

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – SEPTEMBER 15, 2009

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on September 15, 2009. Vice Chairman Bamburak called the meeting to order at 7:35 p.m. He advised that since there are only four members present this evening, in the event of a tie vote, the Appeal would lose; and so anyone who wishes to have their Appeal continued until a full Board is present should advise the Board.

Those present:

Zoning Hearing Board: Paul Bamburak, Vice Chairman
 Jerry Gruen, Member
 Anthony Zamparelli, Member
 Keith DosSantos, Alternate Member

Others: Robert Habgood, Code Enforcement Officer
 John Donaghy, Township Solicitor
 James Majewski, Township Engineer
 Allen Toadvine, Zoning Hearing Board Solicitor

Absent: David Malinowski, Zoning Hearing Board Chair
 Gregory J. Smith, Zoning Hearing Board Secretary
 Matt Maloney, Supervisor Liaison

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

Mr. Bamburak stated that one of the Parties' attorneys, Mr. Smolow, had previously indicated that he wanted to make oral argument this evening, but has since changed his mind so there will be no testimony on this case this evening. He stated the Board will render their Decision on this matter on October 6, 2009.

APPEAL #08-1483, #08-1483(A), #08-1483(B) – T-MOBILE NORTHEAST LLC

Mr. Bamburak stated the Board has received a letter dated 1/17/09 requesting a Continuance until November 17, 2009 in order to explore the possibility of leasing space from Pennsbury School District. They have also agreed to waive all applicable time limits through 11/30/09. The letter was marked as Exhibit B-3.

Mr. Gruen moved, Mr. Zamparelli seconded and it was unanimously carried to continue the matter to 11/17/09.

Mr. Gruen asked if there were any people present for this matter, and a number of people indicated they were present for this Appeal. It was noted there had been a number of continuances on this matter. Mr. Bamburak stated normally Applicants are granted a continuance when it is requested, and he suggested that prior to the next meeting when this is scheduled, those residents interested in this matter contact Mr. Habgood at the Township Office to see if he can provide input as to whether or not another continuance has been requested.

APPEAL #09-1517 – BARRY RUSH

Mr. Toadvine stated at the last meeting when this was scheduled to be heard, he was contacted by the Applicant's attorney, Francis Sullivan, who indicated that the matter was almost settled with the exception of signing of certain documents. A continuance was granted to this evening with the understanding that Mr. Sullivan would provide the Board with a letter withdrawing the Appeal. Mr. Toadvine stated he has received a letter dated 9/14/09 indicated that he would like the Board to have the Appeal marked withdrawn without prejudice. This letter was marked Exhibit B-1.

Mr. DosSantos moved, Mr. Gruen seconded and it was unanimously carried to withdraw the Appeal without prejudice pursuant to the letter dated 9/14/09 marked as Exhibit B-1.

APPEAL #09-1522 – LUCILLE M. ASENSIO

Ms. Lucille Asensio and Mr. Charles Asensio were sworn in. The Application submitted was marked as Exhibit A-1. Attached to the Application was a two-sheet As-Built Plan dated 12/9/97, last revised 2/24/00 which was marked as Exhibit A-2.

Ms. Asensio stated they would like to put up a fence around her home. She stated her husband travels a great deal and she is home alone with a small pet which she likes to let outside. She would feel safer if the property were fenced in, and it would provide more privacy. The fence as proposed would cross into the 30' wide landscaped buffer easement. Mr. Habgood stated this is a buffer easement because of the change from the Residential area to a non-Residential structure as the Masonic Temple is behind this home. Mr. Bamburak stated he assumes the Asensios are treating this area as their own – maintaining the grass, etc.; and Ms. Asensio stated they are as well as paying the taxes for it.

Mr. Gruen asked the type of fence proposed, and Ms. Asensio stated they would use the same fence as their neighbors. It is a white PVC fence. She stated two neighbors already have this type of fence so all three would have the same fence. Mr. Gruen asked about water drainage from their property, and Mr. Asensio stated it drains from the property toward the parking lot behind the Masonic Temple. Mr. Gruen asked if the water will be able to flow under the fence, and Mr. Asensio stated it will. Ms. Asensio stated there is not a lot of water that accumulates after a rain. Mr. Asensio stated there will be enough space underneath to allow for water drainage. Mr. Bamburak stated typically if the Board grants such a Variance, there is a Condition that there is a gap of 2” to 3” underneath subject to approval of the Township engineer to insure that there is no obstruction for the water. Mr. Asensio stated he would be agreeable to such a Condition.

Mr. Zamparelli asked how close the fence would be to the parking lot, and Ms. Asensio stated their property is actually behind the Lodge building itself.

Mr. Bamburak asked the height of the fence, and Ms. Asensio stated it would be 6’ to match the neighbor’s fence and will also be the same style.

Mr. Toadvine asked if there are fences on either side of their property, and Ms. Asensio stated there are two fences to the right side. The neighbors on the left side do not have a fence.

Mr. Donaghy stated the Township would like to participate. Mr. Donaghy asked if they expect that they will be removing any of the existing landscaping, and the Applicants indicated they will not; and all the landscaping in the buffer area will remain the same after the fence is installed. Mr. Donaghy asked if they would agree to a Condition to any Variance granted that they would not remove any of the existing landscaping, or if any is removed, that it be replaced; and Mr. and Ms. Asensio agreed. Mr. Donaghy stated provided this is a Condition as well as the Condition that there be a gap under the fence, the Township would not be opposed.

Mr. Majewski stated he would recommend a 2” gap.

Ms. Sonia Villari, 1599 Candace Lane, was sworn in. She stated her home is on the corner approximately three houses away. She stated she would like to know how much of the fence is visible from the main street. Mr. Asensio stated he does not feel she will be able to see the fence from her property. Ms. Villari was shown the Plan with the fence as proposed. Ms. Villari stated when she purchased her home in 1999, they were told that there were no fences allowed, and now everyone has a fence. She stated she feels the neighborhood looks better without a lot of fences. Mr. Toadvine asked if there is a Homeowners’ Association, and it was noted there is not.

There was no other public comment, and the Public Hearing portion was closed.

Mr. Zamparelli moved, Mr. DosSantos seconded and it was unanimously carried to grant the Variance subject to the Condition that no landscaping presently within the buffer be removed; and if any landscaping is removed, that it be replaced, and with the Condition that there be at least a 2” gap under the fence.

APPEAL #09-1524 – JAMES MCCOY

Mr. Jeffrey Garton, attorney, was present with Mr. James McCoy who was sworn in. The Application submitted was marked as Exhibit A-1. Attached to the Application was a one-sheet Plan of Survey dated 4/21/09, and this was marked as Exhibit A-2. Marked as Exhibit A-3 was the Affidavit of Posting with two photographs of the locations demonstrating the posting of the property as required.

Mr. Garton stated Mr. McCoy is the record owner of Tax Parcel #20-43-21, 1609 Yardley Road. He acquired the property by Deed dated 7/12/06, and a copy of the Deed was attached to the Application. Mr. Garton stated Mr. McCoy has submitted an Application to the Zoning Hearing Board requesting a Variance to encroach into the side yard as you face the property to the right by 8’ leaving a side yard of 7’. The purpose of the Variance is to permit construction of a three-car garage in order to house his antique cars and other specialty vehicles. He stated part of the Application is also to confirm for the record and for the benefit of the Township the current existing impervious surface. He stated there will be testimony that all of the impervious surface located on the property was placed on the property by owners prior to Mr. McCoy. Mr. Garton stated

Mr. McCoy has placed no new impervious that would add to the impervious surface ratio since he has acquired the property

Mr. McCoy stated he is the owner of the property, and Mr. Garton has correctly identified the purpose behind the proposed Application for Variance. The Plan which had been marked as Exhibit A-2 was shown to Mr. McCoy who agreed that this shows the property he now owns and shows all the improvements on the property. It also shows an area highlighted showing the proposed garage. The nature of the Variance is placement of this garage. Mr. McCoy agreed that all of the improvements that are currently located on the property that constitute impervious surface were constructed by persons prior to his purchasing the property.

Mr. Garton asked what is currently located on the area where the garage is proposed, and Mr. McCoy stated it is currently asphalt and is the driveway entrance into the current garage.

Exhibit A-4 was marked which is a set of two photographs which Mr. McCoy took and show the location where he wishes to construct the garage. This is the area to the center of the picture where a basketball court is seen. He stated all of the area between the property line and the current garage is currently macadam. Mr. Garton stated the fence line would be the back of the garage, and the garage would be built on the macadam.

There is a small portion of a stockade fence that is on the adjoining property owners' property. Mr. Garton stated the second picture shows the same as the first but it is taken further back.

Mr. Garton asked Mr. McCoy what would be the finish that he would place on the property, and Mr. McCoy stated it would look exactly like the front of the house does now. Exhibit A-5 was marked which is a photo of the front of the house as it currently exists, and Mr. McCoy stated he will construct the garage so that it matches the appearance of the house as shown in Exhibit A-5.

Mr. Garton stated Mr. McCoy indicated the purpose for the construction of the garage was to store vehicles, and Mr. McCoy agreed. Marked as Exhibit A-6 were a series of three pages with a total of six photographs. On the top of the front page of Exhibit A-6 is a picture of a motorcycle which is one of the vehicles he would store in the garage. This is a Harley Davidson Limited Edition one of 200 made in 2008. At the bottom of that page is a photograph of a 1937 Ford Street Rod. The second page shows a 1964 Mustang, a 2004 custom motorcycle, a 2009 limited edition motorcycle, and another personal vehicle. Mr. McCoy stated the purpose of building the garage is to house the specialty vehicles depicted on Exhibit A-6.

Mr. Garton noted Exhibit A-4 and stated the macadam goes from the end of the current garage to the property line, and the new garage will not go all the way across that area. The garage will be a front entrance garage. Mr. McCoy stated he would be agreeable to removing the excess macadam that exists between where the garage construction will end and the property line which would be approximately 30' long by 7' wide. He would restore this to soil and grass. Mr. Garton stated he had discussions with the Township solicitor, and the Township wanted this to be a Condition of any Decision, and also that they wanted a Condition that the roof drains would drain onto the McCoy property and not onto the adjoining property; and Mr. McCoy stated he would be agreeable to these Conditions.

Mr. Garton stated on the Plot Plan there is a reference to a frame shed to the rear of the property on the left hand side, and Mr. Garton stated Mr. McCoy would agree to put that shed onto the existing concrete pad to the left so as to remove that area of impervious surface which would then be restored to soil and grass. Mr. Garton stated this would be approximately 160 square feet. Mr. Garton stated the effect of these improvements which Mr. McCoy would agree to would be a reduction to impervious surface by approximately 360 square feet.

Mr. Garton asked Mr. McCoy if he discussed his plans with his neighbors, and Mr. McCoy stated he did. Mr. Garton identified one of the neighbors as Janet Freeman who resides next to Mr. McCoy to the left when facing the McCoy property on Tax Parcel #20-43-22. Mr. Garton stated Mr. McCoy received two letters from

Ms. Freeman one dated 9/11/09 and one dated 9/14/09. The letter dated 9/11/09 was marked as Exhibit A-7, and the letter dated 9/14/09 was marked as Exhibit A-8. Mr. Garton stated the letter marked as Exhibit A-8 indicated that she has no objection to the Application.

Mr. Garton read into the record the letter dated Exhibit A-7 as follows: “To whom it may concern, I apologize for not attending this meeting but I must attend Back-To-School Night at my school. Having been a resident of Lower Makefield Township since 1957 and residing at 1607 Yardley Road, I am writing this letter for my current neighbors. When my family moved into this house Mr. and Mrs. Boyd Thiel and children resided at 1609 Yardley Road. At that time the Thiels already had a paved driveway from Yardley Road to the garage. During my childhood we often roller-skated on their driveway. In the early 1960’s, the Thiels’ in-ground swimming pool was installed along with cement patios and walkways. In the early 1990’s the Thiels sold the house and Mr. and Mrs. Shcoa moved in and added the current circular driveway.”

Mr. Toadvine asked the percentage of surface to be removed, and Mr. Garton stated the total to be removed was 360 square feet.

Mr. Gruen asked the purpose of the concrete pad in the back, and Mr. McCoy stated he did not install this but he feels it was used by a prior owner to store a Winnebago.

Mr. Gruen asked if he would be willing to remove the rest of the concrete that is not necessary for the shed. Mr. McCoy stated the concrete pad is at least 8” thick with 4” of rock underneath. He expressed concern with the cost to remove this. Mr. Gruen stated he has 45% impervious surface.

Mr. Garton stated they are not asking for any relief with regard to impervious surface; and in fact, are actually reducing the impervious surface.

Mr. Garton moved for admission of the Exhibits.

Mr. Gruen asked about the additional vehicles on the property including a tow truck which is parked there on a regular basis. Mr. McCoy stated he owns a towing company and only brings the tow truck home on certain days. He stated he does Police towing for Yardley Borough and Lower Makefield and is also an AAA provider for Bucks County. He stated the truck which he occasionally brings home is actually one of his smaller vehicles and is 8’6” in height and less than 13,000 pounds. It would not fit in the garage.

Mr. DosSantos stated the existing garage is a two-story frame garage, and asked how he would classify it as to number of cars; and Mr. McCoy stated he could house one car, and two bikes. Mr. DosSantos asked if the new garage would open into the old garage, and Mr. McCoy agreed and stated it would attach into the existing opening.

Mr. Bamburak asked if he uses the existing concrete pad where the shed will be located to store cars currently, and Mr. McCoy stated he does not.

Mr. Gruen asked if he would be willing to remove part of the circular driveway. He noted he does recognize that Mr. McCoy just landscaped this and it does look beautiful. Mr. Bamburak stated they have indicated that they are already reducing the existing impervious surface.

Mr. DosSantos asked if the new garage door will be facing Yardley Road, and Mr. McCoy agreed. Mr. DosSantos asked if the new garage will be a two-story structure to match the existing two-story garage, and Mr. McCoy agreed. Mr. DosSantos asked if the roof line will match, and Mr. McCoy stated the roof line will match into the far left side of the house with the A-frame so it will look exactly the same across the front of the house. Mr. DosSantos asked what he proposes for the garage doors that will be seen from Yardley Road, and Mr. McCoy stated there will three individual garage doors of the highest quality, and they will be painted steel doors with lattice slats in the windows.

Mr. Donaghy stated the Township would like to participate in this matter. Mr. Donaghy asked if they would be willing to redirect the gutters on the house toward the back and front and not toward the property on the side as a Condition of approval, and Mr. McCoy agreed. Mr. Donaghy stated Mr. McCoy has also indicated that he will remove the existing paved area between what will be the addition to the garage and the property line and replace it with soil and grass, and Mr. McCoy agreed.

Mr. Donaghy stated it appears that there is a utility pole toward the street which is within a paved area, and Mr. McCoy stated it is a grass area 2' off the driveway. Mr. Majewski stated the survey shows that it is within the paved area; however, the photos that were presented show that it is in the grass.

Mr. Donaghy stated the Applicant has agreed to a permanent reduction in impervious surface of 260 square feet, and Mr. McCoy agreed. It was reiterated that the shed will be moved onto the existing "Winnebago" slab.

Mr. Donaghy asked the height of the proposed garage, and Mr. McCoy stated it will be no higher than the existing garage. He would agree to a Condition that the new garage would not exceed the height of the existing garage.

Mr. DosSantos noted the concrete patio in the rear of the house, and Mr. McCoy stated this is used as a patio and for his grill, etc.

Mr. Majewski stated the survey incorrectly shows where the existing edge of paving is located. Mr. Toadvine stated it would therefore appear that the impervious surface calculations are less than what is shown on the Plan if the pole is in grass, and Mr. Majewski agreed.

Ms. Bernice Klein was sworn in and stated she lives at 1326 Moon Drive which is in back of this property. She stated she is concerned about the drainage because the house has been expanded greatly, and there is a pool and a circular driveway. She stated she is concerned about where the water will go because at the present time when there is a rainstorm, the water collects. She stated she is also concerned because there are large trucks there overnight including tow trucks and dump trucks. She stated she is concerned that this will become a commercial enterprise. She stated she has lived there since 1959; and when their house was built, they had to be so careful that they did not extend over an extra foot that they had to push their garage back further. She also asked how tall this will be to accommodate the vehicles.

A short recess was taken at this time to show Ms. Klein the Plan and explain to her what they are going to do.

The meeting was reconvened at 8:45 p.m.

Mr. Garton stated during the recess they addressed the issue of drainage to Ms. Klein's satisfaction, and they also explained that the dump truck belonged to the contractor who was doing landscaping at the property. They also advised that when Mr. McCoy is on night call for towing, the tow truck is there on occasion. He does not operate the business at the home, and his business is in Falls Township. Mr. Garton stated Ms. Klein continues to be concerned about the height of the garage because she will not be able to see Yardley Road from her kitchen. Ms. Klein stated the area before was open, and now she is boxed in.

Mr. Martin Klein was sworn in and stated Ms. Klein is happy that the water will be going toward Yardley Road and not back toward the homes on Moon Drive. He stated there is a utility pole behind the homes so there does have to be access to that. He stated when the original owners had Appeals, there was a two-car garage where this garage is; but a new owner installed the A-line roof above the garage which he believes is an office. Mr. Klein stated he understands that they are going to take the existing A-line roof and bring it all the way across but it will not be a second floor and will be open space used for storage. He stated they would prefer that they bring out the garage but not at that height.

Mr. Toadvine asked if there are any additional concessions that the Applicant is willing to provide to the Board with regard to the impervious coverage. Mr. Garton stated the Applicant is willing to remove an additional portion of the concrete where the Winnebago was previously stored so that it would be removed back to the point that it intersects with the line along the concrete pad which would be 10' wide by 30' long. Mr. Majewski stated this scales to about 34' by 12'. Mr. Garton stated they would agree to draw a line on the Plan showing what would be removed.

Mr. Toadvine stated on Exhibit A-2 they will modify the Plan to show a line on the concrete pad which is to the southwestern side of the property. The Applicant has indicated that he will remove a portion of that concrete pad starting with a line that is even with the rear concrete patio behind the house all the way back to where the existing shed is. This is between 300 and 400 square feet of concrete. He will then re-locate the shed onto the portion of the concrete pad that is remaining. Exhibit A-2 shows the area which the Applicant has agreed to remove in addition to the 360 square feet previously indicated they would remove.

Ms. Andrea Lacey was sworn in. She stated she lives across the street from Mr. McCoy on the other side of Yardley Road. She stated she would prefer to look at a garage as opposed to asphalt. She stated they have done a lot of improvements on the house. She also stated she does not have a problem with the tow truck on the property.

There was no other public comment, and the Public Hearing portion was closed.

Mr. DosSantos moved, Mr. Zamparelli seconded and it was unanimously carried to grant the Variance to encroach into the side yard as requested subject to the following:

- 1) The Applicant to remove 360 square feet of existing impervious surface and move the existing frame shed in the southwest corner of the property to a portion of the "Winnebago" pad. This 360 square feet also includes removing impervious surface in the northeast portion of the property which is approximately 30' long by 7' wide. Both of these areas where the removal takes place to be replaced with dirt and grass.
- 2) Gutters on the roof line be moved toward Yardley Road.
- 3) The proposed garage will be no higher than the existing two-story frame garage that exists on the property now.
- 4) The "Winnebago" pad shown in Exhibit A-2 has been marked on Exhibit A-2 to confirm that the approximate 12' by 34' portion as shown on Exhibit A-2 in the southwest corner will be removed and replaced with dirt and grass.

APPEAL #09-1525 – MATRIX LOWER MAKEFIELD LAND II

Mr. Gregory Peter Duffy, attorney, was present with Mr. Eric Britz, engineer, Ms. Maria Oelenschlager, and Mr. Robert Oelenschlager, who were sworn in.

The Application submitted was marked at Exhibit A-1. Attached to the Application was a Plan entitled “Signage Exhibit – Octagon Center-Retail Center” dated 7/20/09, and this was marked as Exhibit A-2. Also attached to the Application was a Plan entitled “Signage Details – Octagon Center-Retail Center” dated 7/20/09, and this was marked as Exhibit A-3.

Mr. Duffy stated they are requesting two points of relief on the signage package on behalf of CVS and PNC Bank. He stated the first Variance request is the permitting of two free-standing signs as opposed to one on one lot. The second form of relief is, if the Board deems it necessary, a Variance to permit an electronic messaging unit. He stated their opinion is that the messaging unit, which is visual sign which is stationery for approximately five minutes per message, is not a flashing sign per the Lower Makefield Zoning Ordinance; however, if the Board deems otherwise, they are requesting permission to request that.

Mr. Toadvine stated the two signs proposed as depicted on Exhibit A-2, and Mr. Duffy agreed.

Mr. Robert Oelenschlager showed the location of the proposed signs on the Plan. The CVS sign is at the corner of Big Oak Road and Oxford Valley Road and is marked as “E” on Exhibit A-2. The PNC sign is marked as “R-1.”

Mr. Duffy asked Mr. Oelenschlager to inform the Board as to the area of the two signs, and Mr. Oelenschlager stated Exhibit A-3 shows the signs – and the CVS sign is 44.61 square feet and the PNC sign is 24.6 square feet. These two signs total 69.21 square feet.

Mr. Britz was asked, based on the Zoning Ordinance, what is the maximum square footage sign area that a free-standing sign could have, and Mr. Britz stated it would be 75 square feet for the entire lot. Mr. Duffy stated even if they added the two independent signs, they would still be within the 75 square feet maximum permitted, and Mr. Britz agreed. Mr. Toadvine asked how many feet of lot frontage they have, and Mr. Britz stated the requirement is one square foot for two linear foot of frontage, and this would require them to have at least 150 linear feet of frontage, and they have over 300 feet of frontage on Big Oak Road alone. He stated they actually have frontage on three roads – Big Oak Road, Oxford Valley Road, and Old Oxford Valley Road. He stated they have double the minimum required frontage to allow for the 75 square foot sign on Big Oak Road alone which is their smallest frontage.

Mr. Duffy asked why they are asking for two signs. Ms. Oelenschlager stated they are asking for the two signs to identify the locations of the two businesses and to give motorists the time to identify the two businesses. She stated they are asking for an electronic message board and added it does not flash, scroll, or blink. It is a fade-in and fade-out. The message stays static for five minutes, and it takes 45 seconds to change. She stated it is a one-color board, and it does not have any animation.

Mr. Gruen asked what will be on the message board. Ms. Oelenschlager stated CVS puts on different information such as information about Medicaid and flu shots. She added they are also trying to get hooked up with the Amber Alerts and Township emergency situations. They also put up products for sale. Mr. Gruen stated there will be advertising on the sign, and Ms. Oelenschlager agreed. She stated advertising on the message board would also reduce the number of flyers that end up in the parking lots.

Mr. Bamburak stated he assumes one of the reasons that CVS would like the sign is because it is a standard motif they use for all their stores, and Ms. Oelenschlager agreed.

Mr. Oelenschlager stated he has been involved in thousands of CVS Applications. He stated the reason they have gone to electronic messaging is that they feel the manual boards are difficult to change for the employees particularly in the winter and letters frequently blow off and are in the highway or are subject to vandalism. He stated once the electronic message is set, the Store Manager cannot change it and they would not be able to change it to a scroll, blinking, or scrolling message. He stated the message fades in and fades out; and unless you are standing there staring at it, you do not realize that it has changed.

Mr. Toadvine asked if there is a location in the immediate area that has one of these boards; and Mr. Oelenschlager stated he feels two have been approved in Warminster, but the stores are not yet built. He stated they did forward to the Township photos of signs like this that are in operation. He stated what they are proposing for Lower Makefield is one of the smallest ones as most are 100 square feet.

Mr. Zamparelli asked if they have given consideration to having only one sign with both businesses on it and have it at the proposed location for the PNC sign as opposed to being at the corner. Mr. Oelenschlager stated while they do have frontage on two busy roads, CVS feels that the best spot for the free-standing sign is at the corner of Big Oak Road and Oxford Valley Road. Mr. Duffy asked if, based on the approved location of the CVS versus the PNC, would a PNC sign at the location where the CVS sign is proposed have the potential of confusing motorists because there is no PNC actually located at that location. Mr. DosSantos stated they are dealing with a common driveway to both properties. Mr. Oelenschlager stated while they understand this, both CVS and PNC feel that since these are stand-alone buildings, they would rather not share a sign. He stated this is not a shopping center environment, and these are two stand-alone businesses.

Mr. Zamparelli stated he does not feel PNC would need a stand-alone sign, and they could share the sign at the location proposed by CVS.

Mr. Gruen stated it seems the CVS sign will have the message board toward Big Oak Road, and Mr. Oelenschlager stated it will be seen from Big Oak Road and Oxford Valley Road. Mr. Gruen asked if the sign will be on a 45 degree angle as it seems the sign will be facing right onto Big Oak Road and not Oxford Valley Road.

Mr. Duffy asked Mr. Britz why PNC would need their own sign, and Mr. Britz stated there is access off Oxford Valley Road and PNC would like to have a sign right at that access point to help direct traffic to the access point. He stated the corner location for the CVS is ideal to allow for their shoppers to see that this is the CVS and to give them advance notice. He stated there is a lot of landscaping required along the frontage of the site, and a lot of landscaping that currently exists will remain in the front of the site. He stated some of the landscaping that is being proposed will shield drivers from being able to see into the site, and the first thing they will see is the landscaping as they are pulling up so they want to have a sign out by the landscaping so that drivers have advance notice of where the stores are as they drive up and down Oxford Valley Road which is a fairly high-speed road and the drivers would need advance notice in order to slow down, stop, and pull into the site.

Mr. Gruen stated the intersection of Oxford Valley and Big Oak Road is extremely busy and the lights change very quickly. He feels if there is a message board which people are trying to read, he is concerned that they will pay less attention to the intersection. He stated he also feels the proposed location is confusing if the sign and entrances are at the locations shown on the Plan. Mr. Britz stated the sign on the corner will identify where the building is. Mr. Gruen disagreed and stated drivers going north on Oxford Valley Road would be past the entrance before they see the sign.

Mr. DosSantos stated there are currently people making illegal u-turns in this area, and he feels the situation they are proposing will promote this. Mr. Britz stated the signs are situated and chosen to accommodate the type of traffic and speeds on the road. He stated the CVS sign is sized so that someone driving northbound on Oxford Valley would be able to see it coming up toward the site. Mr. DosSantos asked if there are any low-level signs proposed at the entrance itself. Mr. Britz stated if you are going northbound on Oxford Valley Road, you cannot make a left into the site anyway. He stated you would have to make a left and then come down the proposed relocation. Mr. DosSantos asked if they are proposing any signs toward the west side of the back end of the property at Big Oak and the proposed re-location to direct traffic down the proposed re-location, and Mr. Oelenschlager stated if the Board feels they should have these signs, they could add directional signs.

Mr. Donaghy stated the Township would like to participate in this matter; and at the present time, the Township is opposed to the Application to have two signs and also to have the one sign with the electronic display. Mr. Donaghy stated he would also request that the matter be continued to give the Township Supervisors the opportunity to review the testimony provided tonight adding there is the possibility the Supervisors may reconsider their position or might have other suggestions based upon the testimony.

Mr. Donaghy stated he understands that Mr. Britz indicated that PNC would prefer to have its own free-standing sign at this location, and Mr. Britz agreed. Mr. Donaghy asked if PNC were required to share a free-standing sign of up to 75 square feet, would they still be able to operate at this location; and Mr. Britz stated he assumes they would but believes that both the CVS and PNC would prefer to have their own sign. Mr. Donaghy stated while they would prefer their own sign, it would not be necessary for the use of the property, and Mr. Britz agreed with the exception of the fact that the free-standing signage is separated to identify the entrance location and identify the portion of the parcel that they are seeking. Mr. Donaghy asked if a single, free-standing were at the entrance location could they operate; and Mr. Britz stated he feels there is a benefit to having a sign at both locations. He stated having it at Big Oak Road as well as the entrance, gives more advance notice for both users. Mr. Donaghy stated the location at Big Oak Road does not assist PNC, and Mr. Britz agreed. He stated PNC could operate with a single sign that is at the property location for PNC and CVS at the entrance. Mr. Britz asked for a clarification, and Mr. Donaghy stated Mr. Britz had indicated that the sign at the intersection of Big Oak Road and Oxford Valley Road is advantageous for CVS, and Mr. Britz agreed. Mr. Donaghy stated he also indicated that PNC would prefer to have a sign at the entrance off of Oxford Valley Road into the property, and Mr. Britz stated he feels the location was chosen due to the location of the building itself. Mr. Donaghy stated if the PNC sign were joint with a CVS sign at that location, PNC would still be able to operate at this location, and Mr. Britz stated if they were joined at the entrance, he feels this would be correct.

Mr. Donaghy asked Mr. Oelenschlager if the CVS signage were to be on a single sign along with that of PNC of up to 75 square feet, would they still be able to operate at this location; and Mr. Oelenschlager stated he feels they could.

Mr. Donaghy stated Mr. Oelenschlager indicated that the electronic signage proposed for the CVS would fade in and out periodically; and Mr. Oelenschlager stated it would be every five minutes with 45 seconds to change. Mr. Donaghy asked if he would agree that the electronic portion of the sign is not constant as far as the intensity of the lettering and electronic display, and Mr. Oelenschlager stated it is not constant during the 45 second period when it fades in and fades out. Mr. Duffy asked if Mr. Donaghy is getting to the question as to whether it is a flashing sign according to the definition of the Zoning Code, and Mr. Donaghy agreed.

Mr. Duffy asked Mr. Oelenschlager if there were at this location a manual reader board, he assumes that at some point in time that message would change as well, and Mr. Oelenschlager agreed. Mr. Donaghy asked if this is an illuminated sign, and Mr. Duffy stated he sees where Mr. Donaghy is going with this as to the definition of what is “constant” and possibly they should look into this as well. He stated he does not feel his consultants this evening can testify as to this definition. Mr. Donaghy stated during a Continuance they could address all of these issues. Mr. Bamburak stated he feels the Board would like to be able to vote on whether they feel this is considered a “flashing” sign. Mr. Duffy stated if they determine it to be a flashing, they would request a Variance.

Mr. Toadvine stated they indicated that the sign would not “blink, scroll, or flash,” but asked if it would always be the same color; and Mr. Oelenschlager stated it would. He stated it is a black background with red letters, and this would never change. It is LED.

Mr. Gruen asked if they could bring a DVD showing how the signs works at the next meeting, and the Applicants agreed to provide something.

Mr. Zachary Rubin, 1661 Covington Road, affirmed to tell the truth. Mr. Rubin stated this Application does not appear in a vacuum. He stated he was involved with Residents Against Matrix, and some people on the Board may not be aware of what happened with the settlement. He stated for the last ten years, this area has been litigated. In 2006 there was a Court Settlement which indicated that Matrix could have 40,000 square feet of office space, 15,000 square feet of small retail, and 521 age-qualified Residential Units. He stated a number of months ago Matrix went before the Board of Supervisors and were asked whether they would be building the Residential Units. The Project Director indicated that given the economic climate, they would not build the Units. Mr. Rubin stated he was part of the discussion for the Court-Ordered Settlement for the 521 age-qualified Residential Units, and at that time Matrix explained that the small retail of 15,000 would basically service the age-restricted community so that they would not have to drive to certain retail uses. He stated the homes are not being built, and they are only developing the office and retail; and therefore, he does not feel any relief should be given for the signs and they should not need more than one free-standing signs, since ultimately he assumes the signs would be facing the 521 homes which are not being built at this time.

Mr. Rubin stated according to the Township Codes it indicates that if an Applicant wants to get a Variance, Appeal, or relief, only if the Ordinance inflicts unnecessary hardship on the Application. He stated in 2008 PNC bank had \$7.2 billion in gross revenue and \$291 billion in assets; and he does not feel having one sign instead of two would be inflicting unnecessary hardship on the Application. He stated CVS had \$87 billion in annual revenue last year and is the largest pharmacy chain in the United States. He stated

Matrix has developed over \$1 billion worth of commercial property. He stated they will be developing 147 acres in Lower Makefield; and if this is the harbinger of things to come when they will be going in front of the Zoning Hearing Board asking for Variance relief, he does not feel any of it should be granted because it is not going to inflict unnecessary hardship. He stated PNC will not go away and build somewhere else, and CVS can operate without the Variance. He stated they should not set a precedent of relief to billion dollar corporations that will not inflict unnecessary hardships.

Mr. Zack Matthews, 10 Williams, Lane was sworn in and stated he goes through this intersection often, and stated it is already a bad intersection. He stated drivers are talking on cell phones; and when you come down Big Oak Road and make the left hand turn on Oxford Valley, it is two lanes and when people are driving and talking on the cell phone, they are going from one lane to the other. He stated they should not make this intersection any more confusing than it is already. He stated the signs should be kept basic. He stated there are also people making u-turns in the area, and feels people should be able to use Old Oxford Valley Road.

Mr. Gruen asked if they are proposing to upgrade or fix Old Oxford Valley Road as part of the development, and Mr. Duffy stated Old Oxford Valley Road is in the process of being reconfigured and hopefully this will alleviate some issues.

Mr. Duffy asked Mr. Britz if CVS and PNC would concede to providing some directional signage on Old Oxford Valley Road to prevent some of these turn around situations so that if a motorist made a left onto Big Oak Road, they could get into the site without making a u-turn. Mr. Britz stated he feels it would be possible, but they would need advertising on the directional signs to identify what they are telling drivers to do which would change the Variance request. Mr. Bamburak asked that something be provided to the Board to look at in this regard.

Mr. Gruen asked when they are proposing to make the improvements on Old Oxford Valley Road, and Mr. Britz stated improvements on Old Oxford Valley Road are happening currently. He stated he was on the site approximately one and a half months ago, and the road was already cut in and improvements were started. He stated they intend to have this completed with the PNC and CVS developments. He stated it is his understanding that both PNC and CVS will be breaking ground next month.

Mr. Gruen asked if they needed approval from the Highway Department and Traffic Commission, and Mr. Britz stated they have received Land Development Approval and Building Permits have been issued. He stated he was just advised that the CVS has already broken ground. He stated the site has been cleared, rough grading has been done, and some curbing has been installed. He stated most of the utilities are also in, and Matrix will be turning over the land for the pads to come in. Mr. Gruen asked if there were special requirements for traffic control, and Mr. Britz stated he was not involved

with the original Development, but in looking at the Plans, they had control on the access to Oxford Valley Road to be right-in and right out. He stated PennDOT also had input as to the access as did the Township. Mr. Gruen stated he would like any information available on traffic control at the next Hearing as this will weigh heavily in his decision as to where they could place the signs.

The Applicant agreed to a continuance to October 20, 2009.

Mr. Gruen moved, Mr. DosSantos seconded and it was unanimously carried to continue the matter to October 20, 2009.

OTHER BUSINESS

Appeal #09-1504 – Bryan and Beverly Harpine Extension

Mr. Toadvine stated they received a request for an Extension from the Harpines as they have had some difficulty coordinating their efforts to get the construction done, and they are requesting an Extension. Mr. Habgood suggested they be given a six-month Extension.

Mr. DosSantos moved, Mr. Gruen seconded and it was unanimously carried to grant an Extension to 2/28/10.

There being no further business, Mr. DosSantos moved, Mr. Zamparelli seconded and it was unanimously carried to adjourn the meeting at 9:40 p.m.

Respectfully Submitted,

Paul Bamburak, Vice Chairman