

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – AUGUST 5, 2015

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on August 5, 2015. Ms. Tyler called the meeting to order at 7:30 p.m.

Those present:

Board of Supervisors: Kristin Tyler, Chair
 Dan McLaughlin, Vice Chair
 Jeff Benedetto, Secretary
 Dobby Dobson, Treasurer
 Ron Smith, Supervisor

Others: Terry Fedorchak, Township Manager
 Jeffrey Garton, Township Solicitor
 Mark Eisold, Township Engineer
 Kenneth Coluzzi, Chief of Police

PROCLAMATION RECOGNIZING PENNSBURY ODYSSEY OF THE MIND PROGRAM

Mr. Jim Howard, President of the Odyssey of the Mind Association for the Pennsbury School District, was present. He stated Odyssey of the Mind is an International problem-solving competition which annually presents challenges around the world to students in the areas of science, math, engineering, technology, and the arts; and they have to present their solutions to these problems in the form of a theatrical performance. He stated they need to do the script, props, and costumes by themselves; and while there are coaches, the coaches can only ask questions and stimulate their thought process. He stated they have to communicate, work as a team; and they have a budget and a timetable. Mr. Howard stated the Pennsbury School District has been very successful and have sent a team to the World finals thirty out of the last thirty-two years. He stated two hundred families participated last year, and those interested in getting involved should contact Pennsburyom@gmail.com. He recognized Ms. Tyler who has been a very successful coach over the past two years and made significant contributions to the program.

Ms. Tyler stated this program takes places in the Elementary, Middle and High Schools, and it is a wonderful program. Ms. Tyler read the Proclamation into the Record. Two of the student participants were present commenting it is an amazing experience.

PUBLIC COMMENT

Mr. Jack Olson, 1382 Revere Road, stated he has been a Lower Makefield Township resident for over thirty years, and he thanked the Township for refurbishing the Rose Hollow playground where he and a group of residents play basketball twice a week. He stated it looks like a brand new facility, and it provides them a place to play in the summer. Ms. Tyler commended the Public Works Department for the work done on these courts.

Ms. Judi Reiss, 969 Princess Drive, thanked Ms. Liney and Mr. Fedorchak for their help as she heard today that there will be a candlelight vigil service on 9-10 beginning at 7:30 p.m., the night before the 9-11 service. Ms. Reiss stated she has almost all the details completed for the 9-11 service but is still in need of the services of a violinist or flutist; and if anyone knows someone, she asked that they e-mail her. Mr. Smith recommended Ms. Nancy Gaston-Festa.

Ms. Reiss asked if the meeting has been set up with Ms. Saracini, and Mr. Fedorchak stated there was some difficulty because of vacations; and he hopes to have something set up in early September. Ms. Reiss stated she also feels that it is time for the Board of Supervisors and the Township to trademark the name, "Garden of Reflection." She stated this would solve some of the problems. She stated the donation button on the Website should make sure that the donations come directly to the Township which would also solve problems. Mr. Garton stated it is very easy and inexpensive to trademark the name; and if the Board concurs, they can accomplish this relatively easily.

Mr. Benedetto asked the purpose of the meeting with Ms. Saracini if they already have plans in place for the candlelight vigil. Mr. Fedorchak stated they are going to discuss the 501C3 that Ms. Saracini has created and what the Township can expect in the way of future funding.

Mr. Alan Dresser, Chairman of the EAC, stated the EAC is considering a project concerning replacement trees. He stated the Replacement Tree requirement is one of the low-impact techniques in the Subdivision and Land Development Ordinance. If a developer takes down a tree with a trunk diameter greater than 10", after construction they have to replace the tree. He stated usually the developer will replace the tree on site, but they do have the option with the Township's approval, to plant trees off site with the Township determining where the trees will go. Mr. Dresser stated between 2010 and 2012 there were three projects that chose that option – Edgewood Corners which owes 56 trees, Flowers Field which owes 88 trees, and Bright Farms which owes 14 for a total of 158 trees owed to the Township. Mr. Dresser stated the EAC would like to get those trees planted.

He stated they have a landscape architect and a master gardener on the EAC, and they would like to come up with a plan and work with Mr. Fedorchak and Ms. Liney on this.

Ms. Tyler stated she feels this is a great idea adding they should keep some trees back for the Community Center.

Mr. Dresser stated the emerald ash borer beetle is in this area and is very effective in killing ash trees. He stated people who have ash trees should get their trees treated in the next year or so since any trees that are not treated will die. Ms. Tyler asked that Mr. Dresser write something up about this so that they can put it on the Township Website.

Mr. John Lewis, 1550 Surrey Brook Court, stated at the last meeting the Board elected to throw out all the bids for the Community Center and indicated that it would be on the Agenda for this evening's meeting. Ms. Tyler stated she met on Monday with the architect and suggested an amount of money to carve off. She stated they are considering shrinking the footprint without effecting programming. They will come back to the Board when they have a plan, and put it on a future Agenda. Mr. Lewis asked if the Board committed to a certain funding level; and Ms. Tyler stated the bid came in at \$2.7 million, and she had suggested that they take out at least \$750,000 although this was only a guideline, and the Board has not agreed to an amount.

Mr. Lewis asked if they have gotten confirmation from the State that the funds will be available since it has been over four years. Ms. Tyler stated they are anticipating a written response about this by October. Mr. Eisold stated there were discussions whether this could be extended, and they received positive feedback that it could be extended at least a year and possibly two years.

Mr. Lewis asked if there is a target budget, and Ms. Tyler stated she feels it is approximately \$2 million. Mr. Lewis asked about a timeline, and Ms. Tyler stated she hopes to have it finalized by year end depending on what the architects come back with and what the Board agrees upon. She hopes to put it out to bid by the end of the year.

Mr. Benedetto stated he also felt that this should have been on the Agenda, and they should come up with a plan in public as to how much they want to spend. Mr. Benedetto stated taking out \$750,000 is only what Ms. Tyler wants to do, but there should be a public discussion about what the entire Board wants to do.

Ms. Tyler suggested that they discuss it now, and she asked Mr. Benedetto what number he would like to see. Mr. Benedetto stated the Grant is \$1 million, and he feels they should go to \$1.7 million. He stated he is concerned that the architect will now be coming back with a plan for \$2 million since he was given that direction.

Mr. Smith agreed that this should be discussed in public. He stated Mr. McLaughlin indicated at the last meeting that they should tell the architect what they can spend and then have the architect come back with a plan for that amount. Mr. Smith stated he spoke informally with Mr. Santarsiero and he may have some good news for the Township and should be asked to come in and talk to the Board. Mr. Smith stated he would like to keep the figure under \$2 million consistent with what Mr. Benedetto has indicated. Mr. Smith stated they may also be able to get some additional assistance.

Mr. McLaughlin stated he would be in favor of \$1.7 million as did Mr. Dobson.

Mr. McLaughlin moved and Mr. Smith seconded to direct the architect to build a Senior/Community Center for the total amount of \$1.7 million including all professional fees.

Mr. Benedetto stated there was also a suggestion that they may want to give the money back and have a private developer come in such as the YMCA and build a facility that would be usable as opposed to what they are talking about with a \$1.7 million facility that will probably be less than 6,000 square feet. He stated with all the professional services it is probably closer to 5,000 square feet. He stated he feels the project has been compromised to the point where they should explore other options. He stated without exploring other options, he feels they will be building a Community Center that nobody will be happy with.

Mr. Zachary Rubin, 1661 Covington Road, stated Mr. Benedetto is correct that this matter should have been agendaized since there are a lot of people in the community who want to have input in the price of this; and since it was not publically disseminated, people will not have the opportunity to have input into the Motion. He stated he feels the Motion is out of order and should be postponed until a definite time and place it on the Agenda so that the public can have input.

Mr. McLaughlin stated he feels it is difficult to talk about a Community Center that they cannot see so he would like the architect to draw a picture of a \$1.7 million Center. He stated they can then get the feedback. Mr. Rubin stated they already had that meeting when they were shown Options A, B, C, and D. Mr. Rubin stated he feels the public should be shown what a \$1.7 million Center and a \$2.4 million Center look like. Mr. McLaughlin stated they did not really know what those Options were going to cost, and they were shocked with how the bids came in. He stated

what they anticipated was a \$2 million project but it came in at \$2.7 million up to \$3.3 million. Mr. Rubin asked that the Board postpone this discussion so that the public can comment. Mr. McLaughlin stated he just wants the architect to draw what a \$1.7 million building looks like. Mr. Rubin stated he feels it will be presented as a fait accompli; however, Mr. McLaughlin disagreed adding what the architect had previously drawn, he felt was going to come in at \$2 million, and this is not what happened. Mr. Rubin stated the public should still have input in the Community Center since the public may want a \$2.7 million Center. Mr. McLaughlin stated he feels the Board has decided that they do not want to spend \$2.7 million on the Community Center. Mr. McLaughlin stated when they discussed the Community Center previously, they heard that they should not go “fiscally crazy.” Mr. McLaughlin stated when the bids came in they were out of his comfort zone.

Mr. Lewis stated he feels the architect should be held accountable. Mr. McLaughlin stated even if they had gone with Option 1, which was the smallest, he feels it would have been out of his comfort zone. He stated that is why he feels they should now give him a number and tell him to build to that number. Mr. McLaughlin stated the Township is subject to prevailing wage which is 30% higher than what a regular person would have to pay. He stated when the Township was going to build the Veterans Monument it came in at \$400,000; but when the Veterans group carved itself out and became a 501C3, it came in at about \$200,000.

Mr. Lewis stated he feels there has not been accountability from Clarke, Caton & Hintz. He asked how much they have been paid to date, and Mr. Fedorchak stated he feels they are up to \$110,000. Mr. McLaughlin stated a lot of work went into coming up with a Bid, and no one was happy when the bid came in that high. Mr. McLaughlin stated if the community and the Board do not like what they see at \$1.7 million, they do not have to accept it.

Mr. Smith stated possibly the parameters were not drawn as tightly as they could have been with the architect, but now the Chairperson has properly reigned them in; and he feels the architect should be given the opportunity to do right.

Mr. Lewis stated he is concerned that this has been a four-year process, and it has not been managed well; however, Ms. Tyler stated she does not feel that is fair, and they are trying to put up a useful building and be fiscally responsible. She stated when it is ready to be publically vetted, they will do that. Mr. Lewis asked that it be put on the Agenda for the next month. Ms. Tyler stated she will decide when it goes on the Agenda; however, Mr. Benedetto stated he feels the Board should decide when it goes on the Agenda.

Mr. Benedetto moved and Mr. Smith seconded that this be placed on the Agenda on September 2. Motion carried with Ms. Tyler opposed.

Ms. Reiss suggested that besides the dollar parameter on the building, the architect should be directed to build a building that could be easily expanded in the future; and Mr. McLaughlin stated this was part of the original Options, and he agrees that they will do that.

Mr. Barry Huret, 484 Kings Road, stated he has been here for thirty-six years and he watched the last Board of Supervisors meeting. He asked that the Board go back and listen to what they stated at that time since what he is hearing is not what he saw at that meeting. He stated at that meeting Mr. McLaughlin indicated the Board members would come together and give input as to what they felt they wanted at a minimum at the Center and try to keep it within the \$1.7 million, and they would then have an open meeting telling the publish what they came to, and they have not had that meeting. Mr. McLaughlin stated a majority of the Supervisors are not allowed to meet on an issue without it being a public meeting.

Mr. McLaughlin moved, Mr. Smith seconded and it was unanimously carried to direct the architect to submit a Sketch Plan of a Community/Senior Center that costs \$1.7 million including professional fees that have been incurred.

Ms. Tyler asked if they should wait to put this item on the Agenda to discuss until they have been shown such a Plan, and Mr. McLaughlin asked that they put pressure on the architect since he already has \$110,000 of Township money; and he feels the first week of September is ample time to accomplish this direction.

APPROVAL OF MINUTES OF JULY 15, 2015

Mr. Benedetto moved, Mr. Dobson seconded and it was unanimously carried to approve the Minutes of July 15, 2015 as written.

APPROVAL OF JULY 20, 2015 AND AUGUST 3, 2015 WARRANTS LISTS AND JULY, 2015 PAYROLL

Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to approve the July 20, 2015 and August 3, 2015 Warrants Lists and July, 2015 Payroll as attached to the Minutes.

UPDTE ON COMMUNITY RATING SYSTEM FOR FEMA/FLOOD PLAIN

Mr. Eisold stated over the past eighteen months they have been working with FEMA to become Certified in this program. He stated much documentation was submitted, and the Township received a letter of good standing in August, 2014. Since that time they have been providing additional information to FEMA for the Community Rating System Application which required quite a bit of documentation to enter the Program. The Application is currently being reviewed by FEMA, and they are waiting for their response to enter the Program. He stated they accept Municipalities in October and May into the Program, and they indicated originally that the Township could possibly get in October. Mr. Eisold stated this Program provides information to FEMA in exchange for residents of the Township receiving lower rates for flood insurance.

Mr. Eisold stated they have also been working with residents on the floodplain management situation, and they have received over 150 calls from residents, property owners, and Relators over the last eighteen months with regard to where they stand with the new floodplain maps. He stated they have also worked with the Township staff to make sure that they record all Permits that are in flood zone and they also put together a spreadsheet which the Township uses to identify what projects might have flood plain issues.

Mr. Benedetto asked if residents are on their own with regard to any Appeals to the map. Mr. Eisold stated at one point the Township did submit some documentation to FEMA with regard to an Appeal, but the impact was so minimal that it did not adjust the flood plain.

Mr. Benedetto asked Mr. Fedorchak if there are any Applications for raising any of the houses in the River Road area, and he asked if this would impact the Community Rating System. Mr. Fedorchak stated it does not have an impact on the Rating System. Mr. Fedorchak stated there are a few properties they are looking at.

Mr. Dobson advised residents that if they were in a floodplain they need to look at the new maps since previously a portion of his property was in the floodplain, but with the new maps, it is now out of the floodplain; and he has been able to save money on insurance. Ms. Tyler stated she understands that if your property was put into the floodplain, your mortgage company will let you know.

Mr. Fedorchak stated approximately a year and a half ago he asked Mr. Eisold's office to handle this issue, and when the new flood maps came out, several hundred residents were effected both positively and negatively. He stated most of those residents did not know what was going on. Mr. Fedorchak stated the Township sent out hundreds of letters to residents that they saw were effected to let them know

that in some case, they were now out of the flood plain, but they also had to send letters to those that were now in the floodplain. He stated Ms. Saylor was made available to them to talk to those residents who wanted information about this. Mr. Smith asked if this information is on the Cable TV channel and Township Website, and Mr. Fedorchak stated it was put on some time ago. He stated they also sent letters directly to all of the residents that were effected either positively or negatively, and they also provided them with Ms. Saylor's contact information. Mr. Smith asked if this is something that should be included in the next Township Newsletter, and Mr. Fedorchak agreed.

UPDATE ON QUIET ZONES

Mr. Eisold stated the Township received an approval letter from the PUC dated August 4th which included some additional requirements for the project, and indicated that there was no objection to creation of the Quiet Zones.

Mr. Benedetto asked that the letter be published on the Township Website.

Mr. Eisold stated they have completed the Highway Occupancy Permits for the crossings which are State highways, and they were submitted on 7/22/15.

Mr. Benedetto asked if the issues with the resident's driveway on Stony Hill Road have been resolved, and Mr. Eisold stated they have. He stated they met a number of times with that resident, and they have proposed that they will extend their driveway at the road so that they can make a left turn and go past the center island that will be installed. He stated this will require some regrading of their front yard as well as a small retaining wall along their front yard. Mr. Benedetto asked if the Dobry Road crossing issue has been resolved; and Mr. Eisold stated it has, and that is no longer a crossing.

Mr. Eisold stated they are still waiting for the Multi-Modal part of the project. He stated they hope to hear from PennDOT shortly about this.

CONSIDERATION OF SKETCH PLAN PROPOSAL FOR RETAIL SITES AT DOBRY ROAD

Mr. Garton stated this is a Sketch Plan for a retail development at the intersection of Oxford Valley and Dobry Roads. He stated a Sketch Plan does not require action by the Board, and it is for the purpose of discussion and to hear comments from the Supervisors and the public. Mr. Garton stated the Planning Commission has already reviewed this and the Board was provided with a memorandum outlining their comments.

Mr. Edward Murphy, attorney, was present. He stated this Plan was submitted earlier in the spring, and it has been the subject of a review letter by Boucher & James and was discussed at the Planning Commission last month. He stated it has some unusual, perhaps unintended, consequences based on the Township Ordinance.

Mr. Murphy stated the site is owned by the Maydak family who have owned it for approximately eighty years. He stated it is at the northwest corner of Dobry Road and Oxford Valley Road and it is two and a quarter acres. He stated the Maydak family stopped farming it at some point, and it has become overrun with trees which is one of the issues associated with the Plan.

Mr. Murphy showed the original Plan which was submitted in the spring which contemplated approximately 13,000 square feet of retail space occupying two separate buildings. He stated this was the Plan that was the subject of Mr. Eisold's review which highlighted numerous potential Variances that would probably be insurmountable even though if you look at a typical retail type environment where under a normal circumstance you could reasonably expect to achieve 10,000 square feet per acre. He stated the property is Zoned C-3; but because of the trees and other natural resources, including a stream in the rear of the property, under the Ordinance it would "confiscate" the property and leave very little development opportunity.

Mr. Murphy stated they then tried to identify a Plan that would be "by-right" trying to eliminate all of the potential Variances, and he showed a second Plan which shows approximately 1,500 square feet which would be a small retail use with a drive-through component. Mr. Murphy stated Mr. Eisold has not reviewed this, and it is possible that Mr. Eisold may identify some things that could further reduce the development potential.

Mr. Murphy stated they presented both of these Plans to the Planning Commission last month. Mr. Murphy stated beyond the natural resources, the parking requirement in the Ordinance for a retail use such of this is beyond any Ordinance that they have seen. He stated it requires 16 spaces per 1000 square feet, and in most typical retail centers it would be 5 spaces. He stated the Township's parking requirement drives the impervious up and also impacts the development potential.

Mr. Murphy stated they asked the Planning Commission whether or not they felt there was some type of middle ground where they could achieve some type of reasonable development potential that would enable the Maydak family to get some return on their property that they have owned for quite some time. Mr. Murphy stated the Planning Commission suggested that they may be in favor of something to

recognize the different hardships that the application of the Ordinance presents. He stated they were discussing approximately 6,000 to 7,000 square feet of retail with appropriate parking with some amount of Variances. Mr. Murphy added the property is Zoned C-3 and is on a major arterial roadway; and you would think that this would be a corridor where they could provide Commercial, but the Ordinances are effectively not allowing them to do this.

Mr. Dobson stated the Planning Commission was concerned about the parking and the creek in the rear of the property. Mr. Dobson asked Mr. Murphy what they were proposing with regard to parking on the original Plan recognizing that the Ordinance calls for 16 per 1,000, and Mr. Murphy stated they showed 8 spaces per 1,000 on the original Plan. Mr. Murphy stated there is a riparian corridor that they would respect, but this does further shrink the building envelope.

Mr. Smith asked what type of retail they are proposing. Mr. Robert Hill, Hartford Properties, LLC, was present and stated it would be a neighborhood shopping center. He stated one tenant with a drive-through would be Dunkin' Donuts, and they would also have some local uses such as a hair salon. Mr. Smith asked if they do not feel that there is enough of that type of retail already in the immediate area because of the proximity of the Kohl's Shopping Center. Mr. Hill stated they feel there is a demand for some uses although at this point they do not know exactly what they will have.

Mr. Smith stated a property owner does have the right to build what they want, but he objects to Mr. Murphy's use of the word "confiscating" which he feels is strong; and he believes that the Ordinances are there for a reason. Mr. Murphy stated he meant that the impact of the Ordinance conspires to create a "postage-stamp" that they can build on this two and a quarter acre property. Mr. Murphy stated you do not know the full impact of the Ordinances until you apply them, and this property has almost every natural resource that the Ordinance proposes to regulate. Mr. Smith stated there are some properties where nothing can be done, and Mr. Murphy stated if you reach a point where you cannot do anything with your property, that is essentially a "taking."

Mr. Hill stated if you looked at that property fifty to sixty years ago, it was not wooded at all. He stated when the farming stopped, the trees started to come up. Mr. Smith stated this is not the Township's fault. He stated he feels this is a "back-door Matrix." He stated he is concerned about a shopping center along this road and that Commercial would go from Kohl's all the way down toward McCaffreys. Mr. Smith stated he understands that forty-two Variances would be needed which concerns him, and he feels they should re-think putting a shopping center there.

Ms. Tyler asked Mr. Eisold to speak about the developability of the property. Mr. Eisold stated they reviewed the initial Plan submitted and prepared a review letter dated June 5; and while it has forty-two comments, only twenty-two of them are Zoning related and many of those are basically saying the same thing in different ways. He stated the site capacity calculations, the natural resources, and the setbacks deal with issues that relate to the stream, the channel of the water, and the trees on the site. He stated of the twenty-two probably sixteen of the comments related in some way to the site capacity or setback issue. He stated the way the Ordinance is written, it does make the site as it sits today very difficult to develop. Mr. Eisold stated it is Zoned as a Commercial property according to the Comprehensive Plan.

Mr. Benedetto stated he understands that the by-right Plan was not reviewed, and Mr. Eisold agreed. Mr. Benedetto asked if the developer is no longer considering the original plan; and Mr. Murphy agreed, adding that he does not feel anyone would support proceeding with that Plan, and this is why they prepared a Plan showing what the Ordinance would permit and to consider an appropriate balance if there is one so that the developer and the sellers can have a reasonable return on the property. Mr. Benedetto stated he understands a compromise would allow a 6,000 to 7,000 retail development which has not been presented tonight, and Mr. Murphy agreed.

Mr. Benedetto asked what C-3 encompasses. Mr. Garton stated there is an enumerated list of permitted uses. He stated normally it is not large retail but is more neighborhood/commercial and not large retail. Mr. Murphy agreed adding that C-1 would be Kohl's, Giant, McCaffrey's, etc. He stated C-3 is more of the smaller neighborhood centers, and C-3 does not permit a shopping center since you need to have a lot more square footage. He stated they are talking about a free-standing building that would have a few tenants.

Mr. Hill stated the original Plan showed two buildings, and this is not what they would normally do; however they were trying to conform with one of the provisions in the Ordinance that limits the size of a building in that Zone.

Mr. Benedetto asked how this went from a farming plot to C-3. Mr. Garton stated it has been C-3 for many years, and Mr. Murphy added he has been involved with the Township for over thirty years, and it was C-3. Mr. Garton stated when the Township acquired property from this family to do some road widening to Oxford Valley Road many years ago, it was Zoned C-3 then. Mr. Hill stated the family owned a number of properties in this area.

Mr. Lawrence Maydak was present with his brother, Carmine. Mr. Maydak stated their family has owned the property for almost ninety years. He stated his grandparents had a seventy-three acre property in the area where the Makefield Executive Quarters is, and the farmhouse where he was born used to be where the entranceway into Makefield Executive Quarters is now. He stated when his grandparents passed on, the property was sold except for the two lots being shown this evening, one of which is the residence that he grew up in and the other the wooded lot which was used for gardening by his father.

Mr. Maydak stated when Oxford Valley Road was improved near Big Oak Road in the late 1960's/early 1970's, it was widened and turned into concrete; and it created a road hazard on the corner of Oxford Valley and Dobry Roads. He stated during a six-month period there were eighteen accidents on the property of which the Township was notified, and they put in some signs. Mr. Maydak stated one night his father was in the front yard with his younger brother, and was run over by a car and killed on that property. Mr. Maydak stated since that point because of those accidents, they modified the road and banked it which took away the front yard of the residence. Mr. Maydak stated the wooded area that is being discussed was their garden, and when his father passed away in 1973 the garden could not be maintained; and now it is wooded.

Mr. Maydak stated their family has been put through quite a bit of hardship over the years on the property, and they would like to see if they can do something. He stated they went to who they believe is one of the best Commercial real estate firms to represent them to find someone who will put in a quality unit on the property that would support the Township residents. He stated they would ask that the Township help move this forward.

Mr. McLaughlin asked about traffic issues; and Mr. Murphy stated there were comments about access points, and they will have to look into this further and whether or not there would be a traffic signal at the Dobry/Oxford Valley intersection by virtue of the age-qualified residential project.

Mr. McLaughlin stated he understands that they are not proceeding with the original Plan, and he asked if they are in favor of proceeding with the revised Plan; however, Mr. Hill stated it would not be economical for them to proceed with the revised Plan. Mr. McLaughlin stated he understands that they are looking for something in between those two which would be economically feasible but could be approved by the Township, and Mr. Murphy agreed.

Mr. Smith asked Chief Coluzzi if he feels a traffic signal is necessary at Dobry, and Chief Coluzzi stated this is possible although they have not had a chance to look at that. He stated the additional housing has added traffic in this area. Mr. Eisold noted an area on the Plan where there is another development with eighty units proposed which will also have a big impact.

Mr. Benedetto stated Mr. Maydak indicated he was looking for a quality tenant, but he questions that a Dunkin' Donuts is what they are considering. Mr. Hill stated Dunkin' Donuts is an National/International brand and is one tenant that they have secured so far. He stated this will be a small project and it is very subjective as to what may or may not work. He stated this is a small project that will attract tenants of a certain size.

Mr. Benedetto stated he understands that they are no longer considering the original Plan for 13,000 and now they are discussing something that would be half that size. He asked if this would be a continuous space; and Mr. Hill stated the Ordinance indicates that you cannot have one building above 10,000 square feet, so once they were above 10,000 square feet they had to split it to try to avoid another Variance.

Mr. Benedetto asked what would be their next step, and Mr. Murphy stated once they have a proposed Plan, they would go to the Zoning Hearing Board. Mr. Benedetto asked if the Maydak's are going to sell it to Mr. Hill's company, and Mr. Hill agreed that they have an Agreement to Purchase subject to getting approved Permits and Approvals. Mr. Hill stated they would develop and own the property. Mr. Benedetto noted an adjacent parcel, and he asked if there is any consideration to purchase that property. Mr. Hill stated they reached out to that property owner who indicated he is not interested in selling it to them. Mr. Hill stated they talked to him at the Planning Commission meeting, and he indicated that he was happy with the Plan and asked that they work with him to make sure that there is an adequate buffer between the two properties.

Mr. McLaughlin stated this is private property and they are allowed to use it provided they comply with the law. He stated he would be interested in seeing a project of 6,000 to 7,000 square feet. He stated he does not want to see an economic hardship befall someone when a Plan is not feasible.

Ms. Marilyn Huret, Kings Road, stated she questions the number of Variances for this project and the types of Variances. She stated she tried to find a Zoning Map on the Township Website as she was told it was on there. She stated she had to come to the Township and take a picture of the Zoning Map on the wall, and she feels this should be on the Website. She was advised today by "Joe" that it is not on the Website. Ms. Huret stated years ago there were also definitions of what the various

categories of Zoning are, and she remembered that the property under discussion was C-3. She stated C-3 uses include a small animal hospital, a crematorium, and some other things people may not want to have in their back yard. She stated she feels the definitions should be posted on the Website. Mr. Fedorchak stated this information is on the Website under Code Book. Ms. Huret stated she did do this and it was not there; however, Mr. Fedorchak disagreed adding it is on the Website. Ms. Huret asked if there is a map there as well, and Mr. Fedorchak stated he felt there was; and if there is not, they will add that.

Ms. Huret stated many people apply for a Variance for a small portion of their property that would increase impervious surface by 1% to 2%, and she asked if there could not be something for people who only want a small increase under a certain amount so that they do not have to go through all the Applications and Variances.

Mr. Zachary Rubin stated when the most recent housing development in this area was proposed, there were discussions about the traffic problems because it is a four-lane highway. Mr. Rubin asked who would be responsible for putting in a traffic light – the Senior housing developer, this developer, or the one across the street. Mr. Murphy stated to the extent that PennDOT determines that a warrant for a traffic signal was met, the private developers contributing to what gave rise to the need for the signal would pay for it. Mr. Rubin stated with regard to the property under discussion, as people are coming from the Railroad tracks on the way to the Kohl's shopping center there is a blind spot because of the curve so to mitigate the problems, he feel this property would have to have a lot of mitigation to widen or straighten the road which would take away from the development base. He added that he feels there is no question that there will be a traffic light there because it is a four-lane highway. Mr. Rubin stated as the road exists now, it is unsafe to begin with, and if there are a lot of cars coming from Dobry Road from either the residences or the commercial properties, there must be mitigation to do something about the road.

Mr. Benedetto asked if the white house on the corner is owned by Mr. Maydak, and Mr. Murphy stated it is; and a family member lives there. Mr. Benedetto asked if there was ever consideration to sell that parcel to the Township; and Mr. Maydak stated he received a letter from the Township about this for open space, and although he responded, he was not contacted again.

Mr. Dave Kelliher, 591 Aspen Woods Drive, stated he agrees with Mr. Rubin that this is a dangerous curve, and there have been a number of accidents. He also noted on the Plan the number of traffic lights already existing in this area, and stated adding another light would result in five lights before you get to Kohl's.

Mr. Smith asked if this project was reviewed by the Traffic Commission, and Mr. Murphy stated they have not yet reviewed it.

Mr. Benedetto asked when Mr. Maydak received the letter from the Township about his property, and Mr. Maydak stated he feels it was at least three years and possibly four years ago.

Ms. Tyler stated she understands that the Township's Code Book may put some restrictions on what they are able to do, and they should try to come up with the best plan they can within the Codes.

Ms. Joan Sladkus, 1581 Applewood Circle, stated she has lived there for twenty-three years; and since then a number of commercial developments and housing developments have been built. She stated it is now not too attractive when you come into Yardley coming off the highway. She stated it is also very dangerous, and there have been far too many accidents.

Ms. Tyler asked who makes the determination on a traffic light; and Mr. Garton stated approval is a PennDOT issue, however, if you meet the warrants which is the amount of traffic, accidents, etc. PennDOT has to give the Permit.

Ms. Sladkus stated apart from the traffic light, she feels this will be horrible to look at; and they do not need these stores.

Mr. McLaughlin noted on the Plan the development to the left of the proposed site, and asked if this would not require a light anyway; and Mr. Eisold stated warrants are based not only on traffic on the main roads, but also on the traffic on the smaller roads as well. He stated at this point the traffic is minimal on that road and warrants have not been met; but with the addition of eighty additional residences, they will get closer to the point where a traffic light warrant would be satisfied. Mr. McLaughlin stated the project being discussed this evening may not be the cause of a light being required, and Mr. Eisold agreed. Mr. Dobson stated it is the combination of all those developments.

Ms. Judi Reiss stated many years ago she was present when the Giant shopping center was being discussed, and a fast food restaurant wanted to be on the end and have a drive-through; and the Board did not want any drive-throughs at the Township at that time because of the amount of traffic a drive-through would generate. She stated she is concerned about the amount of traffic a drive-through will generate as well as the significant back up on the road that occurs when a long train is going through the area.

Mr. Benedetto stated he would prefer to have the parking in the back off of Oxford Valley Road. Ms. Tyler stated they may want to consider if they want to see a commercial center or cars in the front. Mr. Benedetto stated he feels there should be landscaping. Mr. Hill stated retail does need to have visibility, and most retail tenants will not accept parking in the rear. Mr. Benedetto asked if they plan to come out to Oxford Valley or Dobry, and Mr. Hill stated they are anticipating right in, right out on Oxford Valley at the northern end where Makefield Executive Corners is. Mr. Benedetto asked that they minimize this as much as they can with landscaping.

Mr. Hill stated the Township has a very heavy parking requirement. He noted other Townships where they require only four per thousand parking ratio, and Lower Makefield's ratio is much heavier which creates more impervious. He stated this is one of the Variances they need because they do not want to provide that much parking; and Mr. Benedetto stated he understands their concern. Mr. Hill stated they want to provide what the tenants will need.

DISCUSSION AND APPROVAL OF FINAL MAJOR SUBDIVISION FOR SAINT IGNATIUS CHURCH

Mr. Garton stated the Applicant proposes to subdivide Tax Parcel 20-34-20-5 into two lots – one to be 6.2 acres and the other 2.63 acres. He stated the 6.2 acre lot will then be consolidated with Tax Parcel 20-35-6 and 20-35-2-1 and subdivided into ten lots. He stated the ten lots will be comprised of eight single-family dwellings, a stormwater management lot, and an open space lot. He stated at the Board of Supervisors meeting on 1/21/15, the Board approved the Preliminary Subdivision Plan subject to various Conditions.

Mr. Garton stated the Plans before the Board are dated 6/14/13, last revised 5//2//15. He stated the Lower Makefield Township Planning Commission met on 6/22/15 and recommended approval subject to various Conditions. Mr. Garton stated there were outstanding issues from the Preliminary Plan – one of which was raised by the Environmental Advisory Council about the necessity of having a trench of the depth and width proposed, and Mr. Eisold can respond to this. Mr. Garton stated the Board did grant Waivers from certain road widening and sidewalks with the Fee-In-Lieu of that to be paid to the Township the amount of which needed to be determined before Final Plan Approval. Mr. Garton stated the Township engineer has determined this to be \$46,488. Mr. Garton stated the Board also had to discuss and come to a resolution with regard to the tree issues as far as the number of trees to be planted on the site and those to be paid to the Township in accordance with the Lower Makefield Township Tree Replacement Ordinance.

Mr. Eisold stated with respect to the trench, their last letter had some minor concerns as it relates to the roadside swale and some grades need to be adjusted. He stated the trench was a BMP requirement to address the stormwater of the site; and while there are some trees in the vicinity of the trench, the trench is necessary to mitigate the additional run off from the site per the Stormwater Ordinance.

Mr. Murphy stated they would agree to correcting any issues Mr. Eisold has with regard to the trench, and they would agree to the dollar amount Mr. Garton noted with regard to the improvements. Mr. Murphy stated they had a fairly detailed discussion about the trees when they presented the Preliminary Plans. He showed on the far right of the Plan the existing St. Ignatius complex. A triangular area was noted on the Plan which is approximately 6.2 acres, and they intend to have that parcel merged with the existing St. Ignatius complex. He stated that area is heavily treed. Mr. Garton stated they have agreed to convey a Conservation Easement to the Township for that piece as part of the Preliminary Approval, and Mr. Murphy agreed. Mr. Murphy noted a property in light green on the Plan immediately adjacent to that parcel which will be part of the proposed development, and it will also be subject to a Easement and preserved as well. Mr. Murphy stated the remaining area includes the building lots, the open space lot, and the stormwater lot.

Mr. Murphy stated the developer is proposing to remove 75 trees on the entire site principally in the area where the eight lots will go. He stated they are proposing to plant 32 trees on the site which is physically the most number of trees they can accommodate because there is not room since the bulk of the site is already wooded, and they are proposing to keep it that way. Mr. Murphy stated the Tree Replacement Ordinance, based on the caliper size of trees that are proposed to be removed, would require them to either plant or pay for 444 trees at \$315 per tree which would be \$149,000 for a development with eight building lots. He stated they discussed this with the Board in January, and they all agreed they would discuss this further to see what makes sense since he does not feel this was the intention of the Ordinance for this property. Mr. Murphy stated while there is no disagreement as to the numbers, they are not in a position to pay \$149,000 toward replacement trees. He stated they are proposing Conservation Easements on both of the open space parcels and this would keep it perpetually open and treed.

Ms. Tyler asked if the dark green triangular portion on the Plan is developable, and Mr. Murphy stated it is not. He stated one of the reasons it is not developable is because one of the Conditions of an earlier Zoning relief give to St. Ignatius was that they had to maintain a certain site-wide impervious. He stated that 6.3 acres will be attached to St. Ignatius and no development is proposed to occur in that area. Ms. Tyler asked if the Conversation Easements prevent any future development,

and Mr. Murphy stated it does. Ms. Tyler asked the same question about the light-green area, and Mr. Murphy stated that intention is to preserve those properties in perpetuity.

Mr. Murphy stated they propose to acknowledge their obligation in some fashion by making a contribution to the Township of \$25,000 that would be paid in equal installments over the eight Building Permits that would be obtained for the eight building lots. He stated this is what the buyer and the Parish can absorb and feel like the project is still worth doing, since otherwise trying to accommodate \$150,000 for eight building lots makes the job financially unfeasible.

Ms. Tyler asked the proposed size of the homes, and it was noted the smallest lot size is 12,601 square feet but they do not yet have the actual dwelling square footage.

There was further discussion on the dollar requirement per the Tree Replacement Ordinance; and while Mr. Murphy indicated that it was slightly less than \$149,000, Mr. Dobson indicated it was approximately \$139,000.

Mr. Benedetto asked about the sewer access, and Mr. Garton stated one of the Conditions is receipt of all Approvals including DEP. He stated the Sewer Authority will be discussing the status of the Yardley Authority's discussions with the Township at their next meeting, and the Board of Supervisors will probably be discussing this sometime in September. Mr. Benedetto asked if the developer will have to come back to the Board of Supervisors; and Mr. Murphy stated while they will not have to come back, they would not be able to move forward with the development until the sewer issue is resolved between Lower Makefield and the Yardley Borough Sewer Authority.

Mr. Benedetto stated a resident had previously asked about the preservation of five large trees in the Conservation Easement area, and he asked if these will be protected. Mr. Murphy stated that individual who owns the kennel in the area indicated at the Planning Commission that she did not have much faith in the commitment that the Conservation Easement would be enforced, and she asked if there had been a document prepared yet. Mr. Murphy stated while it has not been prepared yet, any document that would be prepared would be reviewed by Mr. Garton and approved by the Township Supervisors; and this would be a Condition of any Approval. Mr. Benedetto asked if the plan is still to take down the large oak tree, and Mr. Murphy agreed. Ms. Tyler asked if that tree was included in the tree replacement calculations; and while Mr. Murphy stated he was not sure,

he feels that would probably be in a different category since it is in the right-of-way and is a hazard. Mr. Murphy added that Mr. Eisold's arborist has concluded that the tree should come down.

Mr. Garton reviewed possible Conditions of Approval. He stated he understands that the trench issue has been resolved. He stated the last issue was the tree issue which has been discussed, and this needs to be resolved before he concludes the Conditions.

Ms. Maryanne Widenmeyer, 1085 Reading Avenue, showed a location on the Plan where she would like to have pine trees planted because she has dogs on her property that will bark. Mr. Murphy stated he feels they could do this, and these would be on Lots #5 and #6. Ms. Widenmeyer stated she puts the dogs out at 11:00 p.m., and she feels the dogs can be heard in Yardley. She stated the people who are buying these houses are going to be able to hear the dogs. She stated the dogs are brought in and then let out again until 6:30 a.m. She stated the pine trees may prevent some people from complaining about the noise.

Ms. Tina Gervasio, 1085 Reading Avenue, Yardley Animal Kennels, stated she would not like the development to come in at all. She stated anywhere from 20 to 180 dogs board at their kennel. She also stated she has heard many times that the 200 year old tree is ill, and she stated it is not ill; and she feels with the right kind of care the tree will outlive everyone in the room. She stated the arborist who looked at this has no experience with 200 year old trees.

Mr. Benedetto stated in the Gilmore report they agreed that the tree should be preserved, and they recommended a site meeting. Mr. Benedetto stated he has a problem with the tree coming down as well. He stated while he will not hold the project up over this, he does not understand why it is such a hazard. Mr. Benedetto stated with regard to the development of the property, he feels this is why the Township should be purchasing open space; and this is a parcel that was identified for open space.

Mr. Gervasio urged the Supervisors not to accept anything less than the \$149,000 needed to replace the trees.

Mr. Smith stated he is concerned about the new residents being adjacent to this kennel which has been there for many years. He stated he hopes future Boards will remember that the kennel was there first.

Mr. Fedorchak stated some years ago the Township did approach representatives from St. Ignatius with a proposal to acquire that property as open space, but St. Ignatius chose not to go in that direction.

Ms. Gervasio stated the reason she is so doubtful about what is stated by St. Ignatius is because the Monsignor has tried to buy their property many times, and they were made many promises. She stated one of the promises made when he purchased the land all around them was that it would never be developed and was only for them to put in the School. She stated the School was then gone, and they put in a huge Rectory, and money that was raised for the School went into the Rectory. She stated the area he said was never going to be developed is now being developed. She stated the Easements should be very clearly written in the Contract so that it is legally binding.

Ms. Helen Heinz, 1355 Edgewood Road, stated ten years ago there was discussion about this property; and at that time, she mentioned that the tree is a historic tree. She stated at that point the Monsignor was happy about this since it saved him from having to widen Sandy Run Road.

Mr. Alan Dresser stated with regard to the trench he is confused since Mr. Eisold stated it was to address run off. He noted on the Plan where the flow goes, and he stated the run off is from the woodlands and nothing is going to change. He stated the Ordinance requires that stormwater management is to be low impact development, and he does not feel that is what this is. Mr. Eisold stated he understands that the trench is to intercept the water that would come over the property that is being developed. Mr. Dresser stated they do not have to address run off from off-site, and Mr. Eisold stated if there is water coming to this site, you cannot allow that water to go through your site, and you need to divert it around your site. He stated the way this is being handled is through this trench that will take the water out to the road as opposed to letting it go across the property that is being developed. Mr. Dresser stated he feels an elevated berm would serve the same function. Mr. Eisold stated while it may have been designed a number of ways, this is what the developer has proposed; and what they have proposed meets the requirements of the Ordinance. Mr. Dresser asked Mr. Eisold if he feels it is low-impact development to design a giant trench, and Mr. Eisold stated it will take the water underground and help percolate the water underground which is one of the main requirements of Best Management Practices. Mr. Dresser stated he feels the tree roots along side of the trench will be damaged.

Mr. Dresser stated with regard to the trees, they indicated they are planting 32 trees on site, so they would be required to provide for 412 which would be \$129,000; so they are asking for relief from paying the Township \$104,000, and he does not feel they should get this. He stated the developers knew about the Tree Replacement Ordinance when they designed the project. He stated they are taking out almost two and a half acres of woods; and if this is their choice, they should not be given "corporate welfare." Mr. Dresser stated if they put in the buffer next to the kennel, this would bring down the number of trees required to be replaced.

Ms. Tyler noted the value of the Conservation Easement. Mr. Dresser stated the property is exceeding the permitted impervious since there is approximately 33% impervious surface, and the limit is approximately 28% so they have been in violation for years. He stated to bring it into compliance, they are adding a parcel to it. He stated when they do that they would be right at the impervious limit but to develop anything they would have to get another Variance for impervious surface, and they have already gotten two for this site. Ms. Tyler stated they would be giving up their right to develop that part of the property with the Conservation Easement. Mr. Dresser stated while he is glad that they are doing that, they are not giving up that much. He noted the location of the other Conservation Easement. He stated they would only be allowed to take out 30% of the existing woodlands, so they could not build anything there anyway if it involves taking out trees. He stated the potential for development on the parcels where they will have a Conservation Easement is not great, so the Township should not give up a lot. Mr. Murphy stated they could take those trees down, and they are preserving trees that they would otherwise not have to preserve. Mr. Dresser stated while this is something, he does not feel it is worth \$104,000.

Ms. Tyler asked if the residents could use the areas in the Conservation Easement, and Mr. Murphy stated the terms would be that the areas would be private. Ms. Tyler stated possibly they could provide access to this for passive recreation. Mr. Murphy stated there would be no place for people to park to access this.

Mr. Benedetto stated he feels they should get rid of the Tree Replacement Ordinance since they are not enforcing it. He stated he voted against this Ordinance. Mr. McLaughlin stated the Zoning Hearing Board's sole purpose is to address Variances, and there are going to be Variances to the Ordinance and Waivers to other Ordinances, and there has to be some flexibility. Mr. Benedetto stated he feels it is "extortion" to expect St. Ignatius to pay \$149,000, and he feels they should get rid of this Ordinance. Mr. Benedetto stated this is why he voted against the Ordinance because he knew this was going to come up and they would do just what he thought they would do which is to grant a Waiver.

Mr. Dresser stated the purpose of the Ordinance was to discourage people from developing these wooded lots; and if they want to build on it, they have to pay the price.

Mr. Dresser stated with regard to the large tree, he had concern about the report done by the Township engineer's arborist since she had just gotten her Certification a few months prior to doing this evaluation. He stated he has discussed this with another arborist in the area who seems much more experienced. Mr. Dresser stated

in February he sent that individual the evaluation done by the Township engineer's arborist, and he sent an email back indicating a number of issue he had with her evaluation. Mr. Dresser stated it would cost \$700 to have someone like this expert evaluate the tree.

Mr. Joe Menard, 917 Putnam Drive, asked who owns the large tree; and Mr. Garton stated St. Ignatius owns it. Mr. Menard stated if the property owner wants a tree to come down, it should come down. He stated if you look at the Tree Ordinance and any situation in the Township, there are exceptions for mitigating circumstances. Mr. Menard stated the Tree Ordinance may need to be looked at again in light of the fact that it does not cover all common sense situations in the Township. He stated he feels what they are asking for does not seem unreasonable.

Mr. Smith stated he is not in favor of accepting \$25,000 in lieu of the six figure amount that is mandated, and he would be in favor of a figure closer to what they are required to pay. Mr. McLaughlin asked how much they are getting in open space, and Mr. Murphy stated it is eight and a half acres. Mr. McLaughlin stated he feels eight and a half acres of open space would cost the Township a lot more than \$149,000; and they are getting \$25,000 plus this open space so he would be in favor of this. Mr. Dobson agreed. Mr. Benedetto stated he feels it is a law of unintended consequences as Mr. Murphy noted. Mr. Benedetto stated there is an Ordinance and replacement of 444 trees for \$139,000 is "ridiculous," and they should get rid of the Ordinance. He stated he has no problem with \$25,000 and the Conservation Easements.

Mr. McLaughlin moved and Mr. Benedetto seconded to approve the Final Plan for St. Ignatius subject to the following Conditions:

- 1) Continued compliance with all the Conditions imposed by the Board when they approved the Preliminary Plan except as modified by the Approval this evening;
- 2) Compliance with the Bucks County Planning Commission review letter dated 6/19/15;
- 3) Compliance with the Boucher & James report dated 6/19/15;
- 4) Compliance with the Tri-State Engineers review letter dated 5/29/15;
- 5) Applicant to pay a Fee-In-Lieu of recreation in accordance with the Township's Fee Schedule;

- 6) Applicant to pay a Traffic Impact Fee in accordance with the Township's Fee Schedule;
- 7) Receipt of all Permits and Approvals by any agencies having jurisdiction over such matters including but not limited to the DEP, Bucks County Conservation District;
- 8) Applicant to pay a Fee-In-Lieu of road widening of Sandy Run Road, the full widening of the driveway, and a Fee-In-Lieu of the installation that requires sidewalk, the amount of which is \$46,488 and paid at the time of the funding and execution of the Development and Financial Security Agreements;
- 9) Funding and Execution of the Development and Financial Security Agreements in a form satisfactory to the Township;
- 10) Conservation Easement noted shall be Recorded of Record in favor of the Township and shall be filed contemporaneously with the filing of the Final Plan;
- 11) Applicant to plant trees to the rear of Lots #5 and #6;
- 12) Payment of \$25,000 for tree replacement.

Mr. Murphy accepted the Conditions, and the Motion carried with Mr. Smith opposed.

PRESENTATION OF REVISED CONCEPT PLAN FOR SCAMMELL HOUSE

Mr. Larry Dugan, attorney, was present with Mr. George Bennis, Project Manager for JP Orleans. Mr. Dugan stated he understands that there was some discussion at last month's Board meeting about their intentions with respect to the residence on the Scammell lot. Mr. Dugan stated this project is sixteen single-family homes, and as of today they have sold nine of the homes, and settled three families in their homes. He stated many of their buyers were Lower Makefield residents. He stated with regard to the existing Scammell home, they intend to rebuild the home consistent with the terms of the Façade Easement. He stated the Façade Easement was executed, and it governs their obligations as to what they can do there. He stated they have engaged an architect to design Preliminary Plans, and they have provided that architect with the Façade Easement understanding that they need to preserve the southern façade of the property as viewed from Yardley-Newtown Road.

Mr. Dugan stated they have also engaged engineers and sub-contractors to come out to the site to understand how they can rebuild the home but not impair the structural integrity of the southern façade. He stated they have also engaged a stone mason from Lancaster because that was the closest stone mason they could find who had experience with restoration of masonry structures. He has been out to the property to look at the southern façade and to make sure that they can repair it and maintain it consistent with the terms of the Façade Easement.

Mr. Dugan stated they have Plans this evening showing the southern façade. Smaller copies were provided to the Board this evening. Mr. Dugan stated the top drawing was part of Exhibit B to the Façade Easement showing the southern façade. The drawing at the bottom is what their architect has come up with to date. He stated there are minor differences including the movement of one door slightly to accommodate a better flow of the floor plan for the home.

Mr. Dugan stated they met with HARB and the Historic Board last month, and they understood that meeting was simply advisory, and that the decision-making authority is the Board of Supervisors; however, they felt it was important to listen to their input. He stated they did have one or two suggestions about the roof line, including a suggestion about a roof break to make it more consistent with what the façade was; and they did that.

Mr. Benedetto stated it was indicated in prior meeting Minutes that the meeting with HARB was to be fact-finding and not advisory. He stated he has an issue with them taking suggestions and revising the Plan based on discussions with HARB. Mr. Dugan stated the only alteration they made to the Plan was to the roof line as originally they had the roof line going straight across, and HARB suggested that they alter the roof line to make it consistent with the terms of the Façade Easement. He stated they understand that if they want to make any changes to the southern façade, they need approval from the Board of Supervisors.

Ms. Tyler asked Mr. Garton in addition to the Façade Easement are there any other binding legal documents indicating what this developer can and cannot do. Mr. Garton stated the Façade Easement was a follow up to Approvals from the Board and also a Court Order. He stated the Façade Easement mirrors that and is the governing document although there are other enforceable proceedings that add to that enforceability.

Mr. Benedetto stated there is a Court Order and a Settlement Agreement not just a Façade Easement. Mr. Dugan stated he feels the Façade Easement is the governing document. He stated he reviewed the Court Order dated June 28, 2011 which was a Stipulation and Settlement Agreement which also governs, and the only provision he found in the Court Order that referenced the preservation of the Scammell House

was on Page 6, paragraph 4 where it states, “Notwithstanding the fact that Quaker will be entitled to the issuance of Demolition Permits, Quaker agrees that it will make provisions for the preservation of the Scammell House or such portions of which are determined to be historically significant by competent historical and architectural authorities.” Mr. Dugan stated it is his understanding that the Façade Easement is the result of that. Mr. Benedetto stated that is Mr. Dugan’s interpretation. Mr. Benedetto stated it indicates in the Settlement Agreement “They will make provisions for the preservation of the Scammell House or...” but he added “or” does not mean “instead of.”

Mr. Benedetto stated he reviewed the September, 2013 meeting Minutes when Approval was given, and the developer indicated that they had a buyer; but that did not transpire. He stated years later they are talking about the Façade Easement that will basically preserve a “billboard;” and though nice to see, it is all they are interested in doing. He stated he has an issue with the Township Manager because the developer had a discussion with HARB. Mr. Benedetto stated now they are indicating that they altered the Plan based on recommendations made by HARB which he feels is wrong.

Mr. Benedetto stated he wants to see them uphold the provisions of the Agreement and to preserve the Scammell House. He stated he would also like to know what happened with the buyer and what they have done about the aggressive marketing campaign they supposedly did.

Mr. Dugan stated he feels the Façade Easement to which the Township is a signatory is the governing document. He stated it is the final document that obligates them as to what they have to do with respect to the Scammell House. With regard to the prospective buyers, he has only been with the developer for a few months; but he knows that when they had tours with prospective buyers, they were initially very interested, but their interest waned as the renovation costs increased. He stated when they had nine sales with three families in the development, they knew that the Scammell House was the centerpiece of their community; and they needed to take control of the process. He stated they therefore engaged an architect to re-design and re-build the house so that it would be done right and consistent with the terms of what they believe the Façade Easement requires them to do.

Mr. Benedetto asked Mr. Dugan if it is his position that there was no firm buyer; and Mr. Dugan stated this is not his position as he was not there, but he understands that there was a particular buyer early on in the process although he does not know his name. He stated it reached a point where there was an Agreement of Sale that was tendered to the buyer which was being negotiated, but at some point the negotiations broke down.

Mr. Bennis stated Mike Sherrer had met with several potential buyers, and there were three to four people who were very interested; and he believes that for two of them they had an Agreement of Sale out for attorney review, and in both cases they were interested in having someone purchase and renovate the home since they were just starting construction, and it would have been nice to see activity on the home. Mr. Bennis stated once people started doing estimates to determine the cost to complete the project, they were no longer interested.

Mr. Benedetto stated he knows that at the September, 2013 meeting, Dave Sotteil was the interested buyer; and he had a conversation with him and asked him what had happened. He advised Mr. Benedetto that the Agreement was for \$200,000 and the lawyers got involved and a reverter clause was inserted that if the grantor (the developer) was not happy with the progress of the renovations, they would have the right to take the property back and this would exclude the \$200,000 going back to the buyer and any money spent on renovations. Mr. Benedetto stated while he does not know that is accurate, if he were writing the Contract, he would put that in also so that they could protect the community they are building. He stated he would not want someone to go in and sit on the property and decide that they were going to develop it five to ten years in the future and leave it in the condition that it was in. He stated he would want it to be developed quickly and properly and be able to oversee the process.

Mr. Benedetto stated Mr. Sotteil walked away from this, and three to four months later he purchased a home in Jamieson; and now it is almost in livable conditional. He stated Mr. Sotteil advised him that for the Scammell House based on the reverter clause he had year to get a Certificate of Occupancy on a house that had been lying dormant for many years. Mr. Benedetto stated he feels that the intent was not really there to sell the Scammell House.

Mr. Benedetto also asked about the “aggressive marketing campaign” they discussed in September, 2013 since he has not seen any advertising for this House. He stated he feels the terms were too onerous for the people who were interested in the House. Mr. Benedetto asked if they are stating that no one recently has come in to indicate they wanted to purchase the House; however, Mr. Bennis stated in the last two months they did have a potential customer approach them; but they feel they are too far down the road to start a process that could take another five to six months, and they want to get this process started. Mr. Benedetto stated he feels this is why they “dragged their feet on this,” and they are now stating that this is the best they can do.

Ms. Tyler asked Mr. Garton if there is any legal enforcement requiring this developer to market this house aggressively, and Mr. Garton stated it is not a legally-enforceable statement and is part of a discussion that occurred at and Land Development process. He stated he also disagrees with Mr. Benedetto as far as the preservation of the entire house. He stated he recalls that Ms. Helen Heinz wrote a memorandum that is attached to the Façade Easement, and there was a clear recommendation that the southern façade was to be preserved; and the Board followed this direction and that was the result of discussion over many months with the developer and the Township.

Mr. Smith asked if there is a “best effort clause” included, and Mr. Garton stated the Façade Easement clearly delineates what they are required to do. He stated “best effort” was not involved in the Façade Easement.

Mr. Benedetto stated while he understands Mr. Garton’s comments, at the September, 2013 meeting Mr. Stainthorpe clearly stated he did not just want to have a model of the home, and he would like to see the home preserved, restored, and rehabilitated. Mr. Benedetto stated now they are saying all they were talking about was the Façade Easement; and he feels according to the discussions they had, the house was to be preserved and restored, and now they are saying the best they can do is the Façade Easement. Mr. Dugan stated the Board and the developer agreed that the southern façade was to be preserved, and he feels they are doing that. He stated tonight they wanted to show the Board what they were doing since they knew that there was some confusion. He stated they will not get their money out of the project until they sell this house.

Mr. McLaughlin stated he feels that the developer is motivated since they probably want to sell the house as fast as they can. Mr. McLaughlin stated they must protect the new buyers in the development, and they could not sell it to someone when they have no clear definitive answer as to when they would complete the project. He feels it is responsible to have a timeframe for completion put in a Contract with a potential buyer of that house.

Mr. Benedetto stated there was someone in September, 2013 who was willing to refurbish and renovate the house; however, Mr. McLaughlin stated he was not willing to meet all the terms.

Ms. Helen Heinz was present and was asked if she was part of the process of preparing the Façade Easement; and she stated she was and they were thinking that what was valuable to the residents of Lower Makefield Township was the way the house looked as you came up Afton Avenue, and by doing the southern façade she was thinking that they could definitely save the garage around the side. She stated the southern façade would also give someone a reasonable tax return and give them

an incentive to restore the whole house. She stated she does not feel the new Plan looks anything like the old house. She stated the doorways are moved, the old section is moved over, there are no chimneys, and the pitch of the roof is much different. She stated she has seen the lay out, and the entire older section of the house is gutted all the way through the house. She stated the garage has been taken off completely; and what is the ballroom, which is the far left side, is going to be the new garage. Ms. Heinz stated they were concerned that the façade that would be important to people should be preserved, but she does not feel the architect's plan does this. She stated they should reconsider where the garage is, the ballroom be preserved as a media/great room.

Mr. Smith asked Ms. Heinz if what she is suggesting are “tweaks” or major revisions, and Ms. Heinz stated she feels what they are doing is keeping the façade for purposes of historic preservation but then removing all the historic materials. Ms. Heinz stated they were hoping that they were working with someone who would keep the house. She stated under the best case scenario, this house was eligible for the National Register based on the fact that Mr. Scammell lived in the house in the 20th Century. She stated the two additions on each end gave the house its eligibility on the National Register. She stated she does not understand from a marketing standpoint how they can remove everything of value from the House including the chimneys and fireplaces. Ms. Heinz stated from her discussions with Michael Sherrer, she understands he considered this house an example of obsolete technology, and had indicated they would put an “Orleans twist” on the back side of the house; and she feels this Plan reflects that “Orleans twist” on the back side of the old house.

Ms. Tyler stated she is concerned that on the Plan they are showing, the façade is not the same and she particularly noted the chimneys and the pitch of the roof.

Mr. Bennis stated they will check on the pitch. He stated the architect was directed to make the pitches the same as had been existing. They will also look into the chimneys. Mr. Dugan stated they will go back and look at the roof pitch and the chimneys. Ms. Tyler stated they should look at every aspect of the façade.

Mr. McLaughlin stated they have heard that when Ms. Heinz was on the Historic Commission she worked closely with the developer to adjust the Plans and weighed in on the Façade Agreement, and he asked Mr. Benedetto if he was aware of that. Mr. McLaughlin stated he questions why Mr. Benedetto was not concerned about this when Ms. Heinz was involved, but he now has a problem with HARB being involved. Mr. McLaughlin stated HARB is now being chastised by Mr. Benedetto for doing the same thing that Ms. Heinz did previously when she was on the Historic Commission. Ms. Heinz stated HARB does not have jurisdiction over this property.

Ms. Tyler asked Mr. Garton the best way to enforce the Façade Easement; and Mr. Garton stated based on the discussion tonight, the developer has to address the roof pitch, the chimneys, and other things that are not consistent with the existing façade.

Mr. John Kuntz, 1032 Lafayette Drive, stated what is being shown are not the same houses. He stated he owns a residential redevelopment company, and a Façade Easement is a reproduction of “like/kind;” and what is being shown is an Orleans house in a similar shape as the Scammell House. He stated he did make an offer to Orleans to purchase the house and redevelop it, but the terms were onerous. He stated he was told by Michael Sherrer, Vice President, who was in charge of the negotiations that the property was under Contract. Mr. Kuntz stated he did not hear anything for a couple of months, and he reached out to Mr. Sherrer in January, 2015 asking if he could still purchase the house with cash and no contingencies; and Mr. Sherrer indicated that they were not sure that they were going to sell it now or were possibly going to knock down the back wall and take off the roof and build a new house over the old house just keeping the front wall. Mr. Kuntz stated he had contacted Orleans on eight different occasions to try to purchase this house, and they communicated that this was not the direction they were planning on going at this point. He stated he feels this is an importance piece of history to be preserved for the good of the community. He stated it is a central location in the community, and he would be willing to put his own and his investors’ money into the house and make it look fantastic; and he would then either live there or sell it to someone who would appreciate it. He also stated you do not have to go to Lancaster to find stone masons. He stated he works in Bucks County and Princeton, and there are great stone masons in the area. He stated you might have to go to Lancaster to find the “cheapest” stone mason.

Mr. McLaughlin asked Mr. Kuntz if he was in agreement with the terms; and Mr. Kuntz stated he would not have accepted a year, but he would have accepted sixteen or eighteen months.

Mr. Dugan stated he has no information about what Mr. Kuntz is indicating. Mr. McLaughlin stated Orleans is looking for a buyer, and Mr. Kuntz seems willing to agree to the terms with more flexibility on the timing. Mr. Dugan stated they will discuss this with Mr. Kuntz, but he feels at this point they have decided that they are going to renovate the home and keep control over the process.

Mr. Dobson stated Orleans has seven to eight homes to sell so they will probably be here eighteen months to two years; and if they give Mr. Kuntz eighteen months, he has indicated that he could get it done in that time. Mr. Dugan stated that they will have a discussion with him although he added there is no guarantee that they can come to an agreement.

Ms. Tyler asked Ms. Heinz if she has color photographs of the façade, and Ms. Heinz stated she does and agreed to provide them to Ms. Tyler.

Mr. Ed Gavin, 904 Sensor Road, stated he was present at the first meeting when the developer was before the Board; and they indicated that they would do an aggressive marketing plan for six months, and if they did not sell it in six months, they would build a model of the house. Ms. Tyler stated the Board rejected that. Mr. Gavin stated it seems that they have legally agreed to a Façade Agreement so there should be no changes to the façade, and Mr. McLaughlin stated the Board agrees.

Mr. Smith asked that everyone work together including working with Helen Heinz, their resident historian.

Mr. Garton stated the Board met in Executive Session for approximately twenty minutes to discuss the Zoning Hearing Board matters and also to get a brief update on the discussions that took place involving RAFR and Aria. He stated this was an open dialogue among the parties, and they gained some perspective as to where people were coming from. Aria is planning to get back to the parties after discussing with their Board of Directors the conversations they have had.

ZONING HEARING BOARD MATTERS

With regard to the Dana Campbell Variance request for the property located at 7 Highview Lane in order to permit construction of an addition resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing board.

With regard to the Alexander Zbinden Variance request for the property located at 18 Milton Drive in order to permit enlargement of an existing screen porch resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Anthony Sylvan Pools (Rob McCubbin/Holly & Greg Lazzaro) Variance request for the property located at 526 Liberty Drive in order to permit construction of an in-ground pool and patio resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the James R. Littlely Variance request for the property located at 1475 Page Drive in order to permit construction of a portico resulting in encroachment into the front yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Mario A. Rocchi Variance request for the property located at 1559 Brock Creek Drive in order to permit construction of a shed resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS' REPORTS

Ms. Tyler reported that the Electric Reliability Committee will be meeting with Senator McIlhinney. She stated Mr. Bill Clark has offered to be the Liaison with the Ambulance Corps and attend their meetings when they have them, and this was acceptable to the Board. Ms. Tyler stated the Artists of Yardley will have a free demonstration on August 25 at 7 p.m. on felt making. She stated there has been a Summer Camp there this summer, and artwork from the Camp will be shown on August 27 at 6 p.m. She noted there will also be some shows in September.

Mr. Dobson stated the Park & Recreation Board held their Road Tour on July 14.

Mr. Benedetto stated the Farmland Preservation Corporation did an inventory of their properties, and they are looking at replacing some fencing. He stated they are also working on an update for the Township Website.

Mr. Smith asked where they stand with regard to Facebook/Twitter; and Mr. Fedorchak stated they are in the process of creating a Twitter Account, and one of his staffers is putting together a profile.

Mr. Zachary Rubin stated they previously asked the Board to sign a Contract with Bill Kyle to update the Township Website, and he had previously provided the Contract to Mr. Fedorchak. Ms. Tyler stated they are going to discuss this further.

OTHER BUSINESS

Mr. Benedetto asked for an update on the Yardley Hunt tennis courts; and Mr. Fedorchak stated he was hoping to have something finalized at this point, but the Toll Senior Vice President working on this is on vacation. Prior to his vacation, they had a number of discussions; and Mr. Fedorchak stated he is cautiously optimistic that Toll will be involved significantly in renovating at least two of the tennis courts and other recreational amenities that they have been discussing with respect to the remaining area.

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Mr. Smith stated he was at the Pool approximately two weeks ago and was very impressed with their activities. He thanked Ms. Tyler and the others involved with marketing the Pool.

Mr. Smith announced that on Labor Day, September 7, they will hold Lower Makefield Family Fun Day. He stated there are numerous groups and commissions coming out, and he thanked Donna Liney for the work she has done for this event. He stated there will be a lot of children's' event and a dunk tank for charity. There will be a 3 by 3 basketball tournament, and the Police and Fire Departments will be involved. He stated the Pool will also be open as well which he feels will be a good marketing tool for future years.

There being no further business, Mr. McLaughlin moved, Mr. Dobson seconded and it was unanimously carried to adjourn the meeting at 10:45 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jeff Benedetto", with a long horizontal flourish extending to the right.

Jeff Benedetto, Secretary