

**NORTH FAYETTE TOWNSHIP
ZONING HEARING BOARD**

**THURSDAY, JULY 28, 2016
7:30 P.M.**

The meeting was called to order with Mr. Jim Bruni presiding.

MEMBERS PRESENT:

Jim Bruni, Chairman
Dan Patterson, Alternate Member
Tim Bish, Solicitor

MEMBERS ABSENT:

Chip McCarthy, Vice-Chairman
John Scott, Member

OTHERS PRESENT:

Laura Ludwig, Township Community Development Director
Bob Grimm, Township Manager
Martha Frech, Streamline Engineering
Austin Henry, Esq., Mills & Henry
Karon Wagner, 122 Margarett Street
George & Carol Wagner, 1033 Stewart Road
Raymond Yerkey, 7604 Noblestown Road
Joey Parker, 105 Hemlock Court
Marc Starkman, 128 Holly Hill Drive
Richard & Dorothy Falconer, P.O. Box 110, Sturgeon, PA 15082
Terry & Denise Harbison, 430 Finks Run Road
Jim Slovick, P.O. Box 265, Sturgeon, PA 15082
Dale Hoag, 484 Fannie Street
David, Connor, & Colleen Page, 200 Dupont Drive
Harold & Ina Nation, 8 Jess Lane

ADMINISTRATIVE:

Pittsburgh Reporting Service Transcript inserted here.

ADJOURNMENT:

Mr. Bruni asked if there were any further comments. Hearing none the meeting was adjourned at 9:19 P.M.

Respectfully submitted,

Laura Ludwig, Community Development Director

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NORTH FAYETTE ZONING BOARD HEARING

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IN RE:)
)
Karon M. Wagner, Inc.,)
Requesting Floodplain)
Management Ordinance)
Variance)

- - - - -

North Fayette Township
400 North Branch Road
Oakdale, PA 15071
Thursday, July 28, 2016
7:32 p.m.

- - - - -

BEFORE: Jim Bruni, Chairman
Dan Patterson, Alternate Member
Tim Bish, Solicitor
Laura Ludwig, Community Development
Director

- - - - -

TRANSCRIPT OF PROCEEDINGS

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Reported by:

Shauna L. Haley
Court Reporter

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COUNSEL PRESENT:

For Karon M. Wagner:

Austin P. Henry, Esquire
Mills & Henry
200 Benedum Trees Building
223 Fourth Avenue
Pittsburgh, PA 15222

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I N D E X

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<u>WITNESSES:</u>	<u>PAGE</u>
AUSTIN P. HENRY, ESQUIRE	9
MARTHA FRECH	20
KARON M. WAGNER	29
GEORGE WAGNER	37

<u>EXHIBITS:</u>	<u>SUBMITTED</u>
APPLICANT EXHIBIT NOS. 1 - 12	6
APPLICANT EXHIBITS NO. 13	14
APPLICANT EXHIBIT NO. 14	16

(EXHIBITS RETAINED BY BOARD.)

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P R O C E E D I N G S

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MR. BRUNI: All right. I'd like to call the meeting to order. Would everyone please rise and join us in the Pledge of Allegiance.

(Pledge of Allegiance recited.)

MR. BRUNI: At this time I'll take a roll call. Jim Bruni, here. Chip McCarthy?

(No response.)

MR. BRUNI: John Scott?

(No response.)

MR. BRUNI: Dan Patterson?

MR. PATTERSON: Here.

MR. BRUNI: Tim Bish?

MR. BISH: Here.

MR. BRUNI: Under administrative, at this time I would like a motion to approve the minutes from the April 28, 2016, and the July 7, 2016, meetings.

MR. PATTERSON: So moved.

MR. BRUNI: Second. All those in favor say aye. Aye.

MR. PATTERSON: Aye.

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MR. BRUNI: Opposed? Motion carries.

Prior to this meeting the Board held an executive session to receive advice of the solicitor.

At this time, anyone who wishes to testify or speak at tonight's hearing, would you please rise, and the court reporter will now swear in any witnesses or members of the public wishing to comment during tonight's public hearings.

If you think you're going to speak, now is the time to stand; and if you want to speak and you don't, we're going to have to swear you in later. Okay?

Oh, okay. If you have a problem standing, you can just raise your hand. I'm sorry. I didn't see that back there. I'm just -- everyone else, I just wanted them to know.

(Witnesses were collectively sworn.)

MR. BRUNI: Thank you. New business. Karon M. Wagner, Inc. Floodplain Ordinance Variance Application. Karon M. Wagner, Inc., is requesting a variance from the

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Exhibit 2. Application to Zoning Hearing Board dated June 16, 2016 (Including Attachments A, B, C, D, E, F, and G).

Exhibit 3. Allegheny County Property Assessment Office web pages dated July 14, 2016, for property designated as Allegheny County Parcel ID No. 584-N-20 (7 pages).

Exhibit 4. Public Notice and Proof of Publication for tonight's public hearing.

Exhibit 5. Letter from Township dated July 13, 2016, to Karon M. Wagner, Inc., regarding notice of hearing (2 pages).

Exhibit 6. Letter from Township dated July 31, 2016, to neighboring property owners regarding notice of hearing (along with addressee list) (3 pages).

Exhibit 7. Photographs of Notice Postings and corresponding e-mail from Township dated July 31, 2016 (3 pages).

Exhibit 8. Transmittal Memo from Martha L. Frech, P.E., of Streamline Engineering, Inc., dated July 5, 2016, submitting Letter of Map Revision (LOMR) request package (Including Attachments A, B, and C).

1 Austin P. Henry, Esq.

2 Exhibit 9. Document entitled
3 "Suggested Provisions Meeting the Minimum
4 Requirements of the National Flood Insurance
5 Program and the Pennsylvania Floodplain Management
6 Act (1978-166) Section 60.3(b)" prepared by the
7 Pennsylvania Department of Community & Economic
8 Development, dated January 2011.

9 Exhibit 10. Lennon, Smith, Souleret
10 Engineering, Inc. review letter dated July 26,
11 2016.

12 Exhibit 11. Plan entitled "100-Year
13 Flood Limit," Drawing No. C100, prepared by
14 Streamline Engineering, Inc. dated September 14,
15 2015, and most recently revised July 22, 2016,
16 which includes number identifications for the
17 manufactured home sites near Tributary No. 1 of
18 Robinson Run.

19 Exhibit 12. Signed Petitions of
20 Support submitted by Applicant (6 pages).

21 MR. BRUNI: At this time the
22 Applicant can state their case. Before you speak,
23 for the court reporter's benefit, would you please
24 state your name and spell your name so that she
25 gets it for the record.

1 Austin P. Henry, Esq.

2 MR. HENRY: Good evening,
3 Mr. Chairman, Mr. Patterson. Thank you for the
4 opportunity. My name is Austin Henry. I'm with
5 the law firm Mills & Henry. I have the privilege
6 of representing Karon M. Wagner, Inc., the owner
7 of the subject property. This is Karon Wagner
8 here (indicating). You will hear from Karon
9 later.

10 I'd like to briefly give you some
11 background to lead into the Application for
12 Variance that we're considering this evening.

13 In late 2014, you may be aware, FEMA
14 redrew flood zone maps, floodplain maps, in the
15 area. They're called FIRMs, F-I-R-M. Karon M.
16 Wagner, Inc. owns property along Finks Run and
17 Jess Lane off of Noblestown Road. It's commonly
18 known as the Wagner Rental Community. It has a
19 little over 100 mobile home lots. A lot of
20 long-time citizens of the township live there.

21 With the redraw of the firm, FEMA
22 captured 31 of those lots in a floodplain.
23 Previously, none of the lots were within the FEMA
24 floodplain. So they, through estimation only now,
25 it's labeled a Zone A, which means that FEMA used

1 Austin P. Henry, Esq.

2 a computer model and it's merely an estimate,
3 meaning there's no base flood elevations
4 established by FEMA or anyone else, for that
5 matter.

6 So 31 lots were now in a floodplain.
7 Of those, 22 lots were within 50 feet of the
8 stream. Okay. There had never been any flooding
9 on any of these lots. These lots have been in use
10 since 1970. Okay. They've been in constant use
11 with homes on them since 1970.

12 Some of these homes turn over
13 occasionally. They're a slow turnover. For
14 instance, right now there are a couple of vacant
15 lots, but that's the norm.

16 So, now we have 31 lots in the
17 floodplain, 22 within 50 feet. There's never been
18 any flooding, okay, in the whole history of the
19 park since 1970. We have many long-time residents
20 and neighbors here that can testify to that.

21 I believe -- well, I know on the
22 exhibit list is a letter to the Zoning Board
23 Members with many residents, 35, 36 residents that
24 attest to that. The average age of the residents
25 that signed that petition is over 38 years, the

1 Austin P. Henry, Esq.

2 average age.

3 So, when your property's in a Zone A,
4 there's no base flood elevation established, and
5 that puts the onus on the Applicant to establish
6 your base flood elevation.

7 Knowing that there's never been any
8 flooding of any of these units on any of these
9 lots, Ms. Wagner went to the great expense and
10 retained Streamline Engineering to do a full
11 hydrologic study of the area. And sure enough,
12 that hydrologic study came up with the scientific
13 conclusion that 16 of those 22 lots within 50 feet
14 of the stream -- and I have the list, we'll show
15 you -- are above the base flood elevation in the
16 area.

17 Now, I want to point out the 50-foot
18 requirement in your Ordinance 421, it's 5.06.B, I
19 do have a copy of the ordinance with that mark.
20 If you'd like, you could flip right through it.
21 It would probably make things easier for you.

22 MR. BRUNI: Yep.

23 MR. HENRY: If I may --

24 MR. BRUNI: We're good. We got
25 it.

1 Austin P. Henry, Esq.

2 MR. HENRY: Do you have it there?
3 Okay. It's tabbed. You see 5.06.B. Now, 5.06.B
4 is an optional requirement. In other words, it's
5 not part of the federal -- the National Flood
6 Insurance Program. The NFIP, the federal
7 government put forth certain regulations, minimum
8 regulations, for compliance with the flood program
9 in 1976, and they've been updated since then.

10 The 50-foot setback requirement in this
11 instance is an option. It's not a requirement.
12 It's merely an option, and this township chose to
13 go with that option and include it in the
14 ordinance.

15 The point is that a variance from that
16 will have no impact whatsoever on the NFIP
17 Program. All right. The provision was optional
18 to begin with. And I can show you that, although
19 I think your Solicitor will confirm that. But I
20 can show you the suggested provisions from the
21 DCED.

22 MR. BRUNI: Okay. Hold on one
23 second. Is this part of the --

24 MR. BISH: It is not. We already
25 have as Exhibit 9 is that version of the model

1 Austin P. Henry, Esq.

2 ordinance.

3 MR. HENRY: Okay. This version is
4 August 2013.

5 MR. BISH: Correct.

6 MR. HENRY: Okay.

7 MR. BISH: That would have been
8 from when the 2014 FIRMS went in effect.

9 MR. HENRY: Okay.

10 MR. BISH: That's when the model
11 ordinances were reviewed.

12 MR. HENRY: Okay. Well, you'll
13 agree that the 2013 ordinance renders that 50-foot
14 requirement is optional?

15 MR. BISH: Yes.

16 MR. HENRY: Okay. That was my
17 only point was that it's not a requirement of the
18 National Flood Insurance Program. Okay.

19 MR. BRUNI: Okay. So there's no
20 need to submit this into evidence.

21 MR. BISH: Not unless he --

22 MR. BRUNI: Unless you want to. I
23 just want to make sure. You're more than welcome
24 to. I just want to make sure.

25 MR. HENRY: Yeah, I might as well.

1 Austin P. Henry, Esq.

2 I'd like to put that in evidence. I'll enter into
3 evidence as the number -- what are we on? 12?

4 MR. BRUNI: 13.

5 MR. BISH: Do you have an extra
6 copy?

7 MR. HENRY: Yes, I do. And just
8 to point out --

9 MR. BRUNI: Hold on one second so
10 Tim can get it in the record.

11 MR. HENRY: Tim, I think that
12 would be No. 13.

13 MR. BISH: That's correct. So
14 we're accepting into the record Exhibit 13, which
15 is the DCED publication entitled "Suggested
16 Provisions Meeting the Minimum Requirements of the
17 National Flood Insurance Program and the
18 Pennsylvania Floodplain Management Act," and it
19 has the date of August 2013.

20 (Applicant Exhibit No. 13 was
21 marked and submitted into evidence.)

22 MR. HENRY: And, again, gentlemen,
23 I'd like to point out if you turn to Page 20, at
24 the bottom you will see that the requirement in
25 the Ordinance 421 of the 50-foot setback from the

1 Austin P. Henry, Esq.

2 stream is optional. It says, "(B) OPTIONAL," all
3 in caps, "within identified floodplain areas,
4 manufactured homes shall be prohibited within the
5 area measured 50-feet landward from the
6 top-of-bank of any watercourse," which is the
7 precise wording in Ordinance 421. The point being
8 that it is optional.

9 What we are here today, our Application
10 is for a variance for 16 lots from that 50-foot
11 optional requirement based upon the study
12 submitted by Streamline Engineering showing the
13 base flood elevations of those lots as being above
14 or -- excuse me -- the elevations of those lots as
15 being above the scientifically calculated base
16 flood elevation.

17 And I will present you with a list of
18 the subject lots. If you'd like to see it now, I
19 can give it to you now.

20 MR. BRUNI: Yep. Let's enter it
21 into the record now.

22 MR. HENRY: All right. If I may,
23 I had this previously marked as 13, Tim --

24 MR. BISH: Okay.

25 MR. HENRY: -- so I'll change it

1 Austin P. Henry, Esq.

2 to 14.

3 MS. LUDWIG: May I also -- if you
4 have an extra copy of that.

5 MR. HENRY: Sure.

6 MS. LUDWIG: Thank you.

7 MR. HENRY: So this is the list of
8 lots. Again, there are 31 lots in the floodplain,
9 but there are 16 that are both within 50 feet and
10 above the base flood elevation with no risk of
11 flooding on top of the almost 50-year history of
12 no flooding, and the fact that these manufactured
13 homes are at least 18 inches above grade. They're
14 concrete pads, and these homes are 18 inches above
15 the concrete pads.

16 MR. BISH: So for record purposes,
17 the Board with accept into the record as Exhibit
18 14 a document entitled "Wagner Rental Community
19 Lots for Variance, Section 5.06.B of Ordinance
20 421, due to Elevations above Base Flood
21 Elevation."

22 (Applicant Exhibit No. 14 was
23 marked and submitted into evidence.)

24 MR. BISH: And so these are based
25 upon the Streamline study --

1 Austin P. Henry, Esq.

2 MR. HENRY: Yes.

3 MR. BISH: -- not the current
4 effective FIRM?

5 MR. HENRY: That's correct. And I
6 can advise. This (indicating) is the current
7 Streamline drawing that has both. It has the FIRM
8 on it. The solid blue (indicating) is the
9 scientifically calculated floodplain with the
10 actual base flood elevations. The blue-lined hash
11 mark (indicating) is the existing Zone A
12 approximated FIRM. Okay. So there are no base
13 flood elevations established for that area.

14 MR. BISH: But you'll agree that
15 the Zoning Hearing Board is required to enforce
16 the current effective FIRM?

17 MR. HENRY: The current effective
18 FIRM under the Act defines floodplain. Okay.
19 We're not seeking a carveout of the floodplain.
20 We are not seeking that these lots be taken out of
21 the floodplain by any means. Quite the contrary.

22 We are only requesting a variance from
23 the 50-foot requirement. These homes, these lots
24 will still have to go through the permitting
25 process and will still have to comply with all of

1 Austin P. Henry, Esq.

2 the other requirements of the floodplain
3 ordinance. All we are asking for is --

4 MR. BISH: I just want to clarify
5 so we're all on the same page that this Board does
6 not have any jurisdiction to change the floodplain
7 areas or boundaries.

8 MR. HENRY: Agreed. No one's
9 requesting that.

10 MR. BISH: Okay.

11 MR. HENRY: In fact, that's an
12 important distinction.

13 So, did the Board Members -- I don't
14 know. With the size drawings you have, are you
15 able to delineate these lines? Because I do have
16 extra large ones if you'd like to put a large one
17 in front of you.

18 MR. BRUNI: I'm good. Are you
19 okay?

20 MR. PATTERSON: Yeah, I'm okay.

21 MR. HENRY: You're okay. So,
22 gentlemen, do you see the distinction? You can
23 see the blue hash marks? Okay.

24 MR. BRUNI: So I just want to
25 clarify. So each, where you have 58 feet,

1 Austin P. Henry, Esq.

2 25 feet, that's how far -- I'm looking at
3 Exhibit 14. I'm sorry.

4 MR. HENRY: Yeah. That's distance
5 from the stream.

6 MR BRUNI: Okay. Right now?

7 MR. HENRY: Correct. Does the
8 Board have any other questions at this time on my
9 background statement?

10 MR. BRUNI: No. So then your
11 variance request for these 16 lots is for each
12 separate lot you want, the 50 feet minus whatever
13 the distance is? Is that what I'm --

14 MR. HENRY: That's correct. We
15 just want a variance from the 50-foot requirement
16 that would permit us to go through the permitting
17 process to build on those lots.

18 MR. BISH: So each of these lots
19 are vacant?

20 MR. HENRY: No.

21 MR. BISH: Some of them are?

22 MR. HENRY: They're marked on the
23 exhibit.

24 MR. BISH: Okay. So the ones that
25 aren't vacant are grandfathered.

1 M. Frech - by Mr. Henry

2 MR. HENRY: The homes on them are
3 grandfathered, but they could leave tomorrow and
4 there would be the restriction. Okay. So because
5 the scientific study shows that they're above the
6 base flood elevation, we're doing it for all of
7 those lots above that base flood elevation.

8 MR. BISH: Okay.

9 MR. HENRY: If there are no more
10 questions, I'll proceed with the witness.

11 MR. BRUNI: You good?

12 MR. PATTERSON: Yeah, I'm good.

13 MR. HENRY: Ms. Frech, could you
14 -- you've been sworn in.

15 - - - - -

16 MARTHA FRECH,

17 a Witness herein, having been previously duly
18 sworn, was examined and testified as follows:

19 - - - - -

20 EXAMINATION

21 BY MR. HENRY:

22 Q. Could you please state your name.

23 A. My name is Martha Frech. That's
24 F-R-E-C-H.

25 Q. And by whom are you employed?

1 M. Frech - by Mr. Henry

2 A. I am president of Streamline
3 Engineering located in Lower Burrell.

4 Q. You're an engineer?

5 A. I am a professional engineer in the
6 Commonwealth of Pennsylvania.

7 Q. How long have you been a licensed
8 engineer in the Commonwealth?

9 A. 28 years.

10 Q. And can you describe for the Board what
11 kind of engineering you've practiced over that 28
12 years?

13 A. I am a civil engineer with a
14 concentration of hydrology and hydraulics and
15 environmental engineering and permitting.

16 Q. Can you very briefly tell us generally
17 what hydrology and hydraulic analysis entails?

18 A. Hydrology is determining flood flows in
19 river streams, channels. Hydraulics is design of
20 structures on streams such as dams, culverts,
21 bridges.

22 Q. And at some point in time, were you
23 requested by Ms. Wagner to analyze the subject
24 property?

25 A. I was requested by Ms. Wagner.

1 M. Frech - by Mr. Henry

2 Q. And what did you do?

3 A. We went out in the field. We
4 investigated and did a few surveys, did some field
5 measurements out there in the field along that
6 river stream that reached which is tributary 1
7 at Robinson Run. We --

8 Q. Do you want to use the drawing as you
9 speak?

10 A. We went back -- okay. And so we went
11 -- we did a few survey sections through here
12 (indicating) tying the elevations, relative
13 elevation from here (indicating) to here
14 (indicating). We used PASDA mapping, which is the
15 topography available online. We generated
16 sections through here (indicating), and we
17 calculated the flow up to this bridge
18 (indicating).

19 Putting the flow values and putting in
20 all the cross-section data, we came up with a
21 computer model, a stream model. We ran that model
22 (indicating), which is HEC-RAS or GeoHEC-RAS,
23 which are both computer models developed by the
24 Corps of Engineers, and the result is what you
25 see.

1 M. Frech - by Mr. Henry

2 Q. And was the methodology you utilized
3 approved and certified by governing bodies
4 including FEMA?

5 A. FEMA accepts the hydrology methodology
6 and the hydraulic methodology that we used. They
7 have it listed as to what recommended
8 methodologies they want to see if we were to ever
9 do a LOMR request.

10 Q. So this is a professionally accepted
11 methodology for doing a hydrologic report?

12 A. Correct.

13 Q. Okay. And please tell me what your
14 conclusions were in the area. And, again, please
15 use the map.

16 A. Okay. Our conclusion was seeing what
17 the FIRM map had showing as a 100-year flood
18 elevation or -- flood extent, not elevations,
19 because no elevations were determined because it's
20 based on approximate methods.

21 Based on what we saw that the inundated
22 area for doing a 100-year event -- during a
23 100-year event is a lot less extensive than what
24 is shown on the FIRM map.

25 Q. Okay. And does this drawing here

1 M. Frech - by Mr. Henry

2 (indicating) that's one of the exhibits that's of
3 record, does the solid blue accurately depict the
4 actual scientifically calculated floodplain in
5 that area?

6 A. Based on our stream model, yes.

7 Q. Okay. And you're saying that that
8 differs to varying degrees from the approximate
9 estimation of the FIRM?

10 A. Correct.

11 Q. Okay. Now, would you agree that the
12 16 lots that we submitted on our list have a base
13 flood elevation above your scientifically
14 calculated actual base flood elevation? Let me
15 rephrase the question.

16 Do the 16 lots have an actual elevation
17 that's above your calculated base flood elevation?

18 A. Based on the data that we used and what
19 we see in the field and our measurements, yes.
20 Anything outside of this (indicating) delineated
21 blue, solid blue, has an elevation above what the
22 100-year flood elevation would be at those
23 particular points.

24 Q. Okay. Now, in addition to seeking this
25 variance from one provision of the ordinance,

1 M. Frech - by Mr. Henry

2 you've also submitted to FEMA for a change in the
3 map; correct?

4 A. I have not submitted it yet. I am
5 preparing that.

6 Q. Okay. And that is an effort to have a
7 redraw by FEMA of the map; correct?

8 A. Correct.

9 Q. But that's a completely different thing
10 from what we're doing here tonight; correct?

11 A. Correct.

12 Q. Okay. Was there anything unusual that
13 came up in your study?

14 A. Unusual, no.

15 Q. Unusual that the Board should be aware
16 of.

17 A. Not that I am aware of, no.

18 Q. Okay. And, again, you're confident
19 that scientifically this is the actual floodplain
20 on that property?

21 A. Yes.

22 MR. HENRY: Thank you. No further
23 questions. Do you have any questions of the
24 witness, gentlemen?

25 MR. BRUNI: Yeah. I just want to

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M. Frech - by Mr. Henry

make sure I understand, and I'm just trying to compare what you've provided in Exhibit 14 with what I'm seeing on -- what is that exhibit number, Tim, just so we're clear?

MR. BISH: It's 11.

MR. BRUNI: Exhibit 11. Like, when I look and I see property No. 8 and it appears that the blue comes over into 8, but I don't see 8 requested, is that --

MR. HENRY: That's why, Mr. Chairman, because a portion of 8 is within the scientifically designated floodplain. In other words, some of the blue, solid blue on this study goes through that lot. So we're not even requesting a variance for that at this time. We're only requesting a -- that's why this --

I mean, this is very, very clean. We are only requesting a variance for those lots that are completely outside of the actual scientific floodplain.

MR. PATTERSON: Okay. The properties, if you went ahead and got the Letter of Map Revision approved, the properties that are outside the floodplain still are eligible for

1 M. Frech - by Mr. Henry

2 insurance?

3 MR. HENRY: Yeah. If the LOMR
4 came through, all of these properties would be,
5 then, outside of the floodplain.

6 MR. PATTERSON: Correct.

7 MR. HENRY: Right.

8 MR. PATTERSON: So would they
9 still be eligible for insurance?

10 MR. HENRY: Not under the NFIP.
11 They wouldn't be under the program. They wouldn't
12 need to.

13 MR. PATTERSON: Okay.

14 MR. HENRY: They'd be fully
15 insured outside of the program. But the LOMR
16 revision is changing the whole floodplain. That's
17 not what we're doing here today. That's a
18 completely different animal.

19 MR. PATTERSON: Yes.

20 MR. HENRY: What we're doing here
21 today is just a very narrow variance from the one
22 provision for these lots that are higher than the
23 base flood elevation. And as I said before, on
24 top of that, these homes are 18 inches above that.

25 MS. FRECH: I mean, as a

1 M. Frech - by Mr. Henry
2 clarification that -- what you see on this
3 delineated area is based on ground surface
4 elevation.

5 MR. PATTERSON: Yeah. I also
6 noticed that you record the stream stats, valid
7 range is reported to be 2.26 to 1,720 square
8 miles. You're a little bit under that. Do you
9 foresee an issue with that?

10 MS. FRECH: No. In our original
11 analysis, we did different methodologies, and we
12 basically used the one that had sort of a
13 conservative value.

14 Another thing with regard to hydrology
15 is that when we ran CHECK-RAS, which is to be used
16 when we go to do the LOMR submittal, there was a
17 comment about using the same flow value throughout
18 this entire reach. We were using a flow value
19 that we generated coming from Robinson Run. We
20 could vary that as we go along up the reach to
21 make it smaller as the drainage area becomes
22 smaller, but we did not. So we basically are
23 using conservative value up through this reach.

24 MR. HENRY: So you're saying that
25 because of that, this is generally more

1 K. Wagner - by Mr. Henry
2 conservative than it could be?

3 MS. FRECH: Correct.

4 MR. HENRY: Any other questions of
5 this witness, gentlemen?

6 MR. BRUNI: Tim, do you have any
7 more questions?

8 MR. BISH: Not at this time.

9 MR. HENRY: Thank you. Thank you,
10 Martha.

11 I'd like to call Karon Wagner.

12 - - - - -

13 KARON M. WAGNER,
14 a Witness herein, having been previously duly
15 sworn, was examined and testified as follows:

16 - - - - -

17 EXAMINATION

18 BY MR. HENRY:

19 Q. Karon, could you please state your full
20 name.

21 A. Karon M. Wagner. It's spelled
22 K-A-R-O-N.

23 Q. And, Karon, where do you reside?

24 A. 122 Margarett Street.

25 Q. And how long have you lived in North

1 K. Wagner - by Mr. Henry

2 Fayette?

3 A. 51 years.

4 Q. And, Karon, do you own the subject
5 property?

6 A. Yes.

7 Q. Okay. And how long have either you or
8 your family owned that property?

9 A. Since 1969.

10 Q. And how long have you personally been
11 involved with that property in the operation of
12 the manufactured home park?

13 A. Over 30 years.

14 Q. Okay. And over that time -- let me ask
15 you this: Over that period of time, have you ever
16 witnessed any flooding of any of the units on any
17 of the lots?

18 A. No.

19 Q. Okay. And are there a little over 100
20 lots in the park?

21 A. Yeah.

22 Q. And tell me about the occupancy. There
23 was a question about turnover before. Generally,
24 do you have a high percentage of occupancy, a low
25 turnover? Could you explain that for us?

1 K. Wagner - by Mr. Henry

2 A. Originally, the first street that was
3 put in was Jess Lane, which is the one that's
4 closest to the stream line. So there are some
5 homes that are there from 1970. And over the
6 years I've been trying to remove some of the older
7 homes as they become available and either
8 demolition or remove them and replace them with
9 brand new usually doublewide homes -- there's a
10 few singles -- to keep the community looking nice,
11 keeping the residency of good quality.

12 Q. Can you tell me, what's the
13 demographic? Are these generally long-time
14 residents of the township?

15 A. Some are, yes. Yes. I do not own the
16 homes. The residents own their own homes. So
17 they could take up to a 25-year loan on a home,
18 almost like you would with a mortgage, but also
19 paying the rent on the property.

20 These lots that we're requesting
21 previously had homes on them. There's all public
22 utilities already there that I've paid to put in.
23 There's already a concrete pad. There's already
24 an established address.

25 If I would have left the old, junky

1 K. Wagner - by Mr. Henry

2 home laying there, it would have been
3 grandfathered in, but I was trying to clean up and
4 make things look better, and now I'm kind of being
5 told no.

6 Q. Now, Karon, what happened at the end of
7 2014 when FEMA redrew the FIRM as it applies to
8 your property?

9 A. Then 31 lots became floodplain, which
10 were not before. That's one-third of my income.

11 Q. Okay. And tell me about what that is
12 doing to the operation financially and in other
13 ways and what it promises to do in the immediate
14 future.

15 A. Well, if I'm not able to fill those
16 lots with new homes and get residents in paying
17 rent on the property, I'm not going to be able to
18 meet my financial obligations, or I'll have to
19 jack up the rent on the existing ones that are
20 there and hope that they'll stay around and pay
21 the high rate.

22 Q. And those lots would be unusable to you
23 then, wouldn't they?

24 A. Yeah. Can't get a building permit for
25 them because I've already got public taps.

1 K. Wagner - by Mr. Henry

2 They've all got public water, sewer, gas, Columbia
3 Gas.

4 Q. Is there a demand for those lots now?

5 A. I've quit advertising because there's
6 no sense in advertising. I can't put a home on
7 there.

8 MR. BISH: I'm sorry. If you
9 could go back. The impact of a mobile home being
10 in the now FIRM floodplain area, you said you
11 can't put a new -- get a building permit, but
12 that's only if the lot is vacant; correct?

13 THE WITNESS: Right.

14 MR. BISH: But if the lot has an
15 existing structure on it, you would continue to
16 rent that to someone?

17 THE WITNESS: I can rent the lot.
18 I don't own the home. The resident can remove
19 that home at any time that they wish.

20 MR. BISH: Okay.

21 THE WITNESS: If they wish to
22 purchase property and move the home to a private
23 property instead of paying rent, then I have a
24 vacant lot, and I would not be able to do anything
25 with it.

1 K. Wagner - by Mr. Henry

2 MR. BISH: But if the lot's
3 occupied by a structure and even if it's in the
4 FIRM, you're continuing to get rental from that
5 resident that's living in that --

6 THE WITNESS: Right.

7 MR. BISH: -- even if they're in
8 the floodplain area; right?

9 THE WITNESS: If it's occupied,
10 yes.

11 MR. BISH: Okay.

12 BY MR. HENRY:

13 Q. With what frequency does a resident
14 leave and take the home?

15 A. You mean how many a year do I --

16 Q. Yes.

17 A. That occurs? Probably one to two homes
18 a year.

19 Q. Okay. So if one or two of those homes
20 are one of the 31, then, you would not be -- that
21 lot would then become unusable; right?

22 A. Right.

23 Q. Okay.

24 MR. BISH: I'm sorry. The ones
25 that you can't get a building permit for, are they

1 K. Wagner - by Mr. Henry
2 only the ones that are here on your list that are
3 being within 50 feet of this stream?

4 MR. HENRY: I apologize. I said
5 31. I meant to say 16. You are correct.

6 MR. BISH: Okay.

7 MR. HENRY: It's the 16 that we're
8 here about.

9 MR. BISH: Okay.

10 MR. HENRY: Those are the ones
11 that are precluded from getting a building permit
12 at all. We are fully prepared to comply with all
13 other provisions of the floodplain ordinance, and
14 there are many. We only seek a variance from that
15 one provision, which is an optional requirement to
16 begin with.

17 Does anyone have any other questions of
18 this witness?

19 MR. BRUNI: So, right now it's
20 these five that are indicated as vacant that are
21 causing the financial hardship right now?

22 THE WITNESS: Five?

23 MR. HENRY: Well, it's the 16
24 because when those people are leaving --

25 MR. BRUNI: Right. But they're --

1 K. Wagner - by Mr. Henry

2 MR. HENRY: -- they turn over on a
3 regular basis.

4 MR. BRUNI: They're occupied,
5 though, right now?

6 MR. HENRY: They're occupied right
7 now --

8 MR. BRUNI: Right.

9 MR. HENRY: -- but they may not be
10 occupied from a month from now.

11 MR. BRUNI: I didn't ask in the
12 future.

13 MR. HENRY: I'm sorry.

14 MR. BRUNI: I said right now it's
15 these five that are causing a financial hardship?

16 MR. HENRY: Yes, sir.

17 MR. BRUNI: Okay. That's all I
18 wanted to make sure.

19 MR. HENRY: I have no further
20 questions. I'll call George Wagner. I'll be
21 brief.

22 MR. BRUNI: That's fine.

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1 G. Wagner - by Mr. Henry

2 GEORGE WAGNER,

3 a Witness herein, having been first duly sworn,
4 was examined and testified as follows:

5 - - - - -

6 EXAMINATION

7 BY MR. HENRY:

8 Q. Mr. Wagner, could you please state your
9 name.

10 A. George Wagner.

11 Q. And how long have you been a resident
12 of North Fayette?

13 A. Since 1965.

14 Q. And did you originally acquire this
15 property?

16 A. Yes.

17 Q. The subject property, I should say.

18 A. Yes. Yes.

19 Q. And when did you do that?

20 A. I think it was '69. It might have been
21 '68.

22 Q. And at that time or shortly thereafter,
23 you developed it into the manufactured home park
24 that it is now?

25 A. Yeah. We opened the first phase, which

1 G. Wagner - by Mr. Henry
2 was the 30 lots along Finks Run Road at the far
3 end there, in 1970.

4 Q. Okay. And so you've been familiar with
5 the property throughout the entire course of its
6 development?

7 A. Yes.

8 Q. Okay. And are you aware of any
9 instance of any home within the entire project
10 being subject to flooding?

11 A. No. Not during Ivan, not during Rita,
12 not during any of the horrendous floods, which
13 were 300-year floods, not 100-year.

14 Q. Can you talk about, just briefly,
15 historically how the turnover works in the park,
16 the frequency.

17 A. Yes. People come in with usually a new
18 home or can buy a used one. I haven't checked it
19 in 20 years. It used to be that people moved on
20 the average once every eight years.

21 Q. Okay.

22 A. And at that time for standard housing
23 it was once every five years.

24 Q. And they may or may not take the home
25 at that time; is that right?

1 G. Wagner - by Mr. Henry

2 A. Yeah. They didn't -- as long as the
3 home's in good shape, then they can be sold. If
4 they deteriorate, then what we would do is usually
5 buy them and then replace them with a new one.

6 Q. Now, throughout your lengthy history in
7 the Township, have you ever been involved in local
8 government?

9 A. Yes.

10 Q. To what extent?

11 A. I was on the Zoning Hearing Board, it
12 was probably the mid '70s to '80, and then I was
13 Chairman of the Planning Commission from '80, I
14 believe, to maybe '96.

15 Q. What's your occupation?

16 A. Right now I'm retired, but I was a land
17 developer, a engineer in the steel industry, and
18 then later an executive for a maintenance company,
19 and I still develop land.

20 Q. And you're familiar with the situation
21 at hand this evening relative to the Application
22 for Variance?

23 A. Absolutely.

24 Q. Do you have anything to add to what's
25 been discussed or presented here tonight?

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A. Yes. The point was is that Ivan was a 300-year flood. It had the additional volume of water because a pond on that stream was put in by strip miners. The little culvert they put under it collapsed, and during Ivan that whole dam was washed out. So that additional volume came down.

And the flooding that occurred was at the culverts and also down on Noblestown Road, which was -- the flow was restricted by timber logs, you know, railroad ties, whatever, that was blocking the flow and under the road.

So, I know all these calculations are for 100 years, but we sustained a 300-year without hurting any homes.

MR. HENRY: Okay. I have no further questions. Gentlemen, any questions of this witness?

THE WITNESS: Are they interested in facts or they're more interested in computers? I'll sit down.

MR. HENRY: Is there anyone else who would like to testify in favor of the Applicant?

(No response.)

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MR. HENRY: Hearing none, the Applicant rests. Gentlemen, again, I'd like --

MR. BISH: I do have some questions. I think the Board may have some additional questions of some of your witnesses.

MR. HENRY: Sure.

MR. BISH: Okay.

MR. BRUNI: Go ahead. You go ahead.

MR. BISH: The Letter of Map Revision, and this may be for Ms. Frech. Frech?

MS. FRECH: Frech.

MR. BISH: What is that status of your LOMR request?

MS. FRECH: I just got the approval from your Township Engineer that they reviewed our calculations. They seem to be in agreement with everything. Your Township -- Laura signed off on it, so now I can go ahead and submit it, and I hope to do that soon, very soon.

MR. BISH: And when you say "submit it," submit it to FEMA?

MS. FRECH: Submit it to FEMA. I don't know how long that will take. From other

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processes, it could take a long time.

MR. BISH: Okay. What's been your experience on the projected timeframe for a FEMA response?

MS. FRECH: Sometimes it takes up to a year.

MR. BISH: Okay.

MS. FRECH: I'm going to try to do it electronically to see if it goes a little faster, but I don't know.

MR. BRUNI: Let's just say if the LOMR was approved tomorrow or was approved yesterday -- that's a better way of saying it -- would you still need the variance request? I just want to make sure I understand.

MR. HENRY: If the LOMR was approved -- and, again, I'll make a distinction because it's apples and oranges -- but if the LOMR is approved essentially changing the law, then the 16 lots would be outside of the floodplain. Assuming they adopt this as the floodplain, then they would be out, and they would not be subject to any requirements whatsoever. But --

MR. BISH: Were you asking a

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question of Mr. Henry or of the --

MR. HENRY: Oh, I'm sorry. I thought he was.

MR. BRUNI: Well, either one. I guess I was really thinking of your witness.

MR. HENRY: I'm sorry. I apologize.

MS. FRECH: From what I can understand from your ordinance that if they are outside of the Zone A floodplain, delineated floodplain, then they would not have to move and not have to be seeking that. The ordinance that we're looking at is from your zone -- your floodplain ordinance under zoning.

MR. BISH: So, if your LOMR is approved and the variance application is for 16 units that are outside of what your study shows as the model assignment, what Mr. Henry refers to as a scientifically evidenced flood area, you would not need a variance for those 16 lots?

MS. FRECH: I would say based on your ordinance and my interpretation of it, no.

MR. BISH: Okay.

MR. PATTERSON: But the ordinance

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floodplain designation. Okay. We're just seeking a variance from the 50 foot because it precludes any development whatsoever on these lots.

MR. BRUNI: Do you have any more questions, Dan?

MR. PATTERSON: The remaining lots, I guess there are six that will still be below the base flood elevation --

MR. HENRY: That's correct.

MR. PATTERSON: -- of the 22? And those will just -- won't be able to be developed in the future.

MR. HENRY: Ms. Wagner has apparently no choice. The science is the science and --

MR. PATTERSON: Yeah.

MR. HENRY: That's part of my point is she's suffering a lot as it is.

MR. BRUNI: What is the average rent for one of those properties on a monthly basis?

MS. WAGNER: About \$300.

MR. BRUNI: \$300. Tim, do you have any more questions?

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MR. BISH: Yeah. So, if the variance is approved, you stated -- or I'll ask. Will the Applicant's -- any new manufactured homes placed on those lots --

I guess let me step back. These really aren't subdivided lots; is that correct?

MR. WAGNER: Right, they're not subdivided.

MR. BISH: Okay. So, when you're referring to lots, are you referring to tax parcel numbers that the county has assigned to different home areas --

MS. WAGNER: Originally --

MR. BISH: -- mobile home sites?

MS. WAGNER: Originally, the county, if there was a mobile home on that lot where there's utilities and a pad already, that mobile home would be assigned a tax ID number. The whole property, the ground itself, is under one tax ID number.

MR. BISH: Correct. But every -- then every mobile home, manufactured home, has its own --

MS. WAGNER: Oh.

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MR. BISH: -- separate tax number through the county; correct?

MS. WAGNER: Right. Because the home is owned by the resident, so the resident pays the taxes on the home. The ground is owned by us, so we pay the taxes on the ground.

MR. BISH: Okay. So, if the variance is approved and you place a new home on the lot, will that lot comply with Section 5.06.C of the Floodplain Management Ordinance? For instance, will it be placed on a permanent foundation?

MS. WAGNER: Yes.

MR. BISH: Will it be elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above the base flood elevation?

MS. WAGNER: Yes.

MR. BISH: Will it be anchored to resist flotation, collapse, and lateral movement?

MS. WAGNER: Yes.

MR. BISH: And will it have all duct work and utilities, including HVAC heat pump, elevated to the regulatory flood elevation as that

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term is defined by the township Floodplain Management Ordinance?

MS. WAGNER: What do you mean by utilities? Because utilities are underground. The gas line, water line, sewer line, that's all underground. So how would that be elevated? I'm not --

MR. BISH: Well, that would be something that the building official -- I'm just reading the -- that's the statement from the ordinance.

MR. HENRY: And those are permit requirements that have to be approved through the permitting process. So, as I said before, it's our intention to go through that process just like everyone else, and those requirements will have to be satisfied.

MR. BISH: Okay. So you'll also comply, then, with Section 5.06.D, which essentially requires insulation to be done in accordance with the manufacturer's installation instructions or Appendix E of the 2009 International Residential Building Code?

MS. WAGNER: Yes.

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MR. BISH: And the manufactured home will be designed and constructed so as to have the capability of resisting the 1 percent annual chance flood?

MS. WAGNER: I mean, the manufactured homes are built to HUD's standard and they're --

MR. BISH: Okay.

MS. WAGNER: And they determine those specifications depending on what zone of the country they're going to. Some areas are very high wind, so they have to be built for high wind. So, depending -- when we order a home, we have to tell them what area where this home is going, and it is built for those specifications.

MR. BISH: Okay. The Township ordinance requires that if a variance is granted, that manufactured homes under the variance must be designed and constructed so they have the capability of resisting the 1 percent annual chance flood. So will you comply with that?

MS. WAGNER: Yes.

MR. BISH: Okay. That's all I have, Jim.

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MR. BRUNI: Okay. Thank you very much.

MR. HENRY: Thank you very much, gentlemen. Have a good evening.

MR. BRUNI: Laura, at this time does the Township have anything that it would like to add?

MS. LUDWIG: I have a few things, Mr. Chairman and Members of the Board. I want to note one thing for the record, just to clarify something that Mr. Henry stated.

FEMA did provide several examples of the model ordinance, and communities could pick and choose what they wanted in their ordinance. So, while FEMA provided that particular, you know, 5.06.B as an option, we opted to put that in as a requirement in our ordinance. So I just wanted to make sure obviously --

MR. BRUNI: If I could ask you --

MS. LUDWIG: -- while we're here tonight, but --

MR. BRUNI: Was there consideration given to -- and I know maybe you weren't here at the time, but was there

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consideration given to other options? Or why was this particular option chosen; do you know?

MS. LUDWIG: You know, I was here. I think we were trying to, you know, allow for certain things and be a little less stringent in certain areas, and I think that was maybe something that we just wanted to -- you know, if it was 50 feet from the embankment, then maybe it was less likely to flood. I don't know. I think it was probably just a -- more of like a distance thing from the stream bank and it sort of made sense to us to include it; so --

MR. BRUNI: Okay.

MS. LUDWIG: And I did also want to just -- exhibit list No. 10, Item No. 10. As Ms. Frech mentioned, Lennon, Smith, Souleret Engineers, our Township engineer, they did review her hydrologic and hydraulic report and the variance application. They did not have any comments.

I spoke with Shawn Wingrove, who is, you know, my main contact at LSSE, and, really, he didn't have any issues. He thought everything was okay. It seems like all of the lots are, you

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know, 1 1/2 feet or more above the base flood elevation, which is the requirement and is something we would review as part of the building permitting process when they would submit for their building permits.

So, really, he only noted, you know, that they would have to provide that. As each building permit is issued, we'll want to see that base flood elevation for those lots as they are cemented, obviously. So, that would be a requirement, and he did note that on the letter.

So, he said everything pretty much looks okay. He also gave me the okay to sign the form to keep the LOMR moving forward. So, that's what I gave to Ms. Frech this evening.

So, really, I don't have any other comments. I think, based on the engineers' review, they agreed with the findings of Streamline Engineering and will move forward with that process.

MR. BISH: Is the Township taking a position on the Variance Application?

MS. LUDWIG: Like a formal position? Like for or against?

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MR. BISH: Correct.

MS. LUDWIG: I don't know that we're taking a formal position either way. We're not against it. I mean, I feel like they've provided the evidence that supports the request for approval; so --

MR. BRUNI: Is that it?

MS. LUDWIG: That's all I have unless you have questions.

MR. BRUNI: I don't. Do you have any questions for Laura?

MR. PETERSON: No.

MR BRUNI: Tim, any more?

MR BISH: No.

MR. BRUNI: All right. At this time, is there anyone, any member of the public who would like to speak on behalf of or for or against the request?

(No response.)

MR. BRUNI: All right. Hearing none --

MR. BISH: I do have one question for Mr. Henry or for Ms. Frech. On Exhibit 11, which is the 100-year flood limit map that you

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have up here, which is the modified version where you've placed numbers on the various units, the numbers that you designated, are those corresponding to the street address?

MS. WAGNER: Yes.

MR. BISH: Okay. Because the county has separate tax parcel numbers for these, but these are -- so unit No. 1, which is on Jess Lane, that is --

MS. WAGNER: 1 Jess Lane.

MR. BISH: 1 Jess Lane. Okay.
All right. Thank you.

MS. WAGNER: If the lot is vacant, the county wouldn't have a separate tax ID number for that, because at the time the home is removed, I have to notify the county that the lot is now vacant.

MR. BISH: Okay. Thank you.

MR. BRUNI: Okay. At this time we are going to break for executive session. Let the record show 8:25. We'll be back.

(Recess taken.)

MR. BRUNI: Okay. I apologize we took so long. Let the record show we're back at

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9:13.

Okay. At this time can I have a motion to close the public hearing.

MR. PATTERSON: Motion to approve --

MR. BISH: No, no. You've got to close the Public Hearing. So moved.

MR. PATTERSON: Oh. So moved.

MR. BRUNI: Second. All those in favor? Aye.

MR. PATTERSON: Aye.

MR. BRUNI: Okay. Motion carries.

All right. At this time can I have a motion to either table or act on the Application submitted tonight?

MR. PATTERSON: Motion to approve the Application filed by Karon M. Wagner, Incorporated, requesting a variance from the prohibition on the installation of manufactured homes within 50 feet from the top-of-bank of any watercourse in an Identified Floodplain Area under Section 5.06.B of the North Fayette Township Floodplain Management Ordinance, Ordinance No. 421, as amended, (hereinafter referred to as the

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with all such Federal, State, County, and Township permits and approvals.

3. Watercourse Setback Variance. The variance from the watercourse setback requirement of Section 5.06.B of the Township Floodplain Management Ordinance authorizes the Applicant to locate a manufactured home on the manufactured home sites on the Subject Property referenced by street address on the document accepted into the hearing record as Exhibit 14 no less than the distance from the top-of-bank of the watercourse referenced on Exhibit 14 for each respective manufactured home site (hereinafter referred to as the Manufactured Homes).

4. Structure Design Standards. Pursuant to Section 5.06.C of the Township Floodplain Management Ordinance, the manufactured homes, and any improvements thereto shall be:

1. Placed on a permanent foundation;
2. Elevated so that the lowest floor on the manufactured home is at least 1 1/2 feet above the base flood elevation;
3. Anchored to resist flotation, collapse, or lateral movement;

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4. Have all duct work and utilities, including HVAC and heat pump, elevated to the Regulatory Flood Elevation (as that term is defined by the Township Floodplain Management Ordinance).

B. The manufactured homes shall comply with Section 5.06.D of the Township Floodplain Management Ordinance.

C. Pursuant to Section 8.02 of the Township Floodplain Management Ordinance, all structures constructed pursuant to this decision shall be designed and constructed so as to have the capability of resisting the 1 percent annual chance flood.

5. Variance Termination. The Applicant has submitted to the Township a Letter of Map Revisions related to the subject property by transmittal memo from Streamline Engineering, Inc., dated July 5, 2016 (the LOMR). The Applicant shall submit the LOMR to the Federal Emergency Management Agency (FEMA), and respond to any information requests from FEMA in a prompt and diligent manner. The variance granted by this decision shall terminate upon the date that FEMA

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renders a final decision on the LOMR.

6. Decision Scope. The variance granted by this decision is specific to the installation of the manufactured homes on the Subject Property as referred to in the exhibits and testimony entered into the hearing record by the Board. This decision shall have no precedential value for similar applications by the Applicant or any other applicant at any location in the Township. No modification or change in the terms of this decision shall be effective unless approved by the Board through an amended variance.

Further, the Board's action dealt only with the grant of a variance under the provisions of the Township Floodplain Management Ordinance. The Applicant must still comply with any and all applicable Township zoning, land use, building, and other ordinances and obtain all necessary zoning, land use, building, occupancy, and other permits and approvals from the Township.

7. Installation Deadline. The installation of the manufactured homes shall commence within one year of the date of this decision and shall be completed within two years

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of the date of this decision.

8. Failure to Comply. Failure to comply with the above referenced terms and conditions of this decision shall result in the variance granted by this decision being rendered null and void.

9. Floodplain Management Ordinance Notices. Pursuant to Section 8.02.E of the Township Floodplain Management Ordinance, the Board hereby notifies the Applicant that: (a) the granting of the variance may result in increased premium rates for flood insurance; and (b) the granted variance may increase the risks to life and property.

MR. BRUNI: Second. All those in favor say aye.

MR. PATTERSON: Aye.

MR. BRUNI: Aye. Opposed?

(No response.)

MR. BRUNI: Motion carries. Tim, do you have anything you need to add?

MR. BISH: No. That's it.

MR. BRUNI: Okay. The meeting is adjourned. Thank you.

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MR. HENRY: Thank you very much,
gentlemen.

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(Whereupon, the above-entitled
matter was concluded at 9:19 p.m., this date.)

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C E R T I F I C A T E

I hereby certify that the
proceedings and evidence are contained
fully and accurately in the
stenographic notes taken by me on the
hearing of the within cause and that
this is a correct transcript of the
same.

S/Shauga n L. Haley

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