

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – DECEMBER 1, 2021

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on December 1, 2021. Mr. McCartney called the meeting to order at 7:30 p.m. and called the Roll. Ms. Blundi stated she has asked Mr. McCartney to Chair the meeting as she is not feeling well and may not be able to be present for the entire meeting.

Those present:

Board of Supervisors: Suzanne Blundi, Chair (left meeting in progress)  
James McCartney, Vice Chair  
John B. Lewis, Secretary  
Fredric K. Weiss, Treasurer  
Daniel Grenier, Supervisor

Others: Kurt Ferguson, Township Manager  
David Truelove, Township Solicitor  
Andrew Pockl, Township Engineer  
Kenneth Coluzzi, Chief of Police  
James Majewski, Director Planning & Zoning

REMOVAL OF ITEM 10.a.- TREE ORDINANCE UPDATE DISCUSSION AND CONSIDERATION

Ms. Blundi stated the EAC has advised that they would like additional time to review this item.

Ms. Blundi moved, Mr. Grenier seconded and it was unanimously carried to remove Item 10.a from the Agenda.

COMMUNITY ANNOUNCEMENTS

Mr. Ferguson stated that during this portion of the Agenda residents and youth organizations may call in to make a special announcement or may contact the Township to request a special announcement to be added to a future Agenda.

Mr. Ferguson stated information about Park & Recreation in-person recreation opportunities can be found on the Township Website.

Mr. Ferguson stated Pack 95 will recycle broken string Christmas lights, and they can be dropped off at the Big Oak Citgo, 812 Big Oak Road, Yardley December 11 through January 11, 2022. Contact info: joanies[120@gmail.com](mailto:joanies120@gmail.com).

Ms. Blundi stated Santa will be visiting the LMT Farmers' Market on Sunday, December 5, and there will be vendors selling holiday gifts.

Ms. Blundi stated the EAC will be having another Styrofoam, wine cork, and prescription bottle recycling event in early January. She stated they will also accept rechargeable and non-rechargeable batteries. A formal flyer will be sent out.

#### APPROVAL OF MINUTES

Dr. Weiss moved and Ms. Blundi seconded to approve the Budget Discussion Minutes of November 17, 2021 as written.

Mr. Grenier stated he was not present during a majority of that meeting, and asked if he needed to recuse himself from voting on these. Mr. Truelove stated provided he is familiar with what happened at the meeting, he is not required to abstain.

Motion carried unanimously.

Dr. Weiss moved, Mr. Grenier seconded and it was unanimously carried to approve the Minutes of the Regular Meeting of November 17, 2021 as written.

#### SEWER ENGINEER'S REPORT

Mr. Fred Ebert, Sewer engineer, was present.

#### Contract SWR 21-1 LMT Manhole Lining Project – Approval of Payment Request No. 1

Mr. Ebert stated the contractor has completed four of the seven required manholes under the Contract Scope of Work, and there are no Change Orders. He stated the Payment Request is in the amount of \$14,668.20, and the amount of money remaining on the Contract after this payment is \$13,325.80.

Dr. Weiss moved and Ms. Blundi seconded to approve Payment Request No. 1.

Mr. Grenier asked if the Contract is completed, and Mr. Ebert stated this includes four of the seven manholes. He stated there was an equipment breakdown; and while the actual work is now completed, they did not submit the final Payment Request. He stated this Payment Request is for work completed to October 31. Mr. Grenier asked if they anticipate being within Budget, and Mr. Ebert agreed.

Motion carried with Mr. Grenier and Mr. Lewis opposed.

Contract SWR 21-3 – LMT Buck Creek Lining Project – Approval of Change Order No. 2

Mr. Ebert stated this is a Change Order in the amount of \$8,994.10 for additional grouting of joints that were leaking so badly that they could not be lined. He stated there was so much water coming in that they could not install the lining until they grouted it shut. He stated the original Contract had an allocation of ten joints. He stated the unit price was \$400 per joint, and they identified 40 additional joints. He stated the contractor worked with them, and in lieu of charging the unit price in the Contract, they charged a daily rate which reduced the cost of the Change Order from \$16,000 to \$8,994.10. He stated the lines were leaking so badly that they could not be televised; and once they had the by-pass set up in the area, they were able to identify the additional leaking joints.

Mr. Lewis moved and Dr. Weiss seconded to approve Change Order No. 2.

Mr. Grenier stated based on what was found in the field, the original amount was a low estimate. Mr. Ebert stated they had used the same approximate number that they had found last year when they did the cured-in-place pipe lining.

Motion carried with Mr. Grenier opposed.

Contract SWR 21-3 – LMT Buck Creek Lining Project – Approval of Payment Request No. 1

Mr. Ebert stated this is in the amount of \$168,089.76 for work completed. He stated the amount remaining under this Contract is \$62,929.34.

Dr. Weiss moved and Ms. Blundi seconded to approve Payment Request No. 1

Mr. Grenier asked what is left to do, and Mr. Ebert stated there is approximately 20% of the work and the Release of Retainage. He stated he believes that there is about 500' of pipe left. Mr. Grenier asked if they will be in or under Budget, and Mr. Ebert stated he is not anticipating any other Change Orders on this job.

Motion carried with Mr. Grenier and Mr. Lewis opposed.

Contract SWR 20-1 – LMT Sanitary Sewer Main C.I.P.P. Lining Project – Approval of Payment Request No. 3 (Final – Release of Retainage)

Mr. Ebert stated this is the Final Payment for the 2020 Sewer Lining Project, and this is for the Release of Retainage. He stated this was held for a longer period than normal because there was some minor driveway restoration/ markings on the roadway which had to be removed as well as receipt of the close-out documents. Mr. Ebert stated the Payment Request is in the amount of \$13,450. He stated there is a balance to finish which is work that they did not earn and will no longer be part of the Contract in the amount of \$15,502. He stated the actual unit quantities came in less, and part of this was due to the number of joints that did not have to be grouted and there was a reduction in the actual linear footage of the pipe.

Ms. Blundi moved and Dr. Weiss seconded to approve Payment Request No. 3. Motion carried with Mr. Grenier and Mr. Lewis opposed.

Contract SWR 20-3 – Brookstone Pump Station Upgrade – Approval of Payment Request No. 4 (Final – Release of Retainage)

Mr. Ebert stated this is for the Mechanical Contract and is the Final Payment Request which is the Release of Retainage. He stated the money was held until all of the close-out documentation was received. He stated there was a minor concern with one of the pumps, and the contractor came out and has continued to follow up with no additional compensation. He stated the Request is in the amount of \$27,350.58.

Mr. Grenier moved and Dr. Weiss seconded to approve Payment Request No. 4.

Mr. Grenier stated they have been working on this for some time, and he asked if there was DEP funding for this; and Mr. Ebert stated that was for Stackhouse. Mr. Grenier asked Mr. Ebert if he is satisfied that this will fix the situation, and

Mr. Ebert agreed. He stated everything is now in a concrete wet well with new pumps, and they will be turning over a totally refurbished pump station to the ultimate owner of the system.

Mr. Grenier asked where we stand from a Budget perspective after all of these projects in terms of how much was budgeted for the Sewer projects, versus how much was spent, versus how much is left. Mr. Ebert stated he would estimate that after the Payment Requests by the end of the year, we will probably be approaching 90%. He stated he will not recommend payment for the Stackhouse generator since that has been delayed; but other than that he feels we will have all the cured-in-place pipe lining Contracts for both 2020 and 2021 completed as well as the manhole liners. He stated Brookstone is done. He stated the two remaining Contracts will be the Silver Lake pump station upgrades and the Stackhouse pump station upgrades both of which have been delayed due to supply chain issues.

Mr. Grenier stated for a while a number of the projects were coming in under Budget, and he asked how we are overall relative to Budget versus Actual. Mr. Ebert stated we are still slightly under. He stated there were minimal Change Orders. He stated last year they did have to increase the Budget for Stackhouse. He stated he feels we may be 10% under the Budget.

Motion carried unanimously.

#### ENGINEER'S REPORT

Mr. Pockl stated the Board received his Report in their packet.

#### Approval of Change Order No. 3 for the Memorial Park Project As a Credit to the Township in the Amount of (\$2,005.00)

Mr. Pockl stated when the project started the wearing course was eliminated from the parking lot areas as the Bid had come in unexpectedly high. As a result of eliminating the wearing course, the line striping for the parking spaces was also eliminated which resulted in a credit of \$7,505. He stated instead of deleting that Line Item completely from the Contract and not having any line striping in the Contract, in discussion with Township staff, they wanted to get a price from the contractor to line strip ADA parking spaces in other locations in the Park and also in locations at Macclesfield Park. Mr. Pockl stated when they got a price from the contractor, that price came back at \$5,500 which is a fair and reasonable price;

and therefore this Change Order would be the \$7,505 deleted from the Contract plus the \$5,500 which equals a net credit to the Township in the amount of \$2,005.

Ms. Blundi moved, Mr. Grenier seconded and it was unanimously carried to approve Change Order No. 3 for the Memorial Park Project as a credit to the Township in the amount of \$2,005.

Approve Escrow Release #10 for the Yardley Woods Development (Matrix Residential) in the Amount of \$364,066.15

Mr. Pockl stated this is a semi-final payment. The work is substantially completed. He issued a punch list on November 19 to the contractor, and they are currently working on the punch list. He stated we have not received a Notice of Termination yet for the basins; however, the basin conversion from a basin that is primarily used to manage stormwater run-off during construction to the permanent system has been done. Mr. Pockl stated he is retaining \$20,000 which he believes covers the cost of any punch list items.

Dr. Weiss moved and Ms. Blundi seconded to approve Escrow Release #10 for the Yardley Woods Development (Matrix Residential) in the amount of \$364,066.15.

Mr. Grenier asked what is left on the punch list. He stated he understands that they have converted the sediment basin to a stormwater basin, and he asked if that has been approved. Mr. Pockl stated he has observed it, but he is still waiting on the documentation from the Conservation District. He stated the punch list items are minor and include patches to curb and asphalt within the roadway. He stated the roadway is not being Dedicated to the Township. He stated the open space is also not going to be Dedicated to the Township, and it will be maintained by the HOA. Mr. Grenier stated he is concerned that we do not yet have documentation from the Conservation District; and if there is an issue, that could be a “big ticket item.” Mr. Pockl stated he has observed the basin, and there was never an issue even during construction with the basin not functioning as designed. Mr. Grenier asked if it is a typical detention basin, and Mr. Pockl stated it is a surface detention basin.

Motion carried unanimously.

## PROJECT UPDATES

### Sandy Run Road

Mr. Grenier asked for an update on Sandy Run Road. Mr. Ferguson stated they hope to have the light installed on Schuyler by the end of the year.

### Woodside Bike Path

Mr. Grenier stated he has been on the new trail that will be connected to the Woodside bike path across the Scudder Falls Bridge. He stated they connected the pedestrian bridge over the Canal to their parking lot walkway all the way up to Woodside so at some point that will provide a convenient connection for pedestrians.

## MANAGER'S REPORT

### Review of Yardley Borough Pool Membership Agreement and Motion to Defer to Next Meeting

Ms. Monica Tierney was present. She stated the Board was provided a copy of the old Agreement which was just discovered and was an on-going Agreement with Yardley Borough. She stated she feels that it is outdated and needs to be updated. Ms. Tierney stated the Park & Recreation Board recommended that the Board of Supervisors review it and either get rid of the Agreement or change it in some way to modernize it. She stated currently the Agreement is an "exchange." She stated the Agreement allows Yardley Borough residents to use the Pool at Lower Makefield Township resident rates. She added that at the time this Agreement was written, we did not allow any non-residents to join the Pool; but now non-residents can join the Pool paying a non-resident rate. Ms. Tierney stated the Agreement also called for only a certain number of Yardley families being allowed to join; and in exchange, Lower Makefield was allowed to use a small recreation room in Yardley Borough. Ms. Tierney stated since she is not aware that this room has been used, and it does not seem to be beneficial to the Township. She stated if there is going to be a change to the Agreement, it needs to be done before January.

Mr. McCartney asked the approximate number of Yardley Borough residents who were taking advantage of the resident rate as non-residents. Ms. Tierney stated it was at least seventy-five. Mr. Ferguson stated the permitted number in the Agreement is fifty. Mr. McCartney stated this was written prior to when non-residents could join the Pool, and Ms. Tierney agreed. Mr. McCartney stated if this Agreement was not renewed, Yardley residents would pay the non-resident fees the same as any other non-resident from another Municipality. Ms. Tierney stated that could be done if that is the decision of the Board of Supervisors. She stated the Board may also decide to continue to have them pay the resident rate and change the Agreement if there is something beneficial the Township could get from Yardley.

Mr. Ferguson stated he assumes that at the time the Agreement was written there was value to the Township to be able to use that rec room, and in exchange Yardley got residential rates at a time when non-residents could not join the Pool. He stated he does not know if the Township ever used the rec room. Mr. Ferguson stated there are other non-residents from other Municipalities who pay non-resident rates to use the Pool, and he would have a difficult time explaining why there would be an exemption for one particular place over another.

Mr. McCartney stated the Township has built the Community Center so there is no need to use the Yardley Borough rec room at this point.

Ms. Blundi moved and Dr. Weiss seconded to dissolve the existing Agreement.

Mr. Lewis asked if we are concerned about Revenue loss from the Yardley Borough families. Mr. Ferguson stated his perspective was making a distinction that a Yardley Borough resident would get a Residential rate but a Morrisville resident would not. Mr. Lewis stated that while that is a fair point, there has been a long-standing relationship of shared services with Yardley Borough on a number of things. Mr. Lewis asked when we allowed other Municipalities access to the Pool, and Ms. Tierney stated it was prior to her joining the Township. Mr. Ferguson stated if the Township wants to continue this, the point of the Agreement originally was that there was an exchange of service.

Mr. Lewis asked if there has been any communication with the leadership of Yardley Borough such as the Yardley Manager or any of the Council members, and Ms. Tierney stated she has not. Mr. Ferguson stated Ms. Tierney took this to the Park & Rec Board to get their assessment,



and the Park & Recreation Board recommended that this be deferred to the Board of Supervisors. Mr. McCartney stated he had a conversation with a member of Yardley Borough Council regarding this, and he was not aware of the Agreement. Mr. Lewis stated Yardley has obviously been beneficiaries of this even if that Council member was not aware of it.

Mr. Lewis stated he feels “we have a problem with being neighborly with neighboring Municipalities.” He stated he feels Yardley should have been advised that “this was coming.” He stated he understands the policy arguments and the point about why Morrisville residents would have to pay more than Yardley residents; but there is also a communication and process issue so he is reluctant to vote in favor of the Motion.

Mr. Grenier stated everyone refers to Lower Makefield as Yardley because we have a long-standing “special relationship and they are two Municipalities but really one community how we typically act.” He stated we have a lot of shared services although we have started to disassemble some of those shared services over the last couple of years. He stated he would not want to eliminate a shared service with fire safety since we both benefit from that. He stated he is concerned that we are starting to divide the communities and become completely separate entities and not a single community moving forward. He stated he does understand getting extra revenue from the fifty to seventy-five members adding that we just re-did the Fees to provide a 52% increase in Revenue at the Pool. He stated he is not sure based on the Fee structures what the delta would be if we projected seventy-five residents at Resident rates versus non-Resident rates, and what the additional percentage increase might be in Revenue; however, he does not feel it is enough to “further potentially damage that relationship with Yardley Borough.”

Ms. Blundi stated that for years Yardley residents could not join the Pool, and when we made this special exception, it was a small gateway to allowing non-residents into the Pool. She stated once it was opened up to all of our neighboring Municipalities, she struggles with how we could pick one neighbor over the other. She stated she does not understand the comparison to the shared service of the Fire Department as this is a Pool that we staff and fund. She stated she understands Mr. Lewis’ point that he has not had a chance to talk to anyone in the Borough about this, and she would be in favor of putting this on the next Agenda.

Dr. Weiss stated he understands our special relationship with Yardley Borough, and until 1895 Yardley was part of Lower Makefield, but Yardley Borough decided to go their own separate way. He stated we still have an “emotional if not fiscal relationship with them.” He stated he understands equitable treatment with other neighboring residents, and he has an issue with charging one rate to someone who is not a resident of Lower Makefield living in one Municipality and others in a neighboring community being charged a different rate especially when there are demographic differences. He stated if we dissolve this and negotiate with the neighboring Township residents, he could see making something more equitable around the area knowing that this is a Lower Makefield asset. He stated if the Park & Rec Board wants to take this on, he would listen to a more-equitable way to handle our membership rates.

Mr. McCartney stated he is in favor of dissolving the Agreement, but he agrees with Mr. Lewis that we should communicate this to Yardley Borough prior to taking a vote.

Mr. Zachary Rubin, 1661 Covington Road, asked if they are referring to the Yardley Community Center, when they are referring to the “rec room” in Yardley; and Ms. Tierney stated she does not believe that it is the Community Center. Mr. Lewis stated he believes that it is the Yardley Community Center. Ms. Tierney stated she does not believe that Yardley Borough owns the Community Center. Mr. McCartney stated the Agreement states that it is the use of the Borough’s community room. Mr. Majewski stated the Community Center that is located near the Borough Hall and the Post Office is not owned by Yardley Borough, and that is not what is referenced in the Agreement. He stated behind the Post Office in the building where the Borough Hall is there is a little rec room, and that is what the Agreement refers to.

Ms. Blundi Amended the Motion to defer to the next meeting. Dr. Weiss seconded.

Mr. Lewis asked if there would be time to reach out to Yardley Borough, and Mr. Ferguson stated he and Ms. Tierney will send something out to them tomorrow. Mr. Lewis asked if there is an auto-renewal in the Agreement, and Ms. Tierney stated it is January 1. Mr. Ferguson stated the intention was not to leave this to the last minute. He stated he has heard that people in Yardley were not aware of this, and the Township was not aware of this. He stated the reason that there have been seventy-five Yardley residents registering and not fifty as noted in the Agreement is

that for the last ten years the Agreement was sitting somewhere; and it only came to their attention recently. He stated Ms. Tierney took it directly to the Park & Recreation Board to raise the issue.

Motion carried unanimously.

Mr. Ferguson stated they will draft something quickly and provide a copy of the Agreement as well so that he can e-mail this to the Yardley Borough Manager tomorrow.

#### SOLICITOR'S REPORT

Mr. Truelove stated the Executive Session was held commencing at 6:30 p.m. and items related to litigation and informational items were discussed.

#### Approval of Comcast Franchise Ordinance/Agreement

Mr. Truelove stated this was previously discussed at length by the Board, and there was a presentation by Mr. Roberts of the Cohen law group. Mr. Truelove stated he was authorized to prepare an advertisement, and it appeared in the Bucks County Courier Times on November 22, and it is appropriate for the Board to consider approval at this time.

Dr. Weiss moved, Mr. Grenier seconded and it was unanimously carried to approve the Comcast Franchise Ordinance/Agreement. Ms. Blundi was not present for the vote.

#### Approve Resolution to Approve Sewer Authority Dissolution

Mr. Murphy stated in August, 2020, the Board of Supervisors passed a Resolution to authorize the sale of the Sanitary Sewer system to Aqua Pennsylvania Wastewater, Inc. He stated one of the paragraphs in that Resolution included on Page 3 that the "Township solicitor, engineer, and related consultants take all steps necessary to effectuate the award to execute, deliver, and perform the Asset Purchase Agreement and all related Agreements and documents necessary to close the sale transaction in an efficient and expeditious manner."

Mr. Truelove stated the PUC process is well underway, and it is anticipated that it will be concluded in late January/early February. He stated one of the things necessary to effectuate the sale of the system is to dissolve the Sewer Authority. He stated in 2006, the Authority which always leased the system to the Township agreed that in the event that the Township determined in its sole discretion that it is in the best interest of the Township to sell the Sewer system, the Lease would automatically terminate, and the Authority agreed to convey the Sewer system to parties as determined and directed by the Township. He stated this well pre-dates the authorization to sell the system that was made by Resolution last year.

Mr. Truelove stated at the last meeting of the Sewer Authority, the three members present unanimously approved a Resolution, which is attached to the Resolution being considered by the Board this evening, that the Authority be dissolved. He stated the Certificate of Termination was also signed by the Chair, Mr. Tyler.

Mr. Truelove stated members of the Authority have served admirably over the years and were very helpful to the Township; however, even though it was established as a separate Authority, it never operated that way. He stated it never had its own bank account, and the Township itself was the entity that took on all the financial and operational obligations. He stated when rates were established, they were always established by the Township with input from the Sewer Authority; and the Authority has always acted essentially as an Advisory Board comparable to other Boards in the Township. Mr. Truelove stated the Sewer Authority was never a complete, stand-alone situation.

Mr. Truelove stated the Township has the right to automatically request this, but felt that it was best to follow a process and request the Authority to engage in the process as well which it has, and it is now before the Board tonight for their consideration.

Dr. Weiss moved, and Ms. Blundi seconded to agree to the Resolution to dissolve the Sewer Authority.

Mr. Lewis stated the effective date is immediately in the Resolution, and he asked if the PUC were to not approve the transaction would all assets go back to the Township and the Township could create a new Authority; and Mr. Truelove agreed.

Mr. Grenier stated he understands that there were only three members on the Sewer Authority, and he asked if there was a quorum of the Sewer Authority when they voted on this; and Mr. Truelove stated all three members were present at the meeting, and it passed unanimously.

Mr. Grenier stated for the next few months before Closing, it would be on the Township to manage the system; and Mr. Truelove agreed. Mr. Truelove stated that any of the employees that worked on the Sewer system have always been Township employees, and there was never a separate entity that issued employees checks from the Sewer Authority. Mr. Grenier stated in practice, we are really dissolving an Advisory Board, but we are not losing staff by doing this or taking on anything that the Township has not already been doing over the years.

Mr. Grenier stated he was the Sewer Authority liaison a number of times and was on the Sewer Advisory Committee, and those who have served over the years did great work for the Township. Other Board members agreed.

Mr. Zachary Rubin, 1661 Covington Road, asked once Settlement is made with Aqua American, will they take ownership of the pump stations that were just improved; and Mr. Ferguson agreed. Mr. Rubin asked if the Sewer engineer is paid from the Revenues from the Sewer customers or from Township funds. Mr. Ferguson stated it is an Enterprise Fund, and all of those charges would be directed to the Sewer Fund paid by ratepayers and not from taxpayers. Mr. Rubin asked if we will need a Sewer engineer once the Closing takes place, and Mr. Ferguson stated we will since there will still be Sewer lateral inspections that we are responsible for. Mr. Ferguson added that the role of the Sewer engineer will be significantly diminished.

Mr. Rubin asked if the Sewer Authority had a solicitor, and Mr. Truelove stated historically someone from the general solicitor's office would be the Sewer Authority solicitor. He added that going forward, there will not be the need for a separate Sewer solicitor.

Dr. Weiss stated he was the Sewer Authority's liaison this year, and he thanked the members Mr. Tyler, Mr. Lingle, and Mr. Phillips for their efforts in seeing us to this point.

Motion carried unanimously.

THE POINT PRESENTATION (ZONING HEARING BOARD APPEAL #21-1941)

Mr. Edward Murphy, attorney, was present with Mr. John Richardson, engineer, and Mr. C. T. Troilo.

Mr. Murphy stated the property is approximately three quarters of an acre, Zoned Historic-Commercial, and it has the TND Overlay associated with it. He stated there are several structures on the property, the earliest of which dates back to 1840 and the second, although undated, is between 1840 and the early 1900's.

Mr. Murphy stated the Application before the Board is the culmination of discussions which Mr. C. T. Troilo started eighteen months ago with the Township staff, Administration, HARB, and the Planning Commission regarding what development scheme makes the most sense given the background, location, and difficulties associated with the non-conformities that exist there today. A Power Point has been prepared and there is a Plan that is the subject of a scheduled Zoning Hearing Board Appeal next Tuesday.

Mr. Troilo stated about a year and a half ago the decision was made to try to go forward with the project, and they had a number of meetings with HARB. He stated one of the biggest obstacles with the project has been what to do with the existing buildings – the desire to save them versus the large cost to restore them. He stated the initial meetings they had with HARB were productive but inconclusive. He stated at a subsequent meeting with HARB it was suggested that if they would renovate both existing structures, the Board might be supportive of placing some new Residential structures on the property. He stated he agreed to look into that; and through a year and a half they have done thirty to forty different variations of the Plan.

Mr. Troilo stated their ideas were refined, and they prepared a rendering and went before the Planning Commission. He stated that rendition had the Ishmael House, which is the stone house on the point, being converted into a Retail establishment, the clapboard house being restored, and the addition of fourteen other apartments. He stated the structure was similar to a long townhouse meant to look like individual buildings. He stated the Planning Commission had reservations similar to those of HARB that it was not quite in keeping with the Village feel, and they were told to look into breaking the buildings up to make it more in tune with the existing structures.

Mr. Troilo stated they subsequently prepared several different renditions and went before the Planning Commission again. He added that up to that point no engineering had been done, and these were just conceptual drawings. Mr. Troilo stated after the second Planning Commission meeting, there was enough positive input that they felt they should take the next step and look into the engineering to see if the project was possible.

Mr. Troilo showed a slide from the March Associates Report of 2000. He stated Mr. Carter VanDyke was working with the Township on an Edgewood Village concept being a walkable village, and the slide shows possible in-fill of the Village. Mr. Murphy stated what they are discussing this evening are buildings 13, 14, and 27 on this slide. Mr. Murphy stated 13 is the Ishmael House and 14 is what has been referred to as the Danny Quill House. Mr. Troilo stated 27 is Mr. VanDyke's possibility of three new buildings at the Point. Mr. Murphy stated this was from Mr. VanDyke's study that he did for the Township over twenty years ago, and Mr. Troilo agreed.

Mr. Troilo showed a slide of the seventeen apartment units they are now proposing. He stated that number is derived from the economics of the site including the renovation of the two existing buildings. He stated it is all Residential. He stated earlier they had discussed the Ishmael House being an ice cream shop; however, it is too small to generate enough revenue to make that possible. Mr. Troilo stated there would be one apartment in the Ishmael House. He stated the Quill House would have two units, which is its current configuration as it is a duplex. He stated they are then proposing two, two-story buildings with four units, and one two-story building with six units. He stated for seventeen apartments they are required to have thirty-four parking spaces. He stated they are proposing to provide twenty-three of those on site, and they are asking to be able to use eleven of the spaces at Veterans Square.

Mr. Murphy asked Mr. Troilo to describe the rehabilitation of the Ishmael House and the Danny Quill House and the sequence of when the restorations would be done versus when the new construction would be done. Mr. Troilo stated the existing buildings would be renovated to closely approximate their original appearance as much as possible, and that would be done in tandem with the new construction so that the whole site would be developed at the same time.

Mr. Murphy stated there has been discussion with Township Administration that the expectation is that the restoration/renovation of Ismael and Quill would need to be done before they could occupy any of the other new

Residential units. He stated the Township wanted assurances that those restorations would be done, and Mr. Troilo agreed.

An aerial view of the current condition of the existing buildings was shown. Mr. Murphy stated the two buildings are not going to be moved in any fashion, and Mr. Troilo agreed.

An aerial photo was shown of the association between the subject property and the Veterans Square property where they are proposing the additional overflow parking. Mr. Murphy stated they would enter into a formal Lease with the Township to utilize that parking, and Mr. Troilo agreed.

A slide was shown of a rendering of the building when the proposal was to convert the Ismael House to an ice cream shop. Mr. Troilo stated the reconstructed building proposed now would look similar to this without having the ice cream windows. Mr. Murphy stated the proposal now is for that to be a single, Residential unit; and Mr. Troilo agreed.

Mr. Troilo showed a slide of the rendering which was rejected by the Planning Commission and HARB. He stated now they are proposing smaller units, broken up, and there will be more detailing from the Ismael House and Quill House for fit and finishes. He stated this slide does show what the entrance to the Village would be coming down past the CVS. Mr. Murphy stated in the back corner the Ishmael House can be seen which is at the Point. Mr. Murphy stated he understands that the new Residential units that extend south from that would be more broken up than shown in this rendering so that there would be more setbacks and less massing than this rendering depicts; and Mr. Troilo agreed. Mr. Troilo added that HARB would have input on the exteriors.

Mr. Murphy stated the Application before the Zoning Hearing Board details the specific Variances that would be required in order to implement what has been seen. Mr. Murphy stated they would like to get reaction from the Board on the proposal and whether or not the Board will be taking any position with respect to the pending Zoning Hearing Board Application.

Dr. Weiss stated he understands the development will be within the scale of the two existing structures, the new structures will not overpower the existing structures, and the design with HARB's guidance will be similar to the existing structures. Mr. Murphy agreed. He stated the comments made about the Concept Plan that was rejected were that the new buildings



seemed overly large and the massing was too much in relation to the Ismael House and Quill House. He stated they wanted them to be broken up more and separated so that the feel was not as dramatic.

Mr. Lewis asked about their compliance with Chapter 152 of the Township Code – Blighted and Vacant Properties; and he asked if they filed for Registration as a vacant property. Mr. Murphy stated he did not know. Mr. Ferguson stated he believes that they have submitted the paperwork to Register the property. Mr. Majewski stated he also believes that they are Registered, but he would have to verify that. Mr. Ferguson stated he had asked that of Mr. Kirk previously, and he believes that at the time, the owner of the property had put those Registrations in to Register the properties.

Mr. Lewis asked if we could require that they be compliant with Chapter 152 of the Code. Mr. Ferguson stated he believes that they are Registered; but if they are not Registered, they could ask the Zoning Hearing Board to have the Applicant Register the properties as vacant.

Mr. Lewis stated he understands that there is a process of enforcement with Chapter 152, and he asked how that has been enforced with this specific property. Mr. Ferguson stated he has not enforced that provision of the Code. Mr. Lewis stated his understanding is that there was a Board vote that indicated they should be enforced. He asked Mr. Ferguson if he decided to do a “re-canvass,” and Mr. Ferguson stated that is not correct. Mr. Lewis asked why it was not enforced. Mr. Ferguson stated it was not enforced because there was an Appeal filed on the property when they were originally going to tear the properties down. He stated that was passed around the time he started with the Township; and at that time there were discussions between the staff and the owners of the property about not re-instituting the Appeal to tear the properties down, but to try to work to do something. He stated it was in the spirit of trying to come to a cooperative agreement. He stated if the project is withdrawn or denied, there would then be a separate discussion with regard to moving forward on requiring the Applicant to do repairs or whether they will pick up the Appeal. Mr. Ferguson stated since he started with the Township, there was no action taken against the property. He stated at the time, there was an Application to tear down the property that the Applicant Appealed, and that was put on hold before he started with the Township. He stated to take specific action against the property owner when they were actively meeting with the Township was something the Township did not do as far as making them do repairs which could have a historical component in it at the time when there was an Application that we knew was forthcoming to do that.

Mr. Lewis stated Mr. Ferguson is saying that the Board never approved the decision not to enforce Chapter 152 as it related to this property, and Mr. Ferguson stated the Board did not make a specific Motion on that. Mr. Ferguson added that there are also other properties that are not repaired where we have made notice that are sitting in disrepair as well. Mr. Lewis stated he assumes that they are required to meet all the requirements of Chapter 152 just as any other landowner would; and Mr. Ferguson agreed, and he stated in the event the Application goes away, understanding there is an Appeal, we would proceed to enforce that specifically the same way we are trying to with absentee owners or people who have died, etc.

Mr. Lewis stated the Applicant is asking for essentially double the density of dwelling units for the property space, and Mr. Murphy agreed. Mr. Lewis asked the rationale for that other than convenience or economic value. Mr. Murphy stated they are attempting to re-create that corner of the Village consistent with the Township consultant's study from twenty years ago. He agreed that there is an economic component to doing this, and the number of units is related to the cost of restoring the Ishmael and Quill Houses. He stated it is part of an overall coordinated approach to try to recreate a corner of the Village that has been an issue for a generation or more.

Mr. Lewis asked if the report from twenty years ago had specific dwelling density requests, and Mr. Murphy stated it did not. Mr. Murphy stated it was just to show how an infill project at that location might look to resemble the original Village concept from years ago.

Mr. Lewis asked about the request to not install sidewalks. He stated he has seen prior versions of the Plan that had specific pedestrian strategies for movement of pedestrians. He asked how pedestrians would be able to cross streets. Mr. Murphy stated he knows that connectivity has been an important issue because of the location of this property as it relates to other Village improvements. Mr. Richardson stated there is a large gap between this property heading toward the north, and the aesthetic aspect was to try to keep it as Residential as possible by eliminating the sidewalks primarily on Langhorne-Yardley. He stated they are providing sidewalks along Edgewood Road. He stated by eliminating the sidewalks on Langhorne-Yardley Road, it will provide additional green space area to try to foster the Residential feel.

Mr. Lewis stated in this version, it does not appear to have the same pedestrian accommodations as prior versions of the Plan have had. Mr. Majewski stated on the current Plan it looks like they are missing the sidewalk from where their parking lot is over to the property next door which they need to have where the chapel is to access the parking area at Veterans Square. He stated ultimately they will have to have the traffic engineers determine how to get across the road in the most safe and efficient manner whether it is through a mid-block crossing further up, which has been discussed in the past, or whether to have a crossing at the intersection with the house at the Point. He noted on the Plan on the right-hand side of the parking driveway that there is a small piece of sidewalk missing, and that will need to be done. He stated the Variance that they are requesting is to not provide the sidewalk along Yardley-Langhorne. He added that there is a 600' gap in the sidewalk currently, and the sidewalk only goes up to the easternmost entrance of the CVS along the property.

Mr. Lewis stated he remembers that prior versions had pedestrian-friendly access to points south, but he does not recall anything specifically to points north. He asked how someone would cross the road if they wanted to get to the Skate Shop. Mr. Majewski stated that is something that is going to have to be worked out with the traffic engineer and the Planning Commission. He added that Langhorne-Yardley is a PennDOT road so PennDOT's input would be required, and that is something that the Variance would not grant them relief from.

Mr. Lewis stated he would have an issue with any Plan that does not have protections for pedestrians and a structure that allows them to move freely between neighboring parcels of land. Mr. Lewis stated he is not sure about the density for economic convenience.

Mr. Lewis stated he also has questions about the parking as they are requesting supplemental spaces, and he asked where that would be from. Mr. Murphy stated it would be from the parking at Veterans Square. Mr. Lewis stated that land is owned by the Township, and he asked if the intent is to provide a Lease Payment to the Township for use of that land as parking; and Mr. Murphy agreed. Mr. Lewis asked if there is a "rough idea of what they are talking about," and Mr. Murphy stated they have not gotten that far.

Mr. Lewis stated he has seen better versions of this Plan in the past, and he hopes there will be a Plan that includes some of the elements that had been shown previously.

Mr. Grenier stated he is the current HARB liaison and he generally knows where HARB, the Historic Commission and others are on this. He stated it is the Township's goal to get this intersection and the houses fixed up in a usable fashion that supports the Edgewood Village aesthetic feel and function, and he is glad that we are actively doing something to get this moving in the right direction. He stated before the Zoning Hearing Board makes a final vote on this Appeal, he would like to get recommendations from HARB and the Historic Commission.

Mr. Grenier stated he feels there is too much proposed for the site and needing to go off site for a third of the required parking is a concern in terms of density. He asked how many units they could get on site if all they provided all the required parking on site. Mr. Murphy stated they are required to have two parking spaces for each unit, and they are showing 23/24 spaces on site. Mr. Grenier stated there would be three total units from the two existing units. Mr. Richardson stated he believes that they could get ten to eleven additional units based on spacing of the units and the parking needed. Mr. Grenier stated they would therefore lose "a building and a half." Mr. Grenier stated he is concerned with the use of the parking spaces at Veterans Square as that is a very important location in the Township. He asked that they consider what they could do without using that space for their parking.

Mr. Grenier asked what the plan is for stormwater management.

Mr. Richardson showed a dark shaded area on the right-hand side of the Plan which is a rough approximation of the dry well that would be required. He stated it would be a stone pit with piping that would be underneath the parking lot. He stated the site predominantly drains away from Edgewood Road and obliquely toward Langhorne-Yardley. He stated the plan would be to collect almost all of the impervious on the site and a good portion of the pervious area, and get what they can into the dry well. He stated for larger storms, it would be via piping down to Langhorne-Yardley and down to where it would collect naturally which is by the CVS.

Mr. Grenier asked Mr. Majewski if that would have an off-site impact to the CVS system. Mr. Majewski stated when they did the CVS system, they oversized it to include the area all the way down to the Point, and the entire triangle, so that it was sized to handle all of the run-off from this area. Mr. Grenier asked if the Township maintains this or does the CVS; and Mr. Majewski stated the CVS has a basin, and the Township has another basin that is next to it. He stated in the past there has been discussion

about combining those two basins out of convenience which would help with stormwater issues in that area. He stated he believes that this will go into the CVS basin which discharges into the Township basin, and then under Yardley-Langhorne Road and out down through the Patterson Farm. Mr. Grenier asked if those basins meet current water quantity/quality criteria or do they pre-date more recent regulations, and Mr. Majewski stated they pre-date water quality.

Mr. Grenier asked if they would have to be re-designed to accommodate water quality with this new build. Mr. Richardson stated the idea of the dry well on their property would be so that they could handle that on site although it is only at a conceptual point at this time, and it has not been designed. Mr. Grenier stated his concern is as noted earlier with the density, and he wants to make sure that they are not doing too much off-site.

Mr. Murphy stated the thought of using the Veterans Square parking lot was because it is currently under-utilized, and their use of it would generate some additional Revenue to the Township which could be used to continue to maintain the parking lot. Mr. Grenier stated the parking lot is currently gravel, and he asked if they would be making improvements there; and Mr. Murphy agreed. Mr. Grenier stated if the parking lot were improved there would then be new impervious that would need new stormwater management.

Mr. Grenier stated where the new parking would go along the property line it is fairly wooded with large trees, and Mr. Richardson stated it is less wooded than it appears on the aerial. He stated they were on site, and there are a couple trees of significance in the area, but a number of the trees are dead. Mr. Grenier asked if there is space on site to meet the Township landscaping, street tree, and tree-replacement requirements. Mr. Grenier asked what this Plan will do to the “experience at the chapel.” Mr. Murphy stated they will work with the Township to do an effective buffer screen so that they do not have an adverse impact on the chapel. Mr. Richardson stated there is a 5’ strip of land there, and they could do a shrub buffer along there.

Mr. Grenier noted the landscape buffer requirement at Caddis although he does not feel it would be the same at this location. Mr. Majewski stated this is a Residential use being proposed, and he is not sure how the chapel would be classified. He added that the chapel is currently vacant. He stated the other property is a chiropractor’s office which is Commercial. He stated he will have to check to see what kind of buffer the Applicant would be obligated to have.

Mr. Majewski stated the Planning Commission asked if there was a way to take the parking area and combine it with the driveway and parking area that is on the adjoining property for the chapel. He stated that would require cooperation with that property owner. He stated that would not impact any of the Variances they are going for, but it is something that would be worthy to consider if they could get the adjoining property owner to cooperate. Mr. Grenier stated it would be whether they want a buffer/privacy from a larger parking area.

Mr. Grenier stated he is concerned about pedestrian safety in the area, and he would like to see a connection so that pedestrians can cross safely.

Mr. Grenier asked how many units they would need to be profitable. He noted the history of the purchase price of the property and that this Applicant has turned a “very good profit just by sales and that would buffer an ability to not have to so densely pack this area.” He asked if there is a way to look at the density issues to be a “little less dense here while they seek to improve the business side of Edgewood Village so that if they do a little less here, they could do a little more on the other side.”

Mr. McCartney stated it seems that there is about 110’ of property that is owned by the Edgewood Chapel LLC between this parcel and Veterans Square, and Mr. Richardson agreed. Mr. Richardson stated the Chapel owns a strip through there. Mr. McCartney stated there is no existing sidewalk between those two parcels, and Mr. Murphy agreed. Mr. McCartney asked if the proposed improvements include a connection with a sidewalk, and Mr. Murphy stated they could do that if they could get help getting a right-of-way to enable them to get across. Mr. McCartney asked if they have contacted Edgewood Chapel LLC about that, and Mr. Murphy stated they have not yet done that.

Mr. McCartney stated a re-configuration of a different density to allow for the parking to be included on the parcel would be down by two buildings, and Mr. Richardson stated they would lose a building and a half. Mr. McCartney stated that would be the highest and best use since that is physically possible and legally permissible. Mr. Murphy stated he does not feel that is something that the Troilos will entertain, but he understands what Mr. McCartney is saying.

Mr. Bryan McNamara, Heather Circle, stated they are again increasing the density for a developer, and trying to find ways to make it profitable for the developer even though he has already made a nice profit on this parcel while deliberately letting the houses go down due to neglect. He stated there is

another five acre parcel across the street that is now being sub-divided for a tavern. He stated they are increasing the density on this parcel by 100% and there is also the potential re-development of the McCaffrey and Giant Shopping Centers. He stated they also are trying to “cram too much in like they tried to do at the DeLorenzo’s site adding an extra building and apartments.” He stated this is setting a dangerous and bad precedent which started with the Mixed-Use development Overlay that was put in. Mr. McNamara stated he is concerned that he is not hearing a lot of “push-back” on this from the Supervisors and what this will eventually lead to “down the road” as well as increasing the Zoning relief being requested at Flowers Field. He asked the Board to reject this. He stated if the developer cannot “make money off it, they cannot make money off of it.” He stated it is not the business of the Township to give him a Variance for parking. He stated previously it was an ice cream shop; and while that did not work, they could find a different use for the buildings that have been neglected for years because we have not enforced our Ordinances.

Mr. McCartney stated he feels that he, Mr. Lewis, and Mr. Grenier have “offered plenty of push-back” during this presentation regarding density and concerns about pedestrian walkways.

Mr. Ferguson stated the reason there has been a pause from staff on enforcing the Ordinance to make them rehab the property is out of concern that if the Appeal to tear both of those houses down is renewed, the Township is vulnerable to losing that Appeal, and both of those houses could be torn down. Mr. Ferguson stated if this or any other Plan to save the houses cannot be passed, they will then enforce the Ordinance. He stated he understands that there was previously a contentious relationship with this developer. He stated when he started with the Township he tried with many developers and groups to try to “lower the temperature” to see if we could reach consensus on certain things. He stated this developer did owe money on previous projects that he paid. He also owed tree plantings that were required, and once they met and went over the Plans, he did the plantings including the trees at Veterans Square that are there now. Mr. Ferguson stated there was also the Appeal; and before he was going to get into a confrontational stance to require repairs to these buildings, he wanted to give the opportunity, if the developer chose to do so, to put a Plan together, which he did. He stated there was no willful intent to not hold the developer accountable, but there were extenuating circumstances.

Mr. McCartney stated he appreciates the efforts made by Mr. Ferguson. Mr. Murphy stated shortly after Mr. Ferguson become Manager, he was aware of the past dynamic involving this property; and Mr. Ferguson came

to him stating he wanted to make another effort to try to save the buildings, and asked if they would work with the Township to see if they could develop a Plan and the developer indicated that they would. Mr. Murphy stated they all tried to operate in good faith to try to develop a Plan that the developer could live with and the Township could endorse.

Dr. Weiss stated in his discussions with the Township Manager, he understands that the letter of the Ordinance has been upheld. He stated the Troilos did Register the property, they sealed it, and they have made it secure. He stated the grass is being maintained. He stated he does understand that the buildings are suffering neglect, but he does appreciate that they are doing everything they can to try to make this work and that the buildings can be restored, and he feels that it is a major issue to have these buildings restored.

Dr. Weiss asked if the property owners are under obligation to keep the buildings or could they take them down. Mr. Truelove stated he would have to do a more in-depth review of Chapter 152. He stated there is a general obligation under Common Law not to allow any property to become a nuisance, but there is also the other side about how much obligation there is to preserve certain buildings under certain circumstances given other requirements. Dr. Weiss stated he is the Liaison to the Ad Hoc Property Committee, and the head of the Pennsylvania Conservancy, Jeff Marshall, made a presentation to the Committee and he specifically stated that property owners cannot be forced to keep even historically-protected buildings; and if they wish to take down those buildings, they may.

Mr. Ferguson stated part of the issue is not only what the Ordinance states now, and part of the issue is what the Ordinance read at the time that they filed the Appeal; and that is part of the vulnerability that the Township faces.

Dr. Weiss stated that this is also not the Final Plan as they still need to go through the Land Use process. He stated he feels it is in the Township's best interest to work with the property owner and try to come to a mutually-beneficial end result that will save the two buildings and develop within the TND Overlay. He stated in his experience as a Supervisors he has learned that the results of legal actions "just for proving a point do not end well for the Township," and he is willing to work with the developer and see what they can do working in cooperation rather than as an adverse party.

Mr. Lewis stated as to the history, this developer previously sued the Township and was in arrears "in a whole slew of Fees" that were owed to the Township. He stated it took the drafting of the Ordinance and pushing back to "bring the



developer to the table.” He stated he is “happy that the developer is here and he is willing to talk; and while he is not saying ‘no,’ he is also not conceding points that do not necessarily need to be conceded.” He stated the Board has to represent the entire community and consider the adverse impact of people not being able to park. He stated he is proud that he helped draft the Ordinance that brought accountability, and that he has forced developers to be more responsive. He stated he is willing to work with the developer, and is thankful all the bills have been paid. He stated there are “other developers that have gotten Corporate welfare, and we have had to go back and tell them to pay their bills;” and we should not have to do that.

Mr. Stephen Heinz, 1355 Edgewood Road, stated he is the Chair of HARB. He stated he appreciates what has been discussed and he commends C.T. Troilo for his efforts and his attitude toward working with and listening to HARB which has resulted in what is being shown tonight. Mr. Heinz stated the process of meeting with HARB was to comply with the requirements of the Certified Community Legislation and has led to overall guidelines of what will be built. He stated the majority of the discussions with HARB had to do with density and the idea of “cadence and the way things appear along the road,” which was the impetus to asking the developer to break up the building into a number of smaller buildings. Mr. Troilo stated he feels they are getting close to a final resolution. He stated the TND specifications indicate that twelve units is the maximum for an acre; and since there is less than an acre, he feels that asking for eleven units would be reasonable. He stated by losing the extra third building which would be three duplexes plus the one on the back, that would be a step in the right direction toward resolving the density issue.

Mr. Heinz stated HARB did indicate they would like to see a walkway, and Mr. Troilo indicated there would be a sidewalk; and if the residences were to have older residents living there, it would be nice to have a walkway along the side of the street to get to the CVS.

Mr. Heinz stated the Warren-Faringer House in front of the Giant has the sense to it of being a duplex, and the Danny Quill House has that idea as well so they would like to maintain that kind of impact on the site. He stated if necessary, varying it by having two twins and a single would be more in keeping. He stated in spite of the fact that that might reduce the availability of funding to do the maintenance on the two houses that are on the site already, he feels the Township could “certainly help out.” He stated we have the availability of Grants; and if the Township staff and the Historic Commission

could be helpful in gaining some monetary input from the State to help get the houses in a position where they are not going to deteriorate further, that would be a good step in the right direction. He stated the granting of Variances could hinge on the fact that the buildings be brought up to a position where they are at least not a hazard to the community before they grant final approval for the engineering required.

Mr. Heinz stated the only negative he has toward the presentation is the fact that the reason that the houses are in the state that it will take such great effort to bring them up to any kind of structural solidity is that they were not taken care of for twenty years. He stated HARB is now very happy with the direction that this process is taking, and he hopes that it can be resolved so that we can maintain our historic fabric and add to it.

Mr. Pockl asked about the bedroom configuration for these seventeen units. Mr. Troilo stated while they have not finalized that, he would imagine that they would be two bedroom/one bath units. Mr. Pockl stated that would go to the density as well.

Mr. Pockl stated with regard to the buildings along Langhorne-Yardley Road, they are asking for a Variance to move them closer to the roadway; and he asked where the main entrance would be for those buildings. Mr. Troilo stated they would be accessed from the back. He added that the roadway side would give the appearance that it was the front, but they would actually take access from the back. Mr. Pockl asked if there would be porches along Langhorne-Yardley Road; and Mr. Troilo stated there would be no real porches, but probably there would be features to give the impression of a porch.

Mr. Pockl asked the distance to the actual cartway; and Mr. Richardson stated while it varies, he believes it is about 14' minimum from the building to the cartway. Mr. Pockl stated he assumes that they have not checked with PennDOT to see if there is any planned expansion of the width of the road, and Mr. Richardson stated they have not yet.

Mr. Grenier stated when they get to the discussion about whether or not the Board will participate in the Zoning Hearing Board Appeal, there are several Variance requests; and he asked Mr. Truelove if they can make Motions on each of them separately. Mr. Truelove stated that would be a decision for the Board; however, if there is concern about certain Variances he would suggest

that the Board oppose, and they could have a hierarchy of how they want to deal with those Variances and highlight the reasons why the Board would oppose certain Variances.

Mr. Truelove noted that this matter relates to Item e. under Agenda Item 13 Zoning Hearing Board Appeal #21-1941.

#### ZONING HEARING BOARD MATTERS

Appeal #21-1937 Cameron C. Troilo & Olga Jean Troilo, 1742 & 1790 Langhorne-Yardley Road, Yardley, PA 19067, Tax Parcels #20-014-007 & #20-012-005. Applicant is requesting a Variance from Township Zoning Ordinance 200-38.6.B (2)(c) to permit a reallocation of the uses within the Mixed-Use component of Flowers Field to permit a 38.5% apartment dwelling ratio whereas 35% is otherwise permitted.

Mr. Truelove stated Mr. Troilo and Mr. Murphy have Appeal #21-1937 for this piece of property in the TND west of the location just discussed. Mr. Troilo stated this is the property at the west side of Stony Hill Road and north of Langhorne-Yardley Road adjacent to Heston Hall. Mr. Truelove stated several months ago there was a Lot Line change to permit different pads to be developed along Langhorne-Yardley Road and there are some open areas along Stony Hill Road, and the relief requested may involve some of those properties.

Mr. Murphy showed the Plan for the Flowers Field project which was approved ten years ago. He stated it was a Mixed-Use development including an internal Residential component and around the perimeter of the site on Langhorne-Yardley and Stony Hill there was a combination of Commercial, Office, and a Restaurant proposed. Mr. Murphy stated at the time of the approval there was 51,000 square feet of Office space approved, a 6,500 square foot Restaurant at the corner, and twelve apartment units. Mr. Murphy stated in the intervening ten years, the Residential piece was developed, and is now largely completed. He stated none of the perimeter non-Residential space has been developed.

Mr. Murphy stated the Ordinance under which it was developed and approved ten years ago contemplated that there would be a mix of dwelling types and uses where apartments had to be at least 10% but not more than 35% of the overall Mixed-Use formula. Mr. Murphy stated over the intervening ten years

no one has been able to Lease the Office, and they felt they would reallocate the space and reduce the Office space from 51,000 to 30,800, increase the Restaurant space from 6,500 to 10,000 square feet, and increase the total number of number of apartments from twelve to thirty. He stated the one Variance that would be associated with the request would be increasing the number of Residential units from twelve to thirty which increases the percentage to 38.5% which is 3.5% more than the 35%.

Mr. Murphy stated the configuration that is seen on the original Plan will not change, and the building location, sizing, etc. remains the same. He stated they are asking to re-allocate the spaces as described, and the one Variance would be to go from 35% to 38.5%.

Mr. Grenier stated he had seen some of the renderings which were shown to HARB, and he asked if those were available tonight for the Board to see. Mr. Troilo stated he did not have them available this evening. Mr. Grenier stated there were some interesting design elements, and they seemed to be staying in line with the historic structures in the area and presented unique dining opportunities in Edgewood Village. Mr. Troilo stated that is still a work in progress, but they are going in the direction that Mr. Grenier saw.

Mr. Bryan McNamara, Heather Circle, stated this developer has the two projects that have been discussed tonight, and he is also looking to re-zone land by Kohl's for public storage. Mr. McNamara stated while he appreciates working with a developer, the Township should be getting some benefit; and here it is just increasing the density of what he has. He stated the whole Mixed-Use Flowers Field Development "was pretty much designed and probably written by him like other Zoning Ordinances have been in the Township." He stated "now he wants to keep on adding and moving it."

Mr. McNamara stated the developer sued the Township and there are other properties that he wants rezoned in the Township, and "we are the ones who have leverage over him." Mr. McNamara stated if this would help the Township more, there should be give and take in that regard and not "doubling density - increasing more density here." Mr. McNamara stated at Marrazzo's "we gave him twelve units on that property, constantly, rezoning, constantly adding higher and higher density," and he does not know where it starts to benefit the Township since the Board "keeps on rezoning and changing Zoning, and he does not see where the benefit for the Township comes in adding more apartments."

Mr. McNamara stated Office space brings in more Revenue to the Township than apartments. He stated they are again dealing with this developer who “let those units go to the state they are in through neglect,” which has been longer than the four years Mr. Ferguson has been here; and it has been going on for decades.

Mr. McCartney stated during the Point presentation, Mr. McNamara stated his opposition, and he asked Mr. McNamara if he is saying that he would not be in favor of the 38.5% apartment dwelling ratio where 35% is otherwise permitted because of the overall picture with this developer. Mr. McNamara stated it is the overall picture with the developer and the overall picture in the Village itself. He stated everyone knows that McCaffrey and Giant are talking about “knocking down their shopping centers and re-building and what that can lead to.”

Mr. McNamara stated this was a special overlay “that was made to allow for Flowers Field to be developed and the developer was very much involved in writing the Ordinance as other developers have written other Ordinances recently for us.” He asked where the Township will say ‘no.’ Mr. McNamara stated everyone has the right to build the land that it is Zoned for, but “we keep moving this needle,” and he does not see the benefit to the Township. Mr. McNamara stated he is concerned about what this will mean when the next developer comes in “because we know forty acres is most likely going to be redeveloped at the center of the Village.”

Mr. McCartney stated from a Zoning Hearing standpoint, each case stands on its own, so the fact that they are both the same Applicant does not necessarily mean that they are looking at them as a combined effort. He stated during the Point presentation, there were three Supervisors who expressed their concern about what was proposed; but this is a separate issue where they are looking for a 3.5% increase on dwelling ratio.

Mr. McNamara stated the Township has used the tactic in the past with Toll Bros. making them fix up some of their sites in Yardley Hunt and withholding Permits at Regency so the Township has used that before. He stated “we look at the developer treating the Township in good faith; and when they have not, we do not need to bend over backwards for them.” Mr. McNamara stated they are asking for something more than they can rightly get by Zoning, so we are giving them an added benefit; and if we are going to give them something, the Township should get something back. Mr. McNamara stated he is concerned about when the next developer comes in and “asks for it.” He stated at “Edgewood Tavern” they subdivided

the five acres; and if they come in and say they want to double the density, they could get one hundred apartments on that parcel. He stated he is concerned about the infill and the density as there were never more than two houses on that piece of property “ever in the history of Lower Makefield.” He stated they are not “recreating or restoring something there that was previously there historically, they are putting stuff there that has never been there historically.”

Dr. Weiss asked if this section of Flowers Field is part of the approved Plan, and Mr. Murphy agreed. Dr. Weiss asked why they are trying to change the Plan. Mr. Ferguson stated given the change in the Office market and trying to get utilization of the property, the developer is looking for a reallocation of what is permitted for the various uses from what was approved, which they feel will give the property a better chance for occupancy. Dr. Weiss stated he feels the Zoning Hearing Board is well qualified to consider this with guidance from the Board of Supervisors. Mr. Ferguson stated there are other properties in the area that were designated as Office which have struggled, and he noted the Newtown Business Commons that transitioned from traditional Office space to Medical Office space and Residential. Dr. Weiss stated with this Application active involvement by the Board through the process is warranted. He stated he feels the end goal is to restore the historic properties. Dr. Weiss stated he feels that working with the developer is predicated on the fact that the community’s desires are met as well as can be done within the confines of the Law.

Mr. Truelove stated with regard to Mr. McNamara’s comments as to “what does the Township get,” he stated the Township cannot operate as a quid-pro-quo when looking at Variances; however, whenever a Variance is considered, there are certain conditions that have to be satisfied including hardship and how the proposed use and/or dimensional change fits in with the character of the neighborhood.

Ms. Michelle Anthony, 1841 Windflower Lane, stated she lives in the Flowers Field development. She asked the difference in the number of apartments that this Variance would mean, and Mr. Truelove stated the number would go from twelve to thirty which is 3.5% above what would normally be allowed under the TND Ordinance. Ms. Anthony asked how many were approved in the original Plan; and Mr. Truelove stated twelve were approved, and they are proposing to go to thirty, where normally up to twenty-nine would have been allowed as the Ordinance is written. Ms. Anthony stated they could have had twenty-nine; and Mr. Truelove stated while that is true under the

Ordinance as written, the approved Plan did not contemplate that number. Mr. Truelove stated the number of apartments will change by one additional apartment from what was allowed, and eighteen additional from what was originally approved. Ms. Anthony stated as a resident of the neighborhood she would be happier with twelve, but they could have gone to twenty-nine on the original Plan anyway.

Ms. Kathleen Hirko, 1450 Dolington Road, stated Ernest Cimino owns the property where the Chapel is, and he is a plastic surgeon and not a chiropractor. She stated he is very supportive of historic preservation and has allowed the Patterson Farm group to use the Chapel for meetings. She stated she is very surprised that no one has reached out to him as this will affect his business and his property in a lot of ways. Dr. Weiss stated he is the liaison to the Zoning Hearing Board, and when issues come before the Zoning Hearing Board, the neighbors are notified and invited to participate at the Hearing which in this case will be next week so he is sure that Mr. Cimino is aware of the plans and he expects him to be participating at the Zoning Hearing Board meeting.

Mr. Pockl asked if the adjustment in uses will have an increase in the amount of parking required for the development, and Mr. Richardson stated it will result in a decrease in the required parking. Mr. Pockl asked if there is the potential for eliminating some parking spaces and adding green spaces; however, Mr. Murphy stated they are going to keep the parking so that the property would have more parking than required by the Ordinance.

Ms. Blundi moved, Mr. Grenier seconded and it was unanimously carried to participate.

Appeal #21-1938 Douglas & Sarah Lewing for the property located at 1500 Brookfield Road, Yardley, PA 19067, Tax Parcel #20-072-038 Variance request from the Township Zoning Ordinance 200-69A(14)(c) in order to install an aluminum 3-rail fence with a drainage Easement.

Mr. Grenier asked Mr. Majewski if they are near any stormwater management structures/BMPs, and Mr. Majewski stated it is just a drainage easement.

It was agreed to leave this matter to the Zoning Hearing Board.

With regard to Appeal #21-1939 Susan Wagner for the property located at 10 S. Homestead Drive, Yardley, PA, 19067, Tax Parcel #20-039-096 Variance request from the Township Zoning Ordinance 200-23B in order to increase the impervious surface from the existing 18% to 23.1% where 18% is the allowable amount in order to install a concrete walkway and concrete patio, it was agreed to leave the matter to the Zoning Hearing Board

With regard to Appeal #21-1940 William Schetler for the property located at 1339 Lexington Drive, Yardley, PA 19067, Tax Parcel #20-058-142 Variance request from the Township Zoning Ordinance 200-23B to increase the impervious surface from the existing 18.5% to 21.5% where 18% is the allowable amount in order to install a cement patio and walkway, it was agreed to leave the matter to the Zoning Hearing Board.

Appeal #21-1941 Cameron & Olga Jean Troilo for the property located at 1674 Edgewood Road, Yardley, PA 19067, Tax Parcel #20-021-003. Applicant is requesting a Variance from the Township Zoning Ordinance 200-38.6.C(1) so as to permit a density of 22.4 dwelling units per gross acre whereas a maximum 12 dwelling units per gross acre is otherwise permitted; 200-38.6.G(1) so as not to require sidewalks along Langhorne-Yardley Road whereas sidewalks along all streets are otherwise required; 200-63.D(1) and Section 200-38.4.B(1)(a)(2) so as to allow the new buildings to be setback 5' from the legal right-of-way of Langhorne-Yardley Road whereas a 20' front yard setback from collector roads and a 12' front yard setback from the edge of sidewalks is otherwise required; 20-38.6.I(2) so as not to require the buildings to include front porches whereas a minimum 60% of Residential buildings are otherwise required to include front porches; 200-38.6.I(3) so as to permit the largest of the new infill buildings to be 163% larger than the average area of the existing historic structures, whereas new infill buildings are otherwise prohibited from being greater than 10% larger in all dimensions to an adjacent historic structure; 200-38.6.J.(5)(e)(3) so as to allow the off-site parking area to be 280' from the dwelling unit entrances whereas off-site parking is otherwise required to be within 250' of the dwelling entrances they will serve; and 200-38.3.A(7) so as to permit an apartment over business use with no associated business and an apartment on the bottom floor, whereas the bottom floor would otherwise be required to be a business.

Mr. Truelove stated this is the project that was previously discussed at length and involves the Point. Mr. Truelove stated he understands that there is concern about HARB and Historic Commission input, and he would recommend that the



Township at least participate and perhaps ask the Zoning Hearing Board for a Continuance at the next meeting to allow for HARB and Historic Commission input.

Ms. Blundi moved and Dr. Weiss seconded that the Township participate.

Mr. Grenier stated based on the earlier discussion and the initial input they are getting from several residents and the representative from HARB, he would prefer to break these up into two separate groups with one group being to participate and the other to formally oppose. He stated the items he would like to oppose are related to the questions of over-dense development that also goes along with having to use off-site parking owned by the Township at Veterans Square. He stated he would prefer to oppose 200-38.6.C(1) which is the density of 22.4 dwelling units per gross acre where a maximum of 12 dwelling units per acre is otherwise permitted, Section 200-38.6.G(1) which is related to not requiring sidewalks along Langhorne-Yardley Road, and the last is 200-38.6.J.(5)(e)(3) which relates to allowing use of offsite parking 280' from the dwelling unit entrances.

Mr. Grenier stated he is glad that the developer and his representatives are at the table, and we are having constructive discussions which he appreciates; however, he feels that going to this extent, we are “being a little bit taken advantage of with these requests to use Township land to very densely develop this area.” He stated he is willing to work with the developer on the Plans to come up with something, and he feels they are going in the right direction; however, he would strongly oppose these particular items. He stated the other items related to sizes, setbacks, and porches, he would be fine with just participating; but the density and parking related items he would strongly oppose and wants to bring them back within the allowable limits of the Ordinance as written.

Mr. McCartney stated Mr. Grenier is asking that the Appeal be broken down in segments. Mr. Truelove stated in his experience we have never done it this way, although that does not mean that we cannot do it that way. He stated as he noted earlier, the Board could vote to oppose and have the hierarchy of the items the Board really wants to highlight. He stated he feels they could reflect what Mr. Grenier’s concerns are to the Zoning Hearing Board. He added that the Motion at this point is just to participate.

Mr. Zachary Rubin, 1661 Covington Road, stated they can take a Motion ad seriatim and break it down into each individual article. He stated they can take each Variance and vote separately to participate, not participate, or oppose.

Mr. McCartney asked what will be the procedure when this goes before the Zoning Hearing Board; and Mr. Truelove stated Ms. Kirk would attend on behalf of the Township to participate but with some of the Variances she would be more adversarial on than others.

Motion to participate did not carry as Ms. Blundi and Dr. Weiss were in favor and Mr. Grenier, Mr. Lewis, and Mr. McCartney were opposed.

Mr. Grenier stated he wants to make sure it is made clear to the Zoning Hearing Board that the Board is not totally opposed to the project per se, but there are certain elements that we want to stress more strongly.

Mr. Grenier moved and Mr. Lewis seconded to oppose Variance requests associated with 200-38.6.C(1), 200-38.6.G(1), and 200-38.6.J.(5)(e)(3). Motion carried with Ms. Blundi and Dr. Weiss opposed.

Ms. Blundi stated she does not understand why every place needs a sidewalk.

Mr. Grenier moved, Dr. Weiss seconded and it was unanimously carried to participate with respect to Variance requests associated with 200-63.D(1), 200-38.4.B(1)(a)(2), 200-38.6.I(2), 200-38.6.I(3), and 200-38.3.A(7).

Mr. Truelove stated he understands given the prior discussion that the Board would like to request a Continuance of this Appeal to allow HARB and the Historic Commission to provide their feedback with respect to the latest Plan.

## PUBLIC COMMENT

Mr. Bryan McNamara, Heather Circle, stated at Flowers Field it is not a one apartment increase, it is an eighteen apartment increase. He stated if the developer had wanted to go back and re-do their Plan, they would have had to submit new Development Plans from scratch even though the “developers probably wrote this Zoning Ordinance to allow them to get the apartments to begin with.” He stated it is a difference between twelve and thirty.

Mr. McNamara stated “while he would not use the words quid pro quo, this Township has in the past held developers’ feet to the fire on certain developments to get other ones fixed.” He stated he had noted Yardley Hunt where “ground was collapsing because they had dumped, at the time which was legal, construction debris;” and we threatened to withhold Permits to Regency.

Mr. McNamara stated he recalls when Mr. Troilo was talking about DeLorenzo’s there was discussion about “giving the Point area with the two houses to the Township in lieu of parking spaces that were needed at DeLorenzo’s, green spaces that were needed at DeLorenzo’s for the extra building with the orthodontist, and the two apartments over top.” He stated that would be something that could be “palatable to somebody; but like they did at Marrazzo’s development, you are only allowed two houses by Zoning, and they came and asked for eighteen, and we only gave them twelve, that is not fighting back on a developer, and he still got ten more than he could have gotten with the previous Zoning.” Mr. McNamara stated if he wants eighteen more apartments at Flowers Field, “if he said he would give the Township the Point – the two houses and the land – Mrs. Hirko was on earlier who has offered in the past to help fix up those buildings – that would be something that would be a benefit to the Township.” He stated what they are requesting is not a benefit to the Township. He stated “any kind of increase to the developer’s value in the Flowers Field Development is more money in his pocket.” Mr. McNamara stated Office space gives us the greatest return for the tax dollars that are paid to the Township.

Mr. McCartney noted that the Board just voted three to two to oppose three specific Variance requests as part of the Appeal.

Ms. Lisa Tenney, 156 Pinnacle Circle, stated with regard to the Tree Ordinance she would encourage the Board of Supervisors not to vote until there is a full analysis of changing this Ordinance and “allow consensus with the Environmental Committee members and with their input.” She stated “changing non-Native flowering trees” can introduce non-native pollinators which compete with native pollinators and also introduces insects that are otherwise not found. Ms. Tenney stated that pollinators create healthy foods that we all rely on, and non-native flowering trees introduce foreign fruits potentially detrimental to native birds.

Ms. Tenney stated perhaps going forward the Board of Supervisors could create a comprehensive and more stringent Ordinance regarding wetlands which are an important buffer to flooding events and provide an overall healthy environment.

Ms. Tenney stated she agrees with Mr. McNamara that “the needle for each Zoning case that comes forward, the needle does get bent in favor of whatever gets developed.” She stated this is both for big and small projects. She stated she believes that they need to be “non-modifiable.” Ms. Tenney stated the purpose of Mixed-Use Overlay which the Board approved, “except for John Lewis,” was to improve connectivity in that area; and not requiring sidewalks seems contrary to the whole reason they would allow Mixed-Use Overlay.

Mr. Zachary Rubin, 1661 Covington Road, stated with regard to the revision to the Tree Ordinance, he understands they want to raise it to 20% of non-native plantings where the Ordinance now says 100% of native plantings should be in the Township. Mr. Rubin stated he is the President of Makefield Glen which is 848 homes. He stated thirty-five years ago Toll Bros. planted hundreds of Bradford pear trees, and he discussed the problem of limbs dropping as the tree matures. He urged the Board to keep in the non-native prohibition in the Ordinance since his Association spends thousands of dollars every four to five years to radically prune the trees to prevent them from dropping their limbs. He stated if the Ordinance that we have now had been in effect thirty-five years ago, his HOA would not be incurring all of these additional expenses and it would not be such a nuisance to their homeowners.

Ms. Blundi left the meeting at this time.

#### SUPERVISORS REPORTS

Mr. Lewis stated that the Citizens Traffic Commission met and made their first analysis of proposed pedestrian improvements near the Regency property with the traffic engineer, and they will be making a recommendation to the Board shortly. Mr. Lewis stated they also received a traffic-calming request from a resident for Yardley Road near the Marrazzo property, and residents are concerned about speeds being driven in that area. The Citizens Traffic Commission has urged that resident to bring people from the community to the next Citizens Traffic Commission meeting to see if they agree or disagree with that. Mr. Lewis asked those living in the area who are concerned about traffic in that area to attend the next Citizens Traffic Commission.

Mr. Grenier stated with regard to the Electric Reliability Committee, he is still getting questions as to when PECO may be coming before the Board of Supervisors to review the questions that were posed to them. Mr. Grenier

stated he has also been receiving comments about the gas side of PECO since they are changing out gas lines to homes and taking inside meters to the outside of the house. He stated he has received a lot of complaints about dirt being dug up during this time of the year with nothing growing back as well as dirt in the streets. He stated he has also received complaints that those going into the homes are not following the health and safety requirements and other protocols such as masks, protective booties, etc. Mr. Grenier stated they have asked that we reach out to PECO to correct that. Mr. Grenier stated it is not necessarily PECO doing that work as they do use a lot of contractors.

Mr. McCartney asked if the homeowners have reached out to PECO directly, and Mr. Grenier stated some indicated that have tried a number of times to get in touch with the contractor but were unsuccessful, and they tried contacting PECO as well and were unsuccessful. Mr. Ferguson stated while Mr. Dorand will not be available until after the end of the year, he does have an alternate who he can contact about this.

#### APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Grenier moved, Dr. Weiss seconded and it was unanimously carried to appoint Michelle Williams and Dr. Albert Catarro to the Disability Advisory Board.

Dr. Weiss moved, Mr. Lewis seconded and it was unanimously carried to re-appoint Lisa Huchler to the Disability Advisory Board.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

John B. Lewis, Secretary