

TOWNSHIP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – MARCH 27, 2006

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on March 27, 2006. Chairman Harrison called the meeting to order at 7:30 p.m.

Those present:

Planning Commission: Cynthia Harrison, Chairman  
William Taylor, Vice Chairman  
Dean Dickson, Secretary  
Karen Friedman, Member  
John Pazdera, Member

Others: Nancy Frick, Director Zoning, Inspection & Planning  
John Donaghy, Township Solicitor  
James Majewski, Township Engineer  
Ron Smith, Supervisor Liaison (joined meeting in progress)

APPROVAL OF MINUTES

Ms. Friedman moved, Mr. Taylor seconded and it was unanimously carried to approve the Minutes of February 27, 2006 as corrected.

Mr. Smith joined the meeting at this time.

#555 – FIORELLO GROVE – PRELIMINARY PLAN DISCUSSION AND MOTION TO TABLE

Mr. Henry VanBlunk, attorney, was present with Mr. Joe Marrazzo and Mr. James Ceglia. Mr. VanBlunk stated since the last meeting they resubmitted their stormwater management report. Mr. VanBlunk noted Item #1 of the 3/21/06 Schoor DePalma review letter and stated they agree with the lot percentages shown. He stated they feel that each homeowner will be able to have another 2,000 square feet of impervious surface and should be able to make reasonable use of the rear yard. Mr. Pazdera stated what is proposed does not provide a lot of depth as it is only 40' back from the building envelope. He asked if they could take a pool back to the 40' line, and Ms. Frick stated the fence would have to be on the line and the pool would have to be 10' from that. Mr. Majewski stated the pool would also have to be 10' from the building so they could only have a 20' wide pool. Mr. Taylor asked about standard pool widths, and

Ms. Frick stated there is really no standard. Mr. Majewski stated there are pools that are 20' in width. Ms. Harrison asked if they would be able to have cement around the pool, and Ms. Frick stated they could have a coping/cement area. This would be included in the impervious surface calculations as well as sheds, etc. Mr. VanBlunk stated he feels there is more than enough impervious surface left to make reasonable use of the property. Mr. Majewski stated the 2,000 square feet is based on the footprint shown on the Plan; and if they sell a larger home, it would cut into this 2,000 square feet.

Mr. Taylor noted Lot #1 where it shows the detention basin easement, and Mr. VanBlunk stated this runs from Derbyshire Road to the detention basin. Ms. Frick stated nothing could be placed, planted, or put within the easement area. Mr. Majewski stated they are showing a driveway in this area, and they would need a Waiver from that portion of the Ordinance. Ms. Frick stated they could also design the house so that the driveway would not have to be at that location. Mr. VanBlunk noted Item #2 of the review letter relates to this issue. He stated they are proposing the driveway for Lot #1 within this area. He stated it is the responsibility of the owner of Lot #1 to maintain the basin. He stated generally the easement is for the purpose of the Township being able to access the basin with their equipment, but in this case it would only be so that the Township could ensure that the homeowner of Lot #1 is maintaining the basin. He stated they could provide a 20 foot wide access rather than 15 feet if required. Ms. Frick stated they would have a more difficult time meeting the requirement that the driveway not be in this area if they go to 20 feet. Mr. VanBlunk agreed and stated they will need a Waiver. Mr. Pazdera stated he is concerned that the Township will have to take their trucks into this area either to check it or even take over the maintenance if the homeowner is not maintaining it, and they could break up the driveway with their equipment, etc. Mr. Marrazzo stated they would agree to write a Note on the Plan that no driveway will be constructed in this easement. He stated they would also agree to go to the 20' wide access. Ms. Frick stated this will limit Lot #1 with regard to a pool if they cannot have a fence in the easement. Mr. Majewski stated Lot #1 as shown could not have a pool based on the amount of room they have in the rear from the house to the easement line, other than a ten foot wide lap pool. Ms. Frick stated she feels this Note should also be put on the Plan as well. Mr. Majewski stated where they are showing the house on Lot #1, they only have 30' to the easement line. He stated the house size shown on the Plan is 64' by 40'.

Ms. Harrison stated she feels there should be plantings showing where the end of the lot is so the homeowners can visually see the limitations of the rear yard. Mr. VanBlunk stated they agreed to install a sign. Ms. Harrison stated she is concerned about subsequent owners of the property and feels there should be a visible barrier showing the limitations of the lot. Mr. VanBlunk stated the lot will run all the way back although he agrees that they will not be able to do much on it. Ms. Frick stated she does not feel they will be able to do anything with it. Mr. VanBlunk stated they do not have a problem installing a sign indicating "Resource Protected Area," but he does not feel they should have to put up a fence. Mr. Majewski stated they have proposed trees along the edge of

the detention basin on Lot #1 and the ground does drop off at that location. He stated the easement should also be noted in the Deed.

Item #3 was noted regarding maintenance of the detention basin. It also discusses indications of a seasonal high water table and the need for the Applicant to address how the basin will be maintained due to the potential for saturated conditions. Mr. VanBlunk stated he agrees that there will be times when the basin will be damp. He stated they were proposing to install plantings from the wooded area down the side of the basin and are considering planting wetland type plantings within the basin itself and these will not require much maintenance. He stated this also seems to be a trend to naturalize the basins. Ms. Friedman asked if they will be required to comply with the Native Plant Ordinance which may be in place, and Mr. Majewski stated they will recommend that they use native plants whenever possible.

Mr. Majewski stated he was on the site and the test pits that were dug had not been backfilled and they need to do this because of safety concerns. He stated based on his review of the soil logs which were done over a year ago, it appears that the water table is actually 15" which is much higher than they anticipated. He showed pictures which were taken last week where the water can be seen despite the fact that it has not rained in a few weeks. He stated if they are cutting two feet into this, they will have a pond. He stated he is not sure of the fluctuations in the water level but feels this is a major concern. Mr. Ceglia stated the perc tests were done at 60" in August of 2004 and at that time the holes were dry. He stated during the wet season the water table does rise. Mrs. Harrison stated she feels they need to consider the wet season when building the homes. Mr. Ceglia stated he feels the basin should be constructed during the dry season. If they use native/wetland plants, there should be very little maintenance required. He stated they will not be mowing the basin if they are using native plants. He stated they are proposing a stone berm outlet structure and the bottom of the basin will be graded at 2% toward the floodplain so it will drain away from the houses toward the floodplain. The stone berm outlet structure will allow any water that gets in to the basin to run through the berm to the stream. Mr. Taylor stated if they are only going to dig down 25" and the high water line is 15", he does not feel it will even slow up the water. Mr. Ceglia stated at that point the water level will drop. He stated if the bottom of the basin is at 2', any water that comes into the basin will go to the lowest point and will flow toward the stream. Mr. Taylor stated during the wet season there will be water in the basin at all times and any additional water will go through. Mr. Ceglia disagreed that there will be water in the basin all the time unless the outlet is blocked. He stated the pictures they are showing where water is ponding is because there is no outlet as it is an impervious soil. He stated he was on the site prior to the meeting and did see the holes, but noted the area around the holes is dry.

Mr. Majewski stated he feels they need additional soil logs. He stated he has also had discussions with people who indicated that because there was not a significant snowfall or rainfall recently, the area is more akin to summer conditions than spring conditions for groundwater purposes. He stated he feels they should install monitoring wells and put a pipe in and monitor it over the next few months. Assuming they get more rain over the next few months, they will be able to see where the water table sits in the wet season. He stated assuming the water table is as high as the pictures indicate, he feels this project will be extremely difficult to build given the proposed design. Mr. Marrazzo stated when they dug the pits in August, despite a wet season, there was no sitting water. He stated the soil is impervious, and the holes are collecting the water. Mr. Ceglia stated the permeability test showed very minimal movement and these are impermeable soils. He stated any water that gets into the holes will stay there. The soils test submitted shows there is a seasonal high water table.

Ms. Frick asked if they are proposing basements, and Mr. Marrazzo stated they are. Ms. Frick stated basement elevations were not shown. Mr. Marrazzo presented to the Planning Commission this evening information from Rub-R-Wall which is the company they use in these types of situations. Ms. Harrison stated she questions why they would have a basement when they know there will be a problem. Mr. Marrazzo stated Rub-R-Wall gives a lifetime guarantee. He stated this is not an uncommon problem. Mr. VanBlunk stated there were homes built across the street on Derbyshire Road with basements. Ms. Frick stated she will look into this, but she feels that anything they have had done where there is a seasonal high water table has had to have a report done by a soils consultant stating that they have tested the soils and it is suitable for a basement. Mr. Marrazzo stated he does not have a problem with this. Ms. Frick stated there were homes built at Yardley Oaks/Oxford Glen where there was a seasonal high water table, and no basements were permitted. Mr. Majewski stated the homes across the street from this proposed development are much higher in elevation and were graded so that they are approximately 6' out of the ground. Mr. Ceglia stated they could raise the floor elevation a few feet to help with this problem.

Ms. Harrison stated she feels there should be more soil testing done as the Township engineer has suggested. She stated she is also concerned with basements at all in these locations as water will still come in and the sump pumps will be on all the time. Mr. Marrazzo stated he felt they would have to do the testing at the Building Permit level. Ms. Frick stated the Planning Commission has previously approved Plans with Notes placed on the Plan indicating no basements are permitted where there has been seasonal high water tables. Mr. VanBlunk stated they would not have a problem with having the soil tested and felt approval of the Plan would be contingent on the test results. Ms. Frick stated she would also recommend that they have a soils consultant indicate that it is suitable for basements.

Mr. Majewski stated if they do raise up the houses, this could be a problem with Lot #1 as it is close to an existing home on Derbyshire Road; and if they raise the house on Lot #1 several feet, they would be almost a story above the existing home. He feels they should install a buffer along that property line so they do not have to look at this much higher home. Mr. Marrazzo agreed.

Mr. Majewski stated he is not comfortable with the detention basin shown based on what he saw in the field and would like more soil logs done before considering the Plan further. The Planning Commission agreed.

Mr. Friedman noted Item #5 of another document provided to the Planning Commission regarding the stormwater management facilities and the recommendation that they be inspected after each significant rainfall. Mr. VanBlunk stated this was a suggestion on the 2/9/06 review letter and they agreed to comply. Mr. Pazdera asked who would do the inspection. Mr. VanBlunk stated the Ordinance requires the homeowner to inspect it at different levels. In their notes, they indicated that the homeowner has to inspect at a minimum after each 100 year storm and the Note being referred to by Ms. Friedman indicates that the homeowner should inspect after each significant rainfall.

Mr. Majewski stated the Township's new Stormwater Ordinance has a provision for Stormwater Management Maintenance Agreements and future homeowners have to sign that they understand that if they have a stormwater facility on their property, that it is their responsibility to inspect it. Ms. Frick asked what will be given to the homeowners outlining how they need to maintain the basin. Mr. Majewski stated Appendix A in the new Stormwater Ordinance has information that outlines the responsibilities of the homeowners. He stated this will be an educational process, and they will probably have to contact the Township engineer's office. Ms. Frick asked if the builder will be providing this information to the homeowners to insure that the homeowners are aware of this. Mr. Pazdera questioned who will enforce this. Mr. Donaghy asked if the intention is that the homeowners will execute the Maintenance Agreement or will it be provided by the developer. Mr. Majewski stated the developer will have to sign it and the homeowner will have to sign it before they transfer the house. Mr. Donaghy stated the developer should be required to prepare and record a Declaration at the same time of the recording of the Subdivision Plan that incorporates this requirement. He feels the homeowner should also be put on notice as to some of the limitations as to the ability to construct additional facilities on the lots. He stated this would be a Disclosure type Declaration which would provide a record that is in a form acceptable to the Township.

Mr. Majewski stated the specific Stormwater Operations and Maintenance Agreement is something that is to be recorded. Ms. Frick stated she feels they should have some kind of guideline as well for the homeowners. Ms. Friedman stated she feels this is something that needs to be done by a professional other than the homeowner who would not have any idea as to how to take care of such problems. Ms. Harrison asked if they should be directed to contact the Township engineer for each system, but Ms. Friedman asked who

would pay for this. Mr. Majewski stated the maintenance required is not extraordinary. Mr. VanBlunk stated the main thing is to ensure that the drain is clear. Mr. Majewski stated as part of the Building Permit Application, they will probably provide them information on maintenance. Mr. Donaghy stated this does arise in other Municipalities where there is one individual responsible for the basin that handles more than their own lot, and it does become a problem if people do not maintain them.

Ms. Harrison asked if the homeowners will be required to bear the cost of the maintenance, and Mr. Majewski stated they will. He stated it should not be a problem unless there is complete and total neglect for a long time. The Township would have the right to enter the property and inspect it. Mr. Dickson asked if this would be part of a regular schedule by the Township, and Mr. Majewski stated the DEP is still considering this. Mr. Dickson stated he feels there will be problems when the house is sold and the new owner may not know that this is required of them or may not do the same maintenance as to the prior owner. He stated he is also concerned if there is a catastrophic problem and the homeowner may not be able to afford to make the improvements needed and would ask the Township to do it. Mr. Majewski stated it would be the homeowners' responsibility and is a cost of owning a home. Ms. Frick stated her concern is that this would also have an affect on the adjoining properties. Mr. Donaghy stated if the Township was forced to take action, they would assess a lien against the homeowner for the cost of doing the work.

Mr. Majewski stated this will be a learning process as the Township starts following the new requirements as the trend is to go to smaller basins rather than very large basins for an entire development. He stated he does not feel there is a potential for a catastrophe, and if this basin completely failed, the impact would be negligible. Mr. Majewski stated on the Plans it lists some of the steps to take to properly maintain the basin.

Ms. Harrison stated she still feels they should consider building two houses rather than three. Mr. VanBlunk stated they feel they can comply with the Ordinance and construct three homes on the tract.

Mr. Smith stated he feels they need to get the soils test first. He stated he is concerned about putting this onto the homeowners who are often oblivious to the documents that they are being supplied at the time of closing.

Ms. Harrison asked that they provide the soil test results to the Township and then come back to the Planning Commission so that they can make a more educated decision. Mr. VanBlunk stated they do not feel they need to stop the process at this point and feels that they could get Preliminary Plan Approval with the Condition that they do the soils test. Mr. Majewski stated the results of the soils tests may impact the ability to have basements and issues relating to the detention basin.

Mr. Dickson stated he would like to see the matter tabled. He noted at the last meeting, the Planning Commission had strongly suggested that they go to two lots rather than three. Mr. Marrazzo stated they feel they can have three lots as it is a ten acre parcel.

Mr. Dickson moved, Mr. Taylor seconded and it was unanimously carried to table.

Mr. Marrazzo asked what they should do, and Mr. Majewski agreed to discuss this with the geotechnical people in his office and will work with Mr. Marrazzo on how the testing should be done. He stated he feels they should test each of the lots. Ms. Frick stated they can then put on the Plan for each lot what is required and whether or not there can be a basement.

#### OTHER BUSINESS

Ms. Harrison stated her term has expired and she has declined being interviewed for re-appointment as she will be moving out of the Township. She stated she would agree to serve until the Board appoints a replacement. She stated the Planning Commission should also consider whether they would like to appoint a new Chairman prior to her leaving the Commission so that there is continuity. Mr. Taylor stated he too will be moving out of the Township at the end of May.

There being no further business, Ms. Friedman moved, Mr. Dickson seconded and it was unanimously carried to adjourn the meeting at 8:30 p.m.

Respectfully Submitted,



Dean Dickson, Secretary