

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MARCH 17, 2009

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on March 17, 2009. Chairman Malinowski called the meeting to order at 7:35 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman
Paul Bamburak, Vice Chairman
Gregory J. Smith, Secretary (left meeting in progress)
Jerry Gruen, Member
Anthony Zamparelli, Member
Paul Kim, Alternate Member (joined meeting in progress)

Others: Robert Habgood, Code Enforcement Officer (left meeting in progress)
David Truelove, Township Solicitor
James Majewski, Township Engineer
Allen Toadvine, Zoning Hearing Board Solicitor
Matt Maloney, Supervisor Liaison

APPEAL #09-1506 – ROBERT & SHERRI WALTERS

Mr. Robert Walters, and Mr. Patrick Healey, architect, were sworn in. The Application submitted was marked as Exhibit A-1. Attached to the Application was a one-page sketch time-stamped by the Township on 2/2/09, and this was marked as Exhibit A-2.

Mr. Healey stated he started working with Mr. Walters in 2005 on an addition. They did not go through with the work at that time. In 2008, Mr. Walters asked Mr. Healy to proceed with the kitchen addition. Mr. Healy stated he neglected to look to see if the Zoning requirements for the rear yard had changed. He stated in 2006 the required setback changed from 40' to 45'. He stated they are looking for a Variance of three feet. He stated they are within the permitted impervious surface as they are at 21 ¾% and they are permitted 28%. The addition being proposed is 12' by 13.6'.

Mr. Malinowski asked how it would effect the Plan if the Board did not approve the Variance request. Mr. Walters stated they are trying to be able to open the dishwasher without moving the table which is what they have to do now. He stated they would also like to be able to accommodate more than four chairs at the kitchen table. Mr. Healy stated he is trying to provide them with a working kitchen.

Mr. Gruen stated it is difficult to determine from the drawing if they are going 12' out or 13 ½' out, and Mr. Healy stated they are going 12' out.

Mr. Truelove stated the Township is not taking a position in this matter.

There was no one present to speak in favor or in opposition to this Appeal, and the Public Hearing portion was closed.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to grant the relief requested in the way of a 3' encroachment into the rear yard setback.

Mr. Smith and Mr. Habgood left the meeting at this time. Mr. Kim joined the meeting at this time.

A short recess was taken. The meeting was reconvened at 7:50 p.m.

APPEAL #08-1481(A) – THE FRANKFORD HOSPITAL OF CITY OF PHILADELPHIA

Mr. John VanLuvanee, attorney for the Applicant, Mr. Ron Smolow, attorney for the Residents Against Frankford Relocation, and Mr. John Koopman, attorney for Newtown were present.

Mr. Truelove stated there is a designation in the Transcript from the last Hearing on Page 104 which identifies Mr. Malinowski as a Witness as opposed to the Chairman, and it was agreed to correct the record in this regard. Mr. VanLuvanee asked that the Court Reporter issue a corrected page and change Line 16 from “the Witness” to “the Chairman.”

Mr. McClish was recalled and reminded that he was still under oath. Mr. Truelove stated at the end of the last Hearing, there were questions asked about the Plan that the Citizens Traffic Commission reviewed to render its report in January, 2008. Mr. Truelove stated the Plan that was submitted at that time was not the Plan that is before the Zoning Hearing Board this evening, and Mr. McClish agreed. Mr. Truelove stated the report that was issued by the Citizens Traffic Commission did indicate some of their concerns, and Mr. McClish agreed. Mr. Truelove stated subsequent to that, the Citizens Traffic Commission became aware of the current Applicant and the Plan that is before the Zoning Hearing Board; and Mr. McClish stated following the receipt of the Plan that they had, and the letter that the Citizens Traffic Commission wrote, they received a traffic study that was done for the development, and in that traffic study there was a power point attached that showed a Plan. Mr. Truelove asked if that Plan shows the lay out of the area identical to what is shown with the Application before the Zoning Hearing Board,

and Mr. McClish stated he believes it does. Mr. Truelove asked if based on their review of that Plan were there any other concerns or issues the Citizens Traffic Commission had with respect to the Plan which is before the Zoning Hearing Board, and Mr. McClish stated they have a concern about direct access to the Yardley-Newtown By-Pass road, where as before the access had come off of Campus Drive for people coming for the west, and they felt that was better access to the site rather than direct onto the By-Pass. Mr. Truelove stated they are discussing traffic going eastbound on 332 toward Stony Hill and I-95, and Mr. McClish agreed. Mr. Truelove stated the first concept plan that the Citizens Traffic Commission did render an opinion on reviewed the plan that had an access point on and off 332 through the adjoining property on Campus Drive, and Mr. McClish agreed and stated they would come from Campus Drive/Lindenhurst/332 intersection a little south of 332 on Campus Drive and enter in behind the bank that is there.

Mr. Truelove stated the current plans have a “pork chop” entrance and exit onto 332, and Mr. McClish agreed. Mr. Truelove asked the concerns of the Citizens Traffic Commission with this plan; and Mr. McClish stated the concern with that ingress/egress directly off of the expressway is that there is an increase in volume on 332 over time, and as proposed with the development they plan to add a third lane eastbound all the way from Lindenhurst/Campus Drive to I-95. He stated having another movement taking place there when you have a large volume of traffic that wants to move from eastbound 332 to go southbound on Stony Hill, if you have people coming out of the Hospital site in the middle of that area, you create a congestion point there as those people try to merge across the 332 traffic trying to get to Stony Hill. He stated they feel it would be a better flow of traffic if you do not have that movement taking place.

Mr. Truelove stated Mr. McClish mentioned “congestion,” and he asked if this is a concern with volume and with back-up as well.

Mr. VanLuvanee objected stating they have already allowed questions of this witness about what the Commission felt, but they do not have any written report or recommendation; and now they are getting into a subject matter that he feels would require an expert opinion as opposed to a layman. He stated he does not have an objection if he is speaking as a layperson. Mr. Malinowski stated the Board recognizes that he is a lay person, and they take that into consideration as they listen to the testimony.

Mr. McClish stated he does not know when you add the third lane what the backup will be there, but there is high volume through there, and there is a weave movement where some traffic from the Hospital wants to get to the through lanes on 332 and some that are on 332 want to get across to make the right turn at Stony Hill.

Mr. Truelove stated the information he relied on with respect to volumes and the change in the design came from the McMahon report, and Mr. McClish agreed. Mr. Truelove asked if it would also come from Mr. O'Brien's testimony and asked if he was present for any of Mr. O'Brien's testimony, and Mr. McClish stated he was not.

Mr. VanLuvanee stated Mr. McClish used the term "weave" when he described his concern about the traffic movement coming out of the proposed right in/right out entrance off the Newtown By-Pass into the Hospital site, and he asked what he meant by "weave." Mr. McClish stated he meant that there is traffic in two adjacent lanes, one of those would be the through lane on 332 and the other would be the entrance lane coming from the Hospital to go east on 332, and the cars in those two lanes desire to switch places because the one possibly from the Hospital wants to get into the through lane and get to I-95, while the one that is in the through lane on 332 wants to be able to make a right turn at Stony Hill Road.

Mr. VanLuvanee stated the Highway Capacity Manual has the definition of the term "weave," which reads: "Weaving is defined as the crossing of two or more traffic streams traveling in the same direction along a significant length of highway without the aid of traffic control devices." Mr. VanLuvanee stated Mr. McClish's concern was the switching between the two right hand lanes – the third lane that was proposed to be added and the right hand through lane; and Mr. McClish stated there will be three lanes eastbound, and there is a short lane coming out of the Hospital that merges into that third lane followed very shortly by a right-turn only lane at Stony Hill. Mr. McClish stated the people that are in the through lane on 332 are crowding over to get into the right-turn only lane. He stated currently they drive on the shoulder because there is such a high volume of traffic making that right turn. He stated their concern is that there may be a continuation of that while the people coming out of the Hospital are trying to get into the through lane.

Mr. VanLuvanee asked Mr. McClish if he was aware that the proposed right in/right out access point onto the By-Pass would be subject to the issuance by PennDOT of a Permit if it is to be allowed, and Mr. McClish agreed.

Mr. VanLuvanee asked if the Citizens Traffic Commission issued a written review of the Plan filed with the Zoning Hearing Board, and Mr. McClish stated they did not because they never received a copy of that Plan. He stated they only saw the Sketch Plan.

Mr. VanLuvanee stated Mr. Truelove started at the end of the last Hearing to identify a review letter from the Citizens Traffic Commission and referenced it in the testimony; but the Transcript indicates that it was not introduced into evidence and asked if that was his intent. He stated since it was referenced, he would like to know whether it will be in or out. Mr. Truelove stated he believes it is in because it is attached to the Planning Commission's memo which he believes is in evidence. It is not a separate Exhibit, but it

is part of the Planning Commission memo. Mr. VanLuvanee stated he does not feel the Planning Commission memo is yet an Exhibit in this Hearing. Mr. Toadvine stated he has the Planning Commission Meeting Minutes dated 7/28/08 as Exhibit T-6.

Mr. Truelove asked if Exhibit T-5 is the Planning Commission memo, and Mr. Toadvine stated T-5 is the Board of Supervisors Minutes of 1/16/08. Mr. Truelove stated he was intending of putting the Planning Commission report in and felt he had submitted it. Mr. Truelove stated it should be in evidence since the Planning Commission report is required by Ordinance. He stated he does not have it this evening as he felt he had already submitted it.

Mr. Toadvine asked Mr. VanLuvanee if he is referring to the memo from the Planning Commission to the Zoning Hearing Board, and Mr. VanLuvanee stated he is referring to a report that Mr. Truelove handed out at the last Hearing which was a one-page memorandum to the Zoning Hearing Board dated 7/29/08 from Ms. Frick attached to which was the 2/9/08 letter. He stated what he has as Exhibit T-6 is a copy of the Minutes of the Planning Commission meeting on 7/28/09. Mr. Toadvine stated the letter Mr. VanLuvanee is referring to was introduced as Exhibit B-2. He stated the Board introduced that because it was necessitated by the Special Exception. Mr. VanLuvanee stated he did not have the Board Exhibits, so he did not know what was attached to them. Mr. VanLuvanee asked Mr. Toadvine if that one page memo with the 2/9 memorandum to the Board of Supervisors from the Citizens Traffic Commission of three pages comprises Exhibit B-2. Mr. Toadvine stated Exhibit B-2 is three pages and is the Planning Commission memo with the attachments.

Mr. VanLuvanee noted the 2/9/09 letter from the Citizens Traffic Commission to the Board of Supervisors. Mr. McClish was asked if he was in attendance at the meeting of the Citizens Traffic Commission when discussion took place which resulted in the 2/9/09 letter, and Mr. McClish stated he was. Mr. VanLuvanee stated in this letter six concerns were identified, with the first four relating to traffic on the roadway, and the other two relating to concerns not directly related to the roadway system, and Mr. McClish agreed.

Mr. VanLuvanee stated the first item notes that the Bucks County Regional Traffic Study in its 6/07 draft recommended an additional eastbound lane on the By-Pass near the intersection of Stony Hill and the Newtown By-Pass. Mr. VanLuvanee asked Mr. McClish from his review of the revised Plans submitted by Frankford was he able to determine whether that improvement is in fact one that is proposed by Frankford, and Mr. McClish stated he cannot tell this from the Plan, but he can tell from the traffic report description which indicated that there would be a third lane provided from Lindenhurst to I-95.

Mr. VanLuvanee stated the second concern in the Citizens Traffic Commission 2/9/09 letter was the one expressed by Mr. McClish this evening that there be no direct access to the site from the Route 332 Newtown By-Pass, and Mr. McClish agreed.

Mr. VanLuvanee stated Mr. McClish's testimony tonight was that the first plan that he looked at proposed an access to Campus Drive. He asked Mr. McClish if he is aware that the Frankford property does not have frontage on Campus Drive, and Mr. McClish stated he is aware of that.

Mr. VanLuvanee stated the third item in the 2/9/09 letter was that the southern access off Stony Hill Road should be right in/right out, and he asked Mr. McClish if he is aware that on the current Plan there is no southern access on Stony Hill Road, and Mr. McClish agreed that it has been eliminated. Mr. VanLuvanee asked if this would address his concern, and Mr. McClish agreed it would.

Mr. VanLuvanee stated the fourth item in the 2/9/09 letter was that the main entrance on Stony Hill Road south of Route 332 should be a signalized entrance, and Mr. VanLuvanee stated the current Plan shows that Frankford is proposing this traffic signal, and Mr. McClish agreed.

Mr. VanLuvanee stated the one improvement Mr. McClish discussed at the last Hearing which was ranked as second in importance in the Citizens Traffic Commission report was the provision for a second left-turn lane onto Stony Hill; and Mr. McClish stated for westbound 332, they should either add a second left-turn lane or lengthen the existing turn lane. Mr. VanLuvanee asked Mr. McClish if he is aware that Frankford Hospital does intend to make that improvement, and Mr. McClish agreed.

Mr. VanLuvanee asked about the methodology used by the Citizens Traffic Commission adding his notes indicate that in the priority ranking list the Commission came up with, the Commission worked with Transportation, Planning & Design to develop the matrix that resulted in the scoring of the projects, and Mr. McClish agreed. Mr. VanLuvanee asked what other role TPD played in the preparation of the report, and Mr. McClish stated they collected a lot of the data; and in fact, once the Matrix was developed which is Appendix D in the report, most of the information that was needed to do the evaluation of the projects was generated by TPD and they created the listing.

Mr. VanLuvanee stated he went on the Township's Website where there is a lot of information regarding the Citizens Traffic Commission, and one of the things he saw was a one-page form called Citizens Traffic Survey. This was marked as Exhibit A-16. Mr. VanLuvanee asked if this form was utilized by the Commission in gathering information prior to the preparation of the report, or is this a new form. Mr. McClish stated this was created before they did the report, and they have received in excess of fifty of these surveys over a period of time. He stated they maintain a table at Community Pride Day, and the survey was handed out at that event. Mr. VanLuvanee

asked what they did with the information once they got those surveys back, and Mr. McClish stated some of the comments that came back were very minor and were things the Township staff could address. He stated others identified concerns at various locations throughout the Township and those specific items were then evaluated under the matrix system they have. Mr. VanLuvanee asked if anyone else provided recommendations with respect to problem areas that were also included on the matrix or where the citizen survey forms the sole source of that information. Mr. McClish stated some of it came from members of the Commission, some came from other studies that had been produced such as the Bucks County study, and others came from Township staff such as Public Works. Mr. VanLuvanee asked if the members of the Commission filled out these reports or did they just offer opinions, and Mr. McClish stated they listed concerns. Mr. VanLuvanee asked if TPD offered any direct input with respect to problem areas that they had identified, and Mr. McClish stated he did not recall that they did.

Mr. VanLuvanee noted the Roadway Sufficiency Analysis that the Township did in 1991 in preparation for the enactment of its Traffic Impact Fee Ordinance, and he asked if the Commission gave any consideration to that report. Mr. McClish stated they did not specifically, but they have members that were involved in that report that provided input. Mr. VanLuvanee stated it was not a document that the Commission members specifically studied as background to the preparation of the Commission report, and Mr. McClish stated it was not.

Mr. VanLuvanee stated there were references in the February review of the first Frankford Hospital Sketch Plan to the June, 2007 draft of the Bucks County Regional Traffic Study, and he asked if this was because the Commission did not have the final report at that time, and Mr. McClish agreed. Mr. VanLuvanee stated the final report had been issued in October, 2007, and Mr. McClish stated he does not remember how that ended up as there was some question as to who was issuing the report, and he does not recall the details. Mr. VanLuvanee asked Mr. McClish if he knows if there were any changes between the June, 2007 report and the final report that was issued in October; and Mr. McClish stated he did not know.

Mr. VanLuvanee noted the last page of Exhibit T-8 (the Citizens Traffic Commission Report) showed different shades of gray for the various Commission Zones. Mr. VanLuvanee showed what he got off the Township Website which has different colors, and Mr. McClish agreed that this is an accurate copy in color of Exhibit T-8. Mr. VanLuvanee marked this color version as Exhibit A-17 which is the last page of Exhibit T-8 noting because it is in color, it is easier to see the different Zones.

Mr. Smolow had no questions.

Mr. Truelove stated Mr. McClish was asked about access points on Stony Hill Road – distinguishing between the original Sketch Plan and the Plan that is before the Zoning Hearing Board. Mr. Truelove stated the original concept plan had an access point on Stony Hill Road south of the proposed access, and Mr. McClish agreed. Mr. Truelove asked if there are any issues raised regarding where the current location is proposed which is directly across from the Lower Makefield Corporation Center.

Mr. VanLuvanee objected stating they have their report in evidence.

Mr. Malinowski allowed the questions, and Mr. McClish stated the Commission has not discussed in detail how that intersection relates to the Newtown By-Pass Intersection as far as the distance goes. He stated they would leave this to the professionals to evaluate. He stated their concern with the original Plan was that it only showed there were two entrance points on Stony Hill Road – one across from the Corporate Center and one to the south; and it did not give any indication as to whether there were any restrictions in or out at either of those driveways. He stated what the Commission wanted to do was to have one point where you could access the Hospital from northbound Stony Hill to turn left and that this be a signalized intersection. He stated they did not have a problem with the connection to the south, but they wanted it to be restricted to right in/right out.

Ms. Karen Friedman was sworn in and stated she lives at 1373 Pepperbush Court and has lived in the Township for approximately 28 years in three separate residences in different parts of the Township. Her current residence is across from the Five Mile Woods one mile from the Kohl's Shopping Center which is in the southern part of the Township. Her first residence was 810 Hudson Drive near the Township Building and her second residence was 2042 Silverwood Drive in the Dolington Estates development. She stated she has had varied experiences driving through the Township from various locations.

Ms. Friedman stated she is currently the Chairperson of the Township Planning Commission and has been a member of the Planning Commission for almost six years. She stated the Planning Commission meets twice a month depending on the Agenda items, and they meet the second and fourth Monday of the month. As part of their responsibilities, they review Development Applications and Plans and are required by the MPC and several Township Ordinances to review these. Mr. Truelove stated they are also charged with reviewing Plans and Applications for Special Exception such as the Application before the Zoning Hearing Board this evening, and Ms. Friedman agreed. Mr. Truelove asked how many Special Exception Applications has the Planning Commission seen in the six years she has been on the Planning Commission, and Ms. Friedman stated she feels there were more than three but she can only recall two – one of which was Liberty Properties at 777 Township Line Road to add on a small medical facility which required them to re-address the exterior traffic flow for the entrance to the building. She stated the other one was Matrix to switch from Commercial/Retail to an Age Restricted Community Development with a small amount of Retail.

Mr. Truelove asked Ms. Friedman when she, as a member of the Planning Commission, first become aware of the Frankford Application; and Ms. Friedman stated it came before the Planning Commission in January, 2008. Mr. Truelove asked if this was the Sketch Plan that has been referenced during this Hearing, and Ms. Friedman stated it was the very first Sketch Plan to be released and was very vague. Mr. Truelove asked if she recalled any details for that Plan,

Mr. VanLuvanee objected stating this Plan is not in evidence and has nothing to do with the Application before the Zoning Hearing Board. He feels they have established that it was not even a formal submission. Mr. Truelove stated the Planning Commission has had an opportunity to review the original Plan and the subsequent Plan which led to their memorandum so this is a foundational approach.

Mr. Malinowski allowed the question.

Mr. Truelove asked if the Planning Commission reviewed the initial Sketch Plan at their January 14, 2008 Planning Commission meeting. Mr. Friedman stated they did, but no representatives from the Hospital were present so the Planning Commission was basically speculating according to the information on the Sketch Plan.

Mr. Truelove marked as Exhibit T-9 an excerpt from the 1/14/09 Planning Commission Minutes, pages nine through 11 which isolate the Sketch Plan discussion of the Hospital proposal.

Mr. VanLuvanee renewed his Objection noting there was no Application in front of the Township to be reviewed.

Mr. Truelove stated he only wants to move these into Evidence.

Mr. Toadvine stated he feels there will be an Objection, and asked the foundation.

Mr. Truelove stated the final Planning Commission memorandum references, adopts, and includes the Citizens Traffic Commission report that references this same Plan because they had nothing else before them. He stated this would help the Zoning Hearing Board understand why the Planning Commission issued the recommendation they did because this was an evolutionary process from their perspective based on the information they had before them.

Mr. VanLuvanee stated he has the same problem he did at the last Hearing with the Traffic Committee's review of the Plan that was not a formal submission and is not before the Zoning Hearing Board for review. He stated he understands that an Application for a Special Exception goes before the Planning Commission for review, and he understands the 7/28 Minutes are relevant because they are part of the official

review process. He stated Frankford had asked for the opportunity to discuss informally with the Board the possibility of putting a Hospital on this corner, and he feels they only thing they had at that time was a letter from him and a very informal Sketch Plan which he had delivered to Mr. Fedorchak. He stated Frankford was not even advised that the matter was going to be discussed in January, and they did not have any representatives there. He stated this appears to be people talking about something they had seen a Sketch Plan for, but there was no one representing the Applicant to clarify it and it was not an official review. He stated he would object to the Minutes as he feels there are hearsay.

Mr. Truelove stated they have already heard testimony that the Citizens Traffic Commission was only able to review the Plan that is referenced at the Planning Commission meeting in its letter that was attached to the final Planning Commission memorandum, so he feels the Planning Commission's review of that same Plan is extremely important in terms of their opinion and why they made the recommendation they did because they had a limited amount of information some of which was directly based on the information they had heard seven months before.

Mr. VanLuvanee stated he feels this is a misstatement and stated there is no evidence that the Traffic Commission did not have the opportunity to provide it, there was just a statement that they did not. He stated apparently nobody sent it to them or has sent it to them yet. He stated he does not feel this is an excuse to bring in something they reviewed from an irrelevant Plan that was not even a final submission.

Mr. Truelove stated he will provide an Offer of Proof that Ms. Friedman's testimony will be that the Planning Commission had a very, very short period of time to review the Final Plan that was submitted that is before the Zoning Hearing Board this evening and they relied heavily on looking at the original Plan and comparing it with the one they had as part of issuing their concerns about the Plan and why they made the recommendation they did.

Mr. VanLuvanee stated he does not feel the Hearings were convened until substantially later and they have been having the Hearings for eight months and the Planning Commission could have taken as much time as they wanted and still made a review if they chose to. He stated the Applicant also submitted ten copies, at Mr. Fedorchak's request, of the two bound volumes that Mr. Truelove asked to have marked as Exhibits T-7A and T-7B which had about 2,000 pages of information regarding the Sketch Plan so there was no lack of information for the Planning Commission to review. He stated he does not feel this is an excuse to offer irrelevant information or hearsay into the Record.

Mr. Truelove stated he would offer Ms. Friedman's testimony as well as to the timing of the submission of those binders which indicated there was insufficient time for them to fully digest that information which is why in part they had made the recommendation and therefore also had to look at the prior review as part of their analysis.

Mr. Malinowski asked Mr. Truelove if it is his position that had they had more opportunity and different information that their recommendation to the Zoning Hearing Board would have been different, noting the recommendation was in opposition. Mr. Truelove stated it would not have been different, but he believes that it would have been more informed.

Mr. Toadvine stated the Planning Commission's relationship to the Special Exception Application is advisory to the Zoning Hearing Board and is not mandated that the Board follow their recommendation.

Mr. Kim asked Ms. Friedman why the Planning Commission did not have sufficient time to review the full complete formal presentation as he would assume they would make the time to review it. Mr. Truelove stated these were the questions he was going to ask.

Mr. Malinowski stated the Zoning Hearing Board understands that the Planning Commission's report was in opposition. Mr. Truelove stated the Planning Commission had one Plan that they reviewed and had concerns about. They then received another Plan and there was a very short period of time from the time they received it to their meeting before the Zoning Hearing Board Hearings commenced; and they really had little time to offer an informed decision based on what they had. He stated they had the prior Plan first and there may be an opinion that Plan may have been superior, in their opinion, to the one that is before the Zoning Hearing Board. Mr. Malinowski stated it seems Mr. Truelove is indicating their opposition to the current Application was uninformed, and Mr. Truelove stated he did not say it was uninformed – he stated it was not as informed as they would have liked, and probably under informed is the better word. Mr. Malinowski stated if they were going to change their recommendation, he would understand the purpose. He stated the Zoning Hearing Board accepts their recommendation for what it is and they view the Planning Commission as concerned, professional people in their own right. He asked why they should not doubt this would be their recommendation given any other information. Mr. Truelove stated he feels it goes to “weight versus admissibility.” He stated the Zoning Hearing Board is going to give it a certain weight and accept it for what it is worth, and they want to make sure that the Board knows what it is worth and this is why they are trying to submit it. He stated it was based upon information that was “sketchy” and submitted at a time when they did not have more time to review it. He feels it is important for the Zoning Hearing Board to hear from the Planning Commission as to why they came to the conclusions they did and the information upon which they based it; and this information from the earlier Sketch Plan Planning Commission meeting is background for that.

Mr. VanLuvanee stated he is offended by the suggestion that Frankford had some play on limiting the time that the Planning Commission had to review this. He stated the limitation comes from the Township's own Ordinance – Section 200-98A2 says that they have thirty days from receipt. He stated they did not ask him for an Extension or whether

he would have a problem if they took more time. He stated there were two separate Applications filed – one for a Special Exception and one was a Sketch Plan review. He stated the Sketch Plan review had the two volumes of information. He stated there was no time limit as it relates to the Hearing on the Planning Commission's review of the Sketch Plan Application, and they could still be reviewing it and possibly are. He stated the thirty day limitation is something that the Township determined was appropriate. He stated the Planning Commission in its recommendation suggested that they did not have enough information and certain things were unclear and indicated this in Exhibit B-2; but this is not a reason to go back to another Plan that is not before the Zoning Hearing Board.

Mr. Malinowski sustained the Objection and asked that they move off the Sketch Plan.

Mr. Truelove stated he will not therefore ask any questions about the presentation of the Sketch Plan at the Board of Supervisors meeting two days later.

Mr. Truelove asked Ms. Friedman if she was part of the Planning Commission review of the Plan that is before the Zoning Hearing Board, and Ms. Friedman stated she was. Mr. Truelove stated Mr. VanLuvanee referenced the binders that were eventually supplied to the Planning Commission which were part of the Sketch Plan Application but not the Special Exception Application, and Ms. Friedman stated the Planning Commission never received those binders. She stated she has never had any binders to review, has never had a traffic report to review, and there was no information given to the Planning Commission. Mr. Truelove asked what information they did have to review, and Ms. Friedman stated it was the second Plan that is before the Zoning Hearing Board this evening.

Mr. Truelove asked what concerns the Planning Commission had based on the information they did have. Ms. Friedman stated they were concerned with traffic and traffic patterns in the area as it is already very congested. She stated having lived on Lindenhurst Road and trying to come into 332 for seven years during peak hours, it is very difficult and very dangerous and people are weaving and crossing over each other. She stated they also had a concern about the driveway entrance on Stony Hill Road and they did not feel that this was a good entrance because it would not only bring people in from the south but would also bring people toward that intersection from the north; whereas if they had an entrance off of Campus Drive, you could deflect at least some of the traffic coming from the north directly into the site instead of having to bring them all the way through to the Stony Hill Road intersection. She stated this is a very problematic area which she is very aware of having lived there for seven years. She stated there is a lot of potential for accidents and people also, because of the amount of traffic, continuously chose to drive on the shoulder. She stated while they are putting in a third lane, she is not sure how much that will ameliorate the problem because then you have an

entrance and exit situation going on right next to that third lane where she agrees with Mr. McClish would be another potential for accidents or traffic problems.

Ms. Friedman stated the other concern they saw from looking at the Plan was that the scope of the project was very large for that particular area, and they did not believe that it was in character with the Township development of that section of the Township.

Mr. Truelove asked if this is based on the Township's Comprehensive Plan, and Ms. Friedman agreed. She stated part of their job is to adhere to the Master Plan.

Mr. Truelove asked Ms. Friedman if she has attended many of the Frankford Hospital Zoning Hearing Board Hearings, and Ms. Friedman stated she has. Mr. Truelove asked her if she was present when Mr. O'Brien testified, but Ms. Friedman did not recall.

Mr. VanLuvanee stated he reviewed the Minutes of the Planning Commission meeting of July 28 as well as Mr. Frick's one page memorandum to the Zoning Hearing Board and it appears that Ms. Friedman made the Motion, and Ms. Friedman agreed. Mr. VanLuvanee asked if Ms. Frick accurately recorded the Motion on Exhibit B-2, and Ms. Friedman agreed. Mr. VanLuvanee stated some of what Ms. Friedman just testified to is based on her personal observation rather than on comments that were made officially at the Planning Commission meeting, and Ms. Friedman agreed.

Mr. VanLuvanee stated he felt Ms. Friedman suggested that the Planning Commission never got the two large binders that were provided to the Township, and Ms. Friedman stated she never got the binders. Mr. VanLuvanee stated he understands that she has never been provided them and it was not just that she did not have them prior to the July 28 meeting, and Ms. Friedman agreed that she never was provided them.

Mr. VanLuvanee asked if she ever got the traffic report, and Ms. Friedman stated she did not.

Mr. Kim asked the process that impeded them from getting the proper documentation for the Planning Commission to make a comprehensive judgment. Ms. Friedman stated they were told it was not available at that time, and it was in process of being finalized. She stated she does not recall the two large binders ever being discussed. She stated she does not know what information is in the two large binders.

Mr. Smolow had no questions.

Mr. Koopman stated Mr. Friedman indicated that someone told the Planning Commission that the information was not available, and Ms. Friedman stated she feels this is in the Minutes. Mr. Koopman asked who told the Planning Commission that the information was not available at that point in time, and Ms. Friedman stated either Mr. Sherer or Mr. Powell. She stated this was on January 16, 2008 at the Board of Supervisors meeting it was indicated that it was not finalized and would be provided by the Township. Mr. VanLuvanee stated this was prior to the submission of the Special

Exception Application. He stated it was in connection with the first initial appearance before the Board of Supervisors for informal discussion on the concept of locating a hospital at this location.

Ms. Friedman stated at the time of the Planning Commission's July 28th meeting, none of that information was presented from the Hospital and very limited information came out; and according to the Ordinance, the Planning Commission is allowed to review Special Exceptions, and it even indicates in the Ordinance, "the Commission may have representation at the public meeting held by the Zoning Board on such an Application," and she stated she is present tonight not only as a Planning Commission member but also as an informed, and concerned citizen. She stated there were not enough details given in their recommendation. She stated it was such a broad brush stroke, and there were no details given when they were before the Planning Commission on July 28 except to tell them the size of the facility, the number of beds, and the number of physicians and staff that they would hire. She stated she finds this disingenuous because in her opinion from what was said to them at the meeting, the Hospital was going to be of similar size but more updated than the current facility existing by the Mall. She stated they should have had those numbers and could have at least talked to them about that so that they would have a better understanding of what they were dealing with. She stated they had very, very limited information.

Mr. VanLuvanee stated the Sketch Plan Application with the two big binders shown at the last Hearing was filed the same day that the Special Exception Application was filed. He stated they had originally intended to file them as part of the Special Exception, but the Township's Code Office, Ms. Frick, advised that they were not a part of the Special Exception so he separated them out and filed a separate Sketch Plan Application so that the information which they had compiled would be delivered to the Township for review. He stated they were told it was not a requirement of or a part of a Special Exception so they separated it, but the information all came in the same day.

Mr. Kim stated the full information would have therefore been available, but Mr. Friedman stated it was not presented to the Planning Commission from the Township or at the meeting from the representatives there. Mr. Kim stated it appears that the information from Frankford Hospital could have been made available to the Planning Commission; and Ms. Friedman stated from what is being said, that is very possible.

Mr. VanLuvanee stated Mr. Fedorchak actually called him stating the Township was only provided five copies; and he asked if the Township paid for them, would he provide five more, and Mr. VanLuvanee stated they did provide these. He stated the Township received ten copies. Mr. Truelove agreed that this did happen.

Mr. Truelove asked Ms. Friedman if anyone from Frankford Hospital indicated at the July 28th Planning Commission meeting that there were binders or other information with more detail that would have been helpful, and Ms. Friedman stated they did not. She stated almost every question was answered with “we are not considering this at this time,” no matter what question they asked, so the Planning Commission had no information.

Mr. Malinowski asked Ms. Friedman if she felt they had adequate information before them to make their decision and provide the Zoning Hearing Board a recommendation; and Ms. Friedman stated she does not, and she stated they declined on the basis of not having enough information. Mr. Malinowski asked Ms. Friedman how much weight she feels the Zoning Hearing Board should give the Planning Commission’s recommendation.

Mr. Truelove objected.

Mr. Malinowski noted the Objection.

Ms. Friedman stated since it is part of the Ordinance that the Planning Commission is asked to give an advisory report, she would give it the weight that she would expect that it would be allowed to be a detailed report and not just a paragraph that gives a broad brush stroke that they did not have enough information so they are declining to recommend that it be possible. She stated she does not think the Zoning Hearing Board has any idea what the Planning Commission was thinking about. She stated having sat at the Zoning Hearing Board meetings, she is so concerned about the traffic elements of this particular project and the scope of the project that she is upset over the fact that this could not at least have been preliminarily addressed at the Planning Commission to discuss it in a letter to the Zoning Hearing Board and give them more details as to how they felt about it and also the traffic pattern flows and different things with the different traffic. She stated she does not feel enough information was given to the Planning Commission.

Mr. Kim stated he is trying to separate Ms. Friedman’s personal opinion from the Planning Commission opinion. He stated he is not sure that he can separate from her testimony about the traffic concerns her personal testimony versus the Planning Commission testimony. He asked if this is Ms. Friedman’s personal opinion or is the recommendation she is stating the official Planning Commission review. Ms. Friedman stated they all felt there was not enough information. Mr. Kim asked about the traffic congestion, and Ms. Friedman stated this was preliminarily discussed in very vague sentences and verbiage because the Planning Commission did not have any numbers to work with. She stated if they had more information, the Planning Commission would have sent the Zoning Hearing Board a more detailed report viewing their concerns so that the Zoning Hearing Board would understand how alarmed they are about the project that is facing them.

Mr. Gruen asked why they have not received any reports in all this time. He asked whose responsibility is it to give the Planning Commission the report, and Mr. Friedman stated she feels it would be from Ms. Frick if she had received it. Mr. Gruen stated they have been listening to this Application for a more than six months, and in all this time no one has given them any additional information. Ms. Friedman stated once July 28th passed, about a week and a half later they went before the Zoning Hearing Board so there was no reason for them to come before the Planning Commission anymore from a legal standpoint for review. Mr. Gruen stated he understands from the attorney for the Applicant that the Planning Commission could have amended their opinion.

Mr. VanLuvanee stated he did not say this and he is not going to speak to how the Township handles things. He stated what he said was that they also had a Sketch Plan Application which had all the information in it that they could have reviewed, and there was no thirty day time limit on this.

Mr. Kim stated he appreciates Ms. Friedman's role in giving the best information as an advisory to the Zoning Hearing Board, but after being present at the Zoning Hearing Board meetings, he asked if there is any detailed information that she feels the Zoning Hearing Board did not really get or come forth even though the Planning Commission did not have the time to give the Zoning Hearing Board a full report. Ms. Friedman stated she felt it might be important to have this from the Planning Commission itself.

Mr. Smolow stated he does not accept one of the Board's member's statements that implied that the Planning Commission has an obligation to go out and do an investigation or search for information. He stated it is his clients' position that it is the Applicant's burden to make sure that the Planning Commission and any other body that is responsible for reviewing its Application, has the information before it and no one else's responsibility or burden. Mr. Truelove stated he would join in this. Mr. Gruen stated he did not mean to imply that they should search for it, he just wanted to know who was supposed to give them the information.

Mr. Truelove stated the Planning Commission does review Sketch Plan Applications and he asked if there any time limit when a Sketch Plan is submitted to the Planning Commission for review. Ms. Friedman stated there is not usually with a Sketch Plan as it is a basic introduction where the developer comes before them for broad based comments. Mr. Truelove stated submitting a Sketch Plan Application would not be under the same timeframe or urgency that a Special Exception Application would be, and Ms. Friedman agreed.

Mr. VanLuvanee noted the 7/28 Minutes and asked Ms. Friedman if she would agree that Frankford Hospital was represented at that meeting and had an engineer, Senior Vice President for their consulting firm, and Mr. O'Brien, the traffic engineer present; and Ms. Friedman agreed. Ms. Friedman stated Mr. Carr, their attorney, was also present. Mr. VanLuvanee stated there was considerable discussion about traffic issues according to the Minutes, and added Ms. Friedman had asked a number of questions of Mr. O'Brien regarding traffic, and Ms. Friedman stated they were very vague.

A short recess was taken at this time. The meeting was reconvened at 9:05 p.m.

Mr. Township called Mr. Michael Angelastro who was sworn in. Mr. Truelove offered Mr. Angelastro's CV which was marked as Exhibit T-10 and his power point report which was marked as Exhibit T-11. The title of T-11 is Frankford Hospital Lower Makefield Township. Mr. Truelove stated it is not dated and he would adopt today's date for the report. Mr. Angelastro stated he works for Remington Vernick Beach as the traffic engineer in the Haddonfield officer and supervises four junior engineers.

Mr. Truelove stated his qualifications are set forth in the CV which was marked as Exhibit T-10 and according to the CV he has a Bachelor's and Master's Degree in Civil Engineer in and PhD in Civil Engineering in progress. Mr. Angelastro stated he is a professional engineer in the State of New Jersey and the Commonwealth of Pennsylvania. He stated he is also a professional traffic operations engineer which is issued by the Institute of Transportation Engineers (ITE). He is also a Certified Municipal Engineer in the State of New Jersey.

Mr. Truelove stated Mr. Angelastro has listed several projects he has worked on over the years as a professional engineer on the CV and these includes projects in both the State of New Jersey and the Commonwealth of Pennsylvania. Mr. Truelove asked if he has been qualified as an expert in transportation engineering and related disciplines in Courts and Boards in New Jersey and Pennsylvania, and Mr. Angelastro stated he has been qualified in Boards in New Jersey and Pennsylvania. Mr. Truelove asked if these would be Boards in many Municipalities and other similar jurisdictions, and Mr. Angelastro agreed. Mr. Truelove asked if he works exclusively on transportation issues, and Mr. Angelastro agreed.

Mr. Truelove offered Mr. Angelastro as an expert in transportation engineering and related disciplines and would incorporate Exhibit T-10 as part of his initial testimony.

Mr. VanLuvanee asked Mr. Truelove what he means by "related disciplines," and Mr. Truelove stated anything to do with transportation and traffic issues and he would be willing to limit this to transportation engineering and traffic issues. Mr. VanLuvanee stated he does not have an objection, but will reserve his cross-examination with respect to Mr. Angelastro's qualifications when he gets to cross examination.

Mr. Truelove asked Mr. Angelastro if he relies on and reviews authoritative texts and source materials such as the ITE and HCM, and Mr. Angelastro agreed. Mr. Truelove asked what is the ITE, and Mr. Angelastro stated it is the Institute of Transportation Engineers and is a society that generates publications used in the preparation of traffic impact studies and reports. Mr. Truelove stated the HCM is the Highway Capacity Manual, and Mr. Angelastro agreed.

Mr. Truelove asked Mr. Angelastro if he has been present or read the testimony during the entire Hearing process in this case, and Mr. Angelastro stated he was present for all the traffic engineering testimony. Mr. Truelove asked if he reviewed documents and Exhibits including the binders referenced, and Mr. Angelastro stated he has. Mr. Truelove asked if he also reviewed other Applications in Lower Makefield, Newtown Township, and surrounding Municipalities where McMahon Engineers has performed studies; and Mr. Angelastro stated he has.

Mr. Truelove stated Mr. Angelastro prepared a power point presentation, hard copies of which have been provided this evening as Exhibit T-11, and he will proceed with this presentation. Mr. Truelove stated the T-11 Exhibits are the same as those that will be presented in the power point presentation, and Mr. Angelastro agreed. He also stated the power point presentation and report is a summary of his review of the documents, on-site reviews, and study and reliance on authoritative texts as well as listening to and observing the testimony in this case.

Mr. Angelastro showed the first slide which is the subject site in the southwest quadrant of the intersection of Stony Hill Road and Newtown-Yardley Road. He stated it is a vacant parcel of land in this location. He showed the second slide which is the Site Plan submitted in support of the Application showing the development plan of the proposed Hospital site. He stated there is a proposed signalized access off of Stony Hill Road and a right turn in/right turn out driveway along the Newtown-Yardley Road By-Pass. Mr. Truelove stated this is a correct and complete copy of the Application plan, and Mr. Angelastro agreed.

Slide number three was noted, and Mr. Angelastro stated this shows the Hospital complex of 355,000 square feet, and an 80,000 square foot medical office. He noted the approach driveway locations across from the entrance to Lower Makefield Corporate Center and along Yardley-Newtown Road.

Slide four was noted where the term “vehicle queue” is used, and Mr. Truelove asked Mr. Angelastro what is a vehicle queue. Mr. Angelastro stated it is a line of vehicles waiting to be processed through a signalized intersection in this case. Mr. Truelove asked from a traffic and transportation engineering perspective, what is the significant of a vehicle queue; and Mr. Angelastro stated it indicates volume is nearing or exceeding

capacity and as queue builds, the volume is approaching or exceeding capacity. Mr. Truelove stated “queue” is another word for “line,” and Mr. Angelastro agreed and stated in this case it would be a line of vehicles waiting to be processed through the signalized intersection. Mr. Truelove asked if the layman terms, “stacking” or “back-up” would be used interchangeably with “queue,” and Mr. Angelastro agreed.

Mr. Truelove asked if queuing is a factor in traffic congestion, and Mr. Angelastro agreed. Mr. Truelove asked if it is also a factor in safety analysis as well, and Mr. Angelastro stated they are.

Mr. Truelove asked Mr. Angelastro if he has reviewed the binders and the reports from the traffic engineers for the Applicant and if he was present for the testimony of Mr. O’Brien, and Mr. Angelastro agreed. Mr. Truelove asked if Mr. O’Brien or McMahon did a queue analysis, and Mr. Angelastro stated they did not.

Mr. Truelove stated Mr. Angelastro has listed on the slide a vehicle queue and going forward vehicle queues on different dates and times for different contributing roads and intersections at this location, and Mr. Angelastro agreed. He added that they primarily observed the vehicle queue at the intersection of Stony Hill Road and Newtown-Yardley Road. Mr. Truelove asked that he proceed through the different slides, describing the work that was performed, when they were performed, and refer to the photographs that relate to the dates and times that the observations took place.

Mr. Angelastro noted Slide #4 and stated members of his staff went out to the site on Wednesday, September 10, 2008 and were on site from 6 a.m. to 9 a.m. and from 2 p.m. to 6 p.m. This was at the intersection of Stony Hill Road and Newtown-Yardley Road, and on those times and those dates they observed and recorded the vehicle queue at that intersection along Newtown-Yardley Road and along Stony Hill Road.

Mr. Angelastro stated on subsequent dates they had their staff go back to that particular intersection and observe the operating characteristics to make sure that the one day was not an anomaly. He stated they went back on four separate occasions – Tuesday, November 25 during the a.m. and p.m. peak hours, Wednesday, December 10 during the a.m. and p.m. peak hours, Thursday, January 8, 2009 during the a.m. and p.m. peak hours, and Thursday, March 12, 2009 during the p.m. peak hours only. He stated they observed the same vehicle queuing on all of those times and dates.

Mr. Angelastro stated on September 10, they had staff there and they recorded the vehicle queue lengths at the various approaches to the Stony Hill and Newtown-Yardley Road intersections.

Mr. Truelove noted Slide #6 and stated this is a queue length table and there are four columns with information referencing the different intersections and the queue lengths.

Mr. Truelove asked if this is based upon information that Mt. Angelastro's office developed as part of its observations, and Mr. Angelastro agreed. He stated the first column is the intersection and they primarily looked at the intersection at Stony Hill and Newtown-Yardley Road and they also looked at the westbound approach to the intersection at Newtown-Yardley Road and Campus Drive/Lindenhurst Road. He stated the second column is the maximum vehicle queue observed by their office. The third column is the maximum queue length indicated in the traffic study prepared by McMahon Associates in support of the project. The fourth column is the distance between the intersections.

Mr. Angelastro noted the first column, third row is northbound Stony Hill Road approach where they observed a vehicle queue length of 425' during the a.m. peak hour. He stated in the traffic report you initially start off with a review of the existing condition which gives a base line for the analysis. He stated the base line conditions typically reflect the existing operating conditions of the study intersections and roadways. He stated when they refer to the maximum queue length indicated in the traffic study, this is the existing analysis performed in the McMahon report and are the queue lengths indicated in that report for the existing conditions. He stated northbound Stony Hill Road approach, Mr. Angelastro stated his staff were out there and observed a vehicle queue of 425' in the a.m. peak hour which is from Newtown Yardley Road extending back toward the existing Lower Makefield Corporate Center driveway. He stated opposite this is the proposed access to the Hospital. He stated they observed a queue of 425' at that location. He stated in the McMahon traffic report under the existing conditions, their maximum queue was 278', and he feels their traffic report underestimates that queue.

Mr. Zamparelli stated Mr. Angelastro indicated the peak time was from 6 to 9. Mr. Zamparelli noted the 425' versus 278', and he asked if this was a certain time during that time frame; and Mr. Angelastro stated they have specific dates when they observed the vehicle queue. Mr. Angelastro stated the McMahon report analyzed the peak hour which would be the maximum during the one hour in the morning rush that experiences the most traffic. Mr. Zamparelli asked what hour would be the maximum peak, and Mr. Angelastro stated they observed the existing vehicle queue along Newtown-Yardley Road and that experienced the highest queue between 6:55 a.m. and 7:55 a.m.

Mr. Malinowski asked Mr. Angelastro where he is getting the numbers from for McMahon as he previously indicated that they did not do a queue study, and Mr. Angelastro stated they did not do a queue study, but their traffic analysis software as part of their output will provide a 95th percentile queue number indicating this is what they expect the number to be at certain approaches to intersections. He stated McMahon did not go out and look at the existing queue and compare it to the queues that were generated from their analysis software.

Mr. Kim stated Mr. Angelastro has the real data and McMahon has an estimated computer-generated figure, and Mr. Angelastro agreed.

Mr. Malinowski asked where are the McMahon figures in their study, and Mr. Angelastro stated it is in Appendix F.

Mr. Gruen asked if the computerized study is updated regularly; and Mr. Angelastro stated in a typical traffic study, they will send a traffic person to go out with an electronic board and they actually enter the information in and collect the volumes at the different approaches to the intersection. He stated they take that data they receive in the field, enter it into the computer along with the number of lanes, lane width, speed along the roadway, and traffic signal timing. He stated the idea of the traffic simulation software is to replicate the existing conditions out in the field so that you have a base line. He stated this gives a high probability that your future conditions will be modeled correctly.

Mr. Gruen stated the numbers they put into the computer were the numbers they took when they were out there, and Mr. Angelastro agreed. Mr. Zamparelli asked if they get those numbers from a counter in the roadway, and Mr. Angelastro stated they have an electronic board with different buttons that represent different movements at an intersection. He stated each click of the button indicates a vehicle, and you do that for each movement and each approach to an intersection and this gives the traffic volumes for that particular intersection.

In response to Mr. Malinowski's prior question, Mr. Angelastro noted Page 8 of Appendix F where it states "queue length 95% in feet" and looking at "northbound left" this represents the northbound left turn lanes on Stony Hill Road and you come down 276'. He stated this is generated through the analysis software.

Mr. Kim asked about the validity of the data, and Mr. Angelastro stated you should validate your data to make sure it actually reflects the existing conditions.

Mr. Angelastro noted Slide #6 and stated at the northbound Stony Hill approach they observed a 425' vehicle queue in the left hand turn lane where the traffic model presented in the report indicated a queue length of 278'. Mr. Angelastro stated in the McMahon Plan they indicate there is approximately 385' of storage between the existing Newtown Yardley Road intersection and the proposed driveway opposite the existing driveway. Mr. Angelastro stated when their staff was there during the p.m. peak hour, they observed a queue of 525' on the northbound approach of Stony Hill Road, and in the traffic report it indicates a queue of 326'. He stated if there is only 385' separating Newtown-Yardley Road and the exiting driveway, there are vehicles queuing past that driveway currently; and the report does not reflect that.

Mr. Angelastro noted the third column which is the eastbound Newtown-Yardley Road approach to the intersection and during the a.m. peak hour his office observed a vehicle queue from Stony Hill Road extending back greater than 1650', and the queue length in the traffic analysis indicates a 95 percentile queue of 696'. He stated the distance between those intersections is approximately 1650', and when they observed queues greater than 1650', this means that vehicles on Newtown-Yardley Road actually queued past the intersection of Campus Drive and Lindenhurst Road. He stated they observed those queue lengths between 6:55 a.m. and 7:56 a.m. on September 10. In the p.m. peak hour, they observed similar queue lengths in the eastbound approach – being greater than 1650', and the maximum queue length in the report indicated 856'.

Mr. Angelastro noted the westbound Newtown-Yardley Road through lanes in the p.m. peak hour, and they observed a queue length of 650', and the traffic report indicated a queue of 581'; and the separation between the Stony Hill Road intersection and the I-95 Interchange is 1425'. During the p.m. peak hour heading westbound on Newtown-Yardley Road at Stony Hill Road, they observed a queue greater than 1425' and the traffic report indicated a queue of 394' which is substantially lower than what they observed in the field. Mr. Angelastro stated for the westbound Newtown-Yardley Road approach left turn lane onto Stony Hill Road, in the a.m. peak, his office observed 600', and the queue length indicated in the study is 380'. During the p.m. his office observed 475', and the maximum queue length indicated in the report was 446'. He stated his office measured approximately 625' of storage in the left turn lane on Newtown-Yardley Road.

Mr. Angelastro stated his office also looked at the westbound approach to Newtown-Yardley Road at Campus Drive and Campus Drive and Lindenhurst Road. He stated they did not observe this in the a.m. peak hour, but in the p.m. peak hour they observed greater than 1650' at that location, and the report indicates a maximum queue of 246' which is a substantial difference from what his office observed in the field as opposed to what was indicated in the report.

Mr. Angelastro showed a slide of the northbound approach to Stony Hill Road and he stated during the a.m. peak hour, in the traffic report which is the line represented in blue of 275' and in the field they are showing a queue of 425' to that existing driveway at the Corporate Center. Mr. Angelastro stated during the p.m. peak hour in the report they show 326', and his office observed 525'. He stated when their staff was out there on March 9, they observed four cars beyond the Corporate Center driveway which is approximately 80' past the driveway. He stated when there is queuing beyond the driveway it impedes people coming in and out of the Corporate Center.

Mr. Angelastro showed a slide showing photographs taken on 11/25/08 at 7:45 a.m. with Newtown-Yardley Road to the left and the Corporate Center going back into the picture, and you can see where vehicles are queuing up and the queued vehicles are impeding traffic at the driveway. He showed a photograph taken during the p.m. peak hour at 5:50 p.m. on 11/25/08 with vehicles queued from Newtown-Yardley Road past the Corporate Center driveway, and this happened again at 5:58 p.m. He showed photograph taken December 10 when there was a similar situation with blocking of the Corporate Center driveway with queued vehicles along Stony Hill Road.

Mr. Angelastro showed a photograph taken on March 12 and this indicates queuing along the northbound approach to Stony Hill Road queuing beyond the Corporate Center driveway adding this is under existing conditions.

Mr. Angelastro stated with regard to Stony Hill Road queue length, McMahon Associates prepared a report entitled, “Alternatives Analysis Study for the O/R Zoning District” which was prepared for Newtown Township and Lower Makefield Township in 6/98. He stated this study was to provide alternatives, intersections improvements, and roadway improvements for the build out of the O/R Zone in Newtown and Lower Makefield Township. Mr. Truelove asked if this was for an office complex at that site, and Mr. Angelastro agreed and stated he believes they used the General Office Land Use Code for the build out of the subject site. Mr. Angelastro stated in the report McMahon’s recommendation was to construct triple left-hand turn lanes on the northbound Stony Hill Road approach and widening of Newtown-Yardley Road in each direction with two additional lanes. He stated this was Alternative 1. He stated Alternative 2 was to construct a jug handle on the northbound side of Newtown-Yardley Road and they would essentially eliminate any left turns from the northbound approach of Stony Hill Road and again widen Newtown-Yardley Road with two lanes in each direction. Mr. Toadvine asked if there was an estimate in that report for the cost of either of these improvements, and Mr. Angelastro stated both projects, exclusive of right-of-way acquisition and engineering, were approximately \$15 million in 1998.

Mr. Angelastro stated the Applicant is proposing to signalize the proposed driveway which is opposite the Corporate Center driveway. He stated the queue length heading on the southbound approach will be coming from Newtown-Yardley Road toward the proposed signalized intersection. He stated in the traffic report they anticipate a queue in the build condition of 312’ in the a.m. peak hour and a queue of 392’ in the p.m. peak hour. He stated if they take into account the underestimation of the vehicle queue by approximately 1.5 on the Stony Hill approach based on what they observed in the field, the queuing will occur from the proposed signalized intersection onto Yardley-Newtown Road. He stated there is only approximately 385’ between the two intersections, so it appears that they will exceed the available space between the two signalized intersections. Mr. Angelastro stated in the 2019 build condition, they are anticipating a 306’ vehicle queue in the a.m. peak hour and a 470’ queue in the p.m. peak hour from the

proposed intersection toward Newtown-Yardley Road. He stated this would exceed the available storage between those two areas, and he would therefore expect vehicles spilling out onto Newtown-Yardley Road creating what he feels will be safety concerns.

With regard to the Stony Hill queue length, Mr. Angelastro stated Mr. Francis Haney from PennDOT expressed concern regarding the northbound queue length. Mr. Truelove asked where this information appeared; and Mr. Angelastro stated this was from a copy of an e-mail he received from the Applicant's traffic engineer; and apparently McMahon forwarded a conceptual Plan to PennDOT for their comments, and one of Mr. Haney's comments (Comment Number 2) in the e-mail to Ken O'Brien dated 5/22/08 was: "Stony Hill Road queues are in excess of 550' in the p.m. peak hour. The proposed signalized driveway may not work efficiently unless they provide more capacity on the By-Pass by providing westbound dual left turn lanes and eastbound through lanes." Comment Number 3 was: "Aligning the driveway seems to make sense but per Comment Number 2, we are not sure if it will work in the absence of other improvements that provide relief that lessen the current queuing condition." Mr. Angelastro stated the report is dated June, 2008 so this e-mail was in advance of the document being finalized.

Mr. Angelastro stated since the traffic study underestimates the queue, he expects queue lengths in the build condition to be greater than what is being presented in the report. He stated if the model does not accurately represent the existing conditions, then he does not feel there is a comfort level that the proposed conditions, once you add in the site traffic, are going to be represented accurately. He stated the implication of this is the proposed mitigation measures may not be as beneficial as they seem.

Mr. Angelastro showed Slide #16 which is a graphic of the queue lengths which his office observed in the field. He stated this shows the intersection of Yardley-Newtown and Stony Hill Road. He noted the column to the left for Newtown-Yardley Road eastbound in the a.m. peak, and in blue is what is provided in the traffic report and in red is what his office observed in the field which was greater than 1650' extending to and beyond the Lindenhurst/Campus Drive intersection. In the westbound approach, the traffic report indicated 581', and his office observed 650'. Mr. Angelastro stated the misrepresentation is at least 1.5 in the queue developed in the analysis software.

Mr. Malinowski asked where these numbers are in the traffic report, and Mr. Angelastro stated these are on page 8 of Appendix F. Mr. Malinowski noted where the traffic report has shown 696' there is pound sign which states, "The 95th percentile volume exceeds capacity and the queue may be longer." He asked since it is saying it is at least 696', how can Mr. Angelastro extrapolate a margin of error since they are saying the queue may be longer. Mr. Angelastro stated this analysis software is able to model blocking which is when you have vehicles queuing past a signalized intersection. He stated if you have a queue length of 1650' extending through the Lindenhurst/Campus Drive intersection where Stony Hill Road has the red which is creating the queue, that queue is extending

through the intersection at Lindenhurst and Campus Drive so it is blocking the minor approaches which is Campus Drive and Lindenhurst from executing their movements. He stated the Level of Service and analysis will not reflect the actual conditions, and it will actually be worse because people on the minor approaches cannot execute their desired movements so they are waiting another cycle. He stated if the model does not show that this queue length is extending, you are not getting an accurate representation of the conditions that are in the field. Mr. Malinowski stated while he agrees, he does not feel it is possible to accurately compare Mr. Angelastro's figure to McMahon's since the McMahon report indicates that it will be at least 1696'. Mr. Malinowski stated while he has no reason to doubt that Mr. Angelastro's figures are more accurate since they were observed, it is not possible to compare them. Mr. Angelastro stated he does feel it is valid since he feels the model should be calibrated to reflect existing conditions. He stated if there is hard data on the ground, which is the observed queue length, and your model does not reflect that, you need to modify the model so that it reflects the existing conditions.

Mr. Kim stated McMahon published the number and they could have compensated for the congestion that has been discussed. Mr. Angelastro acknowledged that the pound sign indicates that the 95 percent volume exceeds capacity and queue may be longer, but his point is that the existing condition analysis is not representative of what is happening on the roadway network right now so it is difficult to have a good comfort level that the proposed conditions are represented accurately. Mr. Kim stated they could have added a "fudge factor," and Mr. Angelastro agreed there could have been a calibration factor.

Mr. Angelastro noted the Newtown-Yardley Road westbound left turn movements; and in the report they show 380', and his office observed a queue of 600'.

Mr. Angelastro noted Slide #17 which is a graph of the previously presented chart and he stated eastbound Newtown-Yardley Road in the traffic report shows 856' and in the field conditions it was 1650. Westbound through was shown as 394' in the report, and 1425' was observed in the field. In the left turn lane they observed a queue length of 475' and in the report it shows 246'.

Slide #18 was shown which includes photographs indicating the queues. He showed the photo of traffic eastbound on Newtown-Yardley Road taken 7:43 a.m. and again at 7:56 a.m. He showed a photograph taken 12/10 at 7:14 a.m. and 7:27. He showed a number of photos of a.m. and p.m. peak hours where they observed the queue lengths taken 11/25/08, 12/10 and 3/12/09 showing queues in excess of what was indicated in the McMahon report.

Mr. Angelastro stated they did additional field work and went out during the peak hours and during the p.m. peak, they drove starting at Lower Silver Lake and Newtown-Yardley Road intersection and proceeded toward the I-95 intersection in the eastbound direction. He stated this distance is approximately .8 miles at a posted speed limit of fifty-five miles per hour. He stated at free flow speed, not hitting any lights, it would take fifty-two seconds to travel that distance. He stated if you had to stop at the Lindenhurst Campus Drive intersection the travel time will increase to approximately two minutes, thirteen seconds. He stated members of his staff drove that route and had travel times between four and eight minutes with an average travel speed of approximately eight miles an hour as a result of the vehicle queuing and the volume on the road.

Mr. Truelove stated in the prior presentation by McMahon, they referenced Levels of Service A through F with F being the worst, and Mr. Angelastro agreed. Mr. Truelove asked how a Level of Service F relates to what he has just discussed about the corridor's drivability as it exists now. Mr. Angelastro stated the report indicated that the eastbound/westbound approaches were a Level of Service F, and he would suspect that with an eight minute travel time along that corridor, they would be at a Level of Service F for that roadway segment. Mr. Truelove asked if this F is the same that McMahon had, and Mr. Angelastro stated their report analyzed the signalized intersection, and they did not analyze the roadway segments. He stated there are two different analyses in the Highway Capacity Manual and software, and you can do a roadway segment and you can do a signalized intersection; and McMahon only analyzed the signalized intersections. He stated he would expect that they would be operating at a lower level of service based on the queuing and the travel time. Mr. Truelove asked Mr. Angelastro, based upon the observations he and his staff made of the corridor, which is the more accurate measure of Level of Service for this location; and Mr. Angelastro stated he feels for this corridor it would be a road segment because you want to analyze a particular section of roadway. Mr. Truelove stated this would also reflect some of the queuing issues he has been discussing as well, and Mr. Angelastro agreed.

Mr. Angelastro noted Slide #26 which is Newtown-Yardley Road in the westbound direction starting at Patterson Lane, stated they traveled to Newtown-Yardley Road/Lindenhurst Road intersection which is approximately one half mile with a posted speed limit of fifty-five miles per hour. He stated with free flow conditions and not stopping at any of the signalized intersections, it would take approximately thirty-three seconds to travel that distance; and actual travel time varied from between two and a half to over three minutes. Average travel speed was approximately eleven miles an hour. He stated this was done on March 5 and March 9, 2009 during the p.m. peak hours.

Mr. Angelastro stated the Existing Conditions Analysis Report underestimates and misrepresents the existing vehicle queues by a factor of between of 1.5 and 2. He stated they need to consider the anticipated queues in the build condition when the project is completed and whether or not the mitigation measures will be adequate or will they need

additional mitigation measures above and beyond what was in the report. He stated they must also consider the Levels of Service and the actual vehicle delay. He stated once you are at F the delay just continues to increase. He stated based on what they observed in the field under the existing conditions, they anticipate that vehicles will queue along the northbound approach to Stony Hill Road beyond the Corporate Center driveway as it does that now and the McMahon report expects it will do so in the build condition. He stated if you factor in the misrepresentation in the queue, he expects some longer queues in those approaches. Mr. Angelastro stated they also must consider if vehicles along southbound Stony Hill Road queue into Newtown-Yardley Road. He noted the previous slide where it showed that there is only approximately 385', and in the build condition McMahon has indicated there will be 248' in the 2009 condition; and if you put in the 1.5 factor, they are into Newtown-Yardley Road with the queuing.

Mr. Angelastro stated he feels a potential reason for this inaccuracy is that the McMahon report could have been generated based on process volumes versus demand volumes at the signalized intersections. He stated when people from his office took the traffic counts they counted the cars that were proceeding through the intersection under the green light and were not taking into account the 1650' of vehicles waiting to go through the intersection which is the demand volume. He stated the process volumes are those going through the intersection during the green indication. Mr. Truelove asked if process volumes and demand volumes are terms known to his engineering discipline, and Mr. Angelastro agreed. Mr. Truelove asked the source of the definition he just described, and Mr. Angelastro stated the Highway Capacity Manual touches on this on page 2.2 and states that if there is no vehicle queue, demand volume is equivalent to the traffic volume at a given point in the roadway. He stated the term "process volume" is generally used for operating conditions below the threshold of capacity. He stated when there are no vehicles queuing up at an intersection, you can use the process volume; but when you have queuing along a certain approach, this means volume is exceeding capacity. He stated more people want to get through the intersection than the intersection can accommodate based on number of lanes, signal timing, etc. Mr. Truelove asked if the McMahon study used a process volume approach versus a demand process approach, and Mr. Angelastro stated this is possible and his office felt this may be the reason for the inaccuracy.

Mr. Angelastro showed Slide #29. He stated the Federal Highway Administration has a lot of information and does continual research with regard to traffic operations, signalized and unsignalized intersections, and any segment of the roadway network. He stated they published guidelines entitled, "Traffic Analysis Toolbox Volume III – Guidelines for Applying Traffic Micro-Simulation Modeling Software." He stated one of the things they list in this publication is the calibration of the models and state, "Calibration is necessary because no single model can be expected to be equally accurate for all possible conditions. Even the most detailed micro-simulation models still contain only a portion

of all the variables that effect real world traffic conditions. Since no model can include the whole universe of variables, every model must be adapted to local conditions. The objective of calibration is to improve the ability of the model to accurately reproduce the local conditions.” Mr. Angelastro stated this is the reason for the difference between the analysis software and what his office observed in the field, and this is where the model needs to be calibrated to reflect the actual conditions. Mr. Truelove asked if the software and calibrations he is referencing relates to McMahan’s use of synchro software in their evaluations, and Mr. Angelastro agreed.

Mr. Angelastro also read from the Manual the following, “Analysts should always perform some calibration test to insure that the coded model accurately reproduces local traffic conditions and behaviors.” Mr. Angelastro stated if they cannot accurately represent the existing conditions, their comfort level for the proposed conditions is substantially reduced. Mr. Truelove stated the software should be calibrated to reflect the local conditions, and Mr. Angelastro agreed. He stated this way if you can model the local conditions accurately, when you put in the additional traffic from the development, regional growth factors, and the mitigation measures, you have a comfort level that this will operate the way the model says it will. Mr. Truelove asked if there is any indication that the software that was used by McMahan was calibrated to reflect the local conditions, and Mr. Angelastro stated there was nothing in the report to reflect that.

Mr. Angelastro stated the Institute of Traffic Engineers has a publication entitled “Trip Generation Seventh Edition,” and this is what was used to estimate the number of trips generated by the Hospital. He stated by right is a General Office use and an Office Park. Mr. Truelove stated Mr. Angelastro had earlier referenced a 1998 McMahan report that was an analysis of the traffic conditions if there was a build out for this location, and he asked if that reflected an Office Park or a Special Exception Hospital; and Mr. Angelastro stated it reflected General Office. Mr. Truelove stated this is a permitted use by right, and Mr. Angelastro agreed.

Mr. Angelastro stated his office used the Trip Generation Table that was presented in the traffic report for this project. He noted the Hospital Use Land Use Code 610 and noted the column which indicates the size of the hospital which is 375,000 square feet; and based on that size, ITE estimates the Hospital site alone during a typical weekday would generate 6,589 trips of daily traffic volume. He stated for a medical office building of 80,000 square feet, ITE estimates that this would generate 2,890 trips to the site so for the entire site daily volume is expected to be 9,479 trips. Mr. Angelastro stated they then compared an equivalent by-right office using the ITE methodology, using a 455,000 square foot office building which was the size which was presented by McMahan’s representative, Mr. O’Brien, during his earlier testimony as an equivalent site plan. Mr. Angelastro stated he took that number using the ITE methodology, and you would expect it would generate 4,283 trips during a typical weekday. He stated a by-right office

park is expected to generate 4,785 trips compared to the hospital which will generate 5,200 additional trips than a by right office complex. Mr. Angelastro stated the Hospital is expected to generate approximately 4,700 additional daily trips than a by right office park. He stated during the a.m. peak hour, the Hospital site is expected to generate 650 trips in and out and an equivalent by right general office building is expected to generate 630 trips in the a.m. peak hour, and an office park is expected to generate 724 trips.

He stated in the p.m. peak hour, the Hospital would generate 739 trips, an equivalent by right office complex would generate 588 trips, and an office park would generate 614. Mr. Angelastro stated the Hospital site would be a 24/7 operation, and ITE provides for trip generation during the weekend. He stated for that site ITE estimates that approximately 4,650 trips will be generated during a typical weekend day and by comparison a general office building would generate an estimated 992 and an office park would be 689. He stated the by right uses are expected to generate significantly lower amount of trips during the weekend. He stated during the weekend peak period, ITE estimates 1,138 during the peak hour and by comparison the general office is only expected to generate 126 trips because you would not expect too much activity on a weekend as most offices are closed. He stated for an office park, ITE estimates 59 trips during the weekend peak hour. He stated the 24/7 operation of the Hospital is expected to generate significantly more trips particularly during the weekend than the by right uses.

Mr. Truelove stated this analysis does not reflect any queuing issues, and Mr. Angelastro agreed, and stated this is purely what ITE estimates will be generated by the Hospital site compared to the by right uses.

Mr. Angelastro stated ITE recommends that when a project adds 100 or more trips to an intersection, you should analyze the intersection to try to determine the impact; and the rationale behind this is that 100 vehicles per hour is expected to reduce Level of Service at an intersection, approach, or movement. He stated at 100 vehicles left and right turn lanes may be needed to accommodate the expected traffic volumes. Mr. Angelastro stated based on this rationale, the trip distribution that was used in the analysis in the McMahon report, the project is expected to add 100 or more trips to the intersection of Township Line Road and Langhorne-Yardley Road and at the intersection of Newtown By-Pass and Newtown-Yardley Road/Silver Lake Road. He stated these intersections are getting more than 100 additional trips as a result of this project, and the report should have included them in the study.

Mr. Angelastro stated in conclusion, if the report cannot reflect the existing conditions accurately, there is no confidence that the report represents the build conditions accurately. He stated the proposed roadway improvements will not mitigate the anticipated impact from the Hospital. He stated the proposed Hospital site is projected to generate significantly more trips during the weekend peak period. He also feels two additional intersections should have been studied those being Township Line Road/Langhorne-Yardley Road and Newtown By-Pass/Silver Lake Road.

Mr. Truelove asked Mr. Angelastro if he holds these opinions to a reasonable degree of engineering certainty, and Mr. Angelastro agreed.

Mr. Truelove stated Mr. Angelastro indicated he had reviewed other McMahan reports for other developments in the Newtown Township/Lower Makefield Township area, and Mr. Angelastro agreed. Mr. Truelove asked if in their studies for other clients and projects, did McMahan perform an analysis of other intersections up to two to three miles from the subject intersection or development that they were studying.

Mr. VanLuvanee objected stating the Township tells you what you are supposed to study.

Mr. Truelove stated his response is that is a minimum standard. He asked Mr. Angelastro based upon engineering practice what is the best practice.

Mr. VanLuvanee stated this is a different question. He stated they do not know if Newtown Township has different criteria for traffic studies which would have indicated a reason to expand the scope.

Mr. Truelove stated he is testifying as a traffic engineer and also has reports from the same engineering firm that did those studies and he feels he can ask this question.

Mr. VanLuvanee stated the fact that they have a study with a different scope in a different Township proves nothing because you do not know what the Applicant was asked to study. He stated Newtown Township's requirements may be different than Lower Makefield's requirements.

Mr. Truelove stated he would then limit it to Lower Makefield Township and asked Mr. Angelastro if there were any Lower Makefield developments within the two to three mile radius that McMahan performed studies for. Mr. Angelastro stated he does not have this with him, and Mr. Truelove agreed to reserve this for a later time.

Mr. Truelove asked if the McMahon report indicated speed limits for Lindenhurst Road and Stony Hill Road, and Mr. Angelastro stated they did and they were 30 miles per hour for both roadways. Mr. Truelove asked Mr. Angelastro if he has been the site a few times including Stony Hill Road and Lindenhurst Road, and Mr. Angelastro stated he has. Mr. Truelove asked the speed limits of those roads, and Mr. Angelastro stated Stony Hill Road is 45 miles per hour and Lindenhurst Road is 40 miles per hour.

Mr. Truelove stated this would conclude Mr. Angelastro's direct testimony, and he would offer all the Exhibits that have not yet been entered specifically T-10 and T-11. He stated he assumes they will reserve cross-examination for a later time, and Mr. VanLuvanee had no objection.

There was discussion about continuing the matter to April 7. Mr. Angelastro stated he has a conflict on April 7. Mr. VanLuvanee stated among Counsel they have discussed going ahead with the Hearing and having other Witnesses produced and the cross-examination of Mr. Angelastro could be taken out of turn. Mr. Smolow stated he had not agreed to April 7 and would prefer not meeting that evening. Mr. Malinowski stated there is no room on the Agenda for the next scheduled meeting of the Zoning Hearing Board. He stated the date after that would be May 5. It was agreed that the matter will be continued to April 7 at 7:30 p.m.

Mr. Gruen moved, Mr. Bamburak seconded and it was unanimously carried to continue the matter to 7:30 p.m.

OTHER BUSINESS

Mr. Toadvine stated the Goodwin matter has been remanded back to the Board by the Judge, and Mr. Habgood will contact the Applicant's attorney because he believes they are going to file an Amended Application. Mr. Toadvine stated the Zoning Hearing Board had suggested that they move the house, and they were going to do this, but they did not come back to the Zoning Hearing Board meeting. He stated this matter will have to be re-advertised, and he feels it will be on the May 5 Agenda, but they will wait for Mr. Habgood to contact the Applicant.

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

Respectfully Submitted,

David Malinowski, Chairman