

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – MARCH 2, 2010

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on March 2, 2010. Chairman Malinowski called the meeting to order at 7:05 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman  
Paul Bamburak, Vice Chairman  
Gregory J. Smith, Secretary  
Jerry Gruen, Member  
Anthony Zamparelli, Member

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

APPEAL #10-1540 – DOGWOOD DRIVE, LP

Mr. Malinowski stated the Board received a letter from Mr. Murphy, attorney for the Applicant, requesting a continuance until April 6, 2010 and waiving time limits under the MPC.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to continue the matter to 4/6/10.

APPEAL #10-1539 – MAKEFIELD WOODSIDE, LLC.

The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet Plan entitled, "Preliminary Plan Edgewood Crossing" dated 8/1/09, last revised 12/4/09, and this was marked as Exhibit A-2.

Mr. Edward Murphy, attorney, was present and stated the Zoning Hearing Board is familiar with the property as it was the subject of an Application filed last year, and the Board granted 1' relief from the parking setback requirement on the Stony Hill Road frontage of the property. Mr. Murphy stated the property has a number of different uses,

one of which is a branch bank. The Ordinance currently requires spaces for six cars to be stacked at a drive-through window, and they are requesting that this be reduced by three. Mr. Murphy stated the other request involves an evaluation of the required parking for two of the other uses one located at the immediate corner of Stony Hill Road and Langhorne-Yardley Road and the other immediately adjacent to it with frontage on Stony Hill Road which is a barn which is proposed to be dismembered and the component parts that are salvageable adaptably reused. He stated the property on the corner is proposed to be used principally for a delicatessen and the barn as an ice cream shop. Mr. Murphy stated there will be testimony about parking requirements under the Ordinance and how they propose to modify this to reflect the fact that neither of these uses are restaurants as the term is loosely defined in the Ordinance.

Mr. Kurt Rittler, Mr. C.T. Troilo, and Mr. Robert Coffin were sworn in.

Mr. Rittler stated he is the engineer who prepared the Plan which is the subject of the Application. He stated he is an engineer licensed as a professional engineer in Pennsylvania and has been so licensed for twenty-six years. Mr. Rittler stated they are proposing to merge two tax parcels (#20-14-8 and #20-16-36) which will result in total acreage of 1  $\frac{3}{4}$  acres. The property is located at the northwest corner of Stony Hill Road and Yardley-Langhorne Road. Mr. Rittler stated TPN 20-16-36 is the larger of the two parcels and is currently vacant. TPN 20-14-8 is the smaller of the two parcels on which there are currently three structures. One is the existing dwelling at the corner, immediately behind it is a one and a half story barn, and adjacent to that is a small frame garage which is in the process of falling down.

Mr. Rittler stated Building #1 is the existing dwelling, and they will reuse this as a deli/sandwich shop with the second floor maintained as an apartment. Building #2 is the barn which will be taken apart and relocated and expanded. Its use will be an ice cream stand/store. Building #3 is a new structure which will be a branch bank and will be located immediately adjacent to Stony Hill Road. Behind the bank they propose another new structure which will be a two-story structure shown as Building #4 which will most likely be a mix of uses with the first floor being retail space and the second floor being office or apartments.

Mr. Murphy stated the uses are intended to be served by public sewer and water, and Mr. Rittler agreed.

Mr. Murphy noted the Plan shown by Mr. Rittler on the easel is slightly different than the Plan which was provided to the Zoning Hearing Board with the Application; but the changes to the Plans do not effect the scope of the relief being requested. Mr. Murphy stated the Plan is a subject of an on-going Land Development Plan and was reviewed by the Planning Commission at their meeting last Monday night where the Planning

Commission made suggestions as to how the streetscape should be treated. He stated the plan the Zoning Hearing Board was provided has parking more visible from Stony Hill Road, and the Planning Commission asked that there be a change to this. In the intervening week, they have continued to consult with the Township's planner, Carter VanDyke, who identified some changes to the Plan which have been reflected on the Plan on the easel. This Plan was marked as Exhibit A-3 and a copy will be provided to the Zoning Hearing Board. Mr. Rittler noted on the Plan the principal difference which is the reorientation of the barn. Mr. Rittler stated the changes will free up space for parking which will be located in the rear so that there will be a more consistent streetscape.

Mr. Murphy stated the other significant change involved trying to separate the sidewalk from the travel portion of the roadway, and this Plan does provide this separation. Mr. Rittler also noted on the Plan were walking paths are provided.

Mr. Rittler stated the Ordinance requires that for every drive-through lane for a bank six parking stacking spaces must be provided. He stated since there are two drive-through lanes, this would require space for twelve cars to stack waiting to use the drive-through; and the Plan contemplates three in each of the two lanes. Mr. Rittler stated the Township indicated that the need for six stacking spaces was unnecessary and the space that would normally be used for additional stacking spaces could be turned into green space thereby reducing the total impervious surface on the site, and that is what the Plan now provides for.

Mr. Robert Coffin stated he has been employed by First Federal of Bucks County for thirty-two years. Mr. Coffin stated First Federal is a community bank headquartered in Bristol, and they have nine branches. He stated they have recently entered into a lease to occupy this branch bank, if approved, as their tenth branch bank. Mr. Coffin stated he is aware of the Ordinance requirements for six stacking spaces per drive-through teller, and agrees that reducing that number from six to three is appropriate. He stated during his time with First Federal he has had exposure to all different aspects of banking. As part of his duties he tracks the number of customers who patronize all the different branches.

Mr. Murphy asked Mr. Coffin to describe the changes that First Federal has experienced over the years in terms of the number of people who use the branch, for what purpose, and the current state of branch usage. Mr. Coffin stated when he started in banking thirty-two years ago there would be lines of people in the branch and at the drive-up window; but with the advent of electronic banking, this has changed and has impacted the number of people who come into the bank. He stated ATMs, direct deposit of payroll checks, telephone banking, and internet banking have significantly reduced the number of people coming to the bank. Mr. Coffin stated they have modeled the proposed new branch off of their Langhorne branch. He estimated that they would have 600 to 700 branch transactions over five and a half days. He stated people still like to have a neighborhood branch bank for convenience if they do need to go to the bank. He stated it

is also a requirement that you go to a branch in person in order to open an account as this is a requirement of the U.S. Patriot Act. Mr. Rittler stated he feels with the decrease in the number of transactions occurring at the bank, the requirement for six stacking spaces per drive-through teller window is excessive. Mr. Rittler also noted the drive-up transactions usually tend to be easier and faster

Elevations for the proposed branch bank were shown to the Board.

Mr. Esposito stated the Township is participating but not with regard to the stacking lane.

Mr. Smith asked Mr. Rittler if he prepared the Plan that was submitted to the Board in the previous Application, and Mr. Rittler stated he did. Mr. Smith asked what changed since that time that required them to come back before the Board and asked why they did not present this when the previous relief was requested. Mr. Rittler stated they had originally interpreted the uses anticipated for Building #1 and Building #2 as retail uses, but after the review by the Township which was subsequent to the Applicant's last appearance before the Zoning Hearing Board, the Township engineer raised the question whether those uses should be identified as restaurants; and upon discussion, they felt it was best to come back before the Zoning Hearing Board. Mr. Murphy stated with regard to the stacking lane issue, as part of the review of the classification of the different uses, the Township staff also indicated that if they were going to look at reorienting the Plan or making changes, they should also look at increasing the amount of open space and/or reducing the impervious by reducing the number of stacking lanes for vehicles.

Mr. Smith asked when the Ordinance regarding stacking of vehicles was codified, and Mr. Murphy stated he feels it may have been twenty to twenty-five years ago; and Mr. Majewski agreed. Mr. Smith stated if that is the case, it would not have been contemplated at that time that there would be on-line banking and other such services that exist now that reduce the need for this amount of stacking.

Mr. Maloney joined the meeting at this time.

Mr. Murphy stated the second aspect of the request deals with the classification of the uses that will occupy the existing building on the corner and the reconstructed barn. Mr. Rittler stated when the original Plan was conceived, he treated the proposed use for the existing dwelling which is a deli/sandwich shop and the barn which is an ice cream store as retail uses. Mr. Rittler stated in their estimation they fit the intent of retail use and did not fit the definition of restaurant use. Mr. Murphy stated in subsequent conversations with the Township engineer it was suggested that given the proposed uses, they should more properly be classified as restaurants. Mr. Rittler read from Section 200-68-33 which lists the definition of "restaurant" as follows: "Any place for the sale and consumption of food and beverages without drive-through window service which is prohibited." Mr. Murphy stated based upon Mr. Rittler's original belief that the uses

were retail, there was no issue with regard to whether there was adequate parking; but when it was suggested that these two uses were to be considered restaurants, it raised the issue of whether the parking on the site was adequate.

Mr. Rittler stated Section 200-79.A-32 provides an either/or situation for calculating the required parking for restaurants which is either one off-street parking space for every 50 square feet of net floor area or one off-street parking space for every four seats whichever requires the greater number of parking spaces. Mr. Rittler stated the net floor area of the proposed deli would be 1,465 square feet which would require 29 spaces. The alternate method is one space for every four seats and the maximum number of inside seating would be a total number of five tables for a maximum seating of 20. Based on that approach, ten spaces would be required. With regard to the ice cream shop in the converted barn, and net floor area would be 900 square feet and using the first option for parking if it were considered a restaurant, 18 spaces would be required. If they used the alternative method with seven tables proposed and seven tables outside, they would need to have 14 spaces since there would be 56 seats.

Mr. Murphy stated the Application contemplated that there would be a total of 28 spaces, and Mr. Rittler had originally calculated that they would be required to have 48 spaces; but now he recognizes that 24 would be required since the number of seats has been reduced from what he felt would be provided originally.

Mr. Murphy asked Mr. Rittler to discuss the opportunities for shared parking. Mr. Rittler stated within the TND Overlay Ordinance, there is a shared parking table which factors the required number of spaces for individual uses based on different time slots of the day and days of the week. Mr. Rittler stated this property is in Edgewood Village which falls within the TND Overlay. Mr. Rittler stated the intention is to reduce the number of parking spaces required and thereby reduce the amount of impervious surface. Mr. Rittler stated he has evaluated the Plan in relation to the shared parking matrix for the TND; and if they use this matrix on a floor area basis, the total number of required spaces drops from 97 spaces on a site-wide basis to 84 spaces. The 97 spaces was arrived at by adding the 29 spaces for the deli, the 18 for the ice cream store, and the 50 spaces for the bank and other retail uses described previously. This 97 spaces would be for an unshared approach; but by applying the TND Overlay shared parking, this is reduced to 84.

Mr. Rittler stated Exhibit A-2 provides for 75 spaces, and Exhibit A-3 shows 76 spaces so that the Carter VanDyke revised Plan picks up one additional space. Mr. Rittler stated using the alternate parking calculation using one space for every four seats, the total required on a seat basis for restaurant use plus the balance of uses on the site would result in 74 spaces in an unshared situation, and 61 in a shared situation.

Mr. Murphy asked if it is intended that either the deli or ice cream stand will have waitress service like a typical restaurant, and Mr. Rittler stated it is not. Mr. Murphy asked about the hours of operation for the deli and Mr. Rittler stated it is proposed to be open 6 a.m. to 8 p.m. and the hours of operation for the ice cream stand would be 11 a.m. to 11 p.m.

Mr. Gruen asked if they have considered how many parking spaces will be used by the employees in the complex. He asked specifically about the number of employees proposed at the bank, and Mr. Murphy estimated there could be five. Mr. Gruen asked the number of employees for the other uses, and Mr. Murphy stated he did not feel that he could provide an exact number this evening. Mr. Gruen stated he assumes the office use would be a daytime operation, and Mr. Murphy agreed. Mr. Murphy stated they do not feel that the uses propose meet the definition of a “restaurant,” and the Ordinance probably did not contemplate the use they have proposed which is why they looked at it as retail. However, it was recommended that they seek guidance from the Zoning Hearing Board with regard to parking if it is to be treated as a restaurant as to what would be a fair compromise.

Mr. Smith asked if the Applicant would be willing to accept restrictions on the approval subject to number of seat restrictions, and Mr. Murphy stated they would which is why they provided information on the way they did their calculations. He stated they would also accept restrictions on the hours of operation; and he feels both of these were the interest of the Township, and Mr. Esposito agreed. Mr. Esposito stated they did consider Conditions on the hours of operation as noted by Mr. Murphy as well as a limit on number of tables.

Mr. Malinowski asked if the parking spaces that were shown on the street were eliminated at the request of the Township; and Mr. Murphy stated this is incorrect, and the Plan still contemplates three on-street parking spaces directly in front of the branch bank. He stated these are in fact encouraged under the TND Overlay, and across the street the proposed Flower’s Field of Yardley project will have even more on-street parking spaces. He stated they are encouraged in the TND Overlay as they act as traffic calming as well as provide convenience. Mr. Toadvine stated they did move the buildings to reduce the visibility of the parking from the street, and this was done at the Township’s request. Mr. Murphy agreed and stated the difference between A-2 and A-3 was a direct result of Township input, and the goal was to try to hide the parking spaces from the visibility of the street. Mr. Majewski stated this was a comment made by the Historic Commission and the Planning Commission who indicated that the streetscape showed too much parking, and he feels the revised Plan addresses those concerns.

Mr. Gruen stated there was a discussion about shared parking and he assumes they will not have a situation where there will be reserved parking for the bank, reserved parking for various businesses, and he assumes anyone can park anywhere; and Mr. Murphy stated he believes that this is the intention.

Mr. Stephen Heinz was sworn in and asked to have Party Status as Chairman of the Historic Architectural Review Board (HARB). Mr. Murphy objected since there is an Application pending before HARB with regard to the issue of the dismemberment of the barn and its relocation and reconstruction scheduled for this Monday, and he does not know why Mr. Heinz would need to request Party Status in this Application. Mr. Heinz stated he is present on behalf of HARB and would like to correct statements made and provide background information since he has been on HARB for twenty years and dealt with a lot of the development in Edgewood Village. Mr. Murphy stated since the Township is already a Party, he does not know that HARB has the ability to have separate Party Status. Mr. Toadvine agreed although he noted Mr. Heinz could still speak. Mr. Murphy stated he also cannot judge whether or not Mr. Heinz is speaking on behalf of HARB. Mr. Malinowski advised Mr. Heinz that he could speak, but he would not have Party Status.

Mr. Heinz asked if they are considering that the whole site will be developed as one, and Mr. Murphy stated the two parcels are being merged into one; and this is the basis going forward. Mr. Heinz stated the current status of the historic corner building should be governed under the Commercial/Historic District, and one of the prohibited uses is any use with a drive-through service. Mr. Murphy stated they are not requesting drive-through service for the deli or ice cream stand. Mr. Toadvine stated they have not requested any other Variances other than the stacking spaces and the amount of parking spaces. Mr. Murphy stated a drive-through is specifically permitted associated with a bank, and they are still in the process of going through the Land Development process.

Mr. Majewski stated Mr. Heinz is referring to the Historic/Commercial Zoning District; but in this area there is also a TND Overlay District of which this project is applicable, and under those regulations, what is shown is permitted subject to the granting of the Variances being requested.

Mr. Heinz stated none of this has been shown to HARB at all, and they have not received any input from HARB. He also stated in past developments including the Giant Shopping Center where there is a bank, there were a number of issues that came up that HARB very seriously worked on with the owner/developer and architect in order to make it something that was consistent with the Historic District. He stated the discussions with HARB might lead to a vastly different arrangement of buildings on the site. He stated there has been no Permit granted for the removal of the garage even though it is dilapidated, and it is really being demolished by neglect. He stated the building they are

saying they want to demolish and reconstruct at a different location was reviewed by HARB previously, and that request was denied by HARB and they recommended that a Certificate of Appropriateness not be granted for this. Mr. Heinz asked that the Zoning Hearing Board not accept this Appeal which would remove the control from the Historic District as this is the governing point of the development since it is on the National Registry, and they should have some say in the development of it before it comes before the Zoning Hearing Board to be ruled on. He stated they could table this discussion until after HARB has their input.

Mr. Smith stated the Zoning Hearing Board cannot simply table things. He stated the only thing the Zoning Hearing Board deals with is the Zoning Ordinance. He stated they are not requesting a Use Variance, and the only items the Zoning Hearing Board can rule on is whether they should grant a Variance for the stacking at the drive-through window and number of parking spaces.

Mr. Heinz stated they are assuming that there will be parking spaces required by these uses and this would be a basis for the Zoning Hearing Board's determination. Mr. Toadvine stated the uses they have proposed are permitted, and they are not dealing with a Use Variance. He stated the uses are permitted by right according to the Zoning Ordinance. They are asking for relief from the parking requirements and stacking requirements for those uses. He stated Mr. Murphy indicated earlier that there is a meeting scheduled with HARB next week. Mr. Murphy agreed and also noted that at the last HARB meeting, they took no official position with regard to the barn and deferred it until next Monday night when they have their next meeting. He stated the Applicant has presented the Zoning Hearing Board with a Plan along with calculations based on the parking associated with the most Plan that Carter VanDyke assisted with. He stated if another recommendation comes from HARB or some other body from the Township that causes an alteration, they would have to come back before the Zoning Hearing Board.

Mr. Smith stated it appears that the Applicant has been willing to make a number of changes already that were requested by the Township, and it appears that they are being cooperative.

Mr. Heinz stated he disagrees. He stated Mr. Murphy was not at the meetings with HARB last year when the issue of removing the barn was considered under a different owner. He stated Mrs. Broadway requested permission to remove the barn, and it was not approved.

Mr. Murphy stated Mr. Troilo was at the HARB meeting two weeks ago when Mr. Heinz was in attendance.

Mr. Gruen stated the Zoning Hearing Board is not considering moving the barn, and are only considering the Variances being requested. Mr. Heinz stated he was only asking if the Zoning Hearing Board was basing their consideration on the Plan as presented and this would be erroneous information until it has been approved.

There was no further public comment.

Mr. Murphy marked Exhibit A-4 which is a summary of the parking calculations and moved for the admission of his Exhibits.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried that the relief requested be granted subject to the following Conditions:

- 1) Building #1 depicted on Plan A-3, the deli, not be allowed to operate outside of the hours of 6 a.m. to 8 p.m. and there will be no more than 5 tables inside and 5 tables outside for a total of 20 seats in and 20 seats out;
- 2) Building #2, ice cream shop, not be open outside of the hours of 11 a.m. to 11 p.m. with no more than 28 seats inside and 28 seats outside;
- 3) All parking be shared among all the tenants of the property.

#### APPEAL #10-1541 – MR. & MRS. CHRISTOPHER MAURO

The Application submitted was marked as Exhibit A-1. Attached to the Application was a set of Plans entitled, “A-1, A-2, and A-3” dated 6/27/09 last revised 1/14/10, and this was marked as Exhibit A-2.

Mr. Christopher and Ms. Lynn Mauro were sworn in. Mr. Mauro stated he needs to make an Amendment to the Application on page 2 under brief description of real estate, the date of acquisition was 1998 and not 2007.

Mr. Mauro stated they need relief from the front yard setback required for an entry portico. He stated they need this to protect them from inclement weather. He stated they also want to construct an addition on the back of the house to provide for a larger kitchen and they will also expand a small portion of the dining room and the garage area so that they can accommodate two cars.

Mr. Toadvine asked the existing square footage of the existing living space, and Mr. Mauro stated it is 2,251 and the proposed rear addition will be an additional 906 square feet. Mr. Smith stated Mr. Mauro is looking at the Site Plan which would be the

actual impervious and not the square footage. Mr. Habgood stated he calculated the proposed addition off the back to be 750 square feet and the small garage addition would be approximately 130 square feet. Mr. Habgood stated part of the new garage is going over the existing driveway. Mr. Habgood stated the permitted impervious surface is 18%, and they are proposing close to 26.3% and this is close to what the Applicant is showing on Exhibit A-2.

Ms. Mauro stated when they purchased the home it was already the permitted impervious surface.

Mr. Habgood stated the difference between the 18% permitted and what they are proposing is 1,563 square feet.

Mr. Smith asked what the raised patio will be made of, and Ms. Mauro stated they have not yet decided on this. Mr. Smith stated if they make it out of wood or a composite material and do not have anything underneath that would stop the water from running through, this would not add to the impervious surface. Mr. Mauro agreed that they would do this. Mr. Smith stated this would take 280 square feet off.

Mr. Toadvine asked about the existing impervious surface, and Mr. Habgood stated he did not calculate this since they are proposing to remove some of the existing patio in the rear. Mr. Toadvine stated Exhibit A-2 shows the existing is 23%. Mr. Toadvine asked if they have added any impervious surface since they purchased the property, and Mr. and Mrs. Mauro stated they have not.

Mr. Esposito stated the Township is participating in this matter. He stated the survey has a different square footage as calculated by the Township engineer than the actual Plan. He stated Mr. Majewski calculated it at 18,593 square feet, and the Plan shows 18,700 square feet. Mr. Majewski stated it was actually the professional land surveyor who came up with the calculation of 18,593 square feet versus the architect's plan which shows 18,700 square feet. He stated this 107 square foot difference would change the impervious surface by half of a percent to increase the total to 26.5%.

Mr. Esposito asked the Applicants if the Board were to grant a Variance, would they be agreeable to a Condition to provide some stormwater management as recommended and approved by the Township engineer to try to mitigate some of the impervious surface, and Mr. Mauro agreed they would.

Mr. Habgood stated taking out the 280 square feet impervious surface for the deck if they built it out of wood, this would result in 4,649 square feet. He stated if they determine that it is 18,700 square feet, this would be 24.86%; and if they determine that it is 18,593 square feet, it would be 25% impervious surface. He stated they are currently at 23%.

Mr. Toadvine asked Mr. Majewski what the stormwater management system would be, and Mr. Majewski stated typically this would be an underground pit filled with large diameter stone wrapped with a fabric so that dirt does not get inside. Mr. Mauro stated they did install this in the front of their property, so they would be agreeable to this.

Mr. Smith asked if it would be possible to bring them down to an effective 18% using such a stormwater system. Mr. Majewski stated he did not feel it would be overly large to accommodate this, and Mr. Mauro agreed to this. Mr. Bamburak asked why they would not have them go back to 23% effective impervious surface since this is what they have already rather than making it an effective 18% which could be more costly. Mr. Smith asked if they agree that they are at 23% now, and Mr. Habgood stated he did not do this calculation. Mr. Majewski stated the architect calculated it as 23% and the surveyor calculated it at 21.7%. The Board felt that the surveyor's calculation was probably more accurate.

There was no one present to speak to the matter, and the Testimony was closed. Mr. Bamburak moved, Mr. Gruen seconded and it was unanimously carried to grant a Variance to allow a front yard setback of 37'1" and maximum impervious surface of 25% with an effective impervious surface of 21.7% with the Condition that a stormwater management plan acceptable to the Township engineer be installed.

APPEAL #10-1543 – PREMIER BUILDING SYSTEMS D/B/A  
GREENINGTHEHOUSE.COM

Mr. John-Claude Martin and Mr. Sam Kenyon, representing the contractor, were sworn in.

The Application submitted was marked as Exhibit A-1. Attached was a one-sheet drawing entitled "Site Plan for Lot #33" dated 1/18/10, and this was marked as Exhibit A-2. Mr. Esposito stated the Township is not participating in this matter.

Mr. Kenyon stated the reason they need relief is because the house is in the 100 year flood plain. He stated they are proposing to install a geo-thermal heating and cooling system, and they need relief in order to do the drilling of the bore holes. He stated they will drill two wells approximately 400'. He stated when they do the Application for the new system, they will supply the Township with a heat load calculation, and will then design the depth of the wells; but based on his experience, he feels two wells at 400' will

be more than enough and they may need less. He stated the way the wells are drilled it is invasive in the beginning, but when everything is settled, there will be nothing but grass, and you will not know they are there. He described how the system is installed noting that it is a closed loop system. He stated they would let everything settle for a month or two and then go back and put in topsoil. He stated they will have erosion sedimentation controls on site. He stated when they have drilled in Bucks County before they typically stay well under 1000' feet of soil disturbance. He stated the well driller they use is a long-standing driller in Bucks County and other States. He stated they will drill a six inch bore until they hit rock and then it goes to 5 inch; and when they are done, they are completely sealed. He stated you want to have the thermal conductivity to the ground.

Mr. Kenyon stated Mr. Martin lives alone in this large house and is using oil currently. They estimate that his yearly heating and cooling costs will be well under \$1,000 a year. Mr. Kenyon noted locations where they have recently installed such systems which could be looked at if the Board wants to see the amount of disturbance.

Mr. Richard Pursell, 712 Chestnut Lane, was sworn in. He asked for an explanation of the piping used, and Mr. Kenyon described the closed loop system. He stated only the pipe will touch the soil. Mr. Pursell asked if they have done this previously in Lower Makefield, and Mr. Kenyon stated while they have not yet, he is going to have one at his home and will be doing them for other family members in Lower Makefield. He noted they have done a system in Newtown and one in Morrisville. Mr. Pursell expressed concern with the impact to the ground water, and it was noted he is not using any of the water. Mr. Kenyon stated there is no environmental impact on the aquifer.

Mr. Roy Snyder, 46 Black Rock Road, was sworn in and stated the back of his property is adjacent to the side of Mr. Martin's property; and he wants to make sure that he will not get any side effects from this such as water or contamination of the soil. Mr. Toadvine asked Mr. Kenyon if he was bonded and insured, and Mr. Kenyon agreed and stated they will not contaminate the aquifer and everything will be contained on the site.

Ms. Charlotte Snyder, 46 Black Rock Road, was sworn in and asked how long this will take and how much dirt and dust will be generated. Mr. Kenyon stated normally it takes two days to drill barring any breakdown of the rig, and there will be one more day outside doing the loop tie in. He stated after a few months, they come back and topsoil, seed, and straw are put down so that the grass grows. Ms. Snyder asked when the project will start as she is concerned about being able to use her pool. Mr. Kenyon stated they will start as quickly as they can once they get approval. Ms. Snyder stated she has never had any water, and Mr. Kenyon stated this will have no impact on her property.

Mr. Gruen asked that they not drill on the weekends because it can be noisy.

March 2, 2010

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There was no further public comment and Testimony was closed.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to grant the relief as requested.

There being no further business, Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to adjourn the meeting at 8:45 p.m.

Respectfully Submitted,

Gregory J. Smith, Secretary