

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JANUARY 5, 2021

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held remotely on January 5, 2021. Mr. Zamparelli called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: Anthony Zamparelli, Chair
 Pamela VanBlunk, Vice Chair (left meeting in progress)
 Matthew Connors, Secretary
 Peter Solor, Member

Others: James Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor
 Adam Flager, Zoning Hearing Board Solicitor
 Frederic K. Weiss, Supervisor Liaison

Absent: Michael Tritt, Zoning Hearing Board Member

REORGANIZATION OF THE BOARD

Election of Chair

Mr. Flager asked for nominations for Chair of the Zoning Hearing Board.
Ms. VanBlunk moved, Mr. Connors seconded and it was unanimously carried to elect Anthony Zamparelli as Chair of the Zoning Hearing Board for 2021.

The meeting was turned over to Mr. Zamparelli.

Election of Vice Chair

Mr. Zamparelli asked for nominations for Vice Chair of the Zoning Hearing Board. Mr. Zamparelli moved, Mr. Solor seconded and it was unanimously carried to elect Pamela VanBlunk as Vice Chair of the Zoning Hearing Board for 2021.

Election of Secretary

Mr. Zamparelli asked for nominations for Secretary of the Zoning Hearing Board. Ms. VanBlunk moved, Mr. Solor seconded and it was unanimously carried to elect Matthew Connors as Secretary of the Zoning Hearing Board for 2021.

APPOINTMENT OF SOLICITOR

Mr. Zamparelli moved, Mr. Connors seconded and it was unanimously carried to appoint Adam Flager as Solicitor

APPOINTMENT OF COURT REPORTER

Mr. Zamparelli moved, Mr. Connors seconded and it was unanimously carried to appoint Bill Campbell as Court Reporter.

APPEAL #20-1880 – KENNETH P. KORETSKY, JR.

Tax Parcel #20-034-050-001 – 560 MILL ROAD, YARDLEY, PA 19067

(Continued)

Mr. Bryce McGuigan, attorney, was present and stated there are additional Exhibits including the Amended Plan and related documents and a review letter from the Township engineer, Remington & Vernick.

Mr. Flager marked the Second Revised Plans as Exhibit A-7. The review letter from Remington & Vernick was marked as Exhibit A-8.

Mr. McGuigan stated since the last Hearing, they have taken the Board's concerns into consideration and made some changes. He stated they reduced the house 515 square feet and also cut down the garage 294 feet. He stated they moved the house forward 15' nearer to Mill Road. He stated these changes have allowed them to reduce the impervious surface to 20.57% which is only 2.57% above the maximum allowed in the District. He stated they have also reduced all slope

disturbances of each Class. He stated Class I has been reduced down to 61% which is an 11% variance over the 50% allowed. He stated Class II is down to 76.7%, and Class III disturbance is down to 30.5%.

Mr. McGuigan stated with regard to the Variance requests, these changes have resulted in a dramatic drop. He stated the initial impervious surface ask was 25.5%, and they have brought that down nearly 5%; and they are now just requesting a Variance for 2.57%. He stated the slope disturbances from the initial ask have decreased. He stated in terms of Class I disturbance, that has gone down 21.6%, Class II 6.4%, and Class III 69.5%.

Mr. McGuigan stated when they were last before the Zoning Hearing, the Board requested that they perform infiltration testing on the soil. He stated the Zoning Hearing Board also had requested that they see if the Township engineer could review the grading of the Lot to insure that there were no adverse effects for neighboring properties.

Mr. McGuigan stated since that last meeting he has also had a chance to speak to Mr. Majewski who discussed that the Board may want to review some more detailed stormwater calculations. Mr. McGuigan stated Mr. Dumack was able to get a crew out to the site, and they were able to provide rough, preliminary Stormwater Management Plan calculations which were provided to the Township, and the Township engineer was able to review those.

Mr. McGuigan stated the infiltration testing came back positive, and there were no issues with the soil that will complicate their stormwater management. Mr. McGuigan stated the Township engineer was able to review not only the Stormwater Management Plan but also the grading of the Lot, and he did not express any concerns with the grading in his letter that would complicate any neighboring properties. Mr. McGuigan stated the Township engineer also stated that the property was adequate in order to capture any additional run-off as a result of the 2.57%.

Mr. McGuigan stated this is the third time they have appeared before the Zoning Hearing Board. He stated he appreciates the patience of the Board in working with them. He stated after each Hearing, the Applicant heard the Board's concerns, and they tried to incorporate those. He stated the Board was concerned about impervious, and they dropped that almost 5%. He stated the Board had also expressed concern about the size of the driveway, and they

trimmed that and removed large portions. He stated the Board was also concerned about the size of the actual structure, and they have reduced the size of the structure and reduced the size of the garage. They have reduced the footprint of the house by 515 square feet, and the garage by 294 square feet.

Mr. McGuigan stated there were comments at the last Hearing about the location of the house, and that if it were moved forward, perhaps it would have a beneficial impact on some of the other relief; and so they moved it forward by approximately 15' which reduced the size of the driveway, and they were able to preserve some of the slopes on the property.

Mr. McGuigan stated when the Township engineer reviewed the plans he confirmed the Applicant's initial thought that a lot of these slopes were actually manmade. He stated they were able to reduce the disturbance of those slopes per the Board's comments.

Mr. McGuigan stated they are asking the Board to allow the reduced relief that they are requesting.

Mr. McGuigan stated the last issue is the fence. He stated their initial ask was for a 6' high front yard fence on the property line. He stated they pulled that back at the last Hearing by 10' and lowered it to 5' in height. He stated the Board at that time still expressed concern about the front yard fence which they understand. He stated they were initially prepared to move it back the full 35' so that they would not need a Variance; however, at that time they were also exploring moving the house forward. He stated they recognized that was a possibility, and they moved the house forward 15'. He stated they are now asking to be able to move the fence 15' away from the 35' boundary in order to accommodate the additional space for the house.

Mr. McGuigan stated the Lower Makefield Township Ordinance does allow for front yard fences although they are capped at 3' in height. He stated they are asking for the additional 2' in height with the fence to be 20' off of the property line. Mr. McGuigan stated when you look at the surrounding area, it would fit in with the community; and the fence would be more than three times as far away from the street as the rear yard fences are across the street. He stated it would also be much further from the street than fences on their side of Mill Road. He stated if you go north on Mill Road approximately 600' to 650', there are properties that have fencing only 5' from the bike path; and what they are proposing would

be over 20' from the property line and even further from the roadway. Mr. McGuigan stated further down Mill Road on Road on the Applicant's side of the street there is a baseball field, and the outfield fences are closer to the street than what the Applicant is proposing.

Mr. McGuigan stated they hope that what they have proposed is a fair compromise that takes into account the concerns of the Board, helps to reduce impervious, and reduce the sloping, but still allows his client to reasonably use his property.

Mr. Zamparelli asked the type of fence they are proposing, and Mr. McGuigan stated it will be a metal, aluminum fence which will be buffered on both sides with significant landscaping. Mr. Zamparelli asked if it would be something that you could see through, and Mr. McGuigan agreed. Mr. McGuigan noted that on the other side of Mill Road, there is a house that has the same type of fence that they will use.

Mr. Zamparelli stated they moved the fence back 20' instead of the 35', moved the house 15' closer to the street, and they reduced the square footage of both the house and the garage fairly substantially. Mr. Zamparelli stated they also worked with Mr. Majewski on the infiltration pit, and with the reductions they are down to 20.5; and with the stormwater management it reduced it effectively even further. Mr. Majewski stated the stormwater management will capture all of the increase of the run-off so it will bring it down to what currently exists.

Mr. Majewski showed a slide of Revised Plans. Mr. Zamparelli stated what they have proposed gives more of a rear yard, and Mr. McGuigan agreed.

Ms. VanBlunk stated based on the Plan it seems that the fence will still have the brick "pillars," and she asked if that is still the plan. Mr. McGuigan stated while they are not pillars, the size is 2 by 2, and they break up certain sections of the fence. He stated the plan was to match the house. He added that if that is a problem, they are not a necessity. Mr. Zamparelli asked how far apart would the brick columns be; and Mr. McGuigan stated while he is not sure of the exact distances, the plan was to have four or five on the left side looking at the house, and two or three on the right side.

Ms. VanBlunk stated she has not read the letter from the Township engineer since they were only provided it just prior to the meeting, and she asked Mr. Majewski if he could summarize the letter. Mr. McGuigan stated they

appreciate the fact that the Township engineer was able to look at this on such short notice as it took a while to get everything together especially because of the holidays.

Mr. Majewski stated Mr. Pockl's first comment deals with the increase in the impervious surface, and he did verify that based on the Plans there is sufficient area on site to provide the necessary additional stormwater management to compensate for the increased run-off. He also verified that there are two infiltration beds shown. He did make a suggestion that they could re-locate the stormwater system closer to the house to reduce a little bit of the steep slopes right up against the road.

Mr. Majewski stated Mr. Pockl's second comment dealt with the manmade slopes, and he wanted to make sure the Board was aware that were aware that they were manmade. Mr. Majewski stated the rest of the comments are minor engineering details that need to be taken care of and a few minor discrepancies in the stormwater management calculations that need to be addressed. Mr. Majewski stated in general he indicated that the overall conceptual Stormwater Management Plan was sufficient to address the stormwater run-off.

Mr. Solor stated he believes that the Applicant did try to address most of the Board's comments by reducing the impervious area and reducing the slope impacts. He stated the Board realizes that they could not make the slope impact zero. He stated while he will not comment on the fence at this point, he does feel that they have addressed most of the concerns that the Board brought up at the previous meetings.

Mr. Connors stated he still does not see that this is the minimum Variance allowed. He stated he recognizes that the steep slopes are a legitimate Variance, but not the rest. Mr. Zamparelli asked if he is concerned with the footprint of the house and garage size. Mr. Connors stated he does not understand how they can have a minimum Variance allowed for steep slopes when they have the area that is being impacted requiring a Variance as well. Mr. Zamparelli asked Mr. Connors if he feels this impact is no different from what it was at the last design; and Mr. Connors stated while it has been reduced, if they reduced it 2% more and removed the fence, he feels they could then look at what the Variance is, what the impact on the property is, and move forward.

Ms. Kirk stated she feels that the issues she raised as to increased impervious surface, the capabilities of the proposed stormwater management, the location of the house and disturbance have been addressed by the Applicant; and she will defer to the Zoning Hearing Board for the ultimate decision.

There was no one from the public wishing to speak on this matter.

Mr. Zamparelli asked Mr. Majewski if he feels confident that the numbers provided are correct and the soil tested proved to be pervious. He stated Mr. Majewski had indicated previously that there did not seem to be any significant impact on the other properties surrounding the property based on the slopes. Mr. Majewski stated provided that they comply with the comments in the Township engineer's review letter, he believes that the stormwater management would be adequate to control the run-off from the increased impervious surface.

Ms. VanBlunk stated she has concerns about the fence. She stated she does not feel they have met their burden in what they need to establish. She stated they argued that they needed front yard space, but there is a huge pool in the back, planters and decks; and they moved the house up 15' giving them more of a back yard. She stated she is disinclined to approve a Variance for the fence.

Mr. Solor stated he agrees with Ms. VanBlunk. He stated they have created more usable space behind the building than there was initially by pulling it forward.

Mr. Zamparelli stated he is also not in favor of front yard fences, and he believes that the Applicant has indicated that he is willing to compromise on the fence. Mr. McGuigan stated he knows that the Board has been consistent in advising that front yard fences are not something that they consistently grant. He stated while they considered moving the fence back 35', the issue was that when they moved the house up, everything "was on top of each other." Mr. McGuigan stated there are fences up and down Mill Road on both sides of the street although most of the houses face the other way. He stated what they are proposing is very much in line with Mill Road currently, and they feel what they are proposing will look the same as some of the other fences and better than some of the other fences. He stated their fence will be further off the road. He stated it will also be the same type of fence that is 500' to 600' on the other side of the street.

Mr. Zamparelli stated one of the things the Board thought when it was suggested that they move the house forward was that there would be more room in the back yard so that they would not need the fence since the Applicant had indicated that he wanted the front yard to be fenced in because he needed a place for his children to play. Mr. Zamparelli asked if this is still needed since they were able to move the house forward. Mr. McGuigan asked if they were to do 25' instead of 35' would this be acceptable to the Board since that would be quadruple the distance many other fences on Mill Road are set back. Mr. McGuigan stated they are "at the mercy of the Board;" and if the Board is against that, they understand that.

Mr. Connors stated they are comparing rear yard fences on properties that have double frontage to this property. Mr. McGuigan stated some of those it is a side yard as well, and they understand that is different; however, when you are driving down Mill Road whether something is a front yard or a back yard, the look is the same. Mr. McGuigan stated what they are proposing would not interfere with the sight line or any passing cyclists or pedestrians on the bike path. He stated some of the other fencing is right on the roadway and could create sight line issues, and theirs is not doing anything like that. Mr. McGuigan stated he hears what the Board is saying, and his client understands that even at 25' that is not something that the Board would agree to; however, they are trying to accommodate the Board's concerns. He stated of it being 35', they are asking if the Board would be agreeable to 25'.

Mr. McGuigan stated Lower Makefield Township does allow front yard fencing but it limits the height to 3', and they are asking for an additional 2' in height, 10' closer to the road. He stated they would be agreeable to taking the piers out as well. Mr. Connors stated if they limited it to 3' in height, they would not need the Variance.

Ms. VanBlunk stated she would be in favor of denying the fence.

Mr. Zamparelli stated if the fence were 3' high, he feels the Board would be okay with that.

Mr. McGuigan stated with regard to the fence they would agree to operate within the bounds of the Township Ordinances, and they will withdraw their request for the fence Variance. Mr. Connors stated if they withdraw the Variance request for the fence and goes to 3', it is out of the hands of the Zoning Hearing Board. Mr. McGuigan stated they will formally withdraw that request.

Ms. VanBlunk asked Mr. Connors to discuss further his concerns with the rest of the Variances requested. Mr. Connors stated if the impervious is greater than what is allowed under Zoning, they are increasing the area that they are impacting. He stated this site has steep slopes for which they need a Variance which he feels is a reasonable expectation for this Lot. He stated if they are seeking a “Variance for another Variance, they are snowballing Variances.” He stated there is a standard of the minimum allowed Variance, and they do not have the minimum allowed Variance for steep slopes; and it is arbitrarily increased because of the impervious request.

Mr. Zamparelli asked Mr. Connors if he is saying that they should go back to the maximum permitted which is 18%; and Mr. Connors agreed, adding that if they come in with 18%, it would then be a legitimate Variance request for steep slopes. Mr. Zamparelli asked Mr. Majewski how hard that would be for them to accomplish. Mr. Majewski stated it would radically change their Plan and would require scaling back the house, the garage, and the driveway. Mr. Zamparelli stated what they are currently proposing is 20.57% impervious surface.

Ms. VanBlunk asked Mr. Connors to further discuss his concerns. She stated she understands that his concern is that there is an impervious Variance on top of the steep slope disturbance Variance, and Mr. Connors agreed. Mr. Connors stated the impervious is augmenting the Variance that would be needed for the steep slopes. He stated there was a prior Variance request a number of months ago where there was a site impacted by floodplains, steep slopes, and wetlands; and it made it an unbuildable Lot. He stated they were seeking Variances for the setbacks so that they could build, but they were not seeking any Variances for impervious surfaces because that was arbitrarily augmenting the impact to the site. Mr. Connors stated he feels this request is similar, and they should keep what they are building to the smallest allowed under the Zone, and then they can look at what the impacts are to the Zoning.

Mr. Heath Dumack, engineer, stated one of the comments made by Mr. Pockl was with regard to relocating the ballast pits away from the road and closer to the house which he felt might reduce the steep slope disturbance impacts. Mr. Dumack stated Mr. Pockl was not aware that they did infiltration testing along the right side of where the proposed house would be along the property line, and they hit very fine silt which gave zero infiltration. He stated he agrees with the Township engineer that the storm system is designed to not have any adverse impact downstream, but relocating the one pit to the right is not

feasible given the fact that they have no infiltration along that side line because of the soil. He stated where they have the two pits located is where they discovered good soil when they did the soil investigation. Mr. Dumack stated they are also planning on piping to get the water into the pit.

Mr. Dumack stated Mr. Pockl did recognize elsewhere in the letter that a substantial amount of the steep slopes on the site are manmade.

Mr. Solor asked Mr. Majewski how does permeable paving count into impervious surface calculations and would that be applicable in a Residential development circumstance as he recalls there was relief granted to a Commercial development with regard to using permeable surfaces for pavements. Mr. Majewski stated that was not permitted in the Ordinance for Residential properties, and it was relegated solely to Commercial properties where there is better control over it as opposed to an individual who may sell it to someone who may not be as aware.

Mr. McGuigan stated he understands Mr. Connors' concern about the least possible impact to the slopes, and that is something that they have tried to address diligently. He stated as Mr. Dumack testified at a prior meeting, the issue is that these slopes are manmade because the prior owners of the property dumped the material when they dug out the pool and the driveway. He stated even the Township when they made the bike path, dumped the material. He stated if they were to build a house that had the least possible impact, it would have to be something along the lines of what is there now which is a "Frankenstein house," that is facing the wrong direction and is completely contrary to every other house in the area. He stated he does not feel that is a reasonable use of the property. He stated they are trying to put in a house that is facing the right way, and to do that unfortunately they have to disturb some of these slopes. He stated if the Board rules that they have to stay under the 18% in order to get any relief from these slopes, it would necessitate a radical redesign of the property. He stated he is not sure they would be able to design a house that would face the right way and would be fundamentally different from what is there now. He stated he is not sure how much they want to protect these slopes that even Mr. Pockl stated in his letter were manmade. Mr. McGuigan stated his client is trying to make the best use of this property which he bought and put in a house that fits in with the neighborhood, but he is "stuck" because the people before him did not get rid of the material the way they should have.

Mr. McGuigan stated while their initial ask was 25.5%, they are now asking for only 2.5% impervious which he feels is well within the range of what is acceptable. He stated they trimmed back not only the driveway but also the house and the garage as well as moved the house forward trying to address everything within their power that the Board suggested. He stated they have also reduced the slope percentages across the Board including a reduction in the Class III slopes by almost 70%. He stated the request for Class I is 11%, and they have gotten that as low as possible. He stated they are requesting these smaller Variance requests in order to allow the Applicant and his family to develop this property into their home.

Mr. Zamparelli stated he appreciates what they have done. He asked if they were to take another 1% off the impervious surface would that require a radical redesign.

Ms. VanBlunk stated she respects Mr. Connors viewpoint, but these are manmade slopes, and the Board has granted Variances for impervious surface in the past. She added they are taking steps by building the pits to accommodate that, and the Township engineer seems to be satisfied with that; and Mr. Majewski agreed. Ms. VanBlunk stated she is leaning toward granting the relief.

Mr. Connors stated with regard to the steep slopes, Note #2 states: "A portion of the steep slopes around the house appear to be manmade, and it may be helpful for the Board to understand the area of manmade steep slopes on this site, and should be added as a Note to the Plan." Mr. Connors stated he agrees that the steep slopes around the house are manmade, and he has always indicated that he feels a steep slope Variance is a reasonable expectation for this property.

Mr. Flager asked if there has been any information about what the effective impervious would be brought down to. Mr. Solor stated the effective is being brought down to under 18%, although they did not give the percentage it is being brought down to. Mr. Connors stated they are building it to Code, and the PA DEP Code requires storms involved in the calculations as well as impervious calculations, and they look at the initial site as meadow versus whatever it is at this point. Mr. Dumack stated the number is zero. Mr. Flager agreed the effective rate is zero. Mr. Dumack stated they are offsetting all the impervious, and all the impervious stormwater is going into and being managed by the ballast pits. He stated the only run-off that is coming off the site realistically is lawn.

Mr. McGuigan stated they really tried to address the Board's concerns.
Mr. Zamparelli agreed, and stated he is okay with this now.

Mr. Flager stated the Variance for the impervious surface is 20.57% instead of the allowable 18%. He stated Section 200-516c1 is a 61% disturbance of Class I steep slopes instead of the allowable 50%. Section 516c2 is a 76.7% disturbance of Class II steep slopes instead of the allowable 30%. Section 516c3 is 30.5% disturbance of Class III instead of the allowable 0%. He stated Section 200-61c is for the minimum building setbacks measured from the limits of resource protected lands rather than from the Lot lines. He stated the last Variance has been withdrawn as it relates to the fence.

Ms. VanBlunk moved as stated by Mr. Flager.

Mr. Solor stated it should be stated that the stormwater be managed to an effective impervious ratio of zero. Mr. Zamparelli asked if that is correct, and Mr. Flager agreed adding that the Applicant is okay with the effective rate being zero. Mr. Flager stated the fence request has been withdrawn so now instead of there being six Variances, there are five.

Motion died for lack of a Second.

Mr. Solor moved and Ms. VanBlunk seconded to grant the Appeal to allow for an impervious area of 20.57% in lieu of the 18% with an effective impervious area for stormwater mitigation of 0%, slope disturbance as per the attached calculations with Class I 61% in lieu of 50%, Class II slope disturbance 76.7% in lieu of 30% disturbance and Class III slope disturbance 30.5% in lieu of 0%, and a Variance to allow the setbacks to be calculated from the Lot lines rather than the limits of the resource protected lines subject to the approval of the Township engineer. Motion carried with Mr. Connors opposed.

Ms. VanBlunk stated she is not participating in the next matter, and she left the meeting at this time.

APPEAL #20-1881 – CHALLENGE THE VALIDITY OF THE MIXED-USE OVERLAY ORDINANCE BY DARWIN DOBSON, LAWRENCE BORDA & BRYAN MCNAMARA
(Continued)

Mr. Zamparelli asked if there is another expert coming in to Testify on behalf of the Applicants, and Ms. Kirk agreed.

Mr. Eric Goldberg, attorney for the Applicants was present. He stated they completed the Testimony of the first Witness who was the traffic engineer. He stated they have two other Witnesses to Testify on Standing only. He stated those Witnesses are Charles Swanson who is an economist, and Larry Borda. He stated they are the remaining two Witnesses regarding Standing. Mr. Goldberg stated if they get past Standing, there are a “slew” of other Witnesses, but for the purpose of Standing it will just be the three Witnesses.

Ms. Kirk stated she is looking at what was marked as Exhibit A-9 entitled “Prickett Preserve at Edgewood Impact on Nearby Property Values.” She stated the first sheet is about the authors, and she asked Mr. Goldberg if it is his position that Mr. Swanson co-wrote this report. She stated she felt that it was Mr. Hakim who was the economist who Testified at the Board of Supervisors meeting and made a representation that he had prepared a Report as to the impact of the proposed Mixed-Use Ordinance on nearby properties. Ms. Kirk asked which of the two experts on this Report are Testifying, and if that is the person who wrote the Report that was circulated. Mr. Goldberg stated they worked on it together, and Charles Swanson was the person who Testified before the Supervisors in August as opposed to Dr. Hakim.

Dr. Charles Swanson was sworn in and stated he has been teaching at Temple for over twenty years. He stated he has degrees from MIT in math and economics and a PhD from the University of Minnesota; and he has been teaching economics at the level of “principles, MBA, Masters, and PhD for the last twenty years.” He stated in addition to that he has been working on a number of projects with the City of Philadelphia and the State of Pennsylvania with respect to revenue forecasting for the City and getting involved in the details of their Budgeting process. Dr. Swanson stated his work is joint with his co-author, Simon Hakim, even though he will be giving the Testimony. He stated Dr. Hakim has also been at Temple for over twenty years and made a number of studies with a specialty in cities, and in particular crime and traffic.

Mr. Goldberg stated Dr. Swanson is being offered to the Board as an economist. Mr. Zamparelli stated he feels that Dr. Swanson is qualified. Mr. Flager asked if there were any Objections to Dr. Swanson being offered as an expert in economics.

Mr. Steve Harris, attorney for Prickett Preserve, Objected. He noted that the Intro to the Report says that Mr. Swanson has published work in the area of macro-economics, growth in business cycles, and has worked in the analysis of Government planning and projections for the States of Alaska and Pennsylvania. Mr. Harris noted the various publications listed in his Curriculum Vitae. Mr. Harris stated none of these seem to be anything that relates to the impact on property values which is the subject of his Testimony. Mr. Harris stated Dr. Hakim's Curriculum Vitae indicates that he is very well regarded in the area of crime, and he noted a number of publications listed over twenty pages in his Curriculum Vitae; however, he does not see where either of these gentlemen have any expertise in the impact on property values. He stated there is no Real Estate or property value experience in any of their publications or in what they talk about themselves on the first Page of Exhibit A-9. Mr. Harris stated he Objects to Dr. Swanson's Testimony.

Dr. Swanson stated the Testimony that he will give is about translating studies which are International in scope, and the impact of some development on expected, future property values. He stated this is something that is a standard set of techniques to translate studies into a specific targeted impact. He stated when he has done work with the City of Philadelphia and the State for the last ten years, it is really of the same character where you are looking at a "whole slew" of different impacts of things that effect a city. He noted in the spring it was the effect of the Pandemic, even though there is nothing on his resume about the Pandemic. He stated when it came to the question of what would be the revenue impact for the City from the Pandemic, they had to go to him. Dr. Swanson stated they could look at his Testimony "in front of the Chamber of Commerce" last year. He stated it is the translation of professional studies into the specific application of the case at hand, and that is something he has been doing for a long time.

Ms. Kirk stated she joins in Mr. Harris' Objections. She stated as she understands, Dr. Swanson is an Associate Professor with an emphasis in macro-economics, which she understands is a review of large-scale or general economic factors not a specialty in Real Estate which he is being offered for the purposes of trying to prove harm by this Mixed-Use Overlay District to the Challengers to the Ordinance. She stated she joins in Mr. Harris' Objections to Dr. Swanson being offered as an Expert Witness.

Mr. Goldberg stated he is being offered as an expert economist, which he is imminently “qualified to do;” and as noted by Dr. Swanson as part of his duties, this certainly falls within the parameters of it.

Mr. Flager stated he feels he could offer Testimony as an economist as no one would object to his qualifications as an economist. He stated if there are issues that Mr. Harris or Ms. Kirk believe are outside of that, they could reserve the right to Object at that point as being outside of his area of expertise or regular cross examination on those issues.

Mr. Zamparelli asked if it would be appropriate to say he is qualified as an economist in general. Mr. Flager stated it would as an expert in economist. Mr. Flager stated he feels the Objection was whether his qualifications qualify him to opine about property values as it relates to development. Mr. Zamparelli stated if he starts to go into that area, they could Object at that time.

Mr. Harris stated he does not Object to him as an economist, but he is saying that his qualifications as an economist do not qualify him to Testify about the impacts on the immediate neighborhood homes. Mr. Harris stated he could deal with that with individual questions.

Mr. Zamparelli stated he feels that they could indicate that he is an expert economist. Mr. Flager asked Mr. Goldberg to provide a foundation for that which might clear some of the issues up. Mr. Goldberg asked Dr. Swanson to explain to the Board how his expertise relates to property values. Dr. Swanson stated the question here is translating professional level studies and sorting out the principal issue which is a correlation and causality problem and an impact of an activity on general property values as measured in professional studies. He stated that is what the Testimony will be about.

Mr. Goldberg stated the analogy would be to what Dr. Swanson alluded to previously with COVID-19. Mr. Goldberg stated COVID-19 has an impact on various values in Philadelphia, and he was commissioned to do a study pertaining to that, and Dr. Swanson agreed. Dr. Swanson added that he does not have any expertise on viruses, but he had to consider the impact of the virus on Revenue for the City and general economic activity in the City. He stated he believes his forecasts were better than IHS Global Insight when they were doing competing numbers.

Mr. Goldberg asked Dr. Swanson if he has reviewed the proposed Overlay District and the proposed development, and Dr. Swanson stated he has. Mr. Goldberg asked Dr. Swanson if he heard the developer's Testimony at the Hearings in August regarding the potential enactment of the Overlay District and what would be developed upon it if it were to be enacted, and Dr. Swanson stated he did in August. Mr. Goldberg asked if he has seen the Prickett Preserve area, and Dr. Swanson stated he has driven by the Prickett Preserve area.

Mr. Goldberg asked Dr. Swanson what his understanding is as to what will be developed on the Prickett Preserve property, and Dr. Swanson stated he understands that there will be three components. He stated the first is a Wegmans, a 100,000 square foot grocery store, the second component is a 50,000 square foot high-end Retail with five or so buildings, and the third component is an apartment complex which would have two hundred units – one hundred with one bedroom and another hundred with two bedrooms.

Mr. Goldberg asked, based upon Dr. Swanson attending the Hearing in August and the developer's Testimony pertaining to what would be developed on the property, what were the proposed rents articulated by the developer for the apartments. Dr. Swanson stated the expected rents would be \$2,100 for the one-bedroom, and \$2,700 for the two-bedroom.

Mr. Goldberg asked who was the target renter for those apartments. Dr. Swanson stated if you are going to pay \$2,100 a month that is \$25,000 a year; and typical Revenue expenditure on housing is between 17% and 20%. He stated in order to pay \$25,000 a year, the "one-bedroom person" would have to be earning \$126,000 per year. He stated the occupant of the two-bedroom would probably have to generate about \$162,000 per year to cover the \$32,000 per year.

Mr. Goldberg stated the target renter according to the developer was a mix of retirees and very young professionals in their 20's, and Dr. Swanson agreed.

Mr. Goldberg asked Dr. Swanson if he believes, based on the target audience as well as the proposed incomes that are needed to make this work that what the developer is proposing is financially viable for these apartments.

Mr. Harris Objected adding this is exactly where his Objection was as to his expertise. Mr. Harris stated while Dr. Swanson might be an economist, this is Real Estate Testimony. He stated he understand that Dr. Swanson has indicated that he takes studies, interprets them and develops Testimony regarding them. Mr. Harris stated when he looks at Dr. Swanson's Report, Exhibit A-9, and he looks at the Testimony about the multi-family impact on property values and the section dealing with traffic impact on property values, there is no question that he took reports and reached conclusions regarding those reports. Mr. Harris stated that is what Dr. Swanson indicated he was an expert in; however, with regard to the Testimony regarding whether or not the apartments will be able to be rented by the target audience and whether or not the stores will be rented by the target audience, there are no studies quoted. Mr. Harris stated Dr. Swanson has no expertise in this, and it is pure speculation as to what may or may not happen. He stated he Objects to that Testimony and the introduction as to what young, affluent renters will do, what they will not do, and what stores will or will not do. He stated Dr. Swanson is an economist – not a Realtor. Mr. Harris sated he has no expertise in Real Estate. He has quoted no studies on what the effect of COVID will be on renters or Retail. Mr. Harris stated he agrees that Dr. Swanson has a PhD in economics, but he has no expertise in this area of Testimony, and he has no studies to quote, which is what he said he is an expert in doing. Mr. Harris stated he Objects to this Testimony.

Mr. Goldberg stated as an expert economist, he is more than qualified to look at the data and make an analysis as to what is viable for this property. Mr. Harris stated there is no data at all quoted in his Report on the subject of whether or not there will be renters who will rent these apartments. He stated there is also no data on whether or not the Retail stores will be able to be rented. Mr. Harris stated that is his Objection. He stated if there was data in the Report, that would be one thing; but this is just speculation. Mr. Harris stated if there were reports that Dr. Swanson was analyzing which he indicated he is an expert in, that would be different; however, that is not what is in his Testimony as to whether or not the apartments will be rented by people who can afford \$2,100 or \$2,700 a unit.

Mr. Flager stated he tends to agree with Mr. Harris that he does not see how Dr. Swanson is qualified to make these assumptions as to that particular element if there is no reference to a study.

Mr. Zamparelli stated he knows the area involved, and he has family down the street paying \$2,400 a month. He stated he is not sure that Dr. Swanson is accurate, and it does sound speculative. Mr. Zamparelli stated he cannot speak to who would rent there, but he does feel that Dr. Swanson is off on his number.

Mr. Goldberg stated Dr. Swanson is entitled to articulate the reasons why he believes what he has Testified.

Mr. Harris stated he disagrees. He stated this is why he Objected to his expertise. He stated if Dr. Swanson were to cite a study, he would not Object as he is an economist, and that is what they do; however, with regard to whether or not people are going to be able to rent the apartments for the numbers stated and rent the stores for the numbers stated, there are no studies and no basis for Dr. Swanson's Testimony other than speculation. Mr. Harris stated Dr. Swanson does not have an expertise in this, and he Objects. Mr. Harris stated if they get to the point where Dr. Swanson were to talk about studies about the effect of multi-family housing and Retail, he could Testify about that as that is what economists do. Mr. Harris stated what he has Testified to up-front is speculation, and he Objects.

Mr. Goldberg asked that the Board at least hear what Dr. Swanson's basis is for his conclusions. He stated he is entitled to do that. He added whether it is written in his Report on Page 1 or not, does not detract from expertise and what his opinion is based on. Mr. Harris stated the problem is that he does not have any expertise.

Mr. Flager stated he would agree with Mr. Goldberg if there is something that an economist would regularly reference in formulating an opinion or drafting a report. He stated he feels there needs to be a little bit more foundation in order to bring in that type of Testimony. He stated if it is not, he feels Mr. Harris' Objection is well founded.

Mr. Goldberg asked Dr. Swanson to explain the role of an economist in evaluating property values and what his opinion is predicated upon. Dr. Swanson stated his opinion is predicated on the demand for the employers at that level, the vicinity of the people who would be occupying the property, how far away they would go, and in paying that rent what would their other options be. He stated the question is in the event of a Pandemic, you get one answer; and in the event of the Pandemic being over, you get a different answer. He stated in the event of a Pandemic being over, you get the situation where people will want to move back to the city.

He stated while they do not have studies for this because the Pandemic is such a new thing; however, they do have the problem that when you are building Real Estate during a Pandemic, “the nature of the character of the property has to be different from what is specified.” He stated if there is no Pandemic, the people are drawn to the city, and at that income level they have alternatives to the property in Lower Makefield closer to an Inner City such as Philadelphia. He stated it would be the appeal of the Inner City.

Dr. Swanson stated the second component is the large trend in Retail in general. He stated when they were reviewing the project and were looking at what the Retail was going to be, they were suffering from the same speculative problem that it was every study they were looking at was revealing he “implosion” of the in-place Retail industry. He stated they were not making a statement about this type of Retail or “Neiman Marcus,” and it was just the general implosion of in-store Retail which is a National phenomenon. He stated it was not something about Lower Makefield or Philadelphia – it is a National phenomenon. He stated that implosion led them to this disbelief of their stated purpose of what was going to happen with the Retail was going to continue as they stated it. He stated it seemed to be contrary to the trends.

Mr. Zamparelli stated he is not comfortable with the Pandemic issue; and while he realizes it is a major problem, it is temporary. He stated it seems that Dr. Swanson is basing a lot of his speculation on the Pandemic, and he does not see where that is germane. Dr. Swanson stated there are two different situations. He stated one is the Pandemic continues and the other is the Pandemic ends. He stated if the Pandemic ends and they find that the vaccines are of widespread use which he expects to happen by July and the Pandemic is over, we would be back to where we were before where people are deciding where someone earning \$162,000 “in a two-bedroom apartment,” would choose to live. He stated if they were a young couple, they would tend to live in the City because that is the general trend of young people, the “high-tech people” who are earning that kind of a salary. He stated that was the basis of his statement. He stated the alternative is the Pandemic continues, and that is a different scenario.

Dr. Swanson stated the in-store Real Estate decline is a National trend and has nothing to do with this particular project.

Mr. Zamparelli stated if young people or older people wanted to be closer to the City, the rents are much higher. He stated Lower Makefield is thirty minutes from the City which is not a long way, and Lower Makefield would have substantially less rent than in the City so he does not feel Dr. Swanson's theory holds up.

Dr. Swanson stated it is true that the rents in the City are higher and a rent of \$2,700 a month for a two-bedroom is not high; but there is the general tendency that the further you are from the core of the City, the less you will pay because you are paying a commuting tax. He stated there is a price to commuting; and when you live in the City, you are paying more in rent, but you are paying less in the commuting cost, and the two "cancel each other off."

Mr. Zamparelli stated he is not sure that is perfectly accurate. He stated there are City taxes. He stated he knows people who work in the City, but they live in Lower Makefield. Mr. Zamparelli stated he goes to the City all of the time for inspections, but he lives in Lower Makefield. Dr. Swanson stated he had a co-worker who worked at Temple and lived in Princeton so her commute was even further so that it is possible; however, there is a general consensus that there is a commuting tax. He stated the further you live, the more you are paying in your commuting fees. He stated it is true in Philadelphia that you are paying a Wage Tax and also higher property taxes. He stated if you are renting, you are not paying the property tax; and while you are paying higher fees in the City, you are also paying a commuting cost if you live in Lower Makefield.

Dr. Swanson stated for a young person age twenty-five to thirty which was the target as described, that target group is "much harder to fill up." He stated the response of the developer was that people were coming up and down Route 95, and they would fill the apartments.

Mr. Zamparelli stated there are intangibles about living away from the City that people are willing to pay more for, and that has to be considered as well.

Dr. Swanson stated he would imagine that a lot of people who live in Lower Makefield put up with flooding and other issues to get the peace and tranquility which has its own economic value.

Mr. Goldberg stated Dr. Swanson and the Chair were going over cases, and there are people who live in Lower Makefield and work at various other locations. Mr. Goldberg stated what Dr. Swanson studied was just a general grouping and not necessarily individuals, rather it was a general analysis of what people are more likely to do. Dr. Swanson agreed, adding it was labor markets and what people have a tendency to do and how that relates to that particular project. He stated their analysis was focused on the trends and how they fit in with this particular project.

Mr. Goldberg stated in terms of the trends for this particular project, Dr. Swanson analyzed what a typical retiree might look for as well as what a particular young professional might look for; and Dr. Swanson stated they did look into that.

Mr. Harris stated this is speculation, and there is no data upon which to make these conclusions. He stated he Objects.

Mr. Goldberg asked Dr. Swanson to articulate what his analysis was predicated upon. Dr. Swanson stated one of the National trends is the decline of in-person Retail, and everyone knows about this and that on-line is taking over. He stated as a result is the question is what is happening to Malls. He stated Malls are converting from Retail to Residential, and they are trying to attract a wide set of amenities that are appealing to early retirees among which are medical, safety, and easy access to dining. Dr. Swanson stated for the young people, it is sports clubs, night clubs, and a “different sort of activity.” He stated it can also be for some people bike paths which are something that young people do like. He stated their skepticism was based on the confluence of the two sets of needs and having a two-hundred unit complex was too small to satisfy the high needs of both the early retirees and the young professionals which were the two target groups. He stated that was their conclusion.

Mr. Goldberg stated that conclusion was predicated upon the differing desires and differing needs of those two distinct groups, and Dr. Swanson agreed. Dr. Swanson stated the twenty-five year old wants a dynamic nightclub and gyms along with the bike paths, and the early retirees have a different set of needs.

Mr. Zamparelli stated the area they are talking about seems like it would be good for all of those people. He stated there are bike paths, transportation, night clubs since they are not too far from Philadelphia; and he is still trying

to understand how Dr. Swanson came to his conclusions. Dr. Swanson stated the people who like Philadelphia generally live in Philadelphia. Mr. Zamparelli asked if there is any evidence on that. Dr. Swanson stated they could provide that. He stated “the monkey wrench in the system” is that was pre-Pandemic, so their studies would have been pre-Pandemic. He stated with the Pandemic they cannot say that the same things will hold because there is too much uncertainty with the respect to the Pandemic. Mr. Zamparelli stated he does not feel the Pandemic comes into play here.

Dr. Swanson stated he had Testified elsewhere that he believed the vaccine would be available for widespread by July, 2021 so that would be consistent with what Mr. Zamparelli is saying, and the Pandemic will end. He added that the question is what will be the response of the youth since there was a very strong trend for the youth to move into the Inner Cities. He stated since the Pandemic it has been the reverse, and there has been a huge push toward expanded houses in places like Lower Makefield and huge expenditures across the whole Country on home improvements, expansions, and improving the inside of the houses; and those are all Pandemic trends. He noted the shift in the demand for houses and the huge increase in the price of plywood for home construction. He stated this is a National phenomenon, and there is no way you can associate it to anything other than the Pandemic.

Mr. Zamparelli stated he understands that there are some effects from the Pandemic; however, that will not exist after the Pandemic if we get past it. He stated there are people in the area who are renting and pay \$2,400 a month, and they are retirees. Mr. Zamparelli stated he feels Dr. Swanson is being speculative, and he is not sure that he is correct.

Dr. Swanson stated his mother pays more than \$2,400 a month in Connecticut, but she has quite a few amenities. He stated he is not saying that you are not going to get \$2,400 a month for an apartment, but it is this property here when you combine the young with early retirees. He noted nearby places including Polo Run where it was \$1,500 to \$1,800 for a one-bedroom apartment in January, 2020; and two-bedrooms at \$1,800 to \$2,000. He stated Polo Run may be a “lesser establishment.” He noted the Edge Apartments which gets \$2,300 for a one-bedroom and \$2,000 to \$2,700 for the two-bedroom. He stated what you also find there was a high vacancy as of January, 2020. Dr. Swanson stated Woodcrest was \$900 to \$1,000 for a one-bedroom. He stated for a one-bedroom at The Commons, it was \$1,000 to \$1,200. He stated Castle Club Apartments is about \$1,000.

Mr. Zamparelli stated he knows some of the apartments he has referenced; and he knows that there are apartments in Lower Makefield that are \$2,200 to \$2,400 a month, and they are right down the street.

Dr. Swanson stated when they look at the dollar values for rent, some of the complexes are quite full but they have slightly lower rents. He stated in the non-Pandemic world the tendency for young people is to go to the City which is a strong National trend. He stated once they start forming a family the recent trend is to move to single-family homes.

Mr. Zamparelli stated cities are more expensive; and while it may be close to your job, you do not have the tranquility in other areas. He stated he feels that there are intangibles that Dr. Swanson is considering. Dr. Swanson stated the houses in Lower Makefield are full, and you pay a fair amount to live in Lower Makefield; and it is the case because you live there because it has value. He stated people who live in Lower Makefield are decisive in how they are “going through their life plans.” He stated their decision making is consistent with deciding what to do with themselves and their families. He stated what they are paying for is a community and tranquility, and that does have economic value. He stated it is a question of families doing that and early retirees doing that versus young people aged twenty-five to thirty who are the high-income target people. He stated since the targeted clientele was a mix of the early retirees and the young professionals, mixing those two together “raised their eyebrows” because the competition from the cities in a non-Pandemic world is too strong for people of that high income level.

Mr. Zamparelli asked if he contrasted the retirees income with the thirty to forty year-olds who make much more money with two incomes. Dr. Swanson stated there could be two young people living together, and a typical husband and wife once they get married and have a family, their tendency now is to get a single-family home; and that explains the behavior of the majority of people living in Lower Makefield. Mr. Zamparelli stated you would still some require some introduction to Real Estate and start somewhere. Dr. Swanson stated these are rental units. He stated they would buy a small property and trade up to a bigger property. He stated there is a standard progression that people have and paying \$32,000 in rent is money that does not go toward building equity in a property. Mr. Zamparelli stated while it does not, when you buy a home, you are paying interest so there is a trade-off- that Dr. Swanson is not mentioning.

Dr. Swanson stated people spend 17% to 20% of their income on their housing and that 20% could be the interest, the amortization, property taxes; and it is the whole mixture and all of those things together. He stated you pay a lot of money for a house when you add up all of the components.

Mr. Connors stated the Testimony is supposed to be about Standing.

Mr. Flager stated he feels they need to focus on Standing. He stated if they eventually have a full Hearing, they can get into all of these details, but at this point they need to consider that even if they expect Dr. Swanson's assumptions are true, how does that relate to the three Applicants with regard to Standing; and he feels that they need to focus on that.

Mr. Goldberg stated that they will get to that and be able to answer that. He stated they need to address what Dr. Swanson's belief is predicated upon that there are concerns about the viability of the rents being sustainable that have been proposed for this. Mr. Goldberg stated that Dr. Swanson had looked at apartments in the nearby vicinity including Polo Run, and Dr. Swanson agreed. Mr. Goldberg stated Polo Run is located at 100 Polo Run Drive, Yardley, PA, and Dr. Swanson agreed. Mr. Goldberg asked Dr. Swanson what is the typical rent for a one-bedroom.

Mr. Zamparelli stated they are trying to get past that. He stated they need to consider how the Applicants are aggrieved by this. Mr. Goldberg stated they are being put in an awkward position since they are asking for the background of this; and while they are trying to address that, they then tell them to move on. Mr. Goldberg stated if they move on, they will tell them to go back and tell what it was predicated on. Mr. Zamparelli stated they need to consider the Standing issue, and they need to address how they see themselves as having Standing. Mr. Goldberg stated they will get to that "in a minute;" but he wants to make sure that the Board is not looking for additional information regarding what apartments Dr. Swanson looked at in terms of making his opinion in terms of what background he looked at for his analysis. He asked if the Board is looking for that. Mr. Zamparelli stated they want to know how they feel they have Standing. Mr. Goldberg stated he understands that they are presuming that what Dr. Swanson is qualified to Testify to is that they should discuss the "injury" or what is the Standing and move right into that. Mr. Zamparelli agreed.

Mr. Goldberg asked Dr. Swanson based on what he has heard as to how the Chair wishes to proceed, if he believes that the rents for the apartments will end up being lower; and Dr. Swanson agreed. Mr. Goldberg stated that is because he does not believe what is being proposed is financially viable, and Dr. Swanson agreed.

Mr. Zamparelli stated Dr. Swanson is not a Real Estate expert.

Mr. Goldberg asked Dr. Swanson if he believes that what is being proposed is not accurate and will not happen and instead the rents will be significantly lower and have a different impact with a different clientele in the apartments, how will that impact the surrounding area, most notably the area around “Heritage Drive.” Dr. Swanson if the high-end, young workers and relatively high-end early retirees are replaced by multi-families, the character of the Town changes, and you have the impact of the study of multi-families on properties that are within two miles of the property; and that is where studies will come in. He stated if the character of the buildings change from high-end, young professionals to multi-family complexes, there is an impact of that on neighboring property values. Mr. Goldberg asked Dr. Swanson what he means by multi-family, and Dr. Swanson stated it is families with children. Dr. Swanson stated it would be a complex where roughly 30% of the people have kids.

Mr. Goldberg asked Dr. Swanson if this is what he believes will happen with these particular apartments, and Dr. Swanson stated they believe that is quite likely that will happen although they cannot say with 100% certainty. Mr. Goldberg stated he believes it is very likely, and Dr. Swanson agreed.

Mr. Zamparelli stated he does not feel they can look at the future, and they need to look at what is going to happen now. He stated they do not know what is going to happen ten years from now. Dr. Swanson stated when he works for Philadelphia, all he looks at is the future.

Mr. Flager stated the Testimony is about whether that will affect the property, and anything Dr. Swanson is going to talk about is the future because this has not been built yet. Mr. Flager stated he has to have some leeway to talk about that, but there is still room for cross-examination.

Mr. Goldberg asked Dr. Swanson as a result of the rents not being sustainable as to what was proposed and as a result of the different mixture of tenants utilizing the apartments, how will that likely impact the property values particularly those around “Heritage Drive” in Lower Makefield. Dr. Swanson

stated if the switch is to a multi-family complex, they have studies of the impact of multi-family complexes being in the vicinity of someone's house, and that is where they have a study which happens to be a study based in the Northwest United States. He stated there are a slew of studies, but the impact on property values is complex because you have the correlation of causality problem. He stated if there is a nuisance bar next to a house then the property values will be lower, although that does not mean the nuisance bar is causing the property value to be lowered. He stated it is very difficult to disentangle the causation versus the correlation. He stated a nuisance bar, intuitively would have a negative impact on your house value, but to show that with an economic study is far harder than you would think just because it is so difficult to measure property values in general. He stated this is why the study they used on multi-family is based on the Northwest United States impact and it is the effect of mixed land use and the impact. He stated one of the items they look at is multi-family houses being in the vicinity of your property. He stated there are numbers in the Exhibit that were submitted which give the distance away from a multi-family, and the impact on your house; and roughly speaking, the further the distance, the higher your property values would be. He stated the study they were referring to was one where they actually disentangled the correlation and causality which is "the trickiest part" of the whole study.

Mr. Zamparelli stated Dr. Swanson's number go from 1.4% to 14%, although he has indicated it is more likely 1.4. Dr. Swanson stated the 13.8 is the correlation number. He stated the National Association of Realtors came up with a survey as to what factors effect property values. He stated looking at a nuisance bar, there is a negative impact of about 14%. He stated that is the correlation number and that is what the correlation between property values and a particular feature in a particular Township would be. He stated that is where you get the 13.8. He stated the harder number to come up with is the causal impact. He stated the causal impact is based on the study in the Northwest United States where they ask what features effect property values, and they tried to correct what "everybody knows is the correlation and causality problem." He stated then you get the semi-elasticity number that is in the report provided that has the .0001 semi-elasticity that is multiplied by reduction in the number of feet and you get the .015 which is the 1.5%.

Dr. Swanson stated when a multi-family complex is closer to your house and then push it away, you would have the measure of the impact on your property value, and the close it is to your house, the more of a negative impact there is. He stated if you push it away, your property value goes up.

Mr. Zamparelli stated Dr. Swanson used a number of 8,500' which is a mile and a half which he feels is pretty far away; and that was the 1.5% negative impact. Dr. Swanson stated it is the differential. He stated it depends on how you measure the distance. He stated the measure they use is "crows fly." He stated if you Google map it is a little bit higher, so they used in between, and it is the differential between where "it would be the nearest place and how close it would then be so the argument is that it is 2,500' closer." Dr. Swanson stated as the "multi-family house" gets further away, the effect vanishes completely. He stated it is a question of "as you move it closer to your place – if you are moving it from Langhorne to on your doorstep at 8,500' is on your doorstep, then you are getting this impact." He stated this is "out of town and the next Township closer in." He stated the 2,500 is roughly speaking making it a half mile closer in.

Mr. Goldberg stated 508 Heritage Oak Drive is a little bit under a mile from the Prickett Preserve property, and Dr. Swanson agreed "the way the crow flies."

Mr. Goldberg asked Dr. Swanson to speak to the range as to the potential impact this development could have on the property values around Heritage Oak Drive. Dr. Swanson stated if you are building a project of this magnitude, and it becomes a multi-family project, you are moving that closer to Heritage Oak Drive than it was before; and you are moving multi-family units closer to the property that they are talking about and thereby reducing the value of Heritage Oak Drive. Mr. Goldberg asked if he believes that it could be as low as about 1.3% just from the development and perhaps significantly higher. Dr. Swanson stated it could be 1.5%. He added the negative impact on the property could be 1.5% of the property value of 508 Heritage Oak Drive as well as the next-door neighbor to 508.

Mr. Zamparelli asked if it is only 508 that will be negatively impacted, and Dr. Swanson stated it is the opposite. He stated they cannot make any distinction between 508 and the next-door neighbor. He stated they are not able to say how the impact would be any different.

Dr. Swanson stated the same studies look at a number of things. He stated there is another study that looks at grocery stores. He stated if the only thing that was happening was that they were adding a grocery store, and there were no grocery stores existing in Lower Makefield, then you would be moving a grocery store closer; and you would have the opposite effect,

and you it would be a positive effect on the property. He stated since there is already a grocery store, and the closest grocery store is closer than this property, you are not altering the nearest grocery store property value. Dr. Swanson stated if there were no grocery stores in all of Lower Makefield and they added no multi-family but added a Wegmans, it would be a positive impact on the property. He stated because between Prickett and 508, there is already a grocery store, the positive impact of the grocery store part of the Prickett property is not there because they already have a grocery store. He stated the question then becomes what about the multi-family, and they are effectively moving multi-family properties closer to 508 Heritage Oak Drive, and that is one of the two components that they have looked at to reduce the value of the property at 508.

Mr. Zamparelli stated he does not agree with that opinion. He stated people move into apartments, and when you have kids you move out; and he does not necessarily agree with the multi-family concept. He stated he is still looking at how this effects the property owner down the street, and he feels it is speculative at best.

Dr. Swanson stated if there is a property that is an apartment, and it is a “low income and you do the typical thing where you are a young guy/young woman and live in an apartment, and you are paying your rent because you do not have enough money for a down payment yet; once you have saved enough, you form marriage and you buy a single-family home.” He stated if “you have a high-end, it is a different story.” He stated this is a very high-end property, and it is not something that was targeted low income. He stated the question becomes that if it becomes multi-family, it is a different property, and it changes the character of the neighborhood.

Mr. Zamparelli stated there are a lot of “ifs.” Dr. Swanson stated there are a lot of “ifs.” He stated when they were trying to analyze the Retail and what that was referring to and looking at the huge trend in the Retail industry, there were nothing but “ifs.” He stated it was very difficult to pin down what exactly the project would translate to once “you get past what it is advertised.” Mr. Zamparelli stated it is hard for him to see where the Standing is.

Mr. Solor stated he understands the statistical analysis and that Dr. Swanson is looking at it from a global perspective. He stated assuming the base line assumptions are there, those would be the probably impacts. He stated it was earlier stated that 20% of income is assumed for housing, and he felt

that from trying to get a mortgage or rental places checking your income that they generally used 30% as the standard for what they were looking at. He asked Dr. Swanson where the 20% number came from. Dr. Swanson stated 17 to 20 is the number they used. He stated the Department of Census generates numbers for what fraction of people's income is spent on housing, and it is in the range of 17% to 20% Nationally. He stated they can generate that for Lower Makefield and it is roughly speaking the same number. He stated the monies for down payments and the expected payments for housing when you first buy a house, the early years are extremely expensive; and it will be 30%; but later on once you have some equity built up, it will be less than 30%. He stated the 17 to 20 is a standard number developed by the Department of Census.

Mr. Zamparelli stated he feels they need to make a determination on Standing.

Mr. Goldberg stated there is one more Witness regarding the Standing issue, and there is also additional Testimony from Dr. Swanson. Mr. Zamparelli stated as long as he sticks to the economist point of view and not his viewpoint on the speculation of the rents, he is fine with that. Mr. Goldberg stated the Board wants to hear the basis for something one minute and then a couple of minutes later, they do not want to hear that. Mr. Zamparelli stated he feels they need to keep to the Standing issue. He stated he feels they have heard enough from Dr. Swanson.

Mr. Flager asked Mr. Goldberg what other Testimony did he want Dr. Swanson to offer. Dr. Swanson stated the second item is traffic. Mr. Goldberg stated there are two components to Dr. Swanson's analysis as to why property values will decrease. He stated they have covered one of them. Mr. Flager stated if they have a full Hearing, they can get into "all of it;" however, they really want to focus on Standing. He asked why those two components effect the subject property. He stated he does not feel they need to get into every issue from the entire Study and all of the different things that are going to effect it, and they just need to focus on why it is going to effect this property.

Mr. Goldberg asked Dr. Swanson to explain the impact from this proposed development around the area of Heritage Oak Drive, and what that would do to property values. Mr. Goldberg stated Dr. Swanson has already mentioned one component, and he asked what the other component is. Dr. Swanson stated the second component would be the traffic impact.

Ms. Kirk Objected. She stated the Testimony is to focus on one narrow issue which is Standing. Mr. Zamparelli stated he agrees with Ms. Kirk, and he does not know what Dr. Swanson would know about traffic. Mr. Goldberg stated the Board heard the Testimony of the prior expert who was the traffic consultant. Mr. Zamparelli stated they did, and he had no study. Mr. Zamparelli stated Dr. Swanson is an economist, and he asked what he knows about traffic. Dr. Swanson stated “it is not about traffic, it is about the impact of traffic.”

Ms. Kirk stated she is Objecting to the Witness being questioned when there is Objection.

Mr. Goldberg stated “the question was asked as to if you get directly to it,” which is the whole point of the matter as to how this proposed development would adversely impact the properties around Heritage Oak Drive. He stated that is what he would be Testifying to, and that is part of the Standing issue. Mr. Zamparelli disagreed. Mr. Goldberg stated having an adverse impact on a property is absolutely part of this. Mr. Flager stated if he is saying how it is going to affect them, he would be okay with that; and he would like him to stick to that and not venture off too much.

Dr. Swanson stated with respect to traffic the question is would there be congestion and what is the impact of congestion. He stated they mentioned a Study, and again there is a correlation and causality because most congestion is in Cities. He stated New York City is one with congestion and “has very high property values so there is a positive correlation.” He stated the question is what is the impact of increased congestion, and that is relatively difficult to measure. He stated their best Study is published in Regional Science of Urban Economics in 2015, and it asked the question if there is an increase in congestion what is the impact on your property. Dr. Swanson stated they look at what happens if there is a decrease, and the opposite direction is an increase. He stated if there is a 10% increase in traffic congestion from the project, then the impact on the property would be -.3% which comes to about \$1,500 if it was a \$500,000 home. He stated there was traffic mitigation to the north. He stated they looked at the demand for Wegmans and where would it come from, is the grocery store market already saturated, what fraction of the demand would come from Lower Makefield, which is 35%, and what would come from outside of Lower Makefield, which is 65%; and where they would come from, and roughly speaking it would be the southern part of the area. He stated that would raise the congestion. He stated what was presented as Testimony

was a 15% increase for Saturday. He stated if they use 10% average, he believes that would lead to a .3% decrease in the value of the property which comes to on a \$500,000 place, a \$1,500 reduction in the value of the property.

Mr. Goldberg asked Dr. Swanson based on his Studies and his expertise, if the proposed development is ultimately constructed someone who lives on Heritage Oak Drive could realistically expect a decrease of property value of approximately 1.8%. Dr. Swanson stated if the project happens the way he would expect it to happen it would be a decrease of 1.8%; however, if it happens as they declared it there would be a reduction value of \$1,500 so the decrease would be between .3% which would be \$1,500 and 1.8% which would be the cumulative effect of the multi-family and the additional congestion.

Mr. Goldberg stated he feels this gets to the brunt of what they are looking for which is how this particular development impacts someone who lives on Heritage Oak Drive. Mr. Flager stated that is what they were looking for. Mr. Flager asked if Mr. Harris and Ms. Kirk would like to cross-examine at this point. Mr. Goldberg asked what time they anticipate stopping the meeting this evening as he knows the Board normally stops at 10:00 p.m.; and Mr. Zamparelli stated they anticipate stopping the meeting at 10:00 p.m.

A short recess was taken at this time.

When the meeting was reconvened, Mr. Zamparelli stated he understands there is a lot of Public Comment on this. Mr. Flager stated there will be Cross, and they will then hear Testimony from Mr. Borda.

Ms. Kirk stated Dr. Swanson has reviewed various studies in the areas of the effect of multi-family properties on single-family residences, and Dr. Swanson agreed. Ms. Kirk stated based on his interpretation and analysis of those studies he has reached a conclusion that Mr. Borda who lives at 508 Heritage Oak Drive will suffer a decrease in his property value, and Dr. Swanson agreed. Ms. Kirk stated 508 Heritage Oak Drive is located within a single-family development, and Dr. Swanson agreed. Ms. Kirk stated she assumes there are at least another fifty homes in that development; and Dr. Swanson stated in the full development there are probably fifty. Ms. Kirk asked if Mr. Borda's property at 508 Heritage Oak Drive is going to be the only property that suffers a decrease in value if this Mixed-Use is permitted, and Dr. Swanson stated he would not say that. He added that their analysis

was not able to make any distinction between Borda at 508 and 506. He stated it will be the same, and their Studies are not precise enough to say that the next-door neighbor will be effected differently.

Ms. Kirk stated besides the houses located in the Heritage Oak Development section where 508 is located, there are other single-family homes near the subject project if the Mixed-Use development is allowed; and Dr. Swanson agreed. Ms. Kirk stated those other single-family homes will suffer a negative impact on their property values as Dr. Swanson has concluded if the Mixed-Use of Wegmans and multi-family apartments are permitted, and Dr. Swanson agreed. Ms. Kirk stated based on his Studies and expertise as an economist, Dr. Swanson cannot say that the negative property value effect on Mr. Borda's property is different or more significant than the negative property value impact that would be suffered by other single-family property owners within the vicinity; and Dr. Swanson agreed for those within the vicinity of 508 Heritage Oak. Ms. Kirk stated she is asking about within the vicinity of the proposed development. Dr. Swanson stated the impact of the multi-family would "be roughly speaking a circle," and the impact of the traffic, which is the .3%, would be where the traffic is coming from so that would generally be only impacting people from the south and it would include a lot of people south of the Prickett project. Ms. Kirk stated that is assuming that is where all the traffic is coming from, and Dr. Swanson agreed. Ms. Kirk stated using that analysis if the traffic from the Prickett property is going west, single-family homes on the western side would be effected negatively by that traffic. Dr. Swanson stated they did not look at west of Prickett carefully so he does not know what is going to happen with the traffic impact. He stated if it becomes multi-family, the negative impact would be there. He stated he cannot say anything about the traffic west of Prickett.

Ms. Kirk stated with regard to the multi-family, Dr. Swanson's assumption is because there will be the availability of two-bedroom apartments, that automatically will translate to multi-family use. Dr. Swanson stated the demand at the revenue levels they were stating would be unsustainable and would lead to the multi-family. Ms. Kirk stated that is the result because a young couple with one child decides to move into a two-bedroom apartment constitutes multi-family. Dr. Swanson stated if the two hundred had "one or two – their plan was to have probably eleven; and assuming there is just one kid per family, that would be eleven families." Dr. Swanson stated if there were just one, two, or eleven families, they would not consider that to be a multi-family; and the threshold would be roughly speaking 30%. He added that when you look at the specific definitions of multi-family, they seem to be

roughly speaking 30% of the people have children. Ms. Kirk stated he is saying that of the one hundred proposed two-bedroom apartments, thirty families would have children. Dr. Swanson stated if 30% are families, it would be considered multi-family. Mr. Kirk asked if that is even if it is just a couple with one child; and Dr. Swanson stated if 30% of the people are of that character, then it would be multi-family. Dr. Swanson stated if there are two hundred units and 30% of them have two people and a child, that would be considered multi-family. Ms. Kirk stated practically speaking a couple with a child is not going to rent a single-bedroom apartment.

Dr. Swanson agreed as a general rule a young professional is not going to rent an apartment like that. Ms. Kirk stated as a general rule a young couple or even a single parent with a child is not going to look to rent a single-bedroom apartment. Dr. Swanson agreed they would be more inclined to rent a two-bedroom. Ms. Kirk stated what they are looking at is not multi-family of 30% of two hundred apartment units, it is actually a multi-family of 30% of the one hundred two-bedroom apartment units proposed. Dr. Swanson stated there are two hundred units. He stated if there are just eleven kids total, which is what the developer has stated, he would not consider that to be multi-family. He stated that would be 5%, and when it gets to 30%, they would call that multi-family.

Ms. Kirk stated Dr. Swanson made references to studies before the Pandemic, one of which he referenced was a Study conducted by John Matthew of Georgia State University, and Dr. Swanson agreed. Ms. Kirk stated Dr. Swanson had stated that based on that Study there was a dollar impact of traffic congestion. Dr. Swanson stated this was a Study that looked at a number of factors with traffic being one. He stated there is a specific type of traffic since there are highways, trucks, etc.; and that Study had the impact of the trucks so it is “close and it gives close to the number they were looking at but it is not precise enough for the target type of situation we have here.”

Ms. Kirk asked Dr. Swanson even though that Study was completed in April, 2007 which was more than thirteen years ago, if he still believes it is a relevant Study as part of his analysis for the effect of this proposed development. Dr. Swanson stated he does. He stated when you are talking about property values, it is so hard to get a consistent study of any impact on property values because property values are in general hard to track because people do not sell their properties very often; and they sell a house about once every twenty years. Dr. Swanson stated “events happen and events

happen simultaneously.” He stated something that is thirteen years ago in the Real Estate world is relatively recent although it may sound like it is “ancient history,” but it is not as “ancient as your think.”

Ms. Kirk stated there are other factors that effect the sale of properties and property values; and Dr. Swanson stated there are a slew of them, and there are slew of hedonic Studies of major things that effect your property and different Studies emphasize different sets of properties.

Ms. Kirk stated at one point during his Testimony, Dr. Swanson stated that there are a lot of “ifs” involved in the process of ascertaining property values and future projections as to property values; and Dr. Swanson stated whenever you are saying something good about a property or bad about a property, you have to eliminate as many of the “ifs” as you possibly can because you cannot deny the fact that you are talking about the future.

Ms. Kirk stated that Dr. Swanson’s conclusion would be equally applicable to every single-family residence within a similar one mile radius of the Prickett property as it also relates to 508 Heritage Oak Drive. Dr. Swanson stated with respect to the multi-family component he would agree; but with respect to the traffic, he would not agree.

Mr. Harris stated he understands with regard to the truck traffic it is a .3% decline in property values, and that would be experienced by anybody on the south side of the project where Dr. Swanson expects there could be congestion. Dr. Swanson stated that is correct except for the fact that it is truck traffic as it was customer traffic that he was referring to. Mr. Harris stated they are talking about a general effect that is no different for 508 Heritage Oak Drive than it is for any of the other properties to the south. Dr. Swanson stated what Mr. Harris has stated is true with regard to 508 and 506 as they cannot make any distinction at all. He stated as you go further south, the congestion probably would be lower but generally speaking his statements are about “to the south.” Mr. Harris stated it is a generalized impact and not a specific impact on Mr. Borda’s house, and Dr. Swanson stated he can say what the impact on his house would be, but he cannot say that everywhere else in Lower Makefield would have the same congestion. Mr. Harris stated if you are a half mile south, all of those houses are going to have a similar effect, if you go three-quarters of a mile south, all of those houses would have a similar effect, and if you go a mile south, all of those houses would have a similar effect. Dr. Swanson stated if you go to Covington Road across the street, it is correct that you would have a similar effect.

Mr. Harris stated Dr. Swanson cited on Page 8 of his Report a 2019 Study where he quoted a report about the impact on property values from Los Angeles traffic. Mr. Harris stated he got that Report and found that Dr. Swanson had not included the introduction to the quote which indicated that they were studying the impact of freeway truck traffic, and they were analyzing the impact of a freeway on the value of the adjacent single-family houses; however, Dr. Swanson failed to include the phrase “the impact of freeway truck traffic” in his quote. Dr. Swanson stated the paragraph is “indicative” and they were trying to show how various other studies “were in the ball park,” and this was not the basis of their results, and it was a study that was done to give an idea. He stated it is a Madrid Study, and it was to get an idea of just how difficult this problem is. He stated he stated there are a number of studies that were mentioned that are about access, and they did not exactly get to the congestion issue. He stated they did not feel this Study exactly pinned down the question that they were looking at. He stated it was truck traffic, and they also believe the truck traffic is north so this is not a basis of their conclusions; and it is just indicative of what people studied.

Mr. Harris stated Dr. Swanson believes that misquoting the Study and eliminating the reference to the fact that they were dealing with freeway truck traffic as opposed to just truck traffic was something that he could eliminate from the quote. Mr. Harris asked if that was done by a Temple student, what grade would Dr. Swanson give that Temple student.

Mr. Goldberg Objected.

Mr. Harris stated this goes to the substance of the accuracy of Dr. Swanson’s Report, and he misquoted this. Dr. Swanson stated if he “omitted a word,” the important thing is he would say is to point out the Study and the limitations of the Study, and what it is trying to get at. He stated the traffic versus the highway traffic is important, and it was an oversight on his part. He added he does not feel the point of the paragraph would be altered in any shape or form, but he does stand corrected that he should have put in “highway traffic.” Mr. Harris stated it was freeway traffic. Dr. Swanson stated if freeway traffic had made it more clear, he would have included that. He stated in no sense was this an attempt at deception, and this paragraph referred to something that is “indicative of the tendency,” and not the specific numbers they are trying to get at.

Mr. Harris stated Dr. Swanson had stated that the 2015 Study in Regional Science of Urban Economics which was quoted at the bottom of Page 8 was what he considered the definitive study in reaching his conclusion of the 3% drop in property values as a result of traffic increase. Dr. Swanson stated this Study is the most precise number that they could come up with for the impact of congestion. Mr. Harris stated that Study was done on the opening of a new By-Pass in the Hague of the Netherlands, and Dr. Swanson agreed. Mr. Harris stated Dr. Swanson believes that a Study of the traffic impact of opening a new By-Pass in the Hague is the best Study that he could find of what the impact of traffic would be in Lower Makefield Township as a result of this development, and Dr. Swanson stated that is correct.

Mr. Harris stated he has numerous questions he could ask about the Studies, but will leave it at those two questions.

Mr. Harris stated Polo Run is 6/10ths of a mile from the Heritage Oak Drive property, and the Edge is 8/10ths of a mile. He stated Prickett Preserve is almost a mile away. Mr. Harris stated if in fact Dr. Swanson is correct that there is a 1.5% reduction in value from being near multi-family dwellings he asked if that decrease has not already happened. Dr. Swanson stated if they were multi-family projects and there are slightly lower rents, that would already be imputed into the property values that they have. He stated if they are just apartment complexes or smaller places with “less ambition of the two hundred units,” then they are just apartment complexes and they are not multi-family products. He stated if they were, they would already be imputed in the property values.

Mr. Harris stated Dr. Swanson’s conclusion as to the negative impact on property values is dependent upon his conclusion that because of COVID and “other things” that these apartments are going to be multi-family units as opposed to apartment units. Mr. Harris stated if you accept that and accept the fact that there will be a negative impact as a result of traffic, those impacts will be no different for Heritage Drive than any other home in the Heritage Drive area and no different from any other home with the mileage limits that he set and it will be an impact that is felt by all of the properties that are in the same class as the Heritage Drive and all the other Subdivisions that are found south of the property. Dr. Swanson stated it will have a similar impact for a number of the Subdivisions.

Mr. Goldberg asked Dr. Swanson to explain why the Hague Study was relevant. Dr. Swanson stated if someone were to ask what is the effect of COVID spread, and he had a UK Study, he would use the UK Study. He stated if there was a new variant of the virus which came out of the Hague, he would cite the Hague. He stated the multi-family is a different story, and he had to “stick with the U.S.” because he feels the circumstances of a multi-family impact are very different in Europe but “traffic is traffic” in Europe as in America. He stated it is not perfect. He stated while the Madrid Study was talking about Madrid, they used L.A., New York, and “everybody else.” He stated it is “nature of the beast;” and it is a hard problem, and you have to use what you have got. He stated it was in an American Journal, but the Hague had an excellent Study.

Mr. Goldberg stated with regard to the comment about some of the existing apartments, there is no indication that Dr. Swanson is aware of that those properties have the adverse impact that he has perceived could happen as a result of this proposed development. Dr. Swanson stated there is not because they are not multi-family.

Mr. Zamparelli stated he understands that Mr. Goldberg has someone else who is going to Testify so they will have to Continue the matter. Mr. Zamparelli stated they will also hear Public Comment on Standing only.

Mr. Harris asked if it possible to schedule the matter for a night when it is just this matter. Mr. Zamparelli stated he would like this to be completed at the next meeting. Mr. Majewski stated there are at least four Applications scheduled for January 19. Mr. Flager asked if they have not advertised those yet, and there is not an issue with the sixty-day deadline, could they move those four to a February Agenda. Mr. Majewski stated they were already pushing the timeframe. Mr. Connors asked if they could schedule a Special Meeting and just consider this matter, and Mr. Flager agreed they could have a Special Meeting. This was acceptable to Mr. Zamparelli. Mr. Majewski stated while he does not have a date in mind at this time, he could circulate potential dates, and they could advise when they are available. He stated they would then advertise that meeting. It was noted they would have to follow Notice requirements. Mr. Majewski stated they need to have it advertised in the paper one day prior to the meeting, and the Courier Times typically has a two to three day lead time prior to that. Mr. Zamparelli stated if they advertise tomorrow, they could meet next Tuesday.

Mr. Harris stated he does not agree with that, and there is a one-day lead time for a Special Meeting of the Board of Supervisors; however, he believes the Municipality Planning Code requires two weeks' notice for the Zoning Hearing Board. Mr. Flager stated normally for a regular meeting, "the second one has to be at least seven days out." Mr. Harris stated he would be happy to meet tomorrow night; however, he does not want them to create a procedural problem.

After discussion, Mr. Connors moved, Mr. Solor seconded and it was unanimously carried to Continue the matter to January 26.

There being no further business, Mr. Zamparelli moved, Mr. Solor seconded and it was unanimously carried to adjourn the meeting at 10:20 p.m.

Respectfully Submitted,

Matthew Connors, Secretary