

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – JUNE 10, 2024

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on June 10, 2024. Mr. Bush called the meeting to order at 7:30 p.m.

Those present:

Planning Commission: Tony Bush, Chair
Tejinder Gill, Vice Chair
Adrian Costello, Member
John DeLorenzo, Member

Others: James Majewski, Community Development Director
Dan McLoone, Planner
Jim Esposito, Township Solicitor
John B. Lewis, Supervisor Liaison

Absent: Colin Coyle, Planning Commission Secretary

APPROVAL OF MINUTES

Mr. Costello moved, Mr. DeLorenzo seconded and it was unanimously carried to approve the Minutes of May 13, 2024 as written.

ACCESSORY STRUCTURE ORDINANCE DISCUSSION AND TABLING TO NEXT MEETING

Mr. Majewski stated he has provided a draft of what was discussed at the last meeting broken out into two standards – one for the R-1 and RRP Zoning Districts where the lots tend to be slightly larger, and the other for the R-2, R-3, R-3M, and the R-4 Zoning Districts where the lots are typically somewhat smaller.

Mr. Majewski stated the key points in the Ordinance would be that the accessory building or structure shall not be permitted in the front yard and they would be required to be behind the back building line of any dwelling. Sheds can be no closer than 5' from any side or rear property line for the R-1 and RRP Zoning Districts and larger accessory buildings greater than 200 square feet, which would be a 10' by 20' shed or a 14' by 14' shed, would be required to be 10' from the property line which is currently in the standards. He stated the maximum height of the structure would stay at 15' as it is currently.

Mr. Majewski stated for the R-2, R-3, R-3M, and R-4 Zoning Districts, the only difference would be that the shed shall be no closer than 3' from any side or rear property line; and that would give enough room for someone to be able to enjoy their yard with the smaller lot size while still maintaining enough room around the structure to properly maintain it. He stated any larger structures would be required to be 10' from the property line with a maximum height of 15'. The building would be required to be behind the back building line of the residential structure.

Mr. DeLorenzo stated he has seen that there are a lot of people in the Township who have their sheds on their driveway, and he asked if we could consider that it would have to be behind the front of the structure as opposed to behind the structure. Mr. Costello stated provided it is not the primary visual structure, and they do some landscaping, he does not have a problem with that. He stated he does not feel it should be allowed to be in front of the structure. Mr. Bush stated he would not have an issue with that provided it does not go in front of the structure.

Mr. Majewski stated there could be an amendment taking out the words, "back building line," and instead state "locate it behind the building line of the residential dwelling." Mr. Gill stated the whole structure would have to be behind the front of the house, and Mr. Majewski agreed.

Mr. Lewis asked what is the definition of Residential Accessory Building, and does it include ADUs (Accessory Dwelling Units) as part of that. Mr. Majewski stated it does not. Mr. Lewis asked if ADUs are specifically prohibited in this instance, and Mr. Majewski stated they are prohibited everywhere. Mr. Lewis stated because of the stormwater issues that we have, ADUs are probably not an opportunity for many of the parcels in Lower Makefield although for some they could provide additional housing support especially for family members that are looking for that. He stated he feels that the difference between a shed and a tiny house, an ADU, etc. is visually essentially the same, but he would not want to have a building type expressly prohibited when it maybe should not be. Mr. Costello stated he was just assuming this discussion was referring to sheds but we should make sure that is what we are talking about it. A slide was shown of the definition of an accessory building or structure which is "a building or structure subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building including but not limited to private, non-Commercial greenhouses, farm buildings, swimming pools, tool sheds, playhouses, and detached garages."

Mr. Majewski stated only one dwelling unit is allowed on any one lot so there could not be an accessory dwelling unit. Mr. Lewis stated there may be cases where it may be helpful for families to be able to use a portion of a garage as a small apartment for a family member. Mr. Bush stated it seems that is not permitted. Mr. Majewski stated if the Planning Commission and the Board of Supervisors feel that is something they would like to pursue, they could look into that as a future Amendment.

Mr. Costello asked what would happen in a neighborhood where the houses are not symmetrical in terms of distance from the street since now we are considering giving permission to go 3' from the property line and to be even with the front of the house which could be 40' in front of another house so that now the person in the other house is looking at the back of a shed. Mr. Majewski stated he feels that there are going to be far more cases where requiring it to be in the fourth of the lot furthest removed from the road is more detrimental to residents than the few cases where you have someone with an odd setback. Mr. Costello stated he wants to make sure that we are not creating issues between neighbors. Mr. Bush stated it seems that if we leave it the way it is, there is an issue; but if we change it, we are creating a different issue although it may be a smaller sub-set of people who have a problem.

Mr. Costello stated it has been indicated that the way it is written today it is unnecessarily inconvenient for people; but if we do this, we should probably do something about things that are out of spec. Mr. Majewski stated one of the reasons why he wants to make this Amendment is that it will make it more compliant with what the reality is. He stated he sees many sheds that are not in conformance with the Ordinance, and there are hundreds of non-conformities for something that the Zoning Hearing Board routinely grants a Variance for, and that creates a burden for people. having to pay for a Variance. He stated the Township bears a cost as well since the cost for a Zoning Hearing Board Hearing is split between the Applicant and the Township. Mr. Costello asked if the primary reason the Zoning Hearing Board grants the Variance is because of precedence and inconvenience for the property owner, and Mr. Majewski agreed.

Mr. Bush asked how often these type of requests for Zoning relief are not granted; and Mr. Majewski stated they are seldom not granted and there has to be a real over-riding reason why they do not grant it. Mr. Costello asked what the Zoning Hearing Board is permitting as he assumes they are not permitting them to have a zero setback. Mr. McLoone stated may times they are granting a Variance for something that is already there. Mr. Majewski stated a recent

Variance was given for a shed to be 3' off one property line and 5' off of another. It was felt that 3' provides adequate room to maneuver around the building to paint it, maintain it, and cut the grass.

Mr. Costello stated he feels that 3' might be okay if someone were to go through the Variance process; however, he does not feel that it should be permitted automatically in all Districts as he feels it is too close. Mr. Costello stated he agrees that given the history, the setback should not have to be 10'; however, he feels 5' and 3' are not enough. He stated if someone wants to go to 3', he feels they should have to get a Variance from the Township making sure the neighbors are okay with it. Mr. Majewski stated currently it is so complicated that it is a burden to the Township and the residents. Mr. Costello stated the issue may be that everything that is not part of the house is considered an accessory structure. Mr. Majewski stated larger structures would still be required to have a 10' setback.

Mr. McLoone stated if it is amended to having the structure at the building line as suggested he feels it could result in people putting it closer to their house. Mr. Costello stated he does not want to make it overly burdensome for the Township or most residents, but he still feels that if it is getting close to the adjacent property, there needs to be a discussion.

Mr. Majewski stated what is proposed is 5' for R-1 and the RRP and 3' for R-2, R-3, and R-4 where the lot sizes are typically smaller. Mr. Bush stated at the last meeting the Planning Commission was provided information showing that neighboring Townships allow for between 3' and 7'. He stated he feels 3' is too small a distance particularly if there are sheds all in close proximity to one another on adjoining properties. Mr. Bush stated he agrees 10' may be a lot. He stated at the last meeting it was indicated that two of the reasons for making this change were for long lots which required the shed to be all the way back on the property, and that for smaller lots, the required setbacks resulted in a shed being almost in the middle of the back yard. Mr. Bush stated he would be in favor of a 5' setback for the smaller properties and 7' for the larger properties. He stated if someone wanted something smaller than that, they would have to go before the Zoning Hearing Board. Mr. Costello stated that would give the neighbors the opportunity to make comments about it.

Mr. Majewski stated there are hundreds of non-compliant sheds in the Township, and typically they put them about 3' off of the property line; and he does not believe that we have ever had a complaint about a shed being too close to the property line.

Mr. Gill asked if there is a provision included that this will take effect going forward. Mr. Costello stated he does not feel this is a policing decision for the Planning Commission; and if there are things out of spec, that is an issue for the Township.

Mr. DeLorenzo stated he would be in favor of 5'.

Mr. DeLorenzo moved and Mr. Gill seconded to amend the Ordinance that sheds may be no closer than a 5' for any Zoning District for smaller structures, and for larger structures, it is 10'. Accessory buildings may be located behind the building line of the residential dwelling.

Mr. Mark Ovietti stated he is a Yardley resident. He asked what would happen if the houses are diagonal with regard to the structures allowed to be located behind the front building line. He stated if the front building line is diagonal, the structure will be sitting in someone's driveway. He stated he was before the Township a year ago when his neighbor wanted to put a shed in front of his house, and this change would allow him to do that.

Mr. DeLorenzo stated a simple way to address that would be that if a house is on the diagonal with one side of the house being 50' from the road and the other side is 30' from the road, it would have to be on the front that is further back. Mr. Majewski stated under the Ordinance, it is not permitted in front yards. He stated he feels that they should look into this further and come back with wording with regard to that at the next meeting.

Mr. Esposito stated there could be houses where the garage comes more forward than the entry way, and could be 20' closer to the road, and it should be considered if it should be allowed where the garage comes forward. Mr. Majewski stated he will bring several samples of what it would look like and wording how we could address the concern expressed.

Mr. DeLorenzo suggested that it be no further forward from the farthest point from the street of the main structure. Mr. Majewski stated he would like to consider this further before a recommendation is made.

Mr. Costello moved, Mr. Gill seconded, and it was unanimously carried to Table this to the next meeting.

STORMWATER MANAGEMENT ORDINANCE AMENDMENTS DISCUSSION

Mr. Jonathan Robinson, Civil Engineer with Herbert, Rowland & Grubic, Inc. (HRG) was present. He stated the Planning Commission has been provided HRG's detailed recommendations. He stated their goal is to assist the Township in creating a comprehensive and modernized Stormwater Management Ordinance that effectively addresses stormwater quality and quantity management, current construction standards, and promotes the use of innovative, best management practices (BMPs), including low-impact development (LID) and green infrastructure (GI). He stated these updates will help mitigate the adverse impacts of unmanaged stormwater on the overall quality of life of the community and enhance resiliency in the face of more frequent and intense storm events.

Mr. Robinson stated HRG was in discussion with the Township for a Phase 1 or "quick-hitter improvements" to the Stormwater Management Ordinance, and this comprehensive Ordinance update will include those Phase 1 amendments as well.

Mr. Robinson stated another goal of the Ordinance revision is for consistency with the model Ordinances as well as consistency with the other Township Ordinances including the Subdivision and Land Development Ordinance and the Zoning Ordinance.

Mr. Robinson stated the sources that they pulled from to derive some of the requirements included in the Ordinance are the PADEP Model Ordinance, the Act 167 Model Ordinances from the Neshaminy Creek and the Delaware River South, the PADEP BMP Manual, and the associated new draft PCSM Manual, Lower Makefield Township Ordinances, the New Jersey Administrative Code, and professional experience.

Mr. Robinson stated their first recommendation is to combine the Stormwater Management Ordinances. He stated currently the Township has two Stormwater Management Ordinances – the Delaware River South Watershed Ordinance and the Neshaminy Creek Watershed Ordinance. He stated the reason they are recommending to combine them into one Ordinance is because the current Ordinances are very similar to each other, and there

are not a lot of clear distinctions between them that would warrant two separate Ordinances. He stated they are also recommending this for simplicity so that when a developer comes into the Township it would be easier to look at one Ordinance. He stated they can provide two different Tables especially with the Rate Control Calculation Section to accommodate the differences.

Mr. Robinson stated there are three Model Ordinances that Lower Makefield Township's Ordinance should be in compliance with. He showed a slide with regard to the PADEP Model Ordinance noting that there are some Sections that are not included in the Township's current Ordinance; and while there may be some language within the current Ordinance that references the Sections a little bit, clearly defining these within the new Ordinance will make it clearer in compliance with the Model Ordinance itself.

Mr. Robinson showed a slide of the LID/Green Infrastructure language included within the Model Ordinance, and this is optional language within the Model Ordinance; but after discussion with the Township it was felt that including this language would meet the goals of the Ordinance revision. He stated the other Ordinances they would like to be consistent with are the Neshaminy Creek and the Delaware River South Model Ordinances. He stated there are some Ordinance Sections in here that are not clearly identified with the Township's Stormwater Management currently. He stated there may some verbiage that references some of these Sections, but we want to clearly define them within the Ordinance so it is clearly in compliance.

Mr. Robinson stated they want the new Stormwater Ordinance to be consistent with Lower Makefield Township's current Ordinances specifically the SALDO Ordinance (Subdivision and Land Development Ordinance) and the Zoning Ordinance. He stated the Subdivision and Land Development Ordinance has some pretty comprehensive stormwater practices within it including low-impact development, some sub-surface investigation, infiltration testing requirements, BMP design criteria, Dedication, and operation and maintenance requirements, etc. He stated they want to make sure that the Stormwater Management Ordinance itself is consistent with the Subdivision and Land Development Ordinance so that there are the same provisions in both of them. He stated it is the same thing with the Zoning Ordinance which has a pretty comprehensive Natural Resource Protection Ordinance. He stated this would require developments to protect streams, riparian buffers, floodways, flood plains, ponds, streams, wetlands, steep slopes, and woodlands, etc. He stated they want to confirm that the Stormwater Management Ordinance also reflects those requirements.

Mr. Robinson stated Lower Makefield has a pervious pavement credit and design criteria, and they want to confirm that the Stormwater Management Ordinance encourages applicants to utilize that credit in accordance with the Ordinance itself.

Mr. Robinson some things that would be new to the Ordinance as opposed to compliance with other regulatory requirements or existing Ordinances within Lower Makefield Township would be the calculation methodology recommendations that they are proposing. He stated they are recommending re-defining the definition of impervious area. He stated currently the definition does not include pools and gravel areas as impervious, and their recommendation is to include pools and gravel areas as impervious. He stated there may be discussion as to whether this would increase the Variance/Zoning requirements for lots especially for residents who have already installed pools. He stated the Zoning Ordinance and the Stormwater Ordinance can have separate definitions for impervious area. He stated within the Zoning Ordinance, the water in a pool may not be considered impervious; however, for stormwater calculations, we would want to consider it impervious for those times during the winter where the pool is covered, and there is run-off coming off the pool, and it is acting like impervious area. He stated there would not be any increase in Variances, but there would be an increase of stormwater capture for the Stormwater Ordinance.

Mr. Costello asked if gravel on top of dirt would be considered impervious, and Mr. Robinson stated it would. He stated currently that is a gray area in the Stormwater Ordinance and it states that it is up to the Township engineer's discretion as to what is considered impervious and not impervious when it comes to gravel or other similar surfaces. He stated they want to clearly define what is and what is not impervious so that there is no judgment call.

Mr. Bush stated over the years people have come in with proposals for gravel driveways, etc. and indicated that they were pervious, and the Township's position was that they were impervious. He stated he assumes currently that is not under the Stormwater Management Ordinance although it is already considered impervious under other Township Ordinances. He stated he understands that they will be making it consistent with what exists. He asked if that is something the Township wants to do, and he asked if gravel is really impervious or is there some percentage of it that is pervious. Mr. Robinson stated typically gravel surfaces become very compact over time especially driveways, and they typically act as impervious area over time although when they are first installed there may be some infiltration from the voids within the stone.

He stated over time those voids get filled in with dirt, it gets compacted, and the water runs off just as if it were an asphalt driveway. He stated this would be a policy decision by the Township as to what they would like to enforce.

Mr. Majewski stated sometimes there is gravel that is not necessarily impervious such as pea gravel added as a landscaping feature, and that does allow water to go through and is not easily compactable; however, from stormwater management calculation purposes, it is easier to classify all of that as impervious. He stated maybe for Zoning purposes, they could give credit for that differently. Mr. Majewski stated there is a slight difference between Zoning and a Stormwater Management Ordinance as it relates to impervious that should be clarified.

Mr. Lewis stated we have had credit for pervious pavement, and we have encouraged it; and while it has worked well in some cases, it does have a maintenance element. He asked if “defined pervious pavement” would be considered pervious, or would it be impervious in this Ordinance.

Mr. Robinson stated as the Ordinance is written, it would be considered impervious; however, if the Township wishes for it to have a pervious component to it, they could build that in the definition. Mr. Lewis stated we have encouraged pervious pavement, and we have it in some locations including the Makefield School, and that is pervious from water penetrating and going in, and we want to encourage that. Mr. Robinson stated he understands that there is a separate Pervious Pavement Ordinance, and they could include in the definition that if an area is built in accordance to the Pervious Pavement Ordinance and meets those requirements, it could be considered pervious compared to impervious. Mr. Costello stated the language should include “build and maintain” according to the Pervious Pavement requirements.

Mr. Majewski stated our Zoning Ordinance gives a 50% credit for porous paving/ permeable paving, and there are design standards and maintenance requirements built into that. He stated currently that Zoning Ordinance provision is only applicable to non-Residential properties. He stated the concern with Residential properties is that an individual is less likely in the future ownership to follow the rules because they do not read the Deed or the Restrictions whereas a Corporate entity/non-Residential/Institutional/Commercial would be more likely to read the fine print before they buy a property.

Mr. Robinson stated they will be cognizant of that as they go through the re-write of the Ordinance. He stated while it may not be in the definition, there is some sort of provision that they would need to include that encompasses the Pervious Pavement Ordinance to make sure that there is the 50% credit for non-Residential construction.

Mr. Robinson stated they would also like to introduce to the Stormwater Management Ordinance some time concentration guidelines; and that applies to the rate-control calculations or how long the water takes from the uppermost point of a drainage area to get to the stormwater management facility or “point of interest.” He stated by adding guidelines on this you avoid developers from artificially inflating the post-development time of concentration. He stated if you increase the post-development or construction time of concentration that would make the run-off get to the point of interest slower, which would then artificially decrease the rate compared to what it may actually be in actual post-development conditions.

Mr. Robinson stated the next change would be disallowing “meadow” cover conditions in post-development calculations. He stated this is mainly to increase the amount of stormwater capture from proposing BMPs or stormwater management facilities within the Township. Mr. Majewski asked if they would use lawn instead of meadow, and Mr. Robinson agreed.

Mr. Robinson stated they have also revised the peak rate control requirements. He stated this provision was from the New Jersey Administrative Code. He stated typically in Pennsylvania how you handle peak rate control requirements, your post-development peak has to be lower than your pre-development peak. He stated typically how rates are shown in stormwater calculations are through a hydrograph or a bell curve. He stated in New Jersey they require the entirety of the bell curve to be lower than the bell curve of the pre-development, and the entire storm must be less than the pre-development conditions in the post-development conditions.

Mr. Lewis stated that means that for any new development, post-development the ability to address stormwater will be improved; and Mr. Robinson agreed. Mr. Robinson added that it encourages developers to mimic existing conditions as much as possible since the only way for the hydrographs/curves to line up is if your existing is pretty close to your proposed conditions. He stated this encourages developers to utilize existing hydrology on their sites.

Mr. Gill asked if there is an issue using New Jersey requirements when we are in Pennsylvania; and Mr. Robinson stated there is not, adding that this requirement is greater than Pennsylvania's and there is no concern with increasing requirements compared to Pennsylvania although you cannot go below the standards.

Mr. Robinson stated they are also proposing to add stormwater run-off quality standards. He stated the current Ordinance has a quantity standard which is volume and rate control, but this will introduce a quality standard which would require developers to provide a calculation to show that they are reducing total suspended solids within their post-development stormwater calculations. He stated PADEP has a spreadsheet that automatically calculates this for you; and if they use PADEP guidelines, it should be easy to fulfill.

Mr. Robinson stated the next proposal is to include tailwater conditions for stormwater management calculations. He stated whenever there is a pipe entering a basin or a floodway and it eventually fills up, there is water that backs up into the pipe; and they want to confirm that that calculation is included in future stormwater management considerations.

Mr. Robinson stated they are also recommending to remove the rational calculation methodology from the Stormwater Management Ordinance. He stated while some people may think that this calculation methodology is simpler and easier to utilize, it is not as accurate as "the SCS" method which is the standard method of stormwater management calculations. He stated what they are recommending will better mimic actual on-site stormwater run-off.

Mr. Bush noted the tailwater calculations, and he asked how often it happens that the water backs up into the pipe. Mr. Robinson stated it is pretty common when you are discharging a storm sewer system into a basin, and typically when you get to the ten, twenty-five, fifty, one hundred-year storms, the water elevation within the basin will be higher than the pipe within the basin itself. He stated in the larger developments it is fairly common, but for a smaller Residential stormwater facility, it may not be as common. Mr. Bush stated we have been having more-intense storms, and he asked if we should be doing more to improve the ability of the basins to handle the water so it handles a ten-year or twenty-year storm better.

Mr. Robinson stated within their recommendations for the Stormwater Management Ordinance, they are going to include stormwater facility design standards within the Ordinance so that may address some of the concerns

for the basins. He stated they will make sure that they are in compliance with the most recent recommendations with the draft PCSM Manual that PADEP published earlier this year.

Mr. Lewis stated this involved only new development or re-development, and Mr. Robinson agreed. Mr. Lewis stated we are seeing increased storms. He asked if the revised peak rate control requirements potentially need to be even more strict based on what Mr. Robinson has seen analyzing our current flood maps and recent events. Mr. Robinson stated in their Phase 1 recommendations, they did reduce the peak rate control requirement to 80% of the peak rate; and they will make sure to carry that over into the comprehensive Ordinance Amendment. He stated he believes that 80% reduction in addition to the entirety of the post-development hydrograph being less than pre-development is going above and beyond any other Stormwater Management Ordinance that he has worked on; and this will reduce stormwater in the post-development conditions for new development and re-development.

Mr. Lewis asked if this will make our Ordinance one of the most strict Ordinances in Pennsylvania, and Mr. Robinson stated it is the most strict Ordinance that he has personally worked on.

Mr. Robinson stated they are looking to update some of the Stormwater Management Site Plan submission requirements, and associated with that would be the stormwater management report submission requirements. He stated the reason for this is to add additional information into the Plans and reports so that it is easier to review by the Township and the Township engineers. He stated they are also looking to update Stormwater Management Easement requirements to make sure that they coincide with the Land Development Ordinance. He stated they are also looking to expand upon Inspection procedures and to create a template inspection report for residents to complete whenever they are inspecting their own BMPS. He stated they are also looking to prohibit dumping and open storage of pollutants, and updating the Small Projects Stormwater Management Site Plan which is for residents who are adding a small amount of impervious area to make sure that it is easier for them to follow. He stated they are also looking to update Hot Spot BMP practices and provide additional requirements for known stormwater management problem areas.

Mr. Robinson stated in summary, HRG's recommendations to the Ordinance are to make it Regulatory-compliant with PADEP's Model Ordinance as well as the Act 167 Plans within Lower Makefield Township. He stated they are also recommending the revisions to make it consistent with other Lower Makefield Township Ordinances including the Zoning Ordinance and Subdivision and Land Development Ordinance. He stated they believe that these updates will make the Ordinance simple and practical while also modernizing the Ordinance itself. He stated they also believe that these recommendations will make the Lower Makefield Township Stormwater Management Ordinance more resilient and sustainable to future and ever-changing stormwater concerns that may be encountered in the future.

Mr. Bush asked what is Mr. Robinson's expectation for when the updates to the Ordinance will be available. Mr. Robinson stated that would depend on whether they are asked to discuss this with other public entities. He stated they felt that by the fall/early winter they would like the Ordinance to be adopted; and a draft should be available late summer/early fall.

Mr. Majewski stated members of the EAC were invited to attend tonight's meeting, and Mr. Gallen is present this evening. He added that the other EAC members will review the tape; and if they have any questions, they can reach out to the Township to get further clarification. He stated he feels what is proposed is in line with the Township's thinking to modernize our Ordinance, clarify some inconsistencies, and go with a more modern standard for stormwater management and even a little above and beyond that to make our Ordinance better.

Mr. Robinson stated the memorandum that was provided to the Planning Commission and the EAC has a more-detailed description of each of the recommendations. He stated as they are doing the comprehensive re-write of the Ordinance, there may be some additional recommendations; and they will highlight those when they provide the first draft.

Mr. Esposito stated it was indicated that they want to make the Ordinance more consistent with the Zoning and Subdivision and Land Development Ordinances, and he asked if there are any recommendations in those two Ordinances that need to change. Mr. Robinson stated that other than the impervious area definition that he previously discussed, he does not believe so; and he believes the Subdivision and Land Development Ordinance and the Zoning Ordinance are fairly comprehensive. He stated as they go through the re-writes they will note if there are any inconsistencies that they may see or any updates that they would recommend.

Mr. Esposito noted the Stormwater Maintenance and Operations Agreement, and he asked if any changes need to be done to the Model Agreement; and Mr. Robinson stated they will look at that. Mr. Majewski stated while that Agreement is not bad, he feels there are probably some things that need to be tightened. Mr. Robinson stated he has not read through the Agreement, but PADEP has a Model Agreement which he would assume is similar to what Lower Makefield has; and he asked Mr. Majewski to let him know if there are any changes he feels they should include. Mr. Majewski stated the Model Agreement we have is the twenty-year-old DEP Model Agreement, and he feels we should have the latest going forward.

Mr. Lewis stated occasionally in the SALDO process the Board of Supervisors offers Waivers to developers, and he asked if there is a way that the Ordinance can be structured such that Waivers are not allowed. He stated there are times when a developer's attorney will start negotiations by saying that the Board will be giving a Waiver. Mr. Robinson stated he is not in a position to provide advice on that. Mr. Esposito stated he does not believe that could be done although the developer does have to prove a hardship if they are requesting a Waiver. Mr. Costello stated possibly they could include language that indicates that any Waiver that is given needs public review. Mr. Lewis stated the Development process is a public review. Mr. Esposito stated the Applicant would have to draft a list of the Waivers being requested, and the Township engineer would weigh in whether they feel the Waiver is necessary or required. He stated the Planning Commission and the Supervisors would then review those.

Mr. Costello stated they want to make sure when the current Supervisors and Planning Commission members are no longer here, that this will be a viable document with teeth.

Mr. Lewis stated there may be unique circumstances when Waivers are granted, but he wants to make sure that they are "extraordinarily limited," and the Township gets compensated in some way for that Waiver at a rate far more than it costs to get the Waiver. Mr. Esposito stated it would be an internal policy. Mr. Lewis stated anyone who asks for a Waiver should review all of the documents from the July 15 flood including the videos and see pictures of what happened.

Mr. Bush stated this can be drafted as strictly as possible, but ultimately it comes down to how a future Board operates. He noted the Ordinance just discussed with regard to sheds, which is often ignored by residents; and if it is not ignored, they get Zoning relief. He stated it comes down to enforcement and not giving relief to whatever Ordinance is drafted.

OTHER BUSINESS

Mr. Costello noted the Stony Hill Bridge coming from Township Line Road, adding he noticed that the barricade for the walking path is gone; but there is no curb or separator from the road, and there is just the shoulder. He stated he remembered that we had a discussion that there was going to be a separation/ protection between the walking path on that bridge and the road. Mr. Majewski stated the developer had discussions with PennDOT about the barricade, and PennDOT had concerns about the bridge and how the barricade would be attached to the bridge. He stated they spent several months working through how the barricade would be attached to the bridge. He stated Contracts were let and approvals were in place; and according to the Press Release from PennDOT, they were supposed to have started work on the bridge last night. He stated hopefully the barricade will be up within the next month, and they will finish up the tie-in work. He stated there is a lot more that needs to be done than was originally anticipated.

Mr. Bush stated that there was a belief in the community that the developer had sought relief from PennDOT to avoid having to do what they agreed to do previously with regard to the bridge, but we now know that it will be happening.

There being no further business, Mr. Gill moved, Mr. DeLorenzo seconded and it was unanimously carried to adjourn the meeting at 8:55 p.m.

Respectfully Submitted,

Tony Bush, Chair