TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – JUNE 11, 2012

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on June 11, 2012. Chairman Dickson called the meeting to order at 7:40 p.m.

Those present:

Planning Commission:	Dean Dickson, Chairman Tony Bush, Vice Chairman Karen Friedman, Secretary Mark Fried, Member
Others:	Nancy Frick, Director Zoning, Inspection & Planning John Koopman, Township Solicitor Tony Koller, Township Engineer
Absent:	John Pazdera, Planning Commission Member Dobby Dobson, Supervisor Liaison

APPROVAL OF MINUTES

Ms. Friedman moved, Mr. Bush seconded and it was unanimously carried to approve the Minutes of April 23, 2012 as written.

Ms. Friedman moved and Mr. Bush seconded to approve the Minutes of May 14, 2012 as corrected. Motion carried with Mr. Fried abstained.

ZHB APPEAL #12-1632 – MANOR CARE OF YARDLEY PA, LLC – DISCUSSION AND RECOMMENDATION OF SPECIAL EXCEPTION TO PERMIT THE CONSTRUCTION OF THREE ADDITIONS TO EXISTING BUILDINGS SO AS TO ACCOMMODATE AN INCREASE OF TWENTY BEDS AND A PHYSICAL THERAPY SUITE

Mr. Neil Stein, attorney, and Mr. Greg Newell, engineer, were present. Mr. Stein stated this Application relates to the existing Manor Care property accessed via Stony Hill Road or Oxford Valley Road. He stated it is a 17.5 acre site located in the R-3M District which permits nursing facilities by Special Exception. Mr. Stein stated the Application which is pending before the Zoning Hearing Board requests an increase in the existing nursing facility building of twenty beds. He stated the State has issued a Certificate of Need for those twenty beds which will come from a reduction in beds at other Manor

Care facilities. He stated in addition to the twenty beds, there is an increase in the building size to allow a greater area to be devoted to occupational therapy which includes physical, occupational, and speech therapy services to a broad spectrum of patients a greater number of whom are from the surrounding communities.

Mr. Stein stated there is a long Zoning history associated with the property, and they are present because this is a proposed enlargement of the facility both the building size and additional parking; and it is the additional parking that is generating the increase in impervious coverage.

Mr. Stein stated the site has woodlands which surround it essentially on all sides. He stated there are residential properties toward the north, south, and the east; and the existing Swim Club is to the west, but the buffer will remain in tact and they will be able to accomplish a great deal of what will be shown this evening without invading the buffer.

Mr. Newell showed an aerial photograph of the property including the access points. He stated there are two uses on the property – a skilled nursing facility and Arden Courts in the back; and they are connected by a common driveway. He showed the locations of the existing parking for each of the two facilities.

Mr. Newell stated they are proposing three additions with the first being off the front corner of the building at a location he showed on the Plan. He showed the location of the second addition which is a small addition in the courtyard area. The location of the third addition was shown off the rear on the western side in the lawn area. He stated the lawn area is there because this third addition was always anticipated and Zoning Approval was granted for this as it was a Phase of the original approval process, although it was not built. Mr. Newell showed on the Plan where they are proposing additional parking.

Mr. Newell showed a Rendering of what he just described with the additions shown. Mr. Newell stated the proposal is a net of twenty beds and there are some semi-private beds that are going to be converted to private. He showed on the rendering where the new parking is proposed.

Mr. Newell showed the drive aisle and stated this was originally an emergency-access grass paver arrangement; but there was a history of different Zoning appearances, and one of them was a direction from the Zoning Hearing Board to pave this area. He stated what they are proposing is to make it a uniform width.

Mr. Stein stated they require a Special Exception as they are expanding the existing uses permitted by Special Exception. He stated they are also requesting Variances for impervious coverage and parking aisles within the 25' setback.

Mr. Newell stated with regard to the impervious coverage, the parking standards that were in place at the time the project was originally approved have changed; and the requirements have increased so they have added the parking spaces necessary to get the use in compliance with current regulations.

Mr. Newell noted the location of the stormwater management basin and stated there is more than sufficient room to expand it if necessary to meet the requirements for the change in impervious coverage.

Mr. Koopman stated they will have to go through Land Development; and Mr. Stein stated they recognize that. Mr. Koopman stated this project will therefore be back before the Planning Commission at some point for review of the Land Development.

Ms. Friedman asked the square footage of the additions, and Mr. Newell stated the total is approximately 9,000 square feet with the front addition being approximately 1,800 square feet, the second small addition approximately 800, and the last is approximately 6,400 square feet. Ms. Friedman asked if they are all one story, and Mr. Stein stated they are.

Mr. Bush noted the expansion off the back of the building which Mr. Newell indicated was part of the original Approval, and he asked how different it will be from what was originally approved. Mr. Newell stated it will only be slightly different in terms of shape and orientation, but in general it will be the same footprint as was Approved.

Mr. Bush stated he understands it is their expectation not to take down any trees, and Mr. Newell stated the additions do not impact any trees, but he noted some minor impacts in the northeastern corner related to increase in parking.

Mr. Fried asked how the access drive will be changed, and Mr. Newell stated currently the drive does not have a uniform width. He stated when they paved over the grass pavers, it was not made a uniform width, and he would like it to be a consistent 24' wide drive aisle. He noted portions where there will have to be a 2' widening to get it to be a uniform width. Mr. Fried asked the amount of construction equipment that will be brought in, and Mr. Newell stated the 6,400 square foot addition will need the proper construction equipment including cranes. He stated the earth work is minor. Mr. Fried asked how long construction will take, and Mr. Newell stated he anticipates it will take six to nine months. Mr. Fried asked if they will replace the trees, and Mr. Newell stated he feels they will go through this process during Land Development and will add the trees as required.

Mr. Dickson stated they are asking the Zoning Hearing Board to permit impervious coverage of 26.6%, and he asked the current ratio. Mr. Newell stated from the previous Zoning Approval, it was 24%. Mr. Dickson asked how much they will encroach into the building setback, and Mr. Newell stated the side yard setback was previously 25' or 30' but the Zoning changed and it is now 50'. He stated the existing building is at 49', and they are going to continue the building line so it is approximately 1.3' or 1.4' over. Mr. Dickson stated they are therefore asking for a Variance of approximately a foot and a half for the building, and Mr. Newell agreed; and he added it is an existing non-conforming as a result of a change in the Zoning Ordinance.

Mr. Fried stated Mr. Newell had indicated that this would result in twenty additional beds, and asked if this is the minimum required configuration to get those additional twenty beds, and Mr. Newell stated it is. He added that the industry is very tight, and they do exactly what they need because they cannot afford to get any larger because of the competitive nature. He stated there are also some therapy suites and meeting rooms since the nature of the business has changed, and there are some fairly substitutive changes as to how dining rooms are set up, more training goes on, and there is more occupational therapy today than there was in the past.

Mr. Fried asked if the occupational therapy is restricted to residents or will there be people coming from the outside coming in to use those facilities. Mr. Richard Snoddy, representing Manor Care stated the therapy will be limited to in-patient only. Mr. Fried asked if they could ever be allowed to do so under the current licensing, and Mr. Snoddy stated he does not believe it is allowed in the State of Pennsylvania with their License. Mr. Fried stated they indicated that a Certificate of Need was already issued, and Mr. Snoddy agreed. Mr. Fried asked about the increase in beds at this location due to a reduction of beds from other locations, and he asked if they feel they will need to expand this facility again; and Mr. Snoddy stated they do not anticipate it at this time. Mr. Fried asked if they are currently full, and Mr. Snoddy stated he is not sure what the current census is now; and Mr. Stein stated he believes they have been at 92% to 95% for the last five years. Mr. Stein stated he read in the Application that this community is underserved by the number of beds. Mr. Snoddy stated the State looks at this very carefully, and they do not give a Certificate of Need if they do not feel there is a need for the beds. He stated the total beds will be 170. Mr. Newell stated there was always an expectation that they would get to this number at some point.

Ms. Friedman noted the southeastern corner parking lot and asked if there is a reason they decided to put it there as opposed to anywhere else on the property in the back of the building; and Mr. Newell stated they looked at all areas to see where they could put the proper number on the site. He noted an area where the basin berm is located and another area with steeper slopes. Ms. Friedman stated the reason she is asking is because she is not totally in favor of having the expanded parking lot in the corner because there is a lot of frontage of impervious surface and parking lot on the facility. She stated she is not concerned about the small area of parking in the back which appears to be buffered from

the street; but she is concerned with the corner one which you see when you approach. She asked that they look into whether there is a way to move it toward the back where the other parking is being put, and Mr. Newell agreed to look into this. Mr. Newell noted an area which he feels is far away for visitors, and he would prefer to have it closer to the main entrance; but he will look into it. He also noted the area where they were proposing to put the parking spaces topographically they will be about 6' to 7' below street level. Ms. Friedman stated when there is a car sitting there, it becomes very obvious so if there is a chance it could be moved she would appreciate them looking at this when they come back for Land Development.

Mr. Koopman stated the Planning Commission is being asked to make a recommendation to the Zoning Hearing Board with regard to the Special Exception Application portion which is to expand the nursing home. He stated they could also comment on the Variances.

Mr. Fried stated he is concerned with the increase in impervious surface. Mr. Dickson asked if the increase in impervious surface would be addressed at the Land Development Application; and Mr. Newell stated it will, and they will consider the rate of control adding that the basin has more than sufficient room to expand, and they will also address the water quality produced, and stormwater management. Ms. Frick stated if they present an Exhibit at the Zoning Hearing Board meeting, that is what would govern. Mr. Fried asked after it goes to the Zoning Hearing Board and comes back at Land Development, if there are issues about runoff about which the Planning Commission has concerns, is there a possibility that they can address this. Mr. Koopman stated any Variance would give them the right to build the additional parking lot and additional impervious surface, but they will have to be able to establish to the Planning Commission during Land Development that they meet all the stormwater requirements for that additional impervious surface. Ms. Frick stated as to the location of the parking, if the Zoning Hearing Board approves an Exhibit, that would show where the parking area will be; and Ms. Friedman has indicated that she has a concern with the parking as presented. Mr. Koopman stated they should reference that concern in their recommendation to the Zoning Hearing Board indicating that they should look at the location of the additional parking area in proximity of Oxford Valley Road and make a determination whether there is any other feasible place to put that additional parking. Ms. Frick stated parking is tight at this location.

Mr. Bush moved, Ms. Friedman seconded and it was unanimously carried to recommend to the Zoning Hearing Board approval of the Special Exception to permit construction of three additions to the existing building so as to accommodate an increase of twenty beds and a physical therapy suite. It is suggested that the Zoning Hearing Board look at the proximity of the proposed parking closest to Oxford Valley Road to see if it could be located more interially on the property.

#569-S.A. – SCAMMELL'S CORNER – PRELIMINARY PLAN DISCUSSION AND APPROVAL

Mr. John VanLuvanee, attorney, Mr. Rick Clemson, engineer, and Mr. Nick Casey, Quaker Group were present. Mr. Casey stated the last time they were before the Planning Commission they had gone through the review letters and had discussed the Waivers. There were some clean-up items, and the Planning Commission asked that consideration be given to some grading changes if possible, and an analysis be done on some of the lots near the entrance where the grades are steep. Mr. VanLuvanee stated they did revise the Plans and re-submitted them, and they have now been re-reviewed by Bucks County Planning Commission and Tri-State. Tri-State issued two review letters, one on sanitary sewer which was essentially a letter indicating that all their comments have been complied with; and the second letter dated June 6, was a review of the Zoning and Subdivision and Land Development comments, and the letter is substantially shorter than the last letter. Mr. VanLuvanee stated he does not feel that there are any issues left in that letter.

Mr. VanLuvanee stated there was also a request made at the last meeting for a visit by the Historical Commission, and that visit took place on May 30; and there is a report from that meeting dated June 4, and Mr. VanLuvanee stated he has a few minor issues with that report and recommendations because there were statements attributed to Mr. Casey that he believes Mr. Casey did not make.

The June 6 Tri-State was noted, and Mr. VanLuvanee noted the comment under Zoning on Page 2 which is a comment indicating that the required 30 foot buffer along the eastern property line should be extended south of the proposed road. Mr. VanLuvanee stated in the Stipulation there was a provision that said that although buffers between Residential uses are not generally required, they will do certain buffers; and there was an Agreement to do a 30' foot buffer along the eastern property line, and the Settlement Plan showed that coming to the Road which is the end of the area where they abut the Residential lots. Mr. Clemson noted this area on the plan, and Mr. VanLuvanee stated they have the 30' buffer where it abuts the lots coming down to the entrance road, but they do not show it extending south of the proposed road because it was not shown that way on the Settlement Plan, and there are no residential lots in that area. Mr. VanLuvanee stated they believe they have done what the Settlement Plan and the Stipulation required them to do.

Mr. Koopman asked what is on the other side of the roadway, and Mr. Casey stated there is a residential lot there that has an existing buffer on the other side of the roadway. Mr. VanLuvanee stated the Settlement Plan very clearly showed the 30' buffer against the lots, but did not show it on the south side. Mr. Koopman asked if there is room to put it in, and Mr. Casey stated they have room to put it in. Mr. VanLuvanee stated if the Planning Commission feels they need one there, they could probably put it in.

Mr. Clemson stated when you are coming in up Lehigh Drive where the proposed house is situated, it is situated a reasonable distance off the road, and there is significant topographic relief in that area so you would not be able to see through. He stated there is 15' of slope before you get to where the house will be, and he is not sure a buffer would actually buffer anything.

Mr. VanLuvanee stated with regard to the comments on Subdivision and Land Development, Item #1 is a Waiver request which was previously reviewed. He stated they will comply with Item #2. He stated Item #3 has already been done. He stated they will comply with Item #4.

Item #5 was noted; and Mr. VanLuvanee stated it indicated that the rain gardens on private property should be owned and maintained by the individual lot owners, and they agree with that comment. He stated they will make sure that the Plans are clarified in that regard. Mr. VanLuvanee stated the intent is to dedicate the rain gardens in the cul-de-sac and the major basin to the Township, but they did not intend to offer for dedication anything on an individual lot.

Mr. VanLuvanee stated Item #6 is a Waiver request which was discussed previously.

Mr. VanLuvanee noted Item #7 which indicates that the Plans show only generic proposed dwellings, which he feels is consistent with every Subdivision Plan that comes before the Township. Mr. VanLuvanee stated the comment is made that any future changes to the dwelling size, shape, or location may require a significant change to the overall site grading and stormwater management design. Mr. VanLuvanee stated they do not believe this comment is correct, and the fact that you change grading on one lot is not going to change the overall site grading or stormwater management. He stated if there are revisions to the design on one lot, it would have to tie into the overall site drainage and stormwater management. Mr. VanLuvanee stated he believes the Township still requires individual Plot Plans with Building Permits that would show grading that would be detailed after the house was selected for placement on the lot, and it would all be reviewed at Building Permit stage.

Mr. Koopman stated what this comment is saying is there may be significant changes required to the overall site grading and Stormwater Management Plan. Mr. Koopman stated one solution is to restrict the building envelope to the area where the house was contemplated to be constructed when the Stormwater Management Plan was reviewed and deemed to be adequate. He stated they cannot have a situation where they are going to have a large building envelope and then put the house somewhere that will disturb the overall site Stormwater Management Plan. Mr. VanLuvanee stated they agree. Mr. Koopman stated the engineer has indicated that this is what is happening here, and it will need to be resolved in some manner. Mr. Casey stated the drainage calculations were based on a much higher impervious surface than is actually permitted.

Mr. Koopman stated it is not just a matter of impervious surface, it is a matter of whether the drainage works from an engineering point of view. Mr. Koopman stated the question becomes if they change the location and size of the house, will this affect the overall grading and management design of the site; and the Township engineer is apparently indicating it does.

Mr. Koopman stated they will eventually have to have a Declaration of Easements, Covenants, and Restrictions on this property, and he would recommend to the Planning Commission that any recommendation of approval include that. He stated this will need to include a Façade Easement on the existing dwelling, Conservation Easements on areas on private property for rain gardens, buffers, etc. and assurances that things are not going to be developed on individual lots that will have a negative impact upon the overall Stormwater Management. He stated he feels the engineers are going to have to work further on this. Mr. Clemson stated they received a comment from the Environmental Advisory Council that praised the Plan that was put together, and they indicated that theirs was the first Plan that came before the Township that met every criteria of the Stormwater Management rules. Mr. Clemson stated the rate of reduction of stormwater run off from this site is way beyond what is required. Mr. Koopman stated while he understands this, the concern is it may not work.

Mr. Koller stated they are not questioning the existing Plan; but they are concerned that if the location of the buildings, especially at the very east end where there are steep slopes, are changed or the outline of the houses are changed, this may affect the grading as shown on the Plan and affect the steep slopes, and whether this would therefore change where the stormwater would go. He stated at the time they review the Plot Plans this will probably be addressed. Mr. VanLuvanee stated in his experience the individual Plot Plan would be required to show grading, and it would have to tie into the system.

Ms. Frick stated it has to match that exactly; and what they are saying is since Mr. Casey is not going to be the one to develop the property, the house has to basically be put where it is shown because of the steep slopes, etc. on the lot. Mr. VanLuvanee stated either that or it would have to be tied into the grading outside the building envelope. Ms. Frick stated they would have to comply with a Revised Grading Plan.

Mr. VanLuvanee stated this happens every time you file an Application for a house.

Ms. Frick stated a Revised Grading Plan is an overall Grading Plan, and this does not happen every time. Mr. VanLuvanee stated they are not suggesting that they are going to need an Overall Grading Plan; and if they did, they would have to come back to the Planning Commission.

Mr. Casey stated at the end of the last meeting there was a concern expressed about the cross slopes along the front of the lots and trying to optimize the usable space on the lots. He stated that on the Grading Plan, they showed a typical alternate retaining wall detail that would address that concern on one of the lots. He stated they have some other examples of how that can be accommodated on both the front and the rear of the lots which does not change the drainage characteristics of the site or the grading characteristics of the overall site. He stated what it does is provide an opportunity to tie in with a specific building configuration and the building design. He stated the general grading characteristics of the site have not changed; but it does provide a flatter cross grade across the fronts of the lot which improves the usability of the lot, and on a couple of the lots similar things can be done in the rear that may offer an opportunity for walk-out basements, decks, raised patios, etc. and all of these would be designed in conformance and tied in to the actual design footprint of the actual building that will be built there. He stated at Preliminary Approval he has never been in the situation where they have to show the actual footprint of the specific building that will be built on each and every lot. He stated he would expect that this site will lend itself to custom and semi-custom design buildings; and they need some flexibility to make sure that they can optimize both the utility of the site, the attractiveness of the homes, and the functionality of the homes with the lot.

Mr. Koopman stated they will probably have to craft a Note on the Plan that assures the Township that what Mr. Casey is suggesting is going to happen, and the engineers and the lawyers could get together and work on the Plan that will assure this. He stated he does get concerned when the engineer has raised a concern that the change of the size or location of the house on a building envelope may change the overall site grading.
Mr. Casey stated while he is not an engineer, he has been in the planning and development business a long time and serves as Chairman on his own local Planning Board; and he has no problem with the engineers coming up with an appropriate Note to be placed on the Plan that the design of the configuration and orientation of the building will not adversely alter the intended grading and storm drainage requirements of the design.

Mr. Koopman asked that Mr. VanLuvanee come up with a suggestion to be circulated to the engineers and the Township solicitor.

Mr. Koopman stated he assumes they will agree to a Condition of Approval that will require a Declaration of Easements and Restrictions that would include a Façade Easement to make sure the house is preserved; and whatever else has to be put on the private lots to make sure those areas are maintained that are supposed to be Conservation areas or buffers, etc.

Mr. VanLuvanee stated he understands Mr. Koopman is discussing a Façade Easement on whatever portions of the Scammell House are determined to be preserved; and Mr. Koopman stated there is an issue as to what portion of the House is to be preserved. Mr. VanLuvanee stated he understands that this is still an open question.

Mr. Dickson stated they are looking at seventeen new houses, and they are looking at only two to three lots where they are restricting the building envelope which he feels is a "win" for the developer since there are fourteen that are not affected, and only three would have restrictions on the building envelope. Mr. Casey stated he is not sure they are talking about restrictions on the building envelope. He stated they have impervious coverage issues that must be conformed with according to the Ordinance. He stated they have an overall Grading Plan for the site and an overall Storm Drainage Plan that shows how that drainage is going to be handled. Mr. Casey stated he sees no reason why once they come up with the actual footprint of the building, it cannot be properly oriented on the property without adversely effecting grading or the drainage characteristics as they are designed within the building envelope. He stated they are willing to agree to a Note on the Plan. He also stated he feels the Township engineer will raise a "red flag" if it does not conform.

Mr. Koller stated this is basically what they are saying, and if the building they submit is within the building envelope and does not change the grading there is no problem; but what their concern was that these are only estimated building envelopes, and when they get to the Final design, those envelopes could change. He stated their concern was if they do change, how will this affect the grading and the drainage from that particular site. Mr. Casey stated he can assure that it will not change the overall characteristics of the grading or drainage on the property.

Mr. VanLuvanee stated the building envelope will not change. Mr. Koopman stated the building envelope is shown on the Plan and is set by the setbacks, and they will have to put the building in the building envelope; and Mr. VanLuvanee agreed. Mr. Koopman stated the question is depending on where they put the building in the building envelope will this effect the overall stormwater or not. Mr. Koopman stated they could make the building bigger, move it to the front or the back, etc. Mr. VanLuvanee stated that happens on every lot in the Township, and nobody builds what is shown on Plan.

Mr. Casey stated he feels they are in agreement; and they are not adverse to having an appropriate Note put on the Plan that insures that they comply with the overall intended Site Grading and Stormwater Management. Mr. Koopman stated one of the Conditions should be that they prepare the Note to be put on the Plan to the satisfaction of the Township engineer and solicitor that the placement of a house on the Lot will not adversely effect the overall Site Grading and Stormwater Management Plan.

Ms. Friedman asked if the new Plans reflect the fact that Mr. Pazdera recommended that they soften the grading on some of the Lots as there was previously a five foot drop at one point; and Mr. Casey showed on the Grading Plan where they have an alternate detail shown for Lot #3 which shows a free form retaining wall that will soften the grade from 168 to 165 so that it will be reduced 3'. He stated to go beyond that they showed what could be done in the rear yard by extending the retaining wall off the corner to flatten out the grade. He stated it does not change the drainage characteristics. Mr. Koopman asked how they plan to build it since "alternate" would mean that there is a choice. Mr. Casey stated they do not yet have a house design; but once they do, there could be a Condition that appropriate retaining walls and terracing will be done to minimize the slope to the satisfaction of the Township engineer.

Mr. Casey showed another instance where they could come up with a pair of retaining walls to have a terracing effect, but this would all depend on the building. Ms. Friedman asked if the grading could not be softened by one or two feet initially; and Mr. Casey stated it cannot because they have to deal with the grades they have which was not their choice. He stated there were certain conditions that they had to conform with. He stated the Township and existing residents were adverse to entering the site from Yale Drive. He stated when the adjoining subdivisions were built, there were stub streets entering the site on both sides, but subsequently the setbacks for this site increased dramatically from what was required of the adjoining sites. He showed on the Plan where they had to come in to the development which is the steep end, and there are design criteria and maximum grades and slopes that they have to conform with. He stated they can deal with the architecture of buildings and provide appropriate terracing on the lots to step it up and provide a gradual slope and improve the aesthetics. Mr. Casey stated they do have photos of some of the lots that adjoin the Site where the slopes are actually steeper than what they are showing on their Plan.

Mr. Bush noted the Plan dated 2/1/12 and stated they do have on them the first alternate retaining wall detail Mr. Casey just showed, and he asked if Mr. Casey ever submitted the second alternate retaining wall detail; and Mr. Casey stated they did not. He stated they just got the engineer's comments last Thursday or Friday so they put a few more exhibits together to show how they could treat different types of situations on the lots that had particular concerns.

Mr. Koller stated with regard to the comment on the 30' buffer, they based that on the Stipulation since in the Stipulation it stated, "the entire length," and did not say "end of the road." Mr. VanLuvanee stated it did not state, "entire length," and what it said was "along the eastern boundary." Mr. Casey stated they do not believe that it was intended to continue down and it was not shown that way on the Settlement Plan that was attached to the Agreement as continuing down; but if it is an issue of concern, they will show it.

Mr. Koller noted Item #6 under Subdivision and Land Development with regard to Section 178-93.f.3.c which allows for a minimum size storm pipe of 18" and the Applicant has requested a Waiver to allow the use of a 15" storm pipe; and the Township engineer would recommend Approval of this Waiver. He stated the discharge from the detention basin is a 15" pipe which will then be going into an existing 15" pipe.

Mr. VanLuvanee stated they need to have a way to finalize how the Façade Easement on the house will be accomplished because the Stipulation stated, "the portions of it which were determined to be historically significant by competent historical or architectural authorities." He stated at the last meeting they indicated that they anticipated that these issues would be resolved after the Preliminary Plan Approval, and they still feel that is the appropriate time to resolve it.

Mr. Koopman stated they are all in agreement that the original stone portion will be preserved; but Mr. Casey stated he is not sure that is the case. He stated they had a site visit with the Historic Commission; and one of the key areas he felt they would want preserved was the westernmost portion that was added to the house by Scammell in the 1920s, but that is apparently not an issue of concern for the Historic Commission who had indicated it might be better to remove that portion.

Mr. Casey stated he does not agree with all of the comments contained in the report from the Historic Commission. He stated he felt they had a very good open dialogue, but he did not commit to anything beyond what they were required to do under the Stipulation Agreement which was to provide for the preservation of the Scammell House. He stated he did indicate to the Historic Commission that they would be seeking their advice and would have interaction with them with the proper historical experts which he will bring in to determine what portions of the House are to be preserved and how they will be preserved. He stated the Historic Commission in their report suggested preserving buildings and moving some buildings; and he had indicated that might be possible if the Historic Commission could secure funding sources; and if it could be accommodated within the preservation parameters that are intended for the Scammell House, he would not object to it.

Mr. Casey stated there is quite a bit of stone rubble and stone associated with the old barn, and the Historic Commission had suggested trying to incorporate that stone into some of the features on the site. Mr. Casey stated one area he discussed specifically which he feels would be a great improvement in appearance and making use of some of the materials on the site, would be to utilize the stone into the design of the spillway from the main basin. Mr. Casey showed the location of the proposed concrete spillway on the Plan which is at the entrance. He stated if they used the stone at the top of the spillway, it would be more attractive coming into the site.

Ms. Friedman stated she understood that the stone might also be used for some of the retaining walls as you enter the development so it is more cohesive with the historic parts of the property. Mr. Casey stated this is a possibility that can be investigated, and he would entertain seeing how practical this is. Mr. Casey stated he has made a commitment to the Historic Commission to work with them as they get through the aspects of what will be preserved on the Scammell House and what materials might be incorporated into primarily the entrance features on the property. Ms. Friedman stated it was her understanding that the Historic Commission wanted to be invited into the process when development starts to take place prior to any demolition of any of the buildings since there might have been a chance to find someone who might be willing to preserve the buildings and pay for the moving of them and consolidate them all onto the one historic piece. Mr. Casey stated what he indicated was that once they get Preliminary Approval, they are not immediately going to go in and take out Demolition Permits and tear everything down on the property, and they would provide the Historic Commission the opportunity to go in and document what is there; and if the Historic Commission could secure a source of funding to move some of the buildings that are intended to be demolished whether it fits within the parameters of the lot for the Scammell House or they find other areas where they could be moved, he would cooperate with that.
Ms. Friedman stated it was her understanding that Mr. Casey would give the Historic Commission this opportunity.

Mr. VanLuvanee stated if this was something that was memorialized in the Preliminary Plan Approval, they would not have a problem with this; and Mr. Casey agreed.
Mr. Koopman stated this must be memorialized as part of the Preliminary Approval.

Mr. Casey stated what he gleaned from the Historic Commission's report was that the Historic Commission felt that he was going to proceed to do all the clearing and site improvements but not touch any of the buildings, and that was not his intent. He stated he would give the Historic Commission the opportunity to document everything so that when they start the site improvements, the developer can move through in an economic manner. Mr. Casey stated they will conform with the Stipulation Agreement and meet and cooperate with the Historic Commission and give them an opportunity to investigate further and provide as much documentation as they want on the structures before any structures are removed; and if there are materials that are going to be removed that can be incorporated into the site features such as using the stone for the basin spillway rather than having a massive concrete spillway, they would be willing to consider this recognizing that this would require a Waiver.

Mr. Clemson stated he spoke with the Township engineer about the concrete spillway, and he indicated that the concrete spillway did not make sense. Mr. Clemson stated they agreed to provide a three dimensional style erosion-control in that area, and they could incorporate some of the stone from the barn into the spillway and create an outline effect using the stone which would give it some aesthetic appeal.

Mr. Dickson stated the Stipulation and Settlement between the Township and the developer specifically covers the preservation of the Scammell House only, and it does not address any other outbuildings. He stated Mr. Casey is trying to be flexible with the potential documentation of use; but in terms of what the legal agreement is, it only covers the preservation of the Scammell House, and the other buildings may be removed. Mr. Dickson stated he feels Mr. Casey is being flexible about giving the Historic Commission the opportunity to document and seek sources of funding, but he has no legal obligation to preserve anything other than the Scammell House.

Mr. Koopman stated there is a question about the Scammell House, and he is somewhat uncomfortable that it has not already been resolved as to what is historic and what is not and what is going to be preserved. He asked how they could resolve this at Preliminary Approval since if it is not a Condition of Preliminary Approval as to how this will be resolved going forward, there is going to be a problem at Final.

Mr. Casey stated he feels they could make it a Condition that there be a firm determination prior to Final Approval. Mr. Koopman asked how the determination will be made. Mr. Casey stated it would have to be made jointly with the Township. Mr. VanLuvanee stated it would have to be subject to Township approval. He stated they discussed this when they were drafting the Stipulation although Mr. Koopman's firm was not part of this. Mr. Koopman stated the Stipulation is somewhat vague, and Mr. VanLuvanee stated it was intentionally vague because both sides were going to have to get together and reach an Agreement.

Mr. Casey stated there are five to six documented additions on the Scammell House, and they would like input from the Historic Commission, and architectural and historical experts. He stated they did have a study done through Hovnanian when they had control of the property, and they documented the various periods when certain portions of the House were done. Mr. Koopman asked if this information has been shared with the Township, and Mr. Casey stated it was. Mr. Casey stated this was over a year ago when they were working out the details of the Stipulation.

Mr. Koopman stated he understands that Mr. Casey is suggesting that there be a Condition of Preliminary Approval which would provide for a determination as to what portion of the House is going to be preserved to be agreed upon between the Township and the Developer, and that portion would be subject to a Façade Easement going forward, and Mr. VanLuvanee and Mr. Casey indicated this was acceptable.

Ms. Frick asked if they plan on preserving the Scammell House before they sell the property, and Mr. Casey stated it would be sold with whatever Conditions are on the Approval. Mr. Koopman stated the Façade Easement and the other Declarations or Easements would have to be placed on the property by the owner at the time of Approval of Land Development. Ms. Frick stated she was curious as to whether or not Mr. Casey planned on renovating it; and Mr. VanLuvanee stated it would be part of the Approval documentation, and Mr. Koopman agreed and stated it just has to be addressed at Preliminary Approval because once they get to Final, they are entitled to Final Approval in accordance with the Conditions of Preliminary Approval. Mr. VanLuvanee stated it would also be in continuing compliance with the Stipulation and the Court Order which would incorporate that Condition and pass it onto Final.

Mr. Koopman agreed but stated it was somewhat vague as to how it was going to be resolved. Mr. Casey stated it was somewhat vague because of the complexity of the House itself. Mr. VanLuvanee stated they could not go through that process while they were working out the Stipulation. Mr. Koopman stated it was well understood that whatever was determined to be historic would be preserved by a Façade Easement.

Mr. Casey stated through some of the research that they did they found that the highest level of significance related to Scammell's occupancy of the House, so he had assumed that whatever modifications Scammell made to the House were going to be very important; yet after meeting with the Historic Commission, that does not seem to be the case.

Mr. Casey stated he is looking forward to getting their input as they go through the process.

Mr. Casey stated the last comment in the Historic Commission report was that they recommended not using the standard overhead fixture that the Township requires and recommended putting in a light fixture that was more in keeping with the character of the period, and Mr. Casey stated he would not have an objection to that. Mr. VanLuvanee stated if this requires a Waiver, they would request this as well.

Ms. Dianne Audette, 1048 Lafayette, stated she would like clarification on the buffer. She stated she felt that it was going to be a 50' buffer, and now she is hearing it will be a 30' buffer. She also asked if the buffer is governed by the Stipulation Agreement or the Plan that is Approved. Mr. Casey stated the buffer along her property line is 50', and Mr. Clemson showed the buffers on the Plan. It was noted that the buffer is covered both by the Stipulation Agreement and the Plan approved by the Township. Ms. Audette stated they are also discussing shifting the houses, and that the houses may not be where they are displayed on the Plan; and she asked if that could have any impact on the buffer, and it was stated that it could not. Ms. Audette stated they had been provided copies of the various Plans, and she stated it has now changed again. She asked how the residents who are adjacent to the property would be able to get copies of this Plan and the Stipulation Agreement. Ms. Frick stated she could provide copies of the Stipulation Agreement but she does not have any extra copies of the Plan. Mr. Casey stated he expects action will be taken on this Plan, and he could provide a reduced copy of the Plan. Mr. Casey stated he could provide a few dozen 11" by 17" copies of the Plan to Ms. Frick for the residents. Ms. Frick provided Ms. Audette a copy of the Stipulation Agreement this evening.

Ms. Helen Heinz, Historic Commission, stated she agrees with Mr. Casey that it was a very amicable meeting; however, they did not visit the house so what he is discussing about the western side of the House was the opinion of some members of the Historic Commission but not others. She stated since no one was inside the House, there is really no way they can really assess its appropriateness; and she feels it is a bit of a stretch for some members of the Historic Commission to understand that something that was built in the 1920s could be historical at all although Mr. Casey is correct that this is the period that they would be very interested in preserving. She stated the House goes back to the 1790s so there is certainly a longer history, and its inclusion on the National Register goes from that period, and is one of the first in Bucks County to be included on the Register.

Ms. Heinz stated she does not know when the out kitchen was separated because on the last Plan under Mr. Erlich it was included. Ms. Heinz stated at this point that structure is two hundred years old, and it has a date stone and pottery that was placed in the walls by the Scammells; and that was the main issue of their concern when they went to visit it. She stated there were also little cottages against the back edge that were originally part of the Manor House cottages which were for their children, and she feels promises were made at the meeting that are not necessarily going to be kept. She stated Mr. Casey's intentions were clear that nothing was going to be demolished before the people who were going to be inheriting this Plan had the right to possibly decide to keep something.

Ms. Heinz stated the Historic Commission was also very concerned about the small stone house, the location of which she showed on the Plan, which is probably within the side lot line of the next structure she showed on the Plan. Ms. Heinz stated the Historic Commission made a recommendation on how the small structure could be incorporated, and the Historic Commission would suggest that this little structure be given a preliminary Variance from side yard setbacks as a historic structure; and then if someone wanted to remove it they could, but if they wanted to keep it and attach their house to it, it would have historic value since it is a two hundred year old house. Ms. Heinz stated Mr. Casey was concerned that he would not be able to sell it; and while she can understand it from the way it looks, she feels if it were incorporated in a clever way, it could actually be an asset to the development.

Ms. Heinz stated she also hopes that they could do something with the barn ruins, but she agrees with Mr. Casey that the stone should be used elsewhere on the development and using it as the spillway does make a lot of sense.

Ms. Heinz stated Ms. Friedman had mentioned the archway from the fore barn to the front bay of the barn, and she feels this is what they were talking about preserving and not anything else; and she stated possibly they could re-use this archway as a sidewalk entrance into the development. Ms. Friedman stated they did discuss leaving it where it was if it was possible somehow; and Ms. Heinz stated if they could not, she feels the stones are cut in a certain way such that they could be disassembled and reassembled at the site or left in place in the rear yard at the lot she showed on the Plan. Ms. Heinz stated the problem with an old stone barn is that it is an attractive nuisance, and someone could get injured if the walls collapsed.

Ms. Heinz stated the Historic Commission has no resources to move the houses themselves; and if they could be picked up and put on a Lot for someone to keep or demolish at some future date, that is what they felt Mr. Casey was saying, and she now understands this is not correct. Mr. Dickson stated they are looking for someone to come in who is a “rainmaker,” and this was detailed in the letter to Mr. Casey; however, the Stipulation Agreement is very clear legally as to what Mr. Casey is allowed to do, and he has indicated that the Historic Commission can do documentation, but it is clear about the seventeen Lots and retaining the Scammell House. Mr. Casey stated it is a legal Agreement that the developer has agreed to follow as has the Township. Ms. Heinz stated while she does understand that, the Historic Commission does have to ask. Mr. Dickson stated the Historic Commission has addressed it, and Mr. Casey has responded.

Ms. Heinz stated with regard to the modern aspects of the house, and she recalls that Mr. Casey agreed with them, that pretty much everything would be left the way it was unless the Historic Commission could get in and inspect and make the decisions as to the sections. She stated they even talked about the water tower staying.

Ms. Friedman stated she also recalled that they would leave the House to a potential buyer. Ms. Friedman stated they would preserve the major historic portion because they will have it documented; and Ms. Heinz stated this is correct, if they can get in it. Mr. VanLuvanee stated between Preliminary and Final they will provide access.

Mr. Casey stated he has been involved with this project since 2000 and since that time there has been a tremendous amount of vandalism on the property. He stated they have had to secure all the windows and just recently had to re-secure some areas. He stated the last time he was in the building there was definite deterioration of some of the flooring, and he does not want to open the building up and have people go through and inspect it until the developer has an opportunity to insure that it is reasonably safe to allow that.

Ms. Heinz stated Mr. Casey indicated he had documentation on the property, and Mr. Casey stated they had provided this to the Township; however, Ms. Heinz stated the Historic Commission has never seen this. Ms. Frick stated it was not provided to her. Mr. Casey stated they were dealing with the engineer and the solicitor and provided copies to them at the time.

Ms. Heinz stated she has been involved with the property since 1988 and she has been in the house several times, and she recalls there was marble up the walls about seven feet high and marble floors which were way too heavy for the structure so there were structural issues. She stated with regard to the center section, which is the oldest section, she saw Moravian Tile Works invoices from when the floors were installed in 1921; and she had asked Mr. Casey if these were still in tact. Ms. Heinz asked that the developer work with them and not take down the 1830 structure right away but instead clear around it, and let the homeowner make the decision. She stated she is willing to let the other structures go although they would like to document them. Ms. Friedman stated possibly they could obtain a Grant to have the structures moved. Ms. Heinz stated they would like to work with Mr. Casey going forward.

Mr. Jim Ferraro, 1002 Lafayette, stated he has had the pleasure of meeting Mr. Casey and working with him when some of the trees came down on the property after storms. He stated he too would like to have a copy of the current Plan whenever it becomes available. Mr. Ferraro stated he would also like to have a copy of the Stipulation Agreement. Mr. Ferraro stated his interest is in the movement of the houses on the property and how close they will be to his property. He stated he is interested in the historical significance of what is on the property, and he is concerned because trying to save some of the structures will be pushing the new homes out closer to the existing

properties. Mr. Ferraro noted on the Plan the location of his home, and he stated the new home that will be closest to his home is closer to anybody's home in the neighborhood of all the new buildings being put in. He stated he would appreciate whatever anyone can do as they have enjoyed the way it has been since they lived there, and they would prefer not to have a home right on top of them.

Mr. Bush stated the only portion which pertains to the historical structures in the Stipulation Agreement is Paragraph #4 and it says, "In the past the Township issued Demolition Permits authorizing removal of structures on the property. Notwithstanding the fact that Quaker would be entitled to the issuance of Demolition Permits, Quaker agrees that it will make provisions for the preservation of the Scammell House or such portions of it which are determined to be historically significant by competent historical and/or architectural authorities. Upon issuance of required Permits and payments of required Permit Fees, all other structures and the remains of the structures may be demolished and removed from the property." Mr. Bush stated what is left vague is the fact that there is nothing in the Stipulation Agreement in the event that the structural integrity of the Scammell House is not such that it can be maintained, and he asked what would happen then. He stated it talks about the controlling issue being the historical and/ or architectural significance but not about the structural integrity. He asked the Township's position on that, and who would make those determinations.

Mr. Koopman stated the way he would read this from the Township's perspective is that if it has historical significance, it needs to be preserved; and if as part of that there have to be repairs made to it or improvements made to it to make it stable, he feels that is the responsibility of the developer. He stated with respect to the mechanism to do that, he does not feel this will be resolved by Preliminary Plan Approval so he feels they need a Condition on the Preliminary Plan Approval that the property will be subject to a Declaration of Easements, Covenants, and Restrictions which would include a Façade Easement requiring preservation of that portion of the Scammell House that is determined to be historically significant; and that determination would be made between Preliminary Approval and Final Approval by agreement between the developer and the Township. He stated if they cannot agree, there is a provision in the Stipulation that provides for that to go back to the Court for determination to resolve the dispute; and Mr. VanLuvanee agreed.

Mr. Koopman stated based on the Planning Commission's recommendation, he will work with Ms. Frick and the staff; and if this is to be on the Supervisors' next Agenda, the wording of this will have to be put together, and they will have to make certain that it is legally sufficient and that these are specific Conditions on any grant of Preliminary Approval that the Supervisors would otherwise be inclined to grant for the property.

Mr. Koopman stated once this is a Condition, it will have to be resolved before Final Approval; and they will not be able to take anything out before Final Approval. Mr. VanLuvanee agreed, and stated the intent is that they will open the buildings, and Mr. Casey will check them out; and they will then invite the Historical Commission and the developer's experts to look at the property.

Mr. Casey stated he has clearly expressed a spirit of cooperation and based on the wording that was just read from the Stipulation Agreement, he could have taken that interpretation and pulled Building Permits and torn everything down, and it would have all been gone by now except for the Scammell House. He stated they have always wanted to maintain a spirit of cooperation with the Township in getting through this.

Mr. Koopman stated Mr. Casey has also agreed that over and above what is in the Stipulation, he is willing to give the Historic Commission an opportunity to document the site and determine whether there is a feasible way to save these other outbuildings; and the time period for that will be up until Final Approval, and Mr. VanLuvanee agreed.

There was discussion about Item #4 in the letter from the Bucks County Planning Commission with regard to driveways within drainage easements; and Mr. VanLuvanee stated they pointed out that there was no way they could locate the driveways other than where they are located. Mr. Casey stated the pipes were moved out of the driveway, but the easements extend over the driveways, and they shortened the easements. Ms. Frick stated the Zoning Ordinance indicates that nothing is permitted to be "placed, planted, or set or put" in the area of the Easement so they would need a Variance. Mr. VanLuvanee noted it is in the Subdivision Ordinance Section 178-56C so they would need a Waiver; however, Ms. Frick stated it is also in the Zoning Ordinance. Mr. VanLuvanee stated no one has raised this so it may not be an issue. Mr. Koopman stated with regard to Item #4 the Bucks County Planning Commission has referenced a Subdivision and Land Development Ordinance Section, and he asked if Mr. VanLuvanee is requesting a Waiver from this; and Mr. VanLuvanee stated he is. Ms. Frick stated it is also in the Zoning Ordinance, and Mr. Koopman stated they will have to look into that since it is not addressed in the review letters. Mr. Dickson stated they should resolve this before Final. Mr. VanLuvanee stated they have not asked for a Variance from this so if it is an issue, they will have to resolve it. He stated they have inlets back along the driveway. It was noted that the Township engineer has no objection to a Waiver being granted.

Ms. Frick stated her concern is that if the pipe has to be repaired, she assumes the homeowners would be the ones who would have to dig up the driveway; however, Mr. Casey stated the pipe is not in the driveway, it is the easement that is in the driveway. He stated the Easement has to be a certain width, and it covers portions of the driveway. He stated the pipe is not in the driveway, and they moved the pipe of the driveway.

Mr. Dickson stated they will make a note as part of the recommendation that this needs to be resolved before Preliminary Approval. Ms. Frick stated the reason there is an easement is because you need the easement area in order to do the proper digging.

Mr. Dickson moved and Mr. Fried seconded to recommend to the Board of Supervisors approval of the Preliminary Plans dated 2/1/12, last revised 4/30/12 reflecting the Stipulation Settlement of 12/1/10 subject to the following:

1) Compliance with the Bucks County Planning Commission letter dated 5/30/12 with the exception of Item #4, on page 3, which should be resolved by the Board of Supervisors prior to Preliminary Plan Approval;

2) Compliance with Tri-State Engineers letter dated 5/17/12 relating to sanitary sewers;

3) Compliance with Tri-State Engineers letter dated 6/6/12 as noted

   a. With regard to Item #6, the Township Engineer has agreed to the Waiver to allow the 15" pipe

   b. With regard to Item #7, a Note should be placed on the Plan noting the concerns about restricting the building envelope and the fact that any future changes in the dwellings' size, shape, or location may require a change to the overall Site Grading Plan and/or the Stormwater Management design, to the satisfaction of the Township engineer any Approval attached thereto.

4) The Planning Commission agrees with the Waivers requested;

5) Appropriate retaining walls and/or terraces that may be provided are subject to the approval of the Township engineer;

6) There will be a "memorialization" of the understanding between the Developer and the Historic Commission about the documentation of the historical significance of the other buildings with the idea that they will seek sources of funding to move the buildings or otherwise preserve them independent of the Stipulation and Settlement and to recognize that Mr. Casey has indicated that they will work with the Historic Commission to document the significance of the buildings, but any effort to preserve them would be for them to seek outside sources of funding. There is no understanding that Mr. Casey will preserve or

otherwise attempt to preserve the additional buildings other than the Scammell's House which is located on Lot #9. The Quaker Group will work with the Township to determine what portion of the house will be preserved as per an Agreement between the Township and the Quaker Group.

7) Conditioned upon the property being subject to a Declaration of Easements, Covenants and Restrictions satisfactory to the Township engineer and solicitor, which would include a Façade Easement over that portion of the Scammell House that is determined to be historically significant or worthy of historic preservation in accordance with the Stipulation. Such determination is to be made between Preliminary Plan Approval and Final Plan Approval by way of an Agreement between the Township and the Developer and also to include Conservation Easements or other Declarations requiring areas that are lotted out to private property owners (such as buffer areas, Conservation Easements, rain gardens, etc. to be preserved by the property owner, subject to the Declaration of Easements.

Mr. Casey stated there was discussion regarding a possible Waiver from the requirements of the concrete spillway to incorporate the stone materials from the property subject to the Approval of the design criteria acceptable to the engineer.

Mr. Dickson stated they were also going to agree to the recommendation of the Historic Commission that the Cobra light fixture would be replaced with a more appropriate light fixture.

Mr. Fried moved, Ms. Friedman seconded and it was unanimously carried to Amend the Motion to include the following Conditions:

8) The Planning Commission recommends Approval of a Waiver from the requirements of the concrete spillway in order to permit them to incorporate stone materials from the existing property, subject to Approval of the design criteria being acceptable to the engineer;

9) The Planning Commission recommends that the "cobra" light fixture be replaced with a more "appropriate period" light fixture.

Motion as Amended carried unanimously.

OTHER BUSINESS

Mr. Fried stated his term is up, and he has indicated to the Township Manager that he is not seeking re-appointment. He stated he has advised them that he will continue to serve until they find a replacement; but outside commitments prevent him from doing the best he can on the Commission. He thanked everyone on the Commission who were very helpful to him. He also thanked Ms. Frick and her entire staff without whom nothing happens in the Township and for the tremendous job they do.

There being no further business, Mr. Fried moved, Mr. Bush seconded and it was unanimously carried to adjourn the meeting at 9:50 p.m.

Respectfully Submitted,

Karen Friedman, Secretary