their retaining wall is on the property line. She said there's actually 12 inches between. She asked if Mr. Vishner had the picture with the ruler.

Mr. Vishner said yes. He said if the Board looked at this one (pointing to the photo), this is just a close-up between the retaining wall and the fence.

Ms. Mazzocco showed a picture with a ruler between the fence and the retaining wall that indicated 12".

Mr. Pogonovich asked if he could see the photo.

Mr. Bartha said he would be given a chance to look at it. He asked if the Board wanted to enter the photo into the record.

Mr. Bish said yes. He said this one is Exhibit 13.

Mr. Bartha said yes.

Mr. Bish said Exhibit 13 shows the privacy fence that is on 102 Pinoak Lane.

Mr. Vishner said that was correct.

Mr. Bish said that was on the right-hand side of the photo.

Ms. Mazzocco said yes.

Mr. Bish said it then shows railroad ties which are approximately 12" from the fence.

Mr. Vishner said correct.

Mr. Bish asked if they installed the railroad ties.

Mr. Vishner said no, they did not.

Ms. Mazzocco said that was apparently a point of argument previously between Mr. Pogonovich and her mother over the survey and that was when her mother contacted Mr. Saville.

Mr. Bish said okay.

Ms. Mazzocco said her mother wasn't home when the retaining wall was put in. She said her mother came home and went over and let Mr. Pogonovich know that it was on her property.

Mr. Vishner said that is what led to the second survey by Elliott.

Mr. Bish said the second photo would be entered as Exhibit 14 and it showed with a measuring tape, the distance from the railroad ties to the privacy fence.

Ms. Mazzocco said yes.

Mr. Bish said the railroad ties are on the left-hand side and the privacy fence is on the right-hand side.

Ms. Mazzocco said that was correct.

Mr. Bish asked when the photo was taken.

Ms. Mazzocco said it was taken at 3 p.m. today.

Mr. Bish said okay.

Ms. Mazzocco said their other concern about continuing construction of the garage is that they want to make sure that the drainage is done properly from the house. She said currently drainage from Mr. Pogonovich's & Ms. Pierce's downspouts and gutter is not attached into the ground so

the water just goes off their roof. She said the Board could see this from another photo looking from her deck. She pointed to the photo and said this is where their downspout is and this is where the cement pad is. She said they are having water issues in their yard that they had never had before Mr. Pogonovich did the downspouts and didn't put them into the ground to direct the water to the road as required. She said they want to make sure if they move forward with any construction that they need to complete the downspouts, especially in relationship to the garage so there is no sloping towards their house and they wouldn't be getting more water on their property.

Mr. Bruni asked Mr. Saville if that is a requirement.

Mr. Saville said they are not required to take it to the street. He said downspouts can daylight into the yard, but cannot create a water problem for the neighbor.

Mr. Bruni said okay, he just wanted to clarify that for the record.

Mr. Vishner said additionally, when they (Mr. Pogonovich & Ms. Pierce) built the pad, they also built up part of the backyard with dirt and fill. He said there is now an actual physical distance between the height of their (Mr. Pogonovich & Ms. Pierce) backyard and his. He said it looks to be about a four, five or maybe six inch height differential. He said if there is water running off of their (Mr. Pogonovich & Ms. Pierce) yard, it just goes through the fence and then down into his yard because there is a little slope due to the hill and terrain and it actually goes right towards his foundation.

Ms. Mazzocco said they have had two French drains put in over the last two years trying to deal with that.

Mr. Bartha said they are going to enter the third photo as Exhibit No. 15.

Mr. Bish said yes, 15.

Mr. Vishner said these were not issues that were present for the past 20 years.

Mr. Bartha said this is No. 15 taken . . .

Ms. Mazzocco said taken today at 3 p.m.

Mr. Bruni asked if their home has suffered any water damage.

Ms. Mazzocco said inside, they had to tear out some plasterwork and remediate things in the basement.

Mr. Bartha asked Mr. Bish if the water and the grading issues were relevant to the decision for the application tonight.

Mr. Bish said they could potentially be in that the addition of the garage could exacerbate the drainage issues.

Mr. Bartha said okay, the existing problem as reported by the neighbors at 102 Pinoak.

Mr. Bish said correct. He said the Board also has the power in granting the variance to impose reasonable conditions which could include that the drainage issues are resolved. He said there are two photos on Exhibit 15. The one on the left hand is taken from their house (at 102 Pinoak).

Ms. Mazzocco said from the deck.

Mr. Bish said from their deck and it is showing the house at 104 Pinoak in the background with their privacy fence at 102 Pinoak.

Ms. Mazzocco said yes.

Mr. Bish said okay.

Ms. Mazzocco said it also shows how close their line of vision is to the side of their house. She said if they came off another 15 feet towards the fence, they would look and right over the fence they would see whatever the garage is going to be.

Mr. Bish asked if the right-hand photo was of the rear of the house.

Ms. Mazzocco said yes, taken from over top of the fence.

Mr. Bartha asked Ms. Mazzocco and Mr. Vishner if they had anything else.

Ms. Mazzocco and Mr. Vishner said no.

Mr. Bartha said at this point, he wanted to give Mr. Pogonovich an opportunity to see the photos that were submitted if he would like to come up and see what was entered as exhibits.

Mr. Bish asked Ms. Cherico to make photocopies of the pictures when the Board takes a break.

Mr. Pogonovich said he just wanted to see if the stakes are still originally in the picture. He said he could see them, the original stakes that were put in by these people. He said they had them stake it.

Mr. Bartha said survey stakes.

Mr. Pogonovich said yeah, we had them stake it. If they are still in it, they are about six inches away from the fence.

Mr. Bartha said okay.

Mr. Pogonovich said they are still in the ground. He introduced himself to Mr. Vishner and Ms. Mazzocco and asked if he could take them over tonight and show the stakes that have never been moved. He said the iron pin is in the back with the flag still tied on it and wooden stakes were put along the fence line.

Ms. Mazzocco said okay.

Mr. Bartha said that would be helpful just to clarify the Board's understanding of what is on the survey and where they see the stakes.

Mr. Vishner said yes, that would be fine.

Mr. Pogonovich said with respect to the water issues they are having, around that time they were re-grading the back and Ms. Mazzocco's mother came over and started yelling that the yard wasn't right. The contractor that he hired to do it put it the way Ms. Mazzocco's mother asked for it, not the way that it originally was. He said he has probably about 2,000 photographs of what he has done to the house and to the outside. He said he could bring those next time. He said he didn't know this was all going to happen like this.

Mr. Bartha said no, he would be given an opportunity to react to what's been presented today.

Mr. Pogonovich said okay and when they get home tonight, he would like to show them the stakes that are still in the ground.

Mr. Vishner and Ms. Mazzocco agreed.

Mr. Bartha asked if there was any further public comment.

Mr. Diskin approached the Board and said he lives at 111 Pinoak Lane which is across the street from Mr. Pogonovich and Ms. Pierce on an angle. He said they bought a dilapidated house and they remodeled it and made it look really nice. He said they improved the neighborhood. He said it is just this one side of the house that he's waiting to complete this garage, which once it's done, it would increase the property value of everybody's house. He said he can't attest to what the boundary line is and what issues they are having, but he would like to see the garage be put in because it's going to make the area look a lot better. He said he supports it. As for the boundary issue, he said they are going to have to work that out.

Mr. Bartha said he appreciated his comments. He asked if there were any other comments from the audience.

Mrs. Meyers said yes, she totally disagreed with Mr. Diskin. She presented a petition from the neighbors to the Board and said she completely disagrees with Mr. Diskin. She asked if a copy of the petition could be made for her because she didn't make one. She said her husband took the pictures that were entered from the front of her driveway since she lives directly across from this eyesore.

Mr. Bish said some photos were submitted and asked if it was these photos. He showed Mrs. Meyers the photos.

Mrs. Meyers said yes.

Mr. Bish asked if she could verify that these are the photos she sent to the Township.

Mrs. Meyers said yes. She pointed to a photo and said it was taken from her sidewalk at 107 Pinoak Lane. Behind here (she pointed to a photo), this red dump truck is always filled with garbage and whatever. She said there's a lawn trailer and garbage cans behind there. When they pull these out, they can see all of the garbage and trash and open gas cans and whatever they leave out there.

Mr. Bartha asked if she was going to submit them into the record this evening.

Mr. Bish asked if that was her intent.

Mrs. Meyers said exactly.

Mr. Bish said they were submitted into the Township. He asked when the photos were taken.

Mrs. Meyers said about a week ago.

Mr. Bish asked if she had taken them.

Mrs. Meyers said her husband, Charles I. Meyers, took them and he is at 107 Pinoak, also. She said when they pull out the vehicles, they bring all of the cars into this space (she pointed at a photo). She said her husband said this is three driveways, not two driveways. She said it is set up to be three driveways. She said they want to know how that was going to be coordinated with his drawings and plans for his garage, which of course, weren't submitted. She said she really had a lot on her mind.

Mr. Bartha told her to take her time.

Mrs. Meyers said the people that work full time can basically ignore this, but she has been retired for two years and has a little bit of a disability. She said she gets to see this eyesore every day of the week. She said this is a residential area, they pay top taxes and she and her husband still have a mortgage and are trying to live on Social Security. She submitted the petition with 14 signatures on it that stated:

“Petition to deny variance – 104 Pinoak Lane, Imperial, PA is requesting a variance to build an additional garage. Since he is operating a construction company (without permit from North Fayette Township) in a residential area, we presume this garage is not for parking a car but to house more equipment, as his current garage is filled beyond capacity (we've seen it). He currently parks in his driveway a pickup, SUV, dump truck, tall ladder truck & lawn trailer. We the undersigned are concerned Walden Woods residents that urge our leaders to act now and deny the variance as it is not intended for parking a car but to expand his construction business. What we want is for him to get a garage elsewhere, out of our plan of homes to house his trucks and equipment to eliminate the noise, impeding traffic a.m. and p.m. and eliminating the eyesore that has dropped our property values.”

Mrs. Meyers said her husband found the petition form on the internet. She said some folks tonight here think that he's going to put in a garage to house his trucks. What an enormous, monstrous addition that would be. Anyway, that's not the reason, I'm sure, for this, not to put a car in. She said some of the neighbors on the left side see all of the attention to the yard. On the

right side of the yard, they've had to look at that for approximately six years. Nothing was done to it except the mess, additional mess that he has created. As for the people who lived there previously, their house on the outside was beautifully landscaped. She said it had trees, grass was always mowed and everything always looked presentable. The first thing Mr. Pogonovich did when they moved in was cut down all of the trees and made it bare. She said she could go on about this but this has her nerves just worked up and she did have to take medication to come here tonight.

Mrs. Meyers said if he was a good neighbor, he wouldn't have brought all of this into the neighborhood. She said they pay very good taxes, but it feels like they live in either the North Side or McKees Rocks. Paying big taxes like they do, she said they don't want to look out of their window and see this nightmare anymore and she means nightmare. The trucks don't just leave in the morning and come back in the evening, she said they come back through the daytime to pick up supplies and whatever. She said she would be the first person to know if a car ever gets parked in that garage. She said it's encompassing two things, but she just wanted the Board to see where their passion is with this. To see tonight that he showed up without any plans or anything and some of the neighbors foolishly came that didn't sign the petition thinking that he would actually bring something like that for the Board to see what he's going to put up.

Mr. Bartha said he wanted to get some of the paperwork cleaned up and give Mrs. Meyers a moment to take a breath.

Mrs. Meyers said thank you.

Mr. Bartha said entered as exhibit . . .

Mr. Bish said Exhibit 16 is going to be the petition that was handed in by Mrs. Meyers and when the Board takes a break, they can get her a copy. Then, Exhibit 17 is the three photos that were submitted by Mrs. Meyers that she indicated were taken by her husband, Charles Meyers, about a week ago.

Mr. Bartha asked Mrs. Meyers if she had another comment.

Mrs. Meyers said yes, she did. She said Mr. Daniel Augustin could not be here tonight. She said a letter from him had already been forwarded to Ms. Ludwig and then to the Board, but he wanted her to reiterate that a few years ago he tried to sell his home which is next door to her at 105 Pinoak. She said the main reason that people would tell him that they don't want to move in even though his house is decorated very nicely inside and out is because of the eyesore across the street at 104 Pinoak. She said he wanted her to bring that up because he was unable to attend tonight.

Mr. Bish said yes, they received a copy of that and it's actually already in the record as Exhibit 11 because he wasn't able to attend.

Mrs. Meyers said okay, thank you.

Mr. Pogonovich said first of all, he doesn't run his business out of this house. He owns those trucks and parks the trucks there so he can keep an eye on them. He said he has had stuff stolen

off of those trucks and had fuel stolen out of those trucks. He said he runs the business out of a storage unit up the road at Aunt Mini's and he has had the storage units up there for nine years. He said that is where he runs his business. As for the trees that were in the yard, every tree that was in that yard was diseased and needed to come down. To say one other thing about the trees, he said he cut down Mrs. Mazzocco's tree at her request and he footed the bill for it.

Mr. Bish said when he was referring to Mrs. Mazzocco if he was talking about her mother.

Ms. Mazzocco said yes.

Mr. Pogonovich said yeah, yeah, she asked him to cut a tree down for her while his guys were there and he said sure they can cut it down in an effort to have good neighbors.

Mr. Bartha said he wanted to clarify because it was stated at least twice, but he wanted to say it one more time because Mrs. Meyers brought it up as a questioned. Mr. Pogonovich's intention is to build a garage to be used for parking cars.

Ms. Pierce said correct.

Mr. Pogonovich said he could show the Board members what he is going to park in it if they want.

Ms. Pierce said it is a classic.

Mr. Bartha said if he could just describe what he is going to park in there.

Mr. Pogonovich said it's a 1967 Impala. He said he has a picture of it on his phone and that it needed work.

Ms. Pierce said yes.

Mr. Bish said it cannot be submitted into the record if he doesn't have a photocopy to present.

Mr. Bartha said he answered his question and he has described the type of car he intends to park in the garage.

Ms. Pierce said when they bought the house their intention was not to leave this the way that it is. She said it's sitting like that because of the situation with the variance and the property line. She said they didn't pour tens of thousands of dollars in improvements, internal, external, landscaping, hardscaping, to leave this the way that it is. She said that's not their intention. As far as cutting the trees down, they were on their property. She said they cut them down because it was their choice. As far as what's in their garage at the moment, she said it's all of the building materials for the garage.

Mr. Bartha said he appreciated that and he just wanted to state for the record, and asked the solicitor to correct him if he is incorrect, the trees, what's in the garage, the parking of the vehicles is not at issue tonight and is not part of the application tonight.

Mr. Bish said whether or not a business is being operated out of 104 Pinoak is not at issue tonight. He said all the Board is dealing with is the variance for the proposed garage. That being said, he said vehicles parked there do tend to go to the impact and characteristics of the neighborhood and that is one of the criteria that's under the PA Municipalities Planning Code.

Mr. Bartha said one of the five.

Mr. Bish said yes.

Mr. Bartha said understood and he just wanted to clarify. He said he wanted to go back to Mrs. Meyers because she is up and he wanted to give her the full turn and then go to the next one.

Mrs. Meyers said she just wanted to say that anybody that lives in Walden Woods knows that they live in the safest area anywhere in the city. Up until they (Mr. Pogonovich and Ms. Pierce) moved in, she did not have to close or lock her front door. She said that is how safe they feel in the neighborhood and they don't have gas stolen, they don't have anything stolen. She said the reason they want to live there is because it's a beautiful home and they are not fearful to live there. She said if someone is having gas stolen, they bring that on themselves. To say that somebody stole gas is ludicrous especially on this street.

Mr. Bartha said again he wanted to state for the record that is not part of the consideration for the application tonight. He said he has given a little bit of leeway to state concerns, but they need to stick to the variance and the request on the variance tonight.

Mr. Pogonovich said he never said that the stuff was stolen out of the driveway.

Mr. Bartha said he doesn't want to cut him off, but he is going to start. He told Mr. Pogonovich that he doesn't need to rebut something that he just said is not relevant for the hearing tonight. He said they are being civil tonight and he wants to keep it there, but they need to stay on point.

Mr. Pogonovich said he does too, but it is getting very difficult.

Mr. Bartha said he was going to give her the opportunity to speak, but if it's not relevant there is no need to rebut that for the record for what the Board is going to take into consideration for the vote that they will eventually take for a yes or no on this application.

Mr. Pogonovich said okay.

Mr. Bartha said thank you. He said he appreciated his patience on this and knows this is not easy. He asked who is next.

Ms. Sherman approached the Board.

Mr. Bartha asked for one second to do a little cleanup then it will be her turn.

Mr. Bish said Exhibit 18 is going to be the survey entitled Plan of Property Survey for Albert and Gloria J. Mazzocco, the property which is Lot 23 in Walden Two, Phase One, Walden Woods, dated April 16, 1984, prepared by Richard Kazmer as a registered land surveyor.

Mr. Bartha said he had to apologize, Mrs. Sherman.

Ms. Sherman said she is one of those people that will drive down Pinoak almost every day and wanted to tell the Board about this area with all of the construction equipment and what happens. She said they park their cars on the street then they come and they pull the construction trucks out. She said she can't go anywhere and can't get around them so she just has to wait until they pull the trucks out. Then she said they go back and they take all of their cars and pull their cars in the driveway and get back in the trucks and leave. She said this happens sometimes twice a day to her. She said she tried to find another way to get home but she has a problem with her eyes and the sun due to cataracts. She said she goes down Pinoak and then to Logan Road to avoid that problem. She said she didn't understand why they are even here because in order to do anything, they first have to secure permission from the Walden Woods CSA. She said she just built a two-car driveway, a concrete driveway and had to submit plans with exact drawings, size, construction company and everything and then had to wait for the Board to have a meeting to approve it. She said when she mentioned this to the Walden Woods Board they told her that this gentleman never asked their permission. Without their permission, she didn't understand why they are here. She said she is sorry somebody from Walden Woods CSA didn't come to the meeting.

Mr. Bish said he wanted to clarify that the Township has no control over condominium association regulations. He said those are private recorded, restricted covenants between private property owners.

Ms. Sherman said okay.

Mr. Bish said any enforcement of that is not the responsibility of the Zoning Hearing Board or the Township unless there are specific statements in their covenant which states that the Township has jurisdiction and enforcement powers. He said this Board cannot take into account HOA issues or condominium association issues. He said those are private.

Ms. Sherman said so when they tell people that without their permission they cannot build something, they could still go to the Township to have it done.

Mr. Bish said no, he isn't her attorney and can't provide legal advice. He said if someone does something in violation of the restrictive covenants, the association has the power to enforce them and can render fines and penalties against them under the declarations.

Ms. Sherman said okay.

Mr. Bish said that is a separate, private enforcement process that is unrelated to the Township, two separate bodies.

Ms. Sherman said so if Walden Woods did say no, the Township wouldn't supersede and say go ahead and build it.

Mr. Bish said the Township has no control. The Township could say yes, build it, and the HOA or condominium association could say no. He said it becomes an enforcement issue by the condominium association.

Ms. Sherman said okay.

Mr. Bartha said it was separate and distinct.

Mr. Bish said correct.

Ms. Sherman said okay, unfortunately the Walden Woods representative couldn't be here tonight. She said she was just wondering because residents have to go through so much just to do something here and get permission. She said it took about three weeks for them to give permission for her to do it and had to use contractors that they approved of. She said that is why this is puzzling to her because she knows the CSA would not approve of somebody running a business. She said it's in the bylaws so she didn't know why Mr. Pogonovich is doing this without consulting them first.

Mr. Bartha said for the record he wanted to state again, as stated by the solicitor, the application tonight as presented to the Board and what happens between the homeowners and the civic association of Walden Woods is not relevant to what the Zoning Hearing Board is trying to ascertain tonight as to his application, their application. He asked if that was clear.

Ms. Sherman said okay, she's done.

Mr. Bartha asked if anyone else from the audience would like to speak.

Mr. Cwynar said he has been a resident at 103 Pinoak Lane since February of 1979. He said it was one of the first closings in Walden Woods. He said he lives across the street from Ms. Mazzocco and Mr. Vishner. He said some of his questions have been answered this evening, but he still wanted to know how many vehicles this garage was going to hold. He said so far he has three vehicles, Mr. Pogonovich's car, his truck and he said he has a . . .

Mr. Pogonovich said a classic car.

Mr. Cwynar said yes, a classic car, so there's going to be three vehicles parked in that garage.

Mr. Pogonovich said no.

Mr. Saville said a 15' x 25' size is only big enough for one vehicle.

Mr. Cwynar said one vehicle, okay.

Mr. Saville said there may be five feet or so left in the back. He said a standard double garage on like a new home is 22' x 20'. He said that is a double garage, but a 15' x 20' couldn't possibly fit two vehicles.

Mr. Cwynar said he was thinking 20 yards, not feet.

Mr. Saville said it could fit two or three motorcycles or tractors or something, but only one vehicle would fit in that size.

Several people started talking at the same time.

Mr. Bartha said they have to be careful not to talk over each other or the recorder has a challenge. He asked that only one person speak at a time. He asked if that was clear now that it's 15' x 25' and the applicant stated during his testimony that he is going to park a vehicle, a car, into the new garage structure.

Mr. Cwynar said okay, and as stated earlier he would have to submit plans on how, what this garage is going to look like so it would be part of the meeting minutes. He said that was all he had to say.

Mr. Bartha said okay, he appreciated his help tonight.

Mr. Cwynar said okay.

Mr. Bartha asked if he had anything else.

Mr. Cwynar said he was good.

Mr. Bartha asked if anyone had any last comments.

Mr. Pogonovich said he would get everything the Board needed to them.

Mr. Bish suggested the Board hold an executive session.

Mr. Bartha announced the Board would be going into executive session at 8:47 p.m.

The Board reconvened at 9:06 pm.

Mr. Bartha said as discussed earlier, the Board was going to need more information presented. He said he was going to go through a list of the additional items that the Board was going to request for the record so that Mr. Pogonovich and Ms. Pierce have a fair idea of what additionally was needed in support of this application.

Mr. Pogonovich said okay.

Mr. Bartha said they would need the size of the proposed garage addition, the length, width, height and number of stories and that would again be a part of the height. He said the Board would need something in writing to attest to that. He said the Board would need a design of the proposed addition whether it would be a drawing or a picture of something similar in terms of style and what it would look like, the building materials. He said that is relevant for consistency with the neighborhood. He asked if it was going to have siding on it, would it be boards, would it be painted, what color. He said the Board needed answers to those kinds of questions to give a complete understating of the look and design of this new garage structure.

Mr. Bartha asked if he missed anything.

Mr. Bish said no.

Mr. Bartha said that is what is outstanding with the Board. He said he was going to make a motion that the Board continues this hearing for 45 days. So, the applicant would be given 45 days . . .

Mr. Bish said no. He said the next hearing is going to be in October so it's going to be less than 45 days.

Mr. Bartha said he wanted to clarify, the Board is allowed to continue a hearing for up to 45 days. He said there is already a meeting scheduled in October, so it would be slightly less than that.

Mr. Bish said the 23rd, the next hearing is October 23.

Mr. Bartha said okay, they are going to continue this hearing until the October 23 Zoning Hearing Board meeting. He said the Board will give them that period to submit what has been requested tonight as a continuation of this meeting.

Mr. Bish said he would just request that those materials be submitted to the Zoning Hearing Board in advance so that they have time to review them before the October 23 hearing.

Mr. Pogonovich said okay.

Ms. Pierce said that was her question.

Mr. Pogonovich asked how soon they needed them. He said it was going to take him a little while to get it together.

Mr. Bish asked how much time the Board needed.

Mr. Bartha said five days beforehand would be enough time.

Mr. Grimm asked for clarification if Mr. Bartha was asking for five calendar days or five business days.

Mr. Bartha said five calendar days.

Mr. Bruni said let's say the Friday before the meeting.

Mr. Bartha asked for a motion to continue this hearing until the October 23 Zoning Hearing Board meeting.

Mr. BRUNI MADE A MOTION, SECONDED BY Mr. BARTHA, TO CONTINUE THE POGONOVICH/PIERCE HEARING UNTIL THE OCTOBER 23, 2014,

ZONING HEARING BOARD MEETING AT 7:30 IN THE TOWNSHIP BOARD MEETING ROOM.

ROLL CALL:	JIM BRUNI	YES
	GEORGE BARTHA	YES

COMMENTS:

Mr. Bartha asked if anyone had any questions or comments about anything.

There were none.

ADJOURNMENT:

A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. GEORGE BARTHA, AND CARRIED, TO ADJOURN THE MEETING AT 9:13 P.M.

Respectfully submitted,

Cheryl Cherico
Zoning Hearing Board Secretary