

Lower Paxton Township
Zoning Hearing Board

February 25, 2021

Members Present:

David Dowling

Allen Hansen

Greg Sirb

Mark Emery

Ron Reeder

Joe Murphy

Also, In Attendance: James Turner, Amanda Zerbe, Kristi Focht

Docket 1439

Applicant: S&A Homes, Inc.

Address: 2121 Old Gatesburg Road

Property Owner: S&A Homes, Inc.

Property: Parcel: 35-067-098

Applicant: For a Variance from minimum lot area and minimum lot width in connection with the proposed subdivision of the property.

Fees Paid: February 3, 2021

Property Posted: February 18, 2021

Advertised: February 10, 2021 and February 17, 2021

The Hearing Began at 7:00 p.m.

Mr. Dowling requested an opening statement from Mr. Lucas, attorney for the applicant.

Mr. Dowling noted to the members in the audience, that if any time during the meeting if they needed to come closer to the screen displaying the exhibit they may do so. Mr. Dowling explained the procedure of the meeting and noted to the members of the audience they will have a time to be heard if they chose so.

Mr. Dowling questioned Ms. Zerbe on what Township Ordinance is at issue.

Ms. Zerbe answered 307.A, dimensional requirements in an R-1 zoning district.

Mr. Dowling swore in Amanda Zerbe, Zoning Officer for Lower Paxton Township.

Mr. Dowling questioned Ms. Zerbe if the appropriate fees have been paid.

Ms. Zerbe answered that the applicant paid the fees on February 3, 2021. Mr. Dowling questioned if the application had been properly advertised and hearing notices posted. Ms. Zerbe answered that it was advertised in the Hummelstown Sun on February 10, 2021 and February 17, 2021; and it was posted on February 18, 2021.

Mr. Dowling swore in applicant Robert Poole and Charles Frazier.

The court stenographer requested a short break noting her stenotype machine was not working properly.

Mr. Dowling noted that there is a dual recording happening with the stenographer's recorder and the Township's recording system.

Mr. Dowling requested Mr. Lucas to give a brief opening statement.

Mr. Lucas opened the meeting with a background of the property. He explained that the applicant S&A Homes owns the 44 acres and were granted a variance in 2006 and a final plan was approved in 2007. He continued that the road occupancy permit was not granted until 2009 and then the recession in real estate hit. Mr. Lucas explained that the property was put up for sale and rezoning was requested in 2013. He explained that the plan was for single family homes and townhouses and that plan was denied in 2013 by the Board of Supervisors. He noted the property has been for sale since then. He continued they have two variances one being for the R-1 zoning and the other for the minimal lot size. Mr. Lucas referred to the Zoning Ordinance of 2006 and the Overlay District. He noted that the previous proposed plan is not permitted under the current zoning today. Mr. Lucas explained that the applicant must start fresh with a new plan. He noted that in 2006 the Zoning Hearing Board found this property to be burdened by a hardship of the irregular shape of the property. He continued that the applicant is seeking this because of the burden put on the property by the R-1 district, noting to the irregular shape, sole access to the property, the environmental constraints, and the zoning and development around the property. Mr. Lucas noted that they do not have their engineer with them this evening because he would have to recuse himself as he is on the Zoning Hearing Board.

Mr. Dowling questioned under the current zoning ordinance how many lots are allowed.

Mr. Lucas answered that with the layout that was done would be 29. He explained that in 2005/2006 57 were approved.

Mr. Dowling noted that right now the number of lots that are allowed is 29.

Mr. Lucas answered yes.

Mr. Dowling questioned the applicant on how many lots they are proposing.

Mr. Lucas answered 76.

Mr. Dowling questioned if each of the 76 lots be one unit.

Mr. Lucas answered yes. He explained a single-family unit, stating one house on one lot.

Mr. Sirb questioned Mr. Lucas on the proposed 76 lots and how many will meet the 20,000 minimums.

Mr. Lucas answered maybe five or six.

Mr. Sirb questioned the applicant on what most of the homes would have a lot size.

Mr. Lucas answered most are in the 7,000 to 10,000. He explained that some homes would have a large rear or a slope down and some of the homes are close to wetlands.

Mr. Sirb questioned if the applicant could say 80% would not meet the 20,000 square feet minimum.

Mr. Lucas noted that 90% will not meet it. He noted that some of the larger lot may be required to be open space if the Conservation District does not want a stream on someone's lot.

Mr. Dowling questioned the applicant objects to marking the packet as exhibit one.

Mr. Lucas answered no. He questioned if the packet would all be marked as exhibit one.

Mr. Dowling answered yes.

Mr. Lucas noted he has three exhibits, the deed, the 2006 Zoning Hearing Board decision, and the potential lot of houses to be built.

Mr. Lucas called his first witness Charles Frazier. Mr. Lucas requested Mr. Frazier to give his full name and address.

Mr. Frazier responded Charlie Frazier with S&A Homes, 2121 Old Gatesburg Road, State College, PA.

Mr. Lucas questioned Mr. Frazier whom he is employed with and to what capacity.

Mr. Frazier answered he is employed with S&A Homes as a Land Plan Manager. He explained that he manages tracks of land owned by S&A Homes and its affiliates.

Mr. Lucas questioned Mr. Frazier on how long he has been an employee with S&A Homes.

Mr. Frazier answered three years.

Mr. Lucas questioned Mr. Frazier on his background before S&A Homes.

Mr. Frazier answered his background was in accounting, CPA and worked in corporate finance. He noted he came to S&A with finance and moved into land development.

Mr. Lucas noted to exhibit A1 and questioned Mr. Frazier if it is the deed.

Mr. Frazier answered yes.

Mr. Lucas noted that the name was officially changed to S&A Homes Inc.

Mr. Lucas questioned if the property is just over 44 acres.

Mr. Frazier answered correct.

Mr. Lucas questioned if that is where the Montrail Development is to be proposed.

Mr. Frazier answered correct.

Mr. Lucas noted to the arial photograph being displayed on the screen. He requested Mr. Frazier to explain the arial photograph from google maps and where the property is located.

Mr. Frazier explained their property is outlined in red.

Mr. Lucas requested Mr. Frazier to show where on the map Union Deposit Road, the access point to the property, any frontage on a public street, areas that have environmental constraints, and the Central Dauphin campus.

Mr. Lucas questioned Mr. Frazier on the south of Union Deposit Road what the general type of development is built.

Mr. Frazier answered high density townhouses and condominiums.

Mr. Lucas questioned that to the south of the school district property, across from the access point and to the east of Union Deposit most of that land is developed as multi-family apartments or townhouses.

Mr. Frazier answered correct.

Mr. Lucas questioned Mr. Frazier to identify the land use to the North West.

Mr. Frazier answered that is Pennswood Apartments and townhouses.

Mr. Lucas questioned if those are rentals.

Mr. Frazier answered correct.

Mr. Lucas noted to the packet containing a narrative and attachment. He noted to the project history prepared by the engineer. Mr. Lucas questioned if Mr. Frazier has checked the company records and found the narrative to be correct.

Mr. Frazier answered correct.

Mr. Lucas noted that this shows the timeline he has previously testified to. He questioned Mr. Frazier on each of the dates in the timeline. He questioned that 2005 the property was rezoned TRND the overlay district. Mr. Frazier answered correct. Mr. Lucas questioned in 2005 the preliminary sub-division plan was approved. Mr. Frazier answered correct. Mr. Lucas questioned in 2006 Zoning Hearing Board for lot width. Mr. Frazier answered correct. Mr. Lucas questioned in 2006 final sub-division plan was approved, Phase 1. Mr. Frazier answered correct. Mr. Lucas questioned in and in 2008/2009 the real estate market crashed and 2009 the permit for the access point with PennDOT. Mr. Frazier answered correct. Mr. Lucas questioned that in 2013 there was a request to rezone the property and that was denied. Mr. Frazier answered correct.

Mr. Lucas questioned if exhibit A2 is a copy of the 2006 Zoning Hearing Board application and the decision.

Mr. Frazier answered correct.

Mr. Lucas referred to the third page of the exhibit. Mr. Lucas noted to the word conclusion number three. Mr. Lucas requested Mr. Frazier to read the conclusion number three.

Mr. Frazier read aloud the conclusion number three.

Mr. Lucas requested Mr. Frazier to read aloud number 4.

Mr. Frazier read number four aloud.

Mr. Sirb questioned the decision that was previously made for 57 building lots.

Mr. Lucas answered correct.

Mr. Sirb noted that the new plan is up to 76. He noted that in the previous decision the applicant proposed minimum lots 80 feet, noting a variance was granted, of the properties 57 lots 29 would have lot width between 80 to 89 feet. He noted that there were 29 that the variance was needed for. Mr. Sirb continued all the lots would meet the 20,000 square foot lot minimum. He noted the Board did not grant the variance for the square foot minimum because every lot met the 20,000 back in 2006. He noted that they went from 57 lots to 76 lots. Mr. Sirb continued they are going from every lot meeting the 20,000 minimums to 90% not meeting. He noted that is a big swing for him. He noted that the variance and economics have changed in 14 years but how did the applicant go to adding more lots.

Mr. Lucas noted to the actual plan and the overlay district.

Mr. Sirb noted that in the previous decision the only variance granted was minimum lot requirements.

Mr. Lucas explained that the overlay district allowed smaller lots.

Mr. Sirb noted he does not understand how the applicant went from 57 lots to over 70 lots. He noted that seems to be a lot of buildings in a small space.

Mr. Lucas requested Mr. Poole to give his name and business address.

Mr. Poole noted name is Andrew Poole and the business address is 2121 Old Gatesburg Road, State College. He noted he is the CEO of S&A Homes.

Mr. Lucas referred to Mr. Sirb's question and requested Mr. Poole to explain the reason for the additional lots from 2006 to 2021.

Mr. Poole explained that the world has changed and the need for large lots, consumers want to go places. Mr. Poole continued with another reason is the cost. He explained that starting in 2006 and 2008 was a disaster, looking at the infrastructure that occurred. He noted that the road costs, municipal fees, water tap fees, sewer tap fees that are all necessary have increased the price of the infrastructure. Mr. Poole explained that to be able to develop that cite and be able to make it reasonable for people to leave the need is to shrink the lot size. Mr. Poole explained that people are looking for smaller lots and in comparison, to what is out there today these lots are not as small as some. He noted that 30 to 35 percent of the buyers are first time home buyers and it is

hard for people who have good jobs to live where they work. He noted the larger that lot becomes the more expensive the home becomes.

Mr. Sirb summarized that what Mr. Poole explained is that in 2006, according to the variance granted, you could make a financial advantage to S&A with 57 lots at that time. He continued that they cannot make it financially with 57 lots in 2021.

Mr. Poole answered correct.

Mr. Sirb continued that S&A must shrink the lot sizes down and bring in more homes.

Mr. Poole noted that infrastructure has doubled.

Mr. Sirb questioned that the extra 19 lots that S&A Homes is asking for makes it financially doable for S&A Homes.

Mr. Poole answered correct.

Mr. Lucas noted to the Dauphin County Tax Map located on the screen.

Mr. Frazier answered correct.

Mr. Lucas noted the property was outlined.

Mr. Frazier answered correct.

Mr. Lucas noted to the irregular shape, the access point, and the leg of the property.

Mr. Frazier answered correct.

Mr. Lucas noted to the tax map and the surrounding properties, naming the Central Dauphin Campus, the single-family lots, and townhouses and an apartment complex.

Mr. Frazier answered correct.

Mr. Lucas noted to the next drawing on the screen, noting the existing conditions plan.

Mr. Frazier answered correct.

Mr. Lucas noted to the various colors on the map and requested Mr. Frazier to read the colors and what they identify.

Mr. Frazier read each color out loud to the Board and members in the audience.

Mr. Lucas noted to the next screen, noting this is a zoning map. Mr. Lucas noted to the location of the R-1 district.

Mr. Frazier answered correct.

Mr. Lucas questioned the zoning across Union Deposit Road.

Mr. Frazier answered that is R-3.

Mr. Lucas noted to the Institutional Zoning being the school district.

Mr. Frazier answered correct.

Mr. Lucas noted to the property to the North, he questioned if that was R-2.

Mr. Frazier answered it was R-3.

Mr. Lucas noted that to the East of the property is R-1 with small, developed lots and to the other side of Union Deposit Road is multifamily and institutional lots.

Mr. Frazier answered correct.

Mr. Lucas noted to Mr. Frazier the next screen is the site plan. Mr. Frazier noted this is what is proposed as a sketch.

Mr. Frazier answered correct.

Mr. Lucas questioned if the pink area on the map notes to wetlands.

Mr. Frazier answered correct.

Mr. Lucas noted this plan does not show steep slopes.

Mr. Frazier answered correct.

Mr. Lucas noted to the plan and questioned if the main entrance was a boulevard entrance.

Mr. Frazier answered correct.

Mr. Lucas noted that the lot range is from 7,000 to 20,000 with most of the lots being between 7,000 and 10,000.

Mr. Frazier answered correct. He noted to the color codes on the map and the lot sizes they refer to.

Mr. Lucas noted the proposed plan has two cul-de-sac and a loop street.

Mr. Frazier answered correct.

Mr. Lucas noted that the proposed plan does not have access going up to the section on the North West. He noted that shows as open space.

Mr. Frazier answered correct.

Mr. Lucas noted that some of the lots in the North may have to be smaller because of the wetlands.

Mr. Frazier answered correct. Mr. Frazier noted to steep slopes heading North where they are unable to build because of steep slopes.

Mr. Lucas noted to the various features naming steep slopes and cud-de-sacs. He questioned Mr. Frazier that this street design is the best design the engineer has.

Mr. Frazier correct. He noted this design is similar to the previous plan.

Mr. Lucas noted the next slide on the screen. Mr. Lucas explained this drawing shows the developed 20,000 square foot lots and questioned Mr. Frazier on how many lots are shown on the plan.

Mr. Frazier answered 29 lots.

Mr. Lucas noted that the lots on the plan look to be double frontage lots.

Mr. Frazier answered correct. Mr. Frazier commented that for a 20,000 square foot lot if you were to have a more regular shaped parcel it would be 40 lots.

Mr. Lucas noted to the site plan displayed on the screen. Mr. Lucas questioned Mr. Frazier if they would call this an infill project.

Mr. Frazier answered yes.

Mr. Dowling questioned the type of project.

Mr. Lucas answered an infill project. He explained that everything is developed around and the applicant is trying to develop the land in the middle. He noted to the school district, small single-family lots, multifamily and apartments that surround. He noted they are looking to place single family homes on single lots.

Mr. Dowling questioned if Mr. Lucas was finished with Mr. Frazier's direct.

Mr. Lucas answered no.

Mr. Dowling noted he feels the Board understands the nature and scope of Mr. Frazier is explaining.

Mr. Lucas noted that he is going to summarize and have Mr. Frazier answer. Mr. Lucas read through the various uses of an R-1 district and commented on each of the reasons why you could not have that particular use located on that property. He questioned Mr. Frazier if that was correct. Mr. Lucas noted to the various zoning, TRND, ITND and R-2 district. Mr. Lucas continued with explaining all the development costs noting water lines and relocating of the water lines.

Mr. Frazier answered correct.

Mr. Lucas noted that the house has been listed with a commercial broker. He questioned Mr. Frazier if there has been interest in the property.

Mr. Frazier answered yes.

Mr. Lucas questioned if those were local developers and developers from out of the area.

Mr. Frazier answered yes.

Mr. Lucas questioned if the other developers that were interested in the property said they could not make it work with 20,000 lots.

Mr. Frazier answered yes. Mr. Frazier noted the developers looked at the 57-lot community as well.

Mr. Lucas noted that did not work.

Mr. Frazier repeated that did not work.

Mr. Lucas noted to exhibit three noting these are homes that would meet the side and rear yard setbacks.

Mr. Lucas noted the last sheet in the packet to the Board. He questioned Mr. Frazier on what the sheet represents.

Mr. Frazier answered that sheet represents lists of communities in the township that have smaller lots. He noted it is not a complete list of the Township but a section of the Township.

Mr. Lucas requested Mr. Frazier to read through the lot sizes of the communities.

Mr. Frazier noted the various lot sizes noting that the developments vary in size.

Mr. Lucas noted that was all the testimony he had for Mr. Frazier.

Mr. Dowling questioned Mr. Frazier on how long he has worked with S&A.

Mr. Frazier answered three years.

Mr. Dowling questioned Mr. Frazier if he understood that when a developer buys a parcel of land that there are certain risks with that purchase.

Mr. Frazier answered yes.

Mr. Dowling questioned Mr. Frazier that one of the risks could be a change in market condition from the time of purchase to the time of development.

Mr. Frazier answered yes.

Mr. Dowling questioned if the property was zoned R-2, would a variance be needed.

Mr. Frazier answered probably.

Mr. Dowling questioned why.

Mr. Lucas noted that they did request to have it rezoned to R-2 and it was denied.

Mr. Dowling noted he understood. He explained that the elective officials who govern the Township looked at this and decided not to rezone it. Mr. Dowling questioned how the Zoning Hearing Board is able to grant variance, given you the same or similar relief when our elective officials said no.

Mr. Lucas answered that is a legal question.

Mr. Dowling questioned Mr. Frazier.

Mr. Frazier answered that with the environmental constraints that allows them to seek a variance.

Mr. Dowling questioned if the dimensions of the property have changed since the date of purchase.

Mr. Frazier answered correct.

Mr. Dowling questioned if there were wetlands and one entrance access then.

Mr. Frazier answered correct.

Mr. Dowling questioned what S&A had paid.

Mr. Poole answered it was close to 1.3 million.

Mr. Dowling questioned what S&A's asking price.

Mr. Frazier answered that since it has been listed for 13 years the price is 1.3 million but have entertained offers for much lower.

Mr. Dowling questioned if they were telling the potential buyers if it was 29 lots or 57 lots.

Mr. Frazier answered it depended on which conversation. He noted that the previously approved plan was to allow 57 lots but has now expired.

Mr. Dowling questioned that under the current ordinance 29 are allowed.

Mr. Frazier answered 29 if not using the dog leg.

Mr. Dowling questioned that 57 were approved previously.

Mr. Frazier answered correct.

Mr. Poole explained that they do not always know what the potential buyer would like to do with the property. He noted that what it gets down to is that it is an ideal piece of land that people in the Township can afford to buy a home. He noted that the hardship is the 90-foot width, and 20,000-foot lot just will not work for anyone.

Mr. Dowling opened questioning up to members of the Board.

Mr. Lucas questioned Mr. Frazier to follow up with Mr. Dowling's questioned. Mr. Lucas noted that the big change was in 2006 when the ordinance changed, and the overlay concept is not available anymore.

Mr. Frazier answered correct.

Mr. Dowling questioned if Mr. Lucas was a part of the 2006 process.

Mr. Lucas answered yes. He explained that the Township Supervisors decided not to rezone the property and they did not have a reason why they decided, nor do they have to. Mr. Lucas noted that the Planning Commission noted to approve the rezoning. Mr. Lucas continued that with the decisions that were made it was feasible to develop.

Mr. Sirb commented it is not economical to develop. Mr. Sirb continued that 90% are not going to meet the 20,000 square feet. Mr. Sirb requested the percentage that will not meet the minimum lot width.

Mr. Frazier answered he was not sure.

Mr. Lucas noted that the engineer has that information, and he is not present at the meeting. He noted he does not see it mentioned on the plans and it would be to much of a guess.

Mr. Emery commented that Mr. Dowling had a strong point. He explained the Supervisors denied your request and in essence you are now asking not for one variance but sixty-nine. He noted that this addresses one single lot with one variance.

Mr. Lucas noted that was correct but explained he does not feel it would be looked at it that way.

Mr. Emery noted that he is concerned that there does not seem to be any real evidence that tells us the financial hardship can only be addressed by a substantial increase of seventy-six lots. He questioned if this is the bare minimum that they can do.

Mr. Poole answered it is the bare minimum to make it work.

Mr. Emery noted they have not provided any economics. Mr. Emery questioned Mr. Poole's profit margin.

Mr. Poole answered they typically look at thirty percent gross margin. Mr. Poole continued that here they are looking at twenty to twenty-five percent max.

Mr. Emery questioned if there is anything that can be done with what is being referred to as the leg.

Mr. Frazier answered that the beginning of the leg contains a lot of steep slopes so there would be no construction in that area and added there is no exit access, limiting the development.

Mr. Emery questioned the amount of the other offers to the property.

Mr. Frazier answered one of the previous offers was in the \$500,000 range.

Mr. Poole explained that offers come with different conditions.

Mr. Dowling questioned Mr. Poole if they had offered it back to the school district.

Mr. Poole answered they offered the leg back. He noted they did not want to buy it.

Mr. Dowling questioned if the school district has expressed any interest in the property.

Mr. Poole answered he does not remember any offers for the entire property. He explained the school district did not want to buy the leg for an inexpensive cost. Mr. Poole commented that the cross-county team is already using the leg of the property.

Mr. Poole noted that the school district does not want to buy it back.

Mr. Dowling questioned how long ago that decision was.

Mr. Poole answered at least ten years ago.

Mr. Reeder noted to the wet land and noted that there are at least an additional 10 lots that will not meet and will be less than 10,000 square feet. Mr. Reeder noted to the raw land cost.

Mr. Poole explained the cost base on the 76 lots, dense area and noted the land does not count interest.

Mr. Frazier explained the cost per square foot and the high carry cost.

Mr. Sirb noted that during the testimony the average home would be between \$300,000 to \$350,000. He questioned if they went to every lot met the requirements, what would the average cost of the home be for the 29 lots.

Mr. Poole answered \$600,000.

Mr. Frazier answered the lot cost would be over \$200,000 so the home would be over 1 million dollars.

Mr. Dowling questioned if any members of the audience wished to be heard.

Mr. Dowling swore in Larry Kobal of 5640 Union Deposit Road.

Mr. Kobal questioned the applicant if they have done a current traffic study for Union Deposit Road.

Mr. Poole answered that it is part of the subdivision plan that they would be required to complete one.

Mr. Turner questioned Mr. Kobal where his address is in relationship to the property.

Mr. Kobal showed the members of the Board where his property is located.

Mr. Turner noted Mr. Kobal is two properties east of the proposed boulevard.

Mr. Dowling swore in Carol Powley of 5524 Union Deposit Road.

Mr. Dowling requested Ms. Powley to show where her property is located on the map in relation to the property.

Mr. Dowling noted Ms. Powley is to the west of the entrance.

Ms. Powley noted to the traffic. She explained she was at the meeting in 2013 when it was stated that every home would have two to three cars. Ms. Powley noted that that would be an additional forty cars each morning and right now she sits in her driveway because of the increase of traffic on Union Deposit Road because of the school and Union Station. Ms. Powley noted that even though the applicant called their homes small most of them are on lots of at least 20,000 square feet. Ms. Powley noted that the hardship will be on the sewer system and the two-lane road of Union Deposit. Ms. Powley noted that the very last comment that was made by the Supervisors in the 2013 meeting to S&A was not to come back again and ask for anymore variances. Ms. Powley noted that more driveway and asphalt takes away the greenspace.

Mr. Dowling swore in Steve Avery of 5628 Union Deposit.

Mr. Avery noted he lives two lots east of the entrance.

Mr. Avery noted the applicant repeats one access for an entrance. Mr. Avery questioned why the applicant cannot use the road that goes back to the old fire house.

Mr. Lucas answered that is an engineer question and the engineer was not present at the meeting. He noted when the plan was approved no one thought that should be an access point.

Mr. Dowling swore in Mike Sweitzer of 5652 Union Deposit Road.

Mr. Sweitzer noted he is 6 lots east of the entrance. He noted his property borders four proposed properties, and he understood the drawing is just a sketch but noted it is off. He questioned the lines and decals on the proposed drawing. He explained he has ten feet to the property stake and questioned how close a proposed neighbor could have something on their property.

Mr. Poole answered he thinks that is a built box where a home can be built.

Mr. Sweitzer stated that is disturbing to him to have a place to settle down in and then to have multiple properties around. Mr. Sweitzer noted that he ran some numbers and some of the lots will be between 50 to 60 feet wide.

Mr. Lucas commented that no lot will be less than 65 feet wide.

Mr. Sweitzer noted that no one will pay \$300,000 to \$350,000 for a size that small.

Mr. Dowling swore in Terrance James of 5520 Union Deposit Road.

Mr. James noted he lives adjacent to the proposed boulevard. He noted he has lived at his property since 1969 and it was previously zoned agriculture. Mr. James noted that you cannot compare the lots that have been built in the past to what is to be built in the present.

Mr. Dowling questioned if any further members of the audience wished to be heard.

No response was heard.

Mr. Reeder commented to answered Mr. Sweitzer's question. He explained that the Township Ordinance allows a shed to be ten feet off a property line.

Ms. Zerbe clarified it is five feet.

Mr. Lucas noted he was not able to give Mr. Poole's background information.

Mr. Poole noted he had a bachelor's degree in Accounting, and since 1980 he has been in Real Estate. He noted he thinks this would be a great project for the Township building reasonable priced homes.

Mr. Lucas noted the design is to meet all the setbacks, front side and rear.

Mr. Frazier agreed. He noted it would be consistent with the R-1 district.

Mr. Lucas noted that the lot size, which is closer to what it was before, and the only option now is variances since they cannot rezone the property. Mr. Lucas noted to the Township summary.

Mr. Dowling noted the testimony is now closed.

Mr. Dowling questioned if any member of the Board wished to make a statement or a motion on the application.

Mr. Sirb motioned to deny Docket 1439. He explained the reason for the denial is back in 2006 when it was granted 57 building lots the applicant did not take advantage of the window. Mr. Sirb continued that the applicant is asking for a 65% increase in the number of homes, and he feels that is a little too much.

Mr. Emery questioned if there is a second to that motion or any member wish to make a comment.

Mr. Emery seconded the motion.

Mr. Dowling questioned if there was any other discussion by members of the Board.

Mr. Lucas questioned the chairman.

Mr. Dowling commented that he does not feel the Supervisors did not rezone the property but felt they could seek relief from the Zoning Hearing Board. Mr. Dowling noted this is normally the other way around.

Mr. Lucas requested to speak. Mr. Lucas noted that the hardship has been clearly met. He noted that people are focusing on the numbers. He noted that the Township has changed the rules and that is justification for a variance.

Mr. Dowling commented you would have to go to the Township and say to rezone it to R-2 and let us put in 57 single family homes and maybe they will grant the rezoning.

Mr. Lucas noted they came to the Zoning Hearing Board to provide relief. He noted the Zoning Hearing Board is to relieve pressure.

Mr. Sirb commented that is 2006 when he was on the Board, the applicant was given that relief. He noted that they were given a big relief and the applicant did not take advantage of it.

Mr. Lucas commented that is not justification.

Mr. Sirb noted the applicant cannot do it economically feasible.

Mr. Lucas noted that is the reason for a dimensional variance should be granted. Mr. Lucas noted he does not want to litigate. He noted they will dedicate land to the school district and the Township. He noted there will be conservation easements. He noted he feels the Board can grant the variance on the dimensional criteria that have been upheld by the Supreme Court.

Mr. Dowling noted he thinks the Board understands his position.

Mr. Dowling requested Mr. Turner to conduct a roll call vote: Mr. Reeder, yes; Mr. Hansen, no; Mr. Emery, aye; Mr. Sirb, Aye; Mr. Dowling, aye.

Mr. Dowling noted the meeting has been concluded.

This hearing ended at 9:28 p.m.

Respectfully Submitted,

Kristi Focht

Kristi Focht

Recording Secretary