

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – DECEMBER 14, 2020

The regular meeting of the Planning Commission of the Township of Lower Makefield was held remotely on December 14, 2020. Mr. Bush called the meeting to order at 7:30 p.m.

Those present:

Planning Commission: Tony Bush, Chair
 Ross Bruch, Vice Chair
 Adrian Costello, Secretary
 Tejinder Gill, Member
 Dawn Stern, Member

Others: James Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor
 Andrew Pockl, Township Engineer
 Frederic K. Weiss, Supervisor Liaison

APPROVAL OF MINUTES

Mr. Costello moved, Mr. Bruch seconded and it was unanimously carried to approve the Minutes of November 30, 2020 as written.

DISCUSSION AND MOTION ON MORRISVILLE BOROUGH COMPREHENSIVE MASTER PLAN

Mr. Bush stated since the last meeting when this was discussed, Ms. Kirk put together and circulated a draft memo based upon the Planning Commission's comments some of which were substitutive comments to Morrisville and some of which were items the Planning Commission wished to bring to the attention of the Lower Makefield Board of Supervisors.

Mr. Bush stated at the last meeting, Mr. Majewski had indicated that normally the Planning Commission would send the letter to Morrisville; and he asked if the items for the Lower Makefield Township Board of Supervisors should be separated out from the comments to be sent to Morrisville. Mr. Majewski

stated the letter could be sent to Morrisville Borough or it could be forwarded to the Lower Makefield Township Board of Supervisors who could forward it with any comments.

Mr. Bruch noted #2 with regard to the boat launch. He stated he felt that at the last meeting they had indicated that there is no signage indicating that this area was a boat launch; and he asked if that is what #2 is referring to. Mr. Bush stated he feels this comment should be made more clear. He added that currently there is no signage at all. Mr. Bruch stated while it states “promote awareness,” he felt they wanted to promote awareness within the general vicinity of the boat launch itself rather than a broader request to promote awareness about the existence of the boat launch to the broader community. Ms. Kirk stated on Page #1 she had copied #1 through #9 as set forth in the original letter received by the Township. She stated the second page has the comments she provided as to what should be included. Mr. Costello stated #2 on Page 1 refers to Morrisville wanting to use the boat launch to promote the River Walk. He stated Page 2 is the Lower Makefield Planning Commission’s recommendation that they have good signage to make sure that it is clear as to who can use it and what it is to be used for.

Mr. Costello stated he feels the comment to the Lower Makefield Board of Supervisors should be included in the letter sent to Morrisville so that Morrisville knows that Lower Makefield has highlighted this issue, and Morrisville may hear about it in the future from the Lower Makefield Township Park & Recreation Department.

Dr. Weiss asked if Lower Makefield has any say over what goes on at the boat launch since the land is owned by the Morrisville Municipal Authority. Ms. Kirk stated Lower Makefield can provide comments and suggestions, and at least they are on Record that they did request signage at this location. Mr. Majewski stated Lower Makefield does have some control. He stated currently it is an informal place where people are putting their boats in; however, if there is a desire to expand it, build structures, or add parking, it would come under Lower Makefield’s jurisdiction to provide input since the property is located in Lower Makefield even though the property itself is owned by the Morrisville Municipal Authority. Dr. Weiss stated he feels it would be important that the Borough understand that if there are any changes to the boat launch, the would be subject to the Land Use Ordinances of Lower Makefield Township.

Mr. Bush stated the boat launch has been at this location for decades, and he feels having signage there is important so that people know what it is and if it is open to the public. He stated if they wanted to expand it, Lower Makefield may have an issue with that. He stated he does not feel the Township could restrict its existing use since it has been a pre-existing use for decades.

Ms. Kirk stated she could add a sentence that states, “Any modifications that result in change of use or the nature of the use need to comply with Lower Makefield Township’s Ordinances.”

Ms. Stern asked if the use is restricted to Morrisville residents. Mr. Costello stated he interpreted what he read that while it is located in Lower Makefield, Morrisville residents have the right to use it. Ms. Stein asked if it is just to be used by Morrisville residents. Ms. Kirk stated she is not sure whether Lower Makefield residents have the right to use it as well since it is owned by the Morrisville Municipal Authority. Mr. Bush stated currently it seems that it is open to anyone. Dr. Weiss stated there is no signage that restricts the use. He stated he understands that Morrisville wants to promote the use of the boat launch; but if that means that they want to change the dimensions of the launch, etc. Lower Makefield would have input through its Ordinances. Ms. Kirk stated if Morrisville Municipal Authority were to do something that would change the dimensions of the boat launch that would not comply with Lower Makefield Zoning Ordinances, they would get a Notice of Violation and be expected to comply. She stated Lower Makefield has the right to enforce their Ordinances as to Use.

Mr. Bush stated there is not really any place where they could expand parking if that is what is being considered.

Mr. Costello stated he feels it would make sense to include a general statement that if any changes, updates, or improvements are to be done, they need to follow the Lower Makefield Planning and Zoning processes and the Lower Makefield Codes and Regulations. This was acceptable to the Planning Commission. Ms. Kirk stated she could add a sentence to state, “Any modifications, changes, or additions to the boat launch should comply with Township Ordinances.”

Mr. Bush asked Mr. Majewski if apart from this parcel that is owned by the Morrisville Municipal Authority, are there other Towns or Authorities that own property in Lower Makefield. Mr. Majewski stated the Water

Company owns several parcels, and there is a parcel owned by the Sunoco Oil Company where there is an oil pipeline that runs through the northern part of the Township. Mr. Majewski stated Transcontinental owns a piece of property off Lindenhurst Road. Dr. Weiss also noted the Joint Toll Bridge Commission owns property in Lower Makefield.

Ms. Kirk asked if the comments will be sent to the Lower Makefield Board of Supervisors or should they be separated into two letters. Mr. Bush stated he does not feel it needs to be separated. Dr. Weiss stated two weeks ago he advised the Board of Supervisors that the Planning Commission was going to provide any recommendations to Morrisville; and if any of the Supervisors or members of the public wanted to participate and make comments, they should do so at tonight's meeting. Dr. Weiss stated if the Planning Commission wants to bring this before the Board of Supervisors this Wednesday, they could do that as well. Mr. Bush stated unless there is public comment, given what Dr. Weiss reported at the last Board of Supervisors meeting, he feels it should just be sent to Morrisville.

Mr. Gill asked if it should also be sent to Park & Recreation as a portion of the comments relate to them. Ms. Kirk stated she will send it to the Morrisville Planning Commission and copy the Township Board of Supervisors and the Township Manager who can internally decide how they want to distribute it to others in the Township. Mr. Majewski stated the Park & Recreation Department is already aware of the issue with the Morrisville Little League and potential loss of fields, and Morrisville Little League has already reached out to Ms. Tierney, the Park & Recreation Director.

Mr. Costello moved and Ms. Stern seconded to send the letter that Ms. Kirk drafted with the changes discussed this evening directly to Morrisville Borough with a copy to the Board of Supervisors and the Township Manager.

There was no one from the public wishing to speak on this matter.

Motion carried unanimously.

MISCELLANEOUS ORDINANCE AMENDMENTS

Mr. Majewski stated we have been looking at the Ordinances for the last several years and made a number of changes to try to prevent residents from having to go to the Zoning Hearing Board. He stated there are a number of

items primarily dealing with fences, pools, and sheds that he would like to bring to the Planning Commission's attention so they can start to consider them.

Mr. Majewski noted Section 200-69 – Accessory Use – particularly Residential Accessory Buildings. He stated currently there is a requirement that Residential accessory buildings, which includes sheds, detached garages, etc., shall be located only in the fourth of the Lot furthest removed from the road. He stated they also have to be a minimum of 10' from any side or rear Lot Line.

Mr. Majewski stated he has noticed that there are hundreds of sheds and other buildings in the Township that do not comply with those requirements. He stated when most people put a shed in they put it close to the property line typically within a couple of feet from the rear and side property line. He stated a lot of people also put their sheds behind the house at the end of their driveway. Mr. Majewski stated he would like the Planning Commission to consider whether there should be a change to the requirements since there are so many properties that are in non-compliance. He estimated that there could be thousands that are not in compliance in the Township. Mr. Majewski asked if there should be a change to the setback requirements or just to the requirement that accessory buildings be in the fourth quarter furthest removed from the street to just be behind the rear of the home.

Mr. Bush asked Mr. Majewski if he has an estimate as to the percentage of people who apply for Permits when they put in sheds as opposed to those who do not. Mr. Majewski stated he does not have a good sense of that since a lot of people have put in sheds over the years without Permits. He estimated that three out of four people do get a Permit. He stated often when the sheds are put in, they are not put in where they are supposed to be located. He stated they are required to be put 10 feet from the property, and instead they put them closer to the property line. Mr. Majewski stated some of these sheds were installed thirty to forty years ago.

Mr. Costello asked if this is something that really needs to be changed or should the Township just make sure that the residents are aware of the requirements. Mr. Costello stated he recently went through this, and it is not a hard process. Mr. Majewski stated he has looked at what other Townships require, and most do not have a setback requirement for a shed. Mr. Majewski stated years ago there was a three foot setback requirement for a shed in Lower Makefield.

Mr. Burch asked if it is a combination of lack of knowledge about the requirement or a lack of wanting to go through the Permit process. He also asked if there are tax implications when a shed is built that will cause the homeowner's property taxes to go up which could be why they do not formalize the process.

Mr. Majewski stated he is not sure that the Board of Assessment adds to the assessment of the property just for a shed. He stated if it were a garage, they would definitely do that. Mr. Majewski stated a garage is something that would be "caught" as opposed to a shed. He stated a shed is typically smaller, and most neighbors would probably not notice it. Mr. Majewski stated when the Township employees are driving through the Township they normally do not notice sheds unless they are brought to the Township's attention by a neighbor.

Mr. Majewski stated if you have a small Lot of approximately 100' wide by 150' deep, and you put the shed 10' off the side and rear property line, it appears that the shed is in the middle of the Lot. He stated there are many non-compliant sheds that are not normally complained about because it is not abnormal to have a shed near the property line.

Ms. Kirk stated she would suggest that there at least be a requirement that the shed has to be located a certain number of feet off the property line since she has seen lots of problems with property owners, especially with fences, where it is found that a fence has been installed on a neighbor's property line since no survey was done. Ms. Kirk stated if there is a requirement that the accessory structure be at least 2' to 3' off the property line, at least there is a buffer to help prevent someone placing a shed on their neighbor's property. Mr. Bush stated he would agree with that.

Mr. Costello stated when he installed a fence a number of years ago he had to cross the property line to tie into the neighbor's fence rather than putting in two parallel fences 3' apart from each other. He stated there is a process to do things and get approval. He stated he had obtained a letter from his neighbor indicating that it was okay with him, and the Township approved it. Mr. Costello stated when you look at quarter acre and third acre Lots, if someone wants to put the shed right at the property line, he feels there needs to be discussion/notification process with the neighbors before that can be done.

Mr. Bruch stated he sees the Ordinance as protection for the neighbors. He stated the fact that there are numerous non-compliant sheds, but the Township is not hearing about it from neighboring property owners, does

not give him concern about those that are in existence; however, he would like to protect the rights of the neighbors of the violating shed owners to have a mechanism to bring a complaint.

Mr. Majewski stated no decision needs to be made on this tonight, and the Planning Commission can consider this and some other items he will bring to their attention further in the future as to if and how they want to change these requirements.

Mr. Pockl stated in other Municipalities he has seen where they define the size of the accessory building so that you do not have a huge building 3' off the property as opposed to something of a reasonable size. Ms. Kirk stated she has seen them where they have a requirement that it be no more than 25% of the size of the principal structure. Mr. Bush stated he feels 25% would be pretty big.

Ms. Stern asked if sheds are not normally 8' by 8' or 10' by 10'. Mr. Majewski stated while that is the usual size, there are a lot of very large sheds in Lower Makefield. He stated he feels the idea of a limitation makes sense. Ms. Stern asked how the information is disseminated to property owners. Mr. Majewski stated most contractors who install sheds or do work on a property know that they are supposed to comply with Township requirements. He stated the most common time when residents are non-compliant is when they go to Home Depot and have a shed delivered that they install themselves. Mr. Majewski stated this would be a topic to be included in the Township Newsletter and Facebook page so residents know what they need to get Permits for and what some of the requirements are. He added that sheds and fences are the most common Permits that they do in the Township.

Mr. Majewski noted Ordinance 200-69 14.C with regard to fences and walls. He stated they made some changes to that a few years ago to better address the issue of corner Lots that have two front yards so that they can get some relief. He stated this is another instance where there were a lot of properties that were in violation and/or the interpretation of the Township allowed them to put a fence where the Ordinance did not allow so there was inconsistency. He stated there was also a change made that a fence in a Buffer Easement was acceptable especially since some of our buffers contemplate the installation of a fence in addition to landscaping. He stated they did leave in the requirement that you cannot have a fence within other types of Easements. He stated whenever someone wants to put a fence in an Easement

they go before the Zoning Hearing Board where the relief is granted in almost every case subject to some Conditions, one of which is that access is maintained so that whoever owns the Easement can gain access and that the fence does not block the flow of water.

Mr. Majewski stated many other Townships do not regulate fences in Easements; and if you want to put a fence in an Easement, you need to get permission from whoever owns the Easement. He stated he would like to strike the existing provision and make it part of the Building Permit process; and if someone wants to put a fence within an Easement, they would need to have written permission from whoever owns the Easement whether it is the Township for a drainage Easement, the Sewer Authority, the Water Company, Transco, etc. Ms. Kirk stated this would mean that the Township would not accept a Permit Application unless that letter was included, and Mr. Majewski agreed. Mr. Costello stated he feels that would make sense. He added that he is assuming that the Township would know if an Application came in where they would be crossing an Easement, and Mr. Majewski agreed. Mr. Majewski stated the Township requires that there is a survey, and the Township checks to make sure that has been done properly. He stated these Applications are a “nuisance” for the Zoning Hearing Board. He stated they are routinely granted because the Zoning Hearing Board does not see that there is an issue with a fence in an Easement provided there are safeguards added. Mr. Costello stated he would want to make sure that the Township office will let the homeowners know that they need to get a letter from the Easement owner.

Mr. Majewski stated they are currently updating the guidelines for all of the Permits as they were done in the 1980s and 1990s, and they are unclear and difficult for residents to understand as to what is needed for each Permit. Mr. Majewski stated he is looking to simplify this by the end of the year. He stated if a survey is needed, the Township has surveys for many properties; and if the property owner contacts the Township, the Township can provide that. Mr. Majewski stated most of the fence companies now ask the homeowners if they have a survey of the property; and if they do not, they contact the Township, and the Township is often able to provide a survey.

Mr. Bush asked if the holder of the Easement is currently contacted when someone goes before the Zoning Hearing Board. Ms. Kirk stated they are contacted as part of the notification for the Zoning Hearing Board Appeal.

Mr. Bush stated he feels they could cut out the Zoning Hearing Board from this process, and Mr. Majewski stated he feels the Zoning Hearing Board would agree with that.

Mr. Majewski stated another area of concern is above-ground swimming pools. He stated there is a requirement that there be a deck or walkway at least 2' in width measured from the exterior edge of the pool. Mr. Majewski stated previously when people installed above-ground pools many of them came with decking around the edge; however, it is not a requirement of the International Pool and Spa Code to have that. He stated many above-ground pools that people have include just the pool and a ladder to get into the pool. Mr. Majewski stated the ladder does have to be secured and locked properly. Mr. Majewski stated he would prefer to change the requirements for above-ground pools to be that they comply with the requirements of the Pennsylvania Uniform Construction Code, the same for an in-ground pool, as is done in other Municipalities.

Mr. Gill asked if there were any safety reasons why the Township had the existing requirements. Mr. Majewski stated that, as with the in-ground pools, back in the 1980s, they were looking at updating the Pool Ordinance as he believes that there had been a drowning in the Township. He stated the recommendation at that time was that there be compliance with all safety requirements; however, when they wrote the Ordinance, they ignored all of the safety requirements that were in place and just indicated they should be required to put up a higher fence feeling that would make it safer. Mr. Majewski stated now for in-ground pools there are alarms, latch height requirements, and fence height requirements. He stated for above-ground pools there are requirements for a locking ladder.

Mr. Gill asked if above-ground pools are required to have fencing as well. Mr. Majewski stated with an above-ground pool it depends on how high the pool is. He stated if the height of the pool is greater than 4', they need to have a pool barrier and a gate. He stated they could also put up a fence around the pool if it is less than 4' high.

Mr. Majewski stated he feels that currently there is an inconsistency with the the National Standards for pool safety and inconsistency with what is done in all other Townships in the area.

Mr. Majewski stated the last issue is with regard to pools of restricted size/hot tubs. He stated currently there is a requirement that a hot tub be located within the house, or if it is outside of the house, it has to be located within an enclosed patio. It also has to be up against a rear wall of the house with a fence around it at a height of 5'. He stated he is not sure what the thinking was when this rule was enacted years ago. Mr. Majewski stated most hot tubs now come with a locking cover. He stated if there would be a fence around it, the fence would have to meet the barrier requirements according to the International Pool and Spa Code. Mr. Majewski stated he does not know why there was a requirement to have a spa in an enclosed patio. Mr. Costello stated he feels the thought was that if the cover was not put on, someone could come into the yard and get into the hot tub.

Mr. Bush asked what is meant by an enclosed patio, and Mr. Majewski stated that is not defined.

Mr. Majewski stated there is also a 5' height requirement when all of the Pool Codes require a 4' high barrier/fence/wall that is not climbable in addition to having a latched gate with the latch at a higher location so that children could not reach the latch and get in.

Ms. Kirk asked if hot tubs are regulated like pools under the International Code, and Mr. Majewski stated they are. Ms. Kirk stated it would make sense to make hot tubs subject to the same type of regulations that Mr. Majewski was suggesting with the pools, and Mr. Majewski agreed. Mr. Majewski stated he will provide everyone with the requirements of the Pool and Spa Code before this is discussed again.

Mr. Majewski stated he wanted to bring these items to the Planning Commission's attention, and they can discuss them again at a later time.

OTHER BUSINESS

Mr. Majewski stated the Planning Commission was notified that the Township received Revised Plans for Prickett Preserve. He stated there are 11" by 17" copies of the Plans available if anyone would like a copy.

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There being no further business, Mr. Costello moved, Mr. Gill seconded and it was unanimously carried to adjourn the meeting at 8:15 p.m.

Respectfully Submitted,

Adrian Costello, Secretary