

**MINUTES**

**OCTOBER 21, 2014**

**BOARD OF ADJUSTMENT**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Chairman, Dr. Behr, called the meeting to order at 8:06 P.M. He then read the following statement: Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in December, 2014.

**MEETING CUT-OFF**

Chairman Behr read the following statement: Announcement is made that as a matter of procedure, it is the intention of the Board of Adjustment not to continue any matter past 11:00 P.M. at any Regular or Special Meeting of the Board unless a motion is passed by the members then present to extend the meeting to a later specified cut-off time.

**CELL PHONES AND PAGERS**

Chairman Behr read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

On a call of the roll the following were present:

Excused:

E. Thomas Behr, Chairman  
Edwin F. Gerecht, Jr., Vice-Chairman  
Richard Keegan, Member  
Michael O'Mullan, 1st Alternate

Sandi Raimer, Member  
Jerry Aroneo, Member  
Michael Pesce, Member  
Felix Ruiz, Member  
Michael Pudlak, 2<sup>nd</sup> Alternate

Dan Bernstein, Bd. Attorney  
Thomas Lemanowicz, Bd. Engineer  
Kevin O'Brien, Bd. Planner  
Cyndi Kiefer, Planning & Zoning Secretary

**EXECUTIVE SESSION**

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

**PUBLIC HEARING**

**VICTOR VERLEZZA**  
18 Stephanie Drive  
Block 14205, Lot 5.13

**#12-04Z**  
Bulk Variances

**PROOF OF SERVICE PROVIDED**

Present:

Victor Verlezza, Applicant  
Edward A. Dreskin, Esq., Atty. for the Applicant  
Christopher A. Melick, PP, Planner for the Applicant  
David J. Schmidt, PE, Engineer for the Applicant

Chairman Behr swore in the Board's consultants, Mr. Lemanowicz and Mr. O'Brien.

Edward A. Dreskin, Esq., Newark, NJ, introduced himself as the attorney for the applicant, Victor Verlezza, who was applying for bulk variances to construct an in ground pool on his property. Mr. Dreskin pointed out that the physical layout of Dr. Verlezza's property was such that there was no back yard. His back yard was part of a surface water drainage system that serviced the neighborhood as well as participation from the property next door. In order to construct that pool, it had to be placed in the only other location available which was alongside the house. Because of the contours of the land in that area, there were several things that acted in the applicant's favor such as the fact that the pool would not be visible from the roadway.

Mr. Dreskin called Christopher A. Melick, PPL, PLS, of Hillsborough, NJ, to testify.

Chairman Behr swore Mr. Melick in and asked him to detail his credentials for the Board.

Mr. Melick stated that he was a licensed land surveyor, registered in the State of New Jersey, and also a professional planner, licensed in the State of New Jersey. He noted that he would be testifying in both capacities during this hearing. He stated that he had his own business since 1994 and had testified before numerous boards in Somerset, Hunterdon, Middlesex, and Morris Counties. In particular, he had recently testified in Harding Township, Bernards Township, and also Chatham Township.

Chairman Behr accepted Mr. Melick as an expert witness both for surveying and for planning.

Mr. Melick stated that he had surveyed the subject property about two (2) years ago. He had done a boundary survey and a topographic survey in the area of the proposed pool. First he had done some deed research which showed that the property had been created in 1996 by way of a major subdivision. He physically located the survey monuments and surveyed the property to determine accurately the location of the property lines and the location of all features on the property.

**Exhibit A-1** was an aerial exhibit prepared by Mr. Melick. He noted it was a GIS map (Geographical Information Services) that he was able to prepare from the Morris County GIS System. It depicted the property as a corner lot on Charles Road and Stephanie Drive. He pointed out that the entire northern part of the property which was the rear of the property was a stormwater retention basin that was constructed as part of the subdivision to control stormwater flow. Some of the basin's structures could be seen including the retaining wall which was built on the south side of the detention basin. That was very close to the back of the Verlezza's home. Both the detention basin and the retaining wall significantly limited the use of the back yard. There was a deck constructed on the back of the house which went right up to the retaining wall so there was no room for a pool north of the deck.

Mr. Melick said that there were a few neighbors along Charles Road that did have swimming pools. Two (2) of them were located in the side yards and one (1) was located in the rear yard.

Mr. Melick said that in the exhibit, the board members could see a portion of the retaining wall that was previously constructed when the pool was originally proposed to be installed.

In answer to Chairman Behr's question, the property lines shown on the exhibit were for illustrative purposes only and not necessarily an accurate depiction. The boundary survey was more accurate.

Mr. Melick noted that there were two (2) retaining walls: the detention basin wall and a wall to the west side of the house which was carved into the existing topography. The property sloped down from Stephanie Drive towards the north side of the house. He noted that it did not look to him that there had been fill placed along the westerly side of that wall which was why he felt that that wall had followed the contour of the existing slope.

Mr. Dreskin asked if the wall for the detention basin continued beyond the property lines.

Mr. Melick answered that it did to the west into the back of Lot 5.14. This property along with the Verlezza's property was part of the overall plan to direct water away from the development.

Mr. Melick noted that the site improvements to the front of the house included a walkway to the front door and to a portion of the driveway.

Mr. O'Mullan asked when the retaining wall on the west side of the house was constructed.

Mr. Melick said it was not original to the house and deferred to Dr. Verlezza.

Mr. Melick said that the property had a unique "diamond" shape and because of that all of the property lines and setback lines were not parallel to the house. Where the wall touched the house was located in the front and side yards. By narrowing to the back, the property building envelope was very constrained. With respect to the wall being cut in and the topography dropping from the front to the back, from the perspective of the road, the pool area would not be visible. Combined with any landscape treatment that would be placed on top of the wall, the topography would prevent any visibility from the front of the property.

Mr. Dreskin asked if there was an alternate location for the pool.

Mr. Melick said there was the entire front but placing a pool in that location was not desirable. The entire rear yard was occupied by the detention basin. To the east was the driveway. There was a small area between the detention basin retaining wall and the driveway but the slope was much steeper on that side of the driveway—it was almost double the steepness of that on the west side. Based on the constraints, the shape of the property, and the location of the house, the proposed location of the pool was the best possible one and realistically, the only location on the property.

Given the visible structures of the detention basin, Chairman Behr asked if a pool could be located to the south of those structures and to the north of the retaining wall.

Mr. Melick said that it could not be placed there.

Mr. O'Mullan asked if there was room where the existing deck was located.

Mr. Melick said that the deck occupied almost the entire available back yard to the retaining wall for the detention basin.

Mr. O'Mullan asked if the deck were removed, would the pool fit.

Mr. Melick said that he was not sure about the topography in that location. He had not surveyed that area but he guessed that it was steeper in that area than in the area where the pool was proposed. He had no access under the deck since it was completely enclosed with lattice. Based on the elevations at the back two (2) corners of the house and the elevation at the top of the block wall, the steepness of the area under the deck was steeper than the topography on the west side of the house.

Chairman Behr noted that there was no contour data for the east side of the property so there was no way of knowing whether or not it would be possible to locate the pool there.

Mr. Melick said that it would be a tight fit to physically get to the pool in that location. There was a door on the west side of the house which provided easy access to the proposed pool area. If all of the deck was removed and the pool was positioned in the area to the east of the steps, because of the elevation drop there and the location of the house, it would be very difficult to gain safe access to the pool.

Chairman Behr further discussed the lack of accurate data and felt it was premature to say that it could not be done.

Mr. Melick questioned whether it would be reasonable to remove the deck.

Mr. Dreskin asked Mr. Melick to discuss how the contours of the property affected the movement of the surface water.

Mr. Melick said that the existing topography revealed a swale that ran between the westerly property line and Lot 5.14. He estimated that that swale was 10 to 12 feet off the house on Lot 5.14 and that that slope was significant. That swale confined the flow and directed the flow into the detention basin. He reiterated that he did not feel that those contours were changed as a result of the wall because there did not seem to be any fill placed there. It appeared to him that that was the way the topography existed when the grading was done for the development.

Mr. Dreskin asked Mr. Melick if he felt that there were sufficient unique features on the property to grant the requested variances as set forth in the Municipal Land Use Laws.

Mr. Melick answered that he did. He summarized that the odd diamond shape of the property with the narrowing of the property to the north and the fact that house is oriented in such a way that it is not parallel to any of the property lines or setback lines along with the topography satisfied the C-1 Criteria for granting the variance.

With respect to the negative criteria, Mr. Melick said that there would be no negative impact because the properties to the north of the subject property were of a sufficient distance from the location of the proposed pool. In addition, the entire detention basin was located between those properties and the pool. The property to the east was buffered by the Verlezza house. From Stephanie Drive and Charles Road, the topography of the site and the coving of the wall would prevent any negative impact from the front of the site.

Mr. Melick said the biggest impact would be to the west on Lot 5.14. He felt there were a number of factors that could mitigate that impact. First, the fact that the wall was recessed provided a barrier in terms of visibility and sound. On top of the wall there would be a fence with landscape treatment.

The combination of the recessed pool, the wall itself, the fencing, and the landscaping would adequately mitigate the impact to Lot 5.14.

Mr. Dreskin asked if there was substantial detriment to the public good.

Mr. Melick said pools were permitted in this zone and by granting the variances, the purpose of the zone plan would be advanced. It would provide a better zoning alternative.

Mr. Dreskin said that he had no further questions of this witness.

Chairman Behr asked if the public had any questions of this witness. Mr. Dreskin noted that the only four (4) members of the public present were members of the Verlezza family. He then asked if the board members had any questions.

Mr. Gerecht asked Mr. Melick to address the issue of the location of the retaining wall and its proximity to the property line.

Mr. Melick said that part of the construction of the pool would be to move a portion of that wall further from the property line by about four (4) feet. The ultimate setback would be roughly two (2) feet off the property line. The furthest would be approximately 12 to 15 feet. He noted that the height of the wall transitioned from six (6) feet in the front to nothing in the area which was closest to the property line. At that point it would be nothing more than a decorative wall and would be more of an outline of the pool area.

Mr. Gerecht said that it would still be a structure.

Mr. Melick said that even the pool surround was close to the property line, that area would have to be buffered and part of that treatment would probably be on the adjoining property.

Chairman Behr asked Mr. Bernstein if that was allowable.

Mr. Bernstein answered that the applicant could plant vegetation there but only at the neighbor's request.

Mr. O'Brien said that the Planning Board would have no authority over the neighboring property.

Mr. Bernstein concurred. The Board could require that the applicant offer to plant vegetation if the neighbor wanted it. The neighbor would have the right to say no also.

Chairman Behr said in that case, any potential buffering would not exist unless the neighbor agreed.

Mr. Melick said that there was a landscape plan, Sheet 2 of 2 of the Pool Variance Plans, which showed the landscaping treatment proposed between the property line and the retaining wall up to the point where it would be too close to install landscaping. At that point the treatment would be built up inside the wall. The hard surface of the pool surround would not go all the way to the wall. There was an area that would be topsoil and mulch and landscaped. It would be landscaping, then the small wall, and then the fence. Mr. Melick described the fence as decorative but in that area it could be a privacy solid fence.

Chairman Behr said the Board would need to know exactly what that fence would look like. He noted that to the east of the pool, closer to the house, there was vacant space. He questioned what that would be.

Mr. Melick answered that it was intended to be grass or mulch. There was no specification as to what that would be.

Chairman Behr expressed discomfort with the conjectural nature of some of the testimony. The Board would need to know exactly what that would be.

Mr. Melick said that there was some discussion about moving the pool equipment and pool filter to that location so that it would be further from the property line.

Chairman Behr asked what would happen if the pool was moved closer to the house.

Mr. Melick said that in general, in ground pools should be at least 10 feet from the house because of the hydrostatic pressure in the pool and the possible impact on the foundation.

Mr. Gerecht said that whatever that surface was would impact on ground coverage.

Mr. Melick said that that was intended to be hardscape and it was just not shown that way. It would be whatever was around the pool.

Chairman Behr said that would take an impervious cover which was already above the limit that the Board generally tended to permit and increase it even further.

Mr. Melick reviewed the impervious coverage calculations with what was shown on the landscape plan.

Mr. Keegan wanted to confirm that the eastern portion of Lot 5.14 was 26 feet from the property line.

Mr. Melick said it was.

Mr. Keegan said that if the pool was 15 feet from the property line, it would 41 feet from the eastern portion of that house.

Mr. Melick said that that was correct.

Mr. O'Brien said that Mr. Melick mentioned that there were three (3) other pools in the area, two (2) of which were located in the side yards.

Mr. Melick said the adjoining lot to the east, Lot 5.12, had a pool between that house and the Verlezza property line. Lot 5.15, two (2) lots to the west, had a swimming pool to the west of that house which was a similar location to what was being proposed here.

Mr. O'Brien said that in his testimony, Mr. Melick had said that the pool would be approximately 40 feet away from the house to the west. He asked how far away from the adjacent houses the two pools on Lots 5.15 and 5.12 were.

Mr. Melick said just looking at it, it was a greater distance than what was being proposed here however those houses were centered differently on the properties and those properties did not have the same constraints with respect to the configuration of the lot lines and the orientation of the house.

Mr. O'Brien asked if he could scale those distances this evening.

Mr. Melick said he would feel more comfortable and it would be more accurate if done on the computer.

Chairman Behr asked if the buffering on the pool to the west of the subject property was greater, lesser, or the same as to what was being proposed.

Mr. Melick said that he would have to look at it. The aerials could be misleading as far as buffering.

Chairman Behr said that an important part of the testimony dealing with the required burden of proof had been based on the similarity between the subject property and other houses with similar pools. He felt that Mr. Melick had to be as specific as possible about what the reality of the situation was. He had to give the Board an accurate measure of this on the computer if necessary and an accurate statement about the relative degree of buffering between the houses that already have pools and what was proposed here.

Mr. Melick said he was not hinging his testimony on the reference to those pools. He was hinging his testimony on the unique configuration of the property. It did not look like any of the other properties that had swimming pools.

Chairman Behr said he understood that in respect to the C-1 Variance but negative criteria was also being discussed here.

Mr. O'Brien said that 20% lot coverage was allowed and 20.7% existed so this was not a conforming property.

Mr. Melick agreed that impervious coverage was a non-conforming condition.

Mr. O'Brien said that the proposed 23% lot coverage was 15% over what was allowed. He asked Mr. Melick if his C-1 justification and negative criteria apply to that as well.

Mr. Melick said that the engineer was working on the stormwater calculations and the way that had been mitigated. Mr. Melick did not do any types of comparative studies for impervious coverage because of the stormwater detention basin in the back and the runoff to that basin. From an engineering standpoint, the impervious coverage was being addressed in that way.

Mr. O'Brien said that that was variance that was on the table.

Mr. Melick said they might have to reduce some of the impervious cover to bring it into conformance or based on engineering, a variance had to be granted.

Mr. Lemanowicz said that the area to the north of the driveway and to the east of the house was steeper than the area that was being worked in, according to Mr. Melick's testimony. He asked if Mr. Melick had any topography to back that up.

Mr. Melick said that he did not have any topography shown on his plan but he did have the spot elevations that he took during his topo survey to indicate that. On the west side of the property where the pool was proposed, from the top of the wall in front of the pool area to the top of the wall on the detention basin, there was an 11 foot drop over 63 feet which was a 17% slope. On the east side, there was a 13 foot drop over a distance of 32 feet which was a 40% slope. The 32 feet were measured from the driveway to the top of the wall which was where a pool could possibly be placed. He said he could add this information to the plan.

Mr. Lemanowicz said that Mr. Melick testified that the *proposed* wall was a minimum of two (2) feet from the property line.

Mr. Melick said that it was shown as one (1) foot on the drawing. Currently it was 1.8 feet *over* the property line and it was proposed to be one (1) foot clear of the property line. It would be one (1) foot in height at that point.

Mr. Bernstein said that he hoped that Mr. Melick would be able to tell the Board what the impervious coverage would be.

Chairman Behr asked for a recess at 9:03 p.m.

## R E C E S S

Chairman Behr reconvened the meeting at 9:12 p.m.

Mr. Melick said that the number shown on the calculations on the plan was 731 square feet for the hard surface around the pool. Graphically, what was shown was 416 square feet. He believed that this was a shading issue with the AutoCAD. He calculated the difference which was 215 feet which would carry it another 26 feet. That would take it south to that curved wall.

Chairman Behr noted that there was a discrepancy between the outline of the pool on one of the documents and the outline given by the pool company.

Mr. Melick said looking at the landscape plan, the hardscape ended four (4) feet south of the corner of the house. If one continued south along that side of the house, approximately 10 feet from the front there was an existing curved planter. The idea was to run the hard surface to the beginning of that curved wall and taper to the back of the pool. It would be a decorative "S" shape.

Mr. Gerecht asked if that was included in the 731 square feet.

Mr. Melick said what was shown in shading was 416 square feet but what was being proposed allowed for that hard surface up to that wall and to taper into the edge of the pool.

Mr. Gerecht said if it was kept to what was shown on the plan, how would it affect the lot coverage numbers?

Mr. Melick conferred with the engineer, David J. Schmidt.

Chairman Behr asked Mr. Melick to go back to his proofs that he had listed in his capacity as a planner. He asked if it was fair to say that the need for a C-1 Variance was triggered by the excessive lot coverage that was caused by the accessory use.

Mr. Melick said he did not view the impervious coverage as a trigger.

Chairman Behr asked if the pool triggered the lot coverage variance.

Mr. Melick said that it did trigger a need for a number of variances and one of them would be for lot coverage.

Chairman Behr said the hardship was keyed on an accessory use that was being created by the applicant in terms of what he wanted to do with the property.

Mr. Melick agreed.

Mr. Dreskin called the engineer, David J. Schmidt, as the next witness.

Chairman Behr swore the witness in.

David J. Schmidt, PE, with **DS Engineering**, Rocky Hill, NJ, stated that he had started his company approximately 18 years ago. He added that he had worked with **Van Cleef Engineering**, Hillsborough, NJ, for 10 years prior to that. He is currently a licensed professional engineer who has testified before numerous boards mainly in Montgomery, Princeton, Franklin Township, and also Morris Township and Milburn.

Chairman Behr accepted the witness as an expert.

Mr. Schmidt stated that the lot area of the subject property is 45,970 square feet. It is zoned R-2 which meant it is 45,000 square feet so the property is slightly over what is required by ordinance. He noted that the current impervious surface coverage was 20.7% where 20% is allowed which was 322 square feet over impervious surface coverage. He noted that on the Checklist, Item #32 states that any additional impervious surface coverage needs to be addressed with a four inch (4") rainfall and a drywell needs to be provided. He had discussed the detention basin in the rear of the property with Mr. Lemanowicz and researched the design to see if there was additional volume that he could utilize in lieu of installing a drywell. Subsequently, he had prepared a document, "Stormwater Management Report," to the Board dated May 12, 2014. He said that the proposed net increase in impervious surface coverage is 1,060 square feet which included the pool and the decking. With the initial coverage of 322 square feet, the total amount of impervious coverage over the allowed amount would be 1,382 square feet or 23%.

Mr. Schmidt said that the 1,382 square feet of additional impervious surface coverage would increase stormwater management. He noted that the property slopes in a northerly direction and the runoff is collected by the existing detention basin which is located in the rear of the property in a utility easement. According to his research, the detention basin was designed for the subdivision known as "Long Hill Estates." It is oversized and, in Mr. Schmidt's opinion, could handle the increase in stormwater runoff that would be created by the increase of impervious surface coverage. In his report, there are a series of proposed rates of runoff which support his opinion. In addition, Mr. Schmidt took a comparison of the 45,970 square foot site with the existing and proposed impervious surface coverage to further show that the basin design was more than adequate to control the increase in stormwater management based on the increase in impervious surface coverage.

Mr. Schmidt noted that, per documentation filed with the county, Dr. Verlezza is required to maintain the detention basin by mowing it and cleaning the debris out of the outlet structures not only for his lot but for all the other lots that are in his watershed. With that in mind, Mr. Schmidt felt it was not much to ask of the Board that Dr. Verlezza not be required to install a drywell for the proposed improvement to the property.

Chairman Behr asked Mr. Lemanowicz how the water from the proposed construction would reach the existing stormwater detention facility.

Mr. Schmidt answered that it would run straight downhill since the property sloped in a northerly direction. None of that water would escape to any other property. He added that lot 5.14 was also a part of the detention basin.

Chairman Behr asked Mr. Lemanowicz to comment on the testimony.

Mr. Lemanowicz asked Mr. Schmidt, when he looked at the drainage report, what were the assumptions made for the lot. He said that he had seen designs where the detention basin took care of the streets but the lots were left to themselves to deal with stormwater.

Mr. Schmidt said that it was designed for the roads, sidewalks and 20% lot coverage. There were several versions of the design and he had reviewed each of them.

Mr. Lemanowicz asked if Mr. Schmidt was aware of any other lots that drained into that basin and had over 20% coverage. He wanted to know if any of the other lots had used any of the credit listed in Mr. Schmidt's report.

Mr. Schmidt said he could not answer that question. He felt that some lots didn't use their entire allotment and others might be over. Some of the lots were oversized and would never use the 20%. He felt that this lot was restricted because of the basin.

Mr. Schmidt noted that he had asked Dr. Verlezza if the basin had ever filled up to maximum capacity during storms when this basin should have been completely full and over the principal structure. Dr. Verlezza said that that had not happened. Mr. Schmidt said that the storm sewer system is based on the 25 year storm and the basin is designed for the 100 year storm. He was confident that the diminimus amount of water that this project would add to the basin would not be a problem and it was not asking too much, given the fact that Dr. Verlezza has to maintain that basin, to waive the requirement for a drywell.

Mr. Lemanowicz asked if the basin was designed to current standards.

Mr. Schmidt answered, "No." He said that today's standards are totally different. Flow reduction and infiltration are now required. Detention basins such as the one in Long Hill Estates were designed to match peak flow coming out of the site. If that subdivision detention basin were designed to today's standards, there would on-site infiltration trenches, drywells, and a slew of different things in addition to the detention basin to ensure that the property had groundwater recharge.

Mr. Lemanowicz said that the allowable rates are very different today from when the basin was installed for Long Hill Estates. There are requirements to *reduce* the flow to zero net volume and zero net rate (per Long Hill Township ordinances). He asked if there was a place for a drywell on the property.

Mr. Schmidt answered that he could find a place.

Mr. Lemanowicz addressed Chairman Behr and said that this property was different since it did have the detention basin in the rear. He added that he was not aware of any problems with it. It was up to the Board to decide whether they wanted to maintain the standard they had been using.

Mr. Gerecht asked whether the 20.7% current lot coverage included the expanded driveway which was apparently done without permits.

Mr. Schmidt said that it was included.

Mr. Gerecht asked where the water that entered the basin ultimately wound up.

Mr. Schmidt said it was his belief that there was a culvert that goes under Pleasant Plain Road and finally discharges to a stream. He added that the according to the applicant, the water had never breached the top of the outlet structure in the rear of the basin. The stormwater sewer system is smaller than what the basin is designed for.

Mr. Gerecht asked if water from some of the lots did not find its way to the basin because it was absorbed or redirected.

Mr. Schmidt said that that was correct. He added that according to his calculations, the increase for the 100 year storm event was .08cft.

Mr. Gerecht asked if a drywell would be placed on the low side of the property.

Mr. Schmidt said there was not a lot of area to install it. (He referred to the "Pool Variance Plan".) He said the only spot that he saw for a drywell was located west of the step and behind the generator pad.

Mr. Gerecht said that the drywell would be catching the increase for the pool. He noted that he had seen a roof leader that was in the front corner where the gas meter was located and one in the back that seemed to be going into undergrown piping. He wanted to know if they went to the basin.



Mr. Schmidt said that those leaders tied into piping which ended up on the adjacent property and had to be moved.

Mr. Gerecht questioned other downspouts on the driveway side of the house.

Mr. Schmidt did not know where they were discharging however he assumed they discharge on the property.

Mr. Schmidt said by moving the retaining wall, they would be able to move the pipe over so that it discharged on the applicant's property and right into the detention basin.

Mr. Gerecht discussed the positioning of the wall, asking why it couldn't curve in sooner which would create more space from the property line.

Mr. Schmidt said that they could move the wall three feet (3') from the property line and run it parallel to that line. (He referred to "Pool Variance Plan", sheet 1.)

Chairman Behr asked why they could not take the 12 feet which was the difference between the wall and the sideyard and extend that so that the wall stays 12 feet away from the property line all the way through.

Mr. Schmidt said that the wall would be six (6) feet away from the pool which would encourage people jumping in the pool from the wall.

There was additional discussion about the placement of the wall.

Mr. Melick referred to a question as to why the wall was built there. It was his belief that there was a pool plan that was created. The contractor thought he was following the plan however he did not know where the property line was. Mr. Melick had drawn the wall in at 12 feet from the property line for Dr. Verlezza and Dr. Verlezza felt he could live with eight (8) feet. That would mean a transition of 12 feet in the front to eight (8) feet in the back. Anything more than that would limit the use around the pool.

Mr. Gerecht said that everything between the impervious surface and the wall on the west side of the pool was landscaping. It was not usable area.

Mr. Melick said that area was used to create a buffer on the pool side of the wall. By moving the wall closer to the pool, there would be a bigger area for a buffer on the other side of the wall.

Mr. Gerecht said that this was a setback issue and a wall was considered a structure. Therefore the more space between the property line and the wall, the better.

Mr. Melick said that there was a point where the wall became more aesthetic and could be removed. He said that that point was located under the "tick" mark and under the word "wall."

Chairman Behr said that the wall was built after the house was constructed and without permits.

Mr. Melick said that that was his understanding. He felt that the wall made a nice barrier however it could be removed up to a point where it would be probably 12 feet from the property line. It would be a flat landscape. Mr. Melick added that the protective fence would go along the top of the wall and around.

Chairman Behr said that some of that wall could be removed and replaced with landscaping which would have the effect of increasing the buffer.

Mr. Melick agreed. He added that he would keep the fence on the property line.

Mr. O'Brien added that the ordinance permitted the fence to be just off the property line and a maximum of six (6) feet in height. There is no setback for fences. It just has to be the property.

Mr. Gerecht asked what kind of fence the applicant would be using.

Mr. O'Brien said it was not specified.

Mr. Melick said that Dr. Verlezza was considering a fence that would match the deck fence which was open.

Mr. Schmidt moved the discussion back to the storm drainage issue. He said that the Environmental Commission review memo dated July 16, 2014 supported his request for relief from installation of a drywell.

Chairman Behr questioned the wall's stability, as mentioned in the Environmental Commission's report.

Mr. Schmidt stated that the existing retaining wall is constructed of modular block and without the necessary permits and inspections. John Mazzilli of *Mazzilli Mason Contractors LLC*, Garwood, NJ, constructed the wall.

Chairman Behr advised Mr. Schmidt that normally, the witnesses address the points in Mr. Lemanowicz's report to expedite the process.

Mr. Schmidt stated that he would remember to do that during future appearances before this Board however he had planned to give his testimony and then address the points in Mr. Lemanowicz's report.

Mr. Schmidt had provided a letter dated June 19, 2014 to Thomas Delia, Long Hill Township Zoning Officer. In that letter, he stated that he had discussed the project with the contractor and that the contractor had followed the building specifications for the modular block wall. For a four (4) to six (6) foot wall, a Versa Grid, VG3.0, is required in a length of four (4) feet. Two (2) layers of geogrid are required every two (2) feet. Since the wall is slightly higher, technically 6.5 feet in some areas, an addition geogrid of six inches (6") is required. The contractor told Mr. Schmidt during a telephone conversation that he had installed a four foot (4') length and hence it is short six inches (6"). However, the contractor also installed 16 inches as opposed to 12 inches as required, of gravel behind the wall which is a more key element than the versa grid. The water would go into the gravel and drain down into a perforated pipe. By having more gravel, there is less pressure against the wall. In his opinion, Mr. Schmidt felt the six (6) additional inches of geogrid was not necessary.

Mr. Schmidt said that he had inspected the wall on April 25, 2014 and in his opinion, the wall was a nicely constructed, sturdy wall. He could see the joints; it is tight. He was certifying that the wall is acceptable. According to Dr. Verlezza, it had been there for three (3) years. He said that modular block walls are very sound. There is a drainage system located above the wall as well that would intercept the water in addition to the gravel and perforated pipe below. Charles Road would also intercept water so he felt that the wall is not going anywhere. He noted that Mr. Lemanowicz had cited that it is short on geo grid and he agreed. He still felt that it is stable. He said that there is also a knee wall that curved—a landscape planter—that would give support. He saw no need to rip it up to explore what was actually installed.

There was discussion between Chairman Behr and Mr. Schmidt about the presentation of testimony as it pertained to Mr. Lemanowicz's letter.

Mr. Gerecht asked what the PVC pipe was sticking out of the ground by the fence on the north side of the wall.

Mr. Melick answered that it was either an angle point in the drainage system or a cleanout.

Mr. Keegan asked Mr. Schmidt, if the pool were to be constructed, what issues would arise from sound reverberating off of the west side of the house and the south side retaining wall onto Lot 5.14.

Mr. Schmidt said he could not answer that question because he was not a sound engineer.

Mr. Lemanowicz asked, given the revisions being made to the wall, what would be the ground elevation to the top of the wall where the plantings would be versus the pool surround elevation, trying to develop a picture of how high the landscaped buffer might be to help diffuse that sound.

Mr. Schmidt said that in the eight (8) foot area between the wall and the property line, there would be buffering to achieve the ordinance required levels (65 dba day/50 dba night). He would research what that buffering would be based on that criteria with an acoustical expert.

Mr. Lemanowicz said that they were looking at a pool surround that was in the area of 415 square feet right now whereas the plans show 731. The more greenery around the pool, the quieter it would be. In discussing the impervious cover variance, he felt that they should consider how that would affect the sound transmission to the neighboring house which was shown to be 26 feet from the property line.

Mr. Lemanowicz said, with respect to the retaining wall, Mr. Schmidt had signed and sealed a letter certifying the stability of that wall. Mr. Lemanowicz had inspected the wall and did not see anything that would point to a problem so he felt that Mr. Schmidt had addressed that issue.

With respect to his letter of June 5, 2014, Mr. Lemanowicz had gone into some history as to when the impervious surfaces had appeared and how they had gotten to the 20.7% figure. The deck appeared to encroach on the utility easement. He noted that there had been a similar situation in the past. He recalled some documentation from the Township Committee about allowing that structure to remain. There was a permit for the deck that currently exists however there was no documentation for the variance that was required since the corner of the deck breached the setback line. Similarly, there was no correspondence from the township giving permission to encroach on the easement. He reiterated that there was a permit issued by the building department.

Mr. Lemanowicz said that there was a variance required for the pool equipment. Currently, generators are treated as accessory structures and require them to abide by the setbacks. He felt that the pool filtration equipment would be similar and at its current location, it would be about eight (8) feet or so from the property line where a 25 foot setback is required. He noted that there had been no testimony as to alternate placement of that equipment.

There was discussion about placing the equipment near existing utilities, for example, to meet the setback requirements. It was noted that there was ample room there.

Mr. Lemanowicz reiterated that the shape of the pool on the plan did not match the shape of the pool on the engineering plans. He felt due to the changes in the wall placement, the Board was locking itself into the shape shown on the engineering plans and that should be verified.

Mr. Lemanowicz said that the basin design assumption of the lots was assumed to be 20% in the Stormwater Management document submitted by Mr. Schmidt however there was no actual information.

Mr. Lemanowicz said that it would appear that they could reroute some leaders and put the seepage pit in an area next to the driveway. He would not recommend placement on the south side of the pool because that was the high side of the wall.

Chairman Behr felt there was still an issue with the fact that some of the factors that had caused these problems were generated by the applicant himself in terms of construction without prior permits. He cited the questions that Mr. Lemanowicz had raised on page 3 of his June 5, 2014 report regarding expansion of the driveway and construction of the wall. He suggested Dr. Verlezza give some testimony.

Chairman Behr swore the applicant, Victor T. Verlezza, in.

Dr. Verlezza stated that he was not told when he applied for the permit for the deck, that he needed a variance for any reason. He said he applied for that permit five (5) to six (6) years ago. He added that when it was completed, the deck was inspected and approved by the appropriate township official.

Mr. Dreskin asked if there was a safety reason for building a deck.

Dr. Verlezza said there was a "considerable" safety issue because there was a "considerable" slope to the top of the detention basin a short distance away from the house. In order for him to have any usable backyard that was safe whatsoever, he was "forced" to put a deck there. He pointed out the "serious" slope in one of the pictures of the side of the deck.

In response to a question by Mr. O'Mullan, Dr. Verlezza stated that he was the second owner and that he had purchased the home in 2002. The deck was built a couple years after that purchase.

Chairman Behr referred to the driveway. Mr. Lemanowicz noted that the driveway had been expanded over what was originally built. He asked if that was done by him or the previous owner.

Dr. Verlezza answered that he had paid to have that done. The contractor who installed the pavers did not advise him that he needed a permit. He had torn up the original blacktop driveway and replaced it with pavers not only for decorative purposes but because the property was very difficult at the bottom of the driveway. It was difficult to park cars or turn around in the original driveway. The driveway itself is very steep also so it was "imperative" to have more room on the bottom. He had no idea a permit was necessary.

Mr. Gerecht asked how much extra was added.

Dr. Verlezza said most of it was towards the back, towards the detention basin. It was expanded back towards the rear yard. He did not know exactly how much but it was enough area to park a car, maybe 10 feet.

Chairman Behr then referred to the construction of the wall in the pool area without permits.

Dr. Verlezza said that he had contracted Sylvan Pools to install the pool. The salesman told him that he would need a few variances but that it wouldn't be a problem and to move ahead and prepare the site for the pool. As the site was prepared for the pool, where the front wall met ground level, no one knew it was going to exceed the four (4) foot height—there was no way to determine that he knew of. However, in the process, it turned out to be more than four (4) feet. At that point the issue had to be addressed and he began dealing with the Zoning Officer, Mr. Delia, and court appearances. He said he had no idea that the wall would exceed four (4) feet.

Mr. Gerecht said, on the right side between the pool and the house, the applicant's professionals stated that Dr. Verlezza wanted impervious surface all the way up to the first bend of the wall and then decoratively maneuvered to the pool.

Dr. Verlezza answered that that was correct.

Mr. Gerecht said that considering there was 23% proposed lot coverage, he suggested installing a small walkway and leaving that area landscaped.

Mr. Melick stepped in at that point. He stated that he had made a mistake in calculating the impervious cover. He directed their attention to page 1 of 2 of the Variance Plan. Right above the Title Block was the lot coverage calculations and everything existing was listed. The bottom item under "Existing" was the "side stone area" which was 1,646 square feet. That area was the area that was within the pool area. It was listed under "Existing" because currently, it was stone. But all of that stone would be removed and replaced under "Proposed." He then subtracted the 1,646 in order to install the pool (329 square feet wet surface) and pool surround area (731 sq. ft.). In essence, the total proposed coverage of 10,576 square feet would be reduced to 8,930 square feet. That calculated to a coverage percentage of 19.4%.

Mr. Gerecht clarified that the 1646 was considered impervious under the "Existing" column but under the "Proposed" column it would only be the pool and pool surround which would be less.

Mr. Melick said that under "Proposed" there were 329 square feet of pool and 731 square feet of hard surface. He said on page 2 of 2, in the upper right hand corner was the Landscape Plan which gave a good depiction of where the plants would be located. There would be soil and mulch there whereas currently it was shown as impervious coverage under "Existing."

Mr. Gerecht asked Mr. Melick to back 1646 out of the total existing impervious coverage number.

Mr. Melick answered that it would be 7,870 square feet which was 17%. Therefore existing conditions were 17% and proposed conditions would be 19.4%. This also affected Mr. Schmidt's calculations for stormwater management.

In answer to Mr. Gerecht's question, Mr. Melick said that the 731 square feet included all the cement up to the planter and that curved area.

Mr. Lemanowicz agreed with what was being said in that the 1646 square feet was double counted. The proposed conditions would consist of the 329 square feet of the pool, 731 square feet of pool surround and about 500 square feet of landscaping. He said that the proposed coverage would be 8,930 square feet which calculated to 19.4% proposed coverage.

Mr. Gerecht said that even with the expansion of the driveway, the applicant was not exceeding 20%.

Mr. Lemanowicz affirmed that this was correct.

Mr. O'Brien stated that that would remove the request for a variance for lot cover however it still left the existing condition of minimum lot width. There was also a pool sideyard setback issue, pool located in the front yard setback, front yard retaining wall height and sideyard retaining wall height.

Mr. Melick referred to the existing lot width of 139 and said that he could not figure out how that was determined.

Mr. O'Brien said that he had taken that number from Mr. Melick's plan—139.48.

Mr. Melick asked if Mr. O'Brien agreed with the 139 because he was not sure where that number came from. He measured across the setbacks and got 110 and 140. At Mr. O'Brien's instruction, he measured across the front of the home, he measured 240.

Mr. Lemanowicz said that lot width was defined as the length of the front lot line measured at the street line. For the purposes of the ordinance, the required lot width must be measured along a street improved to township standards.

Mr. Gerecht noted that there were several streets for this property.

Based on this information, Mr. Melick stated that it appeared to be a conforming condition.

Mr. O'Brien agreed.

Chairman Behr stated that the burden of excessive lot coverage had been removed. He said that this Board could not rule on an application where there were so many discrepancies and fuzzy areas. He then advised the applicant that he would have to return with accurate plans and zero guesswork.

Chairman Behr then referenced the sideyard setback and attempts to protect the neighbors. There had been a number of suggestions made as to what could be done to leave the applicant with an attractive pool and lounge area and to make sure that the pool was the requisite 10 feet from the house as suggested the applicant's engineer. He noted that the pool was very close to the neighbor and everything that could be done to enhance and strengthen the buffering would be important.

Chairman Behr asked Mr. Lemanowicz if it was still necessary to install a drywell given the new calculations.

Mr. Lemanowicz answered that the ordinance states that if over 400 sq. ft. of impervious coverage is created, something should be done with it. In this case, the applicant's engineer assumed that 20% was used in the design of the detention basin and this property was under 20% of coverage.

Chairman Behr added that there had been testimony that that basin had been built with an excess capacity of the design standards of that time which are currently not considered adequate. He asked if the applicant should return with plans for additional stormwater retention facilities.

Mr. Lemanowicz said that given the fact that the lot coverage was now under and that the detention basin was there, he did not see a strong need to see any more. He did want to see the data showing that 20% was used in the basin design.

Ms. Kiefer said that the applicant would have to agree to a "Consent to Extension of Time for Decision" form.

Chairman Behr asked if all the questions pertaining to the wall were answered.

Mr. Bernstein said that that would be up to the Township Engineer and the Construction Official since there was a lack of a permit. They would have to be satisfied that the construction codes were met. They would have been the ones to issue the permits and therefore would be the ones to issue the waivers. He suggested that this be a condition to any possible approval.

Mr. Gerecht said that he would like to see a redesign of the pipe that was catching the water from the downleaders to show the water going to the detention basin. Currently, it was going onto the adjoining property.

Mr. Lemanowicz said that the drawing showed the wall being moved but not the drainage. He added that sheet 1 showed the gate to the gas meter on top of the wall. He was unsure as to how the meter reader would access the meter itself.

There was discussion about changing the placement of the gas meter.

Chairman Behr added that in order to further buffer the neighbor, the pool equipment should be moved to a location alongside the house or at least farther away than what was currently proposed.

After further discussion, it was decided to tuck the equipment into the southwesterly portion of the pool. Any echoing of sound would go back towards the Verlezza property. It would be located in the corner that was closest to Charles Road. The wall would be high there and that would prevent the

sound from leaving the property. It would be easily accessible for maintenance and could be hidden from the Verlezza's with landscaping.

Mr. Gerecht suggested a fence around it.

Mr. Lemanowicz said that the wall was six (6) feet high in that area and if the equipment was tucked into the bottom of that wall, it would be a great idea.

Chairman Behr referred to the Environmental Commission Report that said that the retaining wall would be 6'-8". He asked if this was correct.

Mr. O'Brien said that that was the existing wall that was installed as part of the preparation process.

Mr. Lemanowicz said that the Environmental Commission was getting into structural design which was outside their purview.

Chairman Behr said that the issue had been addressed. A sealed letter from the applicant's engineer had been provided.

Mr. Lemanowicz noted that he had seen these modular block walls 20 and 30 feet high and he was satisfied.

Mr. O'Brien asked about lighting for the pool.

Mr. Schmidt answered that there would be interior lighting in the pool. Nothing else.

Mr. Schmidt said that Dr. Verlezza would have to meet with the pool company to firm up the shape of the pool.

After discussion, it was determined that the application would be carried to December 2, 2014. It was noted that the revised plans would be due into the township by November 18, 2014. One week before the meeting, Mr. O'Brien and Mr. Lemanowicz would issue their reports. Mr. Dreskin stated that those terms were acceptable to his client and that he would sign the "Consent to Extension of Time for Decision" to December 3, 2014.

Chairman Behr called for a motion to adjourn. Mr. Gerecht motioned and Chairman Behr seconded. A **VOICE VOTE** was taken. The meeting was adjourned at 10:54 p.m. by unanimous vote.

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CYNTHIA KIEFER  
Planning and Zoning Secretary

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Date