

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – OCTOBER 7, 2024

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on October 7, 2024. Mr. Bush called the meeting to order at 7:35 p.m.

Those present:

Planning Commission: Tony Bush, Chair
Colin Coyle, Secretary
Adrian Costello, Member
John DeLorenzo, Member

Others: Jim Majewski, Community Development Director
Dan McLoone, Planner
Maureen Burke-Carlton, Township Solicitor
John Lewis, Supervisor Liaison

Absent: Tejinder Gill, Planning Commission Vice Chair

APPROVAL OF MINUTES FROM THE 8/26/24 MEETING

Mr. DeLorenzo moved, Mr. Costello seconded and it was unanimously carried to approve the Minutes of August 26, 2024 as written.

DISCUSSION AND MOTION ON UPDATED WIRELESS COMMUNICATIONS FACILITIES ORDINANCE

Mr. Majewski stated the Planning Commission discussed this matter earlier in the year; and since that time, the Cohen Law Group the consultant hired by the Township to assist in drafting the Ordinance, has received comments and incorporated several revisions. The Ordinance would amend the Chapter 168 Small Wireless Facilities Ordinance and create a Chapter 195 in order to make sure that our Ordinance is up to the current standards for cell towers and small wireless facilities and is in compliance with FCC regulations and current Case Law. There were no major revisions made.

Mr. Majewski stated the Bucks County Planning Commission did a review, and their comments were provided to the Planning Commission in their packet. Their comments were more editorial. The Ordinance has been advertised for consideration by the Board of Supervisors. Ms. Carlton stated it has also been provided to the Law Library.

Mr. Bush asked if there were any substantive changes made as the Planning Commission did not see a red-line version. Ms. Carlton stated she does not believe there were any substantive changes, but her firm did not handle this as it was done by the Cohen Law Group. She stated some of the changes were suggested by a resident. Mr. Majewski agreed.

Mr. Costello stated there are only two things he has heard people discuss about tele-communications and one was the unappealing aesthetics of certain facilities near homes and the other was lack of coverage in certain areas of the Township. He asked if these changes will negatively impact either of those issues.

Mr. Lewis stated the primary element is making sure that we are in compliance with Pennsylvania Law. He stated there has been a delay on the roll-out for 5G and ultra-high bandwidth. He stated those facilities are much smaller than the traditional monopoles that we have. He stated there was a group in the community who was very concerned about a proposed cell tower. He stated there are only a few places where a cell tower can be placed in the Township, and there are places where they could be placed to help resolve gaps. He stated this Legislation does not address that. He stated it will help provide future technology but does not do anything that would increase access for existing technology.

Mr. Costello stated it seems that it will be helpful in the future to improve the technology in the area and will not make it any easier for a company “to do something that might anger specific neighborhoods.” Mr. Lewis stated someone may be unhappy with the aesthetics of the “pizza boxes.” Mr. Lewis stated he feels most residents would appreciate that we have provided Lower Makefield with all of the potential rights that we have under State and Federal Law.

Mr. Coyle stated he understands that the Ordinance indicates that the non-tower based facilities, which would be the small facilities, should not be located within 1000’ of the habitat of a threatened or endangered

animal species. He stated it does not appear anywhere else in the Ordinance that we are requiring that they do a study to investigate within 1000' of every small facility whether there is an endangered species. Ms. Carlton stated she believes that is the requirement. Mr. Majewski stated the current practice is that you go to the Website of the Pennsylvania Natural Diversity Index (PNDI) and you put your site and what you are doing into the database that the State maintains, and it will search for you to let you know if there are any species that are endangered or worthy of looking into further.

Mr. DeLorenzo stated the concern is the impact to the ground and not what a cell tower can do. Mr. Lewis stated he has researched studies related to cell phone towers and their impact on human and animal health; and of all the reports that he has read, there is no indication of human impact in terms of the current cell tower technology. He stated there has been some potential, but not fully-realized research, on insects and small birds; but they have not been able to validate that with research. He stated they have not found any negative consequences for people adding that if you go to the American Cancer Society Website, they address that in terms of health issues. He stated those opposed to cellular technology will frequently suggest that there is health harm, and that is not the case with humans.

Mr. Bush asked the size of the small wireless facilities. Mr. Lewis stated when they are used in urban environments he believes they are installed at the one or two-story level and can be on light poles and telephone poles. The size is typically referred to as a pizza box. Mr. Majewski stated the poles are similar to telephone poles although typically they are made of steel and not wood. He stated some have been installed in Northampton Township and Doylestown Borough.

Mr. Coyle stated they come in different shapes and sizes, and it gives more control to the carrier as to where the signals go. He stated they are in many major cities but are you do not usually notice that they are there.

Mr. DeLorenzo asked if it would not be more practical to work with a power company and use the existing poles since they would not have to be concerned with the environmental issues since the pole would already be there. Mr. Coyle stated these are distributed antenna systems so having a big pole is not necessary and these could go on a light post. He stated the signals travel less far; and over time it has been learned that the stronger the wireless signal is, that harder it is to get a good signal. He stated a strong signal hitting another strong signal causes interference, etc.; and they are now looking at less powerful signals which give a higher quality.

Mr. Coyle moved, Mr. Costello seconded and it was unanimously carried to recommend that the Board of Supervisors proceed with the proposed updated Wireless Communications Facilities Ordinance as discussed today incorporating the suggestion from the Bucks County Planning Commission that we strike the reference to wireless communication facilities being defined within the Zoning Ordinance and that we incorporate their editorial suggestion that we correct the missing underline in the text following in the definitions.

#693 – 1511 LINDENHURST MINOR SUBDIVISION

Sewage Facilities Planning Modules Component 4A – Municipal Planning Agency Review

Individual and Community On-Lot Disposal of Sewage

Tax Parcel #20-003-017

R-1 Residential Low-Density Zoning District

1511 Lindenhurst Road

Subdivide Lot containing an existing single-family dwelling into 2 single-family Residential Lots (creating 1 new building lot)

Mr. Majewski stated several months ago the Planning Commission recommended approval of the Minor Subdivision to the Board of Supervisors for the two-lot Subdivision. He stated there is currently one existing home at 1511 Lindenhurst Road which is currently served by an on-lot sewage disposal system. He stated their plans at that time showed that both lots would be hooked into public sewer through an Easement in the adjoining development, Dolington Estates II, Trowbridge Drive.

Mr. Majewski stated since that time, the Applicant had been working with Aqua to try to come to a resolution as to how to service the two lots with public sewer. He stated Aqua was not in favor of having the line go through the Easement and through Lot 1 to serve Lot 2; and their suggestion was that instead of extending the line about 400' to serve both Lots 1 and 2, that they should instead bring it from Woodside Road and go about 1800' up the road to supply the sewer. Mr. Majewski stated the Applicant did not feel that was feasible and looked into alternative options, and the alternative was to maintain the existing on-lot sewage disposal system on Lot #1 and create a new one on Lot #2. Mr. Majewski stated our Ordinance requires that any development within a certain distance of sewer hook into the public sewer so their proposal would require a Waiver from the Board of Supervisors to allow this. He stated there is also the Sewage Facilities Planning Module that they submitted showing this change, and the Township's Planning Commission has the opportunity to make any comments relative to filling out this form.

Mr. Bush asked the distance requirement referred to, and Mr. Majewski stated it is 1,500’.

Mr. Costello stated he has attended numerous Supervisors’ meetings and it has consistently been indicated that if there is access to public sewer, an Applicant cannot have septic. He stated this is one of the first requests like this under Aqua, and he feels that Aqua should be working with the Applicant to find an effective way to tie into the system that is not too onerous. He stated he would have a difficult time recommending that they be granted a Waiver.

Mr. Majewski stated while public sewer is available, the problem is that Aqua does not want to have the line go through Lot #1 to service Lot #2 as they see problems with future homeowners doing things that they should not do within the Easement. Mr. Coyle stated Aqua feels that running the sewer pipe 1,800’ rather than 400’ will create less future problems, and Mr. Majewski stated that is what Aqua believes. Mr. Coyle stated this will result in having five times the amount of sewer pipe.

Mr. Majewski stated they are still trying to have discussions with Aqua and the developer to try to work this out to everyone’s satisfaction. He added that there are some properties on Woodside Road that do not have public sewer that would be along this route; and if it could be worked out, they could possibly share in the cost for this. Mr. Majewski stated the Planning Commission’s comments could be provided to the developer’s engineer since there are sixty days to weigh in on this, and a decision does not need to be made by the Planning Commission this evening as to what comments they may want to offer.

Mr. Costello asked why it is either 400’ or 1,800’.

Mr. Majewski showed an aerial photo of the area. He noted the location of the subject property. He stated there is currently a manhole with an Easement that comes off a road in the development; and from there to the site, it would be about 500’ to take the line from where it ends within the Easement to service Lot #2.

Mr. Majewski stated Aqua was proposing to bring the line from Woodside Road and that would be 1,800’. Mr. Costello asked if PennDOT has commented on this as it would involve digging up the whole road. Mr. Majewski stated they would have to cross Lindenhurst Road. Mr. Bush stated the Ordinance requirement is

that you must connect if you are within 1,500' so we are trying to make the property owner do something that the Ordinance does not require, and Mr. Majewski stated that is the issue. Mr. Majewski stated the Township would like to have as many homes on public sewer as are feasible.

Mr. Coyle stated he is not comfortable telling a property owner that they have to spend that much money to do that and to disturb that much ground when there is an alternative. Mr. Costello stated the issue is not 1,800' or septic, the issue is how can the Township help this property owner get a more reasonable solution from the new Sewer company. Mr. Majewski stated we have spoken with Aqua and put them in contact with one of the residents who lives along Woodside Road and Aqua has also been in contact with another resident who has expressed an interest; and if they are interested in tying in and are willing to contribute to the cost, then it would make sense to run the line and tie in several properties along the way including this one. He stated as part of Aqua's regulations and tariff they are allowed to add some money for an extension such as this although they are limited on that.

Mr. Bush asked if the other parties do not want to join in on the line, what kind of leverage does the Township have with regard to going with the shorter route. Mr. Majewski stated he does not feel the Township has any leverage on this. Mr. Majewski stated the Planning Commission's feedback could be taken back to Aqua that they would prefer to see the shorter route unless the other properties can be hooked in to make it more feasible. Mr. Bush stated those other properties would have to be willing to pay for their share.

Mr. Coyle stated that is a wooded area, and all of that area would need to be disturbed by this activity; and a much more sensible route would be through some of the back yards to an existing sewer hook-up. Mr. Majewski stated there is an Easement for the properties that are on Trowbridge as well as an existing manhole. Mr. DeLorenzo stated he does not see how it could be economically feasible to go down Woodside Road even if there are four lots instead of two lots. Mr. Majewski stated Woodside Road has a lot of mature trees going down both sides of the road so there are environmental constraints.

Mr. Costello asked if this is a unique situation or something that is likely to happen again, and Mr. Majewski stated he feels it is likely to happen again.

Mr. Costello asked what would the Township have done if we still owned the system, and Mr. Majewski stated we probably would have agreed to the alignment that was shown on the Plan originally.

Mr. DeLorenzo asked which Lot has the existing septic, and Mr. Majewski stated it is Lot #1. Mr. DeLorenzo stated he understands that Aqua does not want to go through Lot #1 to get to Lot #2, and Mr. Majewski agreed.

Mr. Bush asked if we could ask Aqua to be a good neighbor and go the shorter route through the Easement, and Mr. Majewski stated that could be conveyed informally or with a formal Motion. Mr. Coyle stated he feels we could informally tell them that the Planning Commission would not be amenable to approving a Plan that goes the longer route.

Mr. Costello stated he feels there must be something between 400' and 1,800'.

Mr. DeLorenzo asked if they could have the Lot with the septic tie in and then invoke the 1,500' rule and the other one have a new septic so there would be no Easement; and Mr. Majewski stated that is a possibility. Mr. Majewski stated the consultant's engineer could attend the next meeting and also discuss Mr. DeLorenzo's suggestion with Aqua. Mr. Bush stated if Mr. DeLorenzo's suggestion works, it addresses their issue of having the Easement from Lot #1 to Lot #2, it cuts down the length of the 400' to something short of that, and makes it more affordable. Mr. Coyle stated he feels that would be up to the property owner. Mr. DeLorenzo stated currently they do not have that option as they are being required to put in public sewer. Mr. Costello stated he would not vote in favor of anything that would involve building a new septic tank in the Township when there is accessible public sewer. Mr. DeLorenzo stated the Ordinance says 1,500'. Mr. Costello stated it is only 400' so they are within the 1,500' of the sewer line, and they are running into an issue with the supplier of our sewer system. He stated he feels the Township has a vested interest in working with this Applicant going through this to make sure that there is a good process going forward. He stated if we allow septic on this first case, he questions what will happen with subsequent cases. Mr. DeLorenzo stated the Ordinance says they must hook in if they are within 1,500'; and if Aqua is indicating they have to go 1,800' he feels the property owner has a good argument to say that public sewer is not available to them.

Mr. Costello stated his perspective on this will not change. Mr. Bush stated while he generally agrees with Mr. Costello, the 1500' and the 400' is not an option, and it is 1,800' which takes them outside of the Ordinance which would make

it not a requirement. He added that it is unfortunate that the Township gave up its leverage, and there is not much the Township can do other than go to Aqua and ask them to be a good neighbor and try to help resolve this situation. Mr. Coyle stated he understands Mr. Costello's point. He stated the Township does not have to approve a Waiver and the landowner may not get to build a second home on this land. He stated he would seek the direction of the Board of Supervisors as to how they would prefer to proceed on this matter. He stated he is not in favor of the longer route, and he feels a shorter route has to be found. He stated they are within the Ordinance of being within a set distance of sewer; and whether it is or is not a viable path is not what the Ordinance says as the Ordinance just says within 1,500'. Mr. Majewski stated the language includes that they are to connect to the system "where practical." Mr. Bush stated it is not an option for them if Aqua will not do it. The actual text of the Ordinance related to this issue was shown. Mr. Bush stated he feels the language is ambiguous. Mr. Coyle stated it puts the onus on the developer to get to the sewer line. Mr. Majewski stated in this case the developer is being blocked by the provider who does not want the alignment that meets our Ordinance, and they want something that could be considered to be not practical.

Mr. DeLorenzo stated if he owned that property, he would take issue with this. Mr. Coyle stated there is an Easement and access, and it sounds like from the Township's perspective, there is a practical connection; and it is a matter for the developer and the sewer provider to work out. Mr. Bush stated Mr. Majewski stated it seems that they have attempted to do that, but the provider advised that they did not want to do what the developer suggested.

Mr. Majewski stated he could have the developer come to the next meeting to review the specifics; and in the meantime hopefully some progress can be made with Aqua on this.

Mr. Costello asked Mr. Lewis if the Board of Supervisors should discuss this at their next meeting. Mr. Lewis stated he feels the sale of the sewer system was the single worst public policy decision by the Board of Supervisors, but we have worked with Aqua on a few things. He stated he feels Aqua should be given another chance to resolve the situation, and we should ask them to come before the Planning Commission as well. He stated in other cases, Aqua has been very protective of what goes into an Easement so that may be a standard policy that they have. He stated he feels the Planning Commission is looking for a reasonable solution that promotes public sewer but is reasonable from a cost perspective. He does not see a problem having the staff ask Aqua to come to the next Planning Commission meeting to give an explanation as to their position.

Mr. DeLorenzo asked if it is possible that the developer could instead of an Easement, adjust the property line since it has not yet been Subdivided; and there may be a way to separate the property so then it is not an Easement, and the whole section would be part of Lot #1. Mr. Majewski stated while he is not sure that is feasible, it is worth exploring.

Mr. Coyle asked if the Planning Commission would be comfortable making a Motion at this time that the Commission is not supportive of the route along Woodside and that Aqua should find another way to make this work.

Mr. Costello stated he feels the real issue is that there is a developer who wants a Waiver from the 1500' because they are having a disagreement with the sewer provider, and they want to be able to do on-site sewage; and the question for the Planning Commission is whether we would allow septic on site or force them to work with Aqua and connect somewhere in the sewer system which is within the Township's standard. Mr. Costello stated if Aqua felt it was a worthwhile investment to build out the sewer system up Woodside Road out to Lindenhurst Road, he does not feel that the Township could stop them.

Mr. Majewski stated he feels Aqua should be invited to the next Planning Commission meeting along with the developer; and in the meantime, there may be a resolution. Mr. Coyle stated they could re-orient the lots or houses or do a longer shared driveway. Mr. Majewski stated the matter could be Tabled at this time.

Ms. Carlton stated Mr. DeLorenzo had previously suggested that they have the septic on Lot #2, which is the new Lot; and Mr. DeLorenzo stated there could be a number of different ways to address this to try to solve the problem before they request a Waiver. Ms. Carlton stated she is not sure about the suggestion of having the septic on Lot #2 since she does not feel you can force anyone to abandon an existing, workable septic system. Mr. Costello stated he would not have an issue with the Planning Commission publicly stating that if Aqua will not work with the developer, we are a little disappointed given their status as the new supplier; and that we had placed a lot of trust in them, and the first time there is an issue like this, they are not working with us at all. Mr. Coyle stated we should see if they come to the next meeting, and Mr. Majewski agreed to invite them.

Mr. Costello moved, Mr. DeLorenzo seconded and it was unanimously carried to Table.

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OTHER BUSINESS

Mr. Majewski stated there had been discussion about having another meeting in October in lieu of the November 11 meeting, and it was agreed that if a meeting is necessary the meeting would be held on October 30.

There being no further business, Mr. Coyle moved, Mr. DeLorenzo seconded and it was unanimously carried to adjourn the meeting at 8:23 p.m.

Respectfully Submitted,

Colin Coyle, Secretary