

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – OCTOBER 12, 2020

The regular meeting of the Planning Commission of the Township of Lower Makefield was held remotely on October 12, 2020. Mr. Bruch called the meeting to order at 7:30 p.m.

Those present:

Planning Commission: Ross Bruch, Vice Chair
 Tony Bush, Secretary
 Adrian Costello, 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. Bush. moved, Ms. Stern seconded and it was unanimously carried to approve the Minutes of September 14, 2020 as written.

#678 – PENNSYLVANIA AMERICAN WATER COMPANY
OXFORD VALLEY ROAD BOOSTER PUMP STATION – SPECIAL EXCEPTION
Tax Parcel 20-034-048
R-2 Residential Medium Density Zoning District
West side of Oxford Valley Road between Mill Road and Edgewood Road

Mr. Craig Darosh, Project Manager, and Mr. Jason Leonard, engineer, were present.

Mr. Darosh stated this is for the replacement of the booster pump station.

Mr. Leonard stated Pennsylvania American Water is looking to construct an above-ground booster pump station at their existing site along Oxford Valley Road.

He stated this will replace an existing below-ground booster pump station.

He stated the property currently is made up of two parcels which they are going to consolidate into one. A copy of the Site Plan was shown, and he showed the location of the proposed booster pump station. He stated as part of the project they are also proposing to re-align the existing driveway as it currently runs off onto the Township's property. He stated they will get the driveway all on the Pa American Water property, and will use that to access the site.

Mr. Leonard stated they are requesting a Special Exception, and they are looking for a recommendation from the Planning Commission to the Zoning Hearing Board.

Mr. Costello asked if this is similar to the project that they did on Quarry Road moving it to an above-ground facility, and Mr. Darosh agreed.

Mr. Darosh stated this station is actually older than the one they are doing on Quarry Road, and this one is forty years old. Mr. Costello asked if this property on Oxford Valley Road is next to the water tower, and Mr. Darosh agreed.

Mr. Majewski stated this location is south of the ballfields and north of the Community Center where the water tower is located in the woods. He stated all you can see from the road is the driveway leading into the site. He asked if the driveway will be paved, and Mr. Leonard stated a portion will be paved, and the remainder will stay gravel. Mr. Darosh stated they are paving the entrance to just beyond where the proposed Township's bike path is going over. He stated they wanted to keep the impervious surface down, and so they decided to just pave to that extent so that the bike path can seamlessly go over.

Mr. Bush asked if there is currently an Easement where the road is going on Township property. Mr. Leonard stated there is not. Mr. Leonard added that they are proposing a temporary Construction Easement for the re-alignment of the road. Mr. Bush stated there was no Easement, and Mr. Majewski agreed.

Mr. Darosh stated he is not sure that they realized that a portion of the driveway was on Township property until they saw the survey.

Mr. Majewski stated they have requested a Special Exception and a Variance from the Zoning Hearing Board. He stated it is under the Zoning Hearing Board to grant or deny the requests for relief; however, the Planning Commission has a role in the Special Exception portion. He stated the Planning Commission needs to prepare an Advisory Report/provide comments on the

location of such use in relation to the needs and growth pattern of the area; and where appropriate, with reference to the adequacy of the site area, the arrangement of buildings, driveways, parking areas, off-street truck-loading spaces, and other pertinent features of the Site Plan. Mr. Majewski stated if the Planning Commission sees any issues with any of these items, they should include those concerns in their advisory opinion to the Zoning Hearing Board.

Mr. Costello stated it seems that the only change is that they will be taking the curve out of the driveway and keeping the driveway on their own property and re-doing the pump house the same way that they did on Quarry Road. Mr. Majewski stated they also have a small stormwater management area to the west of where the parking area is, and they are doing a small amount of clearing.

Mr. Bruch stated currently there are two parcels that they are consolidating into one, and he asked if that needs to occur before the Special Exception can be granted. Mr. Majewski stated in this case those two parcels are classified as one Tax Parcel by the Board of Assessments at the County level. He stated it may be that the Deed shows them as two separate parcels, but for tax purposes it is one parcel.

Ms. Kirk stated PA American Water may want to do a corrective Deed because the property is actually Titled in the name of their predecessor, Yardley Water and Power Company; and it becomes very cumbersome when you are granting Easements, etc. to try to grant it to PA American Water when the property is Titled in a different entity's name. She stated their Legal Department may want to try to correct that so that everything is accurate. Mr. Darosh stated he can bring that up to them.

Mr. Bruch asked if the Planning Commission proceeds with a recommendation, would they want to incorporate something with regard to a name change.

Ms. Kirk stated they could either file a new Deed or a Notice of Successor in ownership.

Mr. Bruch stated some of the above-ground improvements will be moving closer to the property line, and he asked if they are still satisfying all the buffer requirements. Mr. Pockl stated the proposed building is outside of the yard requirement so there is space for a buffer. He stated there is also an existing buffer on the adjacent property. He stated the only place where they may wish to require additional plantings would be along the north side adjacent to the ball fields. He stated they are proposing some clearing in that area.

Mr. Darosh stated on the Site Plan, immediately to the right of the tank is the station that they are replacing that is below grade, and the square looking building is a different booster station that feeds into a different area. He stated there is also a generator by that booster station.

Mr. Bruch stated they would still need to meet the buffer requirements, and Mr. Pockl stated he understands that they are requesting a Variance for that. Mr. Leonard stated they need to clear an area for stormwater management and the driveway. Mr. Pockl asked if they could put in an infiltration trench on the north side of the driveway that would eliminate the surface basin and still meet the stormwater requirements. He asked if they are willing to work with the Township to meet the stormwater requirements in other ways so that they do not have to clear trees. Mr. Leonard stated they tried to minimize the tree clearing as much as possible, but there are dimensional restraints. He stated he is not sure that there would be enough room to put in a gravel trench that would get the same volume that they would get with the proposed basin. He stated they are willing to work with the Township to find an agreeable solution.

Ms. Stern asked the size of the proposed building. Mr. Leonard stated he believes that it is approximately 16' by 40'. He stated the pumps in this building are almost twice the size as the ones at Quarry Road.

Mr. Bush stated it looks like more than just the turn is not on the PA American Water Company's property. Mr. Majewski stated the photo shown is Tax Map level mapping, and is not correct. He stated the lines are off by about 30' from the survey. He stated other than the part that curves that is on Township property, the rest is within PA American's right-of-way.

Ms. Stern asked if there will be any paved area for parking, and Mr. Leonard stated they just have a turn-around area for their trucks. Mr. Majewski asked how many vehicles they could have there at any one time; and Mr. Darosh stated possibly there could be two but this is an unmanned station, and it would just be a visit to do the normal system checks that are done a couple times a week. He stated there could be some type of repair needed when they would need a contractor which could involve a couple of vehicles.

Mr. Costello asked if the Quarry Road driveway is gravel, and Mr. Darosh stated that one will be paved. He stated that driveway is a short driveway, and it is coming off a highly-travelled road. He stated they had nothing at Quarry Road, and they had to pull off onto the shoulder of the road.

Mr. Costello stated he does not have an issue with the driveway at the Oxford Valley Road location being gravel because it is not intended for anyone to be parking there for any significant amount of time and it is

back in the woods. Mr. Pockl stated he does not see it as a major concern because of the light use that it will get.

Mr. Pockl stated there is language in the Ordinance about site lighting that may be pertinent to this discussion, and they may want to recommend that language to the Zoning Hearing Board. Mr. Majewski stated this will still be going through the Land Development Approval process at a later date. He stated if the Planning Commission feels that lighting should be addressed now, they could include that in a recommendation; however, this is really an advisory opinion on the matter before the Zoning Hearing Board recognizing that it will be coming back to the Planning Commission as a Land Development.

Mr. Costello moved, Mr. Bush seconded and it was unanimously carried to recommend to the Zoning Hearing Board approval of the Special Exception subject to the re-alignment of the existing driveway as presented with the Township providing a temporary Construction Easement for the re-alignment and Record the necessary instruments in order to clarify the current Title ownership of the affected parcel.

#679 – JEAN AUGUSTIN – BED & BREAKFAST/BOARDING – SPECIAL EXCEPTION
Tax Parcel 20-054-089
R-2 Residential Medium Density Zoning District
3 Ridge Avenue

Mr. Majewski stated the property owner has requested a Special Exception from the Zoning Hearing Board to allow a Bed and Breakfast at their property located at 3 Ridge Avenue or, in the alternative, to have a Boarding Use allowed on the property.

An aerial view of the property was shown. He showed the location of the borderline of Morrisville which runs down the road with the right side of the road being the Borough of Morrisville, and the left side of the road being Lower Makefield Township.

Mr. Majewski stated there are a number of requirements that need to be met for a Bed and Breakfast, and the Applicant will need to address those at the Zoning Hearing Board meeting. Mr. Majewski stated as this is a Special Exception, the Planning Commission needs to issue an Advisory Report with respect to the location of such Use in relation to the needs and growth pattern of the area; and where appropriate, with reference to the adequacy of the site area, the arrangement of buildings, driveways, parking areas, off-street truck-loading spaces, and other pertinent features of the Site Plan.

Mr. Majewski stated this is an existing single-family house with a short driveway coming off of Ridge Avenue. He stated it has a two-car garage and a narrow back yard.

Mr. Majewski stated there are a number of requirements for Bed and Breakfast Use, including that it be listed on the National Register or be designated as Historic by the Board of Supervisors and maintained in accordance with the standards for rehabilitations and guidelines for Historic buildings, that no more than four persons may occupy a guest room, and that it have a minimum floor area of 3,500 square feet. Mr. Majewski stated it is also required that the parking area should be screened with a Type IV Buffer area in accordance with the Buffer requirements of the Township Code.

Mr. Costello asked if there is anything that does not meet the requirements just laid out by Mr. Majewski, and Mr. Majewski stated they are deficient on several of the requirements. Mr. Majewski stated it is not designated as a Historic structure, the building size does not meet the area requirements, they have not submitted a Plan as to how they intend to buffer the parking area, and there are several other issues that may be in contention as well.

Mr. Bruch asked if the property owner was in attendance, and Ms. Kirk stated he is not. Ms. Kirk stated it has been an ongoing issue with the property owner about the current use of the property which does not meet the requirements of the applicable Ordinance or the Property Maintenance Code, and that has been going on for at least one if not two years. Ms. Kirk stated at one point the Township was informed that

the property owner had no less than six people living in the residence, some of whom were living in the basement area that was not fully developed to accommodate bedrooms. Ms. Kirk stated the property owner has been cited several times, and the property owner has added certain additions and structures to the premises without the appropriate Permits. Ms. Kirk stated in order to be able to have multiple residents at this property, the property owner has opted to try to get a Special Exception for a Bed and Breakfast or approval for Boarding although he is not meeting all of the specific requirements of the Regulations for either of those two Uses. Ms. Kirk stated there have also been numerous complaints lodged with the Township by nearby residents about a constant flow of people coming in and out.

Ms. Kirk stated in light of the situation, the property owner opted not to appear tonight, is allowing the Planning Commission to look at the Application on its face, and will then to proceed with the Zoning Hearing Board.

Mr. Bush stated Ms. Kirk had indicated that there were items that were not satisfied to allow it to be a Bed and Breakfast or a Boarding House, and he asked for further details on that. Ms. Kirk stated he does not have the appropriate size requirements. She stated the minimum net Lot area is supposed to be 16,000 square feet, and she is not sure if he meets that

requirement. Ms. Kirk stated according to the Board of Assessment, the property is .472 so it might be close. Ms. Kirk stated it also states: “no additional rooms may be constructed for this purpose.” She stated it is difficult to determine if he has constructed more rooms, and she is not sure if he created more cooking facilities. She stated she knows that there were certain things being done to the interior of the house which he was told to remove. Ms. Kirk stated he did put in a porch roof overhang without a Permit, and she understands he also installed a patio area.

Ms. Kirk stated it also indicates that there cannot be more than two boarders in the house, and at times he has had six to eight people residing there.

Mr. Bush asked if there are any existing lawful Bed and Breakfasts in Lower Makefield, and Mr. Majewski stated he does not believe that there are any.

Mr. Bush stated a lot of communities have developed Ordinances about Airbnbs, and he is not sure if the Township has considered that. Ms. Kirk stated that had been addressed following a situation that took place at a property on Yardley-Makefield Road which being used as a Bed and Breakfast advertised on Airbnb. She stated based on Case Law at that time, the Township did not prevail; and the property owner was able to use it as an Airbnb. She stated after that, there were some Amendments to the Ordinance

with respect to a Bed and Breakfast. Mr. Majewski stated the Township does have an Ordinance that regulates that. Mr. Majewski stated at one point the property owner under discussion this evening was running an Airbnb; however, he violated almost every condition of the Airbnb Permit, and the Permit was revoked by the Township.

Ms. Stern asked if there is anything about Boarding Houses in Lower Makefield, and Mr. Majewski stated there are a number of properties which are legitimized and do have Zoning Hearing Board approval for a Boarding Use.

Mr. Bruch asked if they are in Residential developments similar to the nature of the property being discussed this evening or are they stand-alone properties that are not in organized developments. Mr. Majewski stated the ones that he is aware of are not within a development such as where 3 Ridge Avenue is located, and it is a situation where there are two houses on a parcel. He stated typically they are larger properties.

Mr. Bruch stated this house was sold in August, 2018; and he asked if these activities have been going on since that time or do they pre-date the last sale. Mr. Majewski stated they are new activities. Mr. Bruch asked if this is the full-time residence of the Applicant, and Mr. Majewski stated it is.

Mr. Costello stated Lower Makefield is not a “big Boarding House/Bed and Breakfast community.” He stated there are specific rules in the Ordinance at this time around that, and he would not be in favor of changing those rules. He stated he would not be inclined to approve any exceptions let alone the number of exceptions that are being requested.

Ms. Stern asked Mr. Majewski if there is a minimum time that the boarders are required to stay on the property at the legal Boarding Houses that are in the Township. Ms. Kirk stated it indicates that they must be full-time residents, but she does not feel it addresses the length of time. Ms. Stern asked if there is any assurance that there is compliance with Megan’s Law type of requirements for boarders. Ms. Kirk stated if someone moves into an area within a certain distance of a School or other facility of that nature and are on the List, they do have to register with the Police Department; however, she does not know what is done to insure registration. Ms. Stern stated she is concerned with people coming and going fairly frequently. Ms. Kirk stated Megan’s Law is done via the State, and there is not a lot that the Township can do to modify it as it is a State Law.

Ms. Stern asked the number of Boarding Houses in the Township, and Mr. Majewski stated he can only recall two that have boarders.

Mr. Costello stated as he noted earlier there are rules and Ordinances in place that regulate which houses should be able to do this type of activity, and he is not inclined to agree to any exceptions to the Ordinances.

Mr. Bruch stated he agrees with Mr. Costello given the information they have been provided and the lack of ability to meet the requirements of the Ordinance in combination with lack of prior compliance with similar attempts. He stated there is also a lack of “fit and feel of the Residential neighborhood.”

Ms. Stern stated she agrees.

Mr. Bush stated he is also concerned about the un-Permitted additional construction that has taken place at the location and the disregard for existing requirements in addition to already using the property for this purpose without seeking prior approval.

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

Ms. Kirk stated the Planning Commission can recommend that the request for Special Exception for both the Bed and Breakfast and/or the Boarding House be denied, recommend either one or both of the requests for Special Exception be approved, or take no further action.

Mr. Costello moved, Ms. Stern seconded and it was unanimously carried to recommend to the Zoning Hearing Board that they deny both Special Exception requests.

SALDO ORDINANCE AMENDMENT DISCUSSION

Mr. Bruch stated this is the last item of the Guidelines discussion. He stated he and Mr. Costello worked on the Landscape/Hardscape section and found that for the most part the Planning Commission had covered almost everything they wanted to discuss in the Landscape/Hardscape Section. He stated a lot of this was covered in Ms. Stern's section early in the year particularly with regard to the hardscape. Mr. Bruch stated Mr. Bush also covered additional items particularly in parking because of the nature of the green parking agenda that was circulated.

Mr. Bruch stated with regard to landscaping, they found as, particularly as it pertains to sustainable landscaping, their ideal Guidelines would include the following ideas: Protect and enhance the visual appeal of Lower Makefield, contribute to high-quality development, conserve water resources by using sustainable design, maintenance techniques, and plant species that are low water use and regionally appropriate, avoid the use of invasive species, respect and enhance the hydrological patterns and protect water quality and conserve and recycle water in the landscape and reduce stormwater run-off in parking

areas and other impervious area, improve air quality, and buffer potentially incompatible neighboring land uses. Mr. Bruch stated with regard to the invasive species, he would also say that when at all possible to use landscaping materials which are locally sourced and are appropriate for this environment geographically.

Mr. Costello stated this will be a big area with a lot of public spaces and walking spaces that are paved or have paver-type surfaces so they should appropriately use vegetation and landscaping, grass, etc. to break it up so it is more visually-appealing and is a “softer space.”

Mr. Bruch stated since they are talking about a Mixed-Use parcel, the idea of there being flow between the different Uses is appropriate. He stated in the Residential portion, they should not be staring at a parking lot or a large box store. He stated they need to consider flow with buffers between the area.

Mr. Bruch stated amenities within the public spaces should include landscaped areas, benches, art or cultural features, or focus features such as fountains, clocks, etc. He stated he believes that Ms. Stern had included this wording in her section. Mr. Bruch stated every effort should be made to insure that public spaces are visible and accessible from adjacent roadways. He stated if there is a public space such as an amphitheater it should be viewable to

the general public as they pass by and not be hidden so that it does not take special knowledge of the parcel to know that it is there and to encourage public access to public features. Mr. Bruch stated decorative brick, concrete pavers, or pavement treatments should be integrated into various areas within the design of the Mixed-Use parcel. Internal sidewalks be designed to give pedestrians a good view of on-coming traffic and shall be located far enough from traffic signs, trees, light fixtures, or other obstacles to prevent interference within pedestrian movements. He stated if there is an Overlay District if the goal of the developer is “live, work, play,” you would want the ability to walk the grounds and go between the different areas of the parcel without interference; and from a pedestrian standpoint without any concerns for traffic safety as well as to create an overall enjoyable environment. Mr. Bruch stated areas adjacent to walkways should be landscaped for visual interest, shade, and scale.

Mr. Costello stated they should properly utilize landscaping to buffer the different Uses. He stated Wegmans will be a big building with a big parking lot. He noted the Wegmans at Princeton where they have done a good job of landscaping with visual interest that softens the appearance. Mr. Costello stated during the walk-through he saw the large row of trees that is between the two parcels, and they are going to keep most of those to help buffer the Commercial area from the Residential area. He stated they will cut through access roads through two parts of that which he

feels is good. He stated they will have to make sure they buffer the area between where the CVS will be and the apartment closest to the street as that is the one area where there is no existing vegetation between the two areas. He stated if this is properly done, he feels it will address the concerns of some of the residents who did not want this to be concrete, pavement, and big buildings. He stated vegetation helps break that up and makes it a more pleasant place to be. He stated he is encouraged by what he has seen so far, and they need to make sure that the wording is right in the Guidelines so that they are encouraged to make those kinds of decisions.

Mr. Bruch stated everything should be ADA accessible, and he is sure that would be part of the Ordinance and may not need to be mentioned in the Guidelines but is worth noting.

Mr. Majewski noted the recent renovations made at the Corporate Center, and he stated the North Campus turned out very nice. He showed a picture of what was done so that there is no longer just a huge parking area, rather there are open areas with plazas where people can gather as well as walkways to connect the buildings, the hotel, and the Dunkin' Donuts with landscaping mixed in with smaller groupings of plants. He stated there is also modern lighting and eating areas where people can gather. Mr. Majewski stated at the Corporate Center South Campus they have a deck area that was built

in one of the parking areas between some buildings. He stated there is a road that still goes through, but there are speed tables in between where there are pedestrian crossings leading from the building; and then there is a large multi-level area for people to gather and relax. He stated there are ramps leading to the different levels. He stated the whole area is now pedestrian-friendly and accessible and is a nice amenity to that Office Campus.

Mr. Bruch stated there is a lot of open space, and in the area of the parking lot they have included as many trees as they could. Mr. Bruch stated the Design Guidelines going forward should also maximize tree use wherever possible as it benefits not only the individual parcel, but also all of Lower Makefield.

Mr. Majewski stated with regard to the Corporate Center projects the EAC had no comments to offer as to the Site Plans and felt that they reduced or mitigated all of the increase in impervious surface, added more green space, and there was a net gain in trees. Mr. Majewski stated the EAC saw the benefit of this project.

Mr. Pockl stated when they are putting trees in hardscaping/public spaces they should use deep-rooted trees since shallow roots tend to push up the paving, and they may want to suggest this in the Guidelines. He stated

that typically where there are the public plazas, there is something that is visually-distinctive to indicate that it is a pedestrian-friendly zone. He stated it could be a different type paving, colored asphalt, stamped asphalt, or something else that is visually-distinctive.

Mr. Bruch stated whenever possible landscaping materials that are lower maintenance would be preferred since the developer may not be the owner of the parcel going forward and may not carry the responsibility of large upkeep, and this would be from an aesthetic appeal as well as from additional chemicals or other materials that would be threatening to the environment or to water sources that might be relied upon too heavily.

Mr. Bush stated he feels all of these were good ideas. He stated since the last meeting he went to the Wegmans at Princeton. He stated in that shopping center, they did a retro-fitted parking lot and put in two charging stations in the front right outside of the Dick's. He stated they had previously discussed encouraging developers to put those in. He stated the ones that were put in that parking lot are free; however, he does not know if that is the norm or if the property owners/shopping centers usually charge for that. He stated he feels they should encourage charging stations for new developments as well as re-developed parking lots

Mr. Bruch stated they have covered all of the sections of the Design Guidelines that they set out to do earlier this year. Mr. Bruch stated Mr. Majewski had indicated earlier that he would gather the information they discussed and put it into a document. Mr. Majewski agreed that he will be doing this and providing it in early December. Mr. Majewski thanked everyone for their input.

OTHER BUSINESS

Ms. Stern asked if the offer to walk the grounds of Prickett Preserve is still open as she was not able to meet with the developer the date that was previously offered. Mr. Majewski stated that is still possible. He stated they are starting to get review letters in for Prickett Preserve, and he will be providing these to the Planning Commission. Mr. Majewski stated he is happy to walk the site with anyone on the Planning Commission whenever they like.

Mr. Costello stated the tour of the property was very helpful.

There being no further business, Mr. Costello moved, Mr. Bush seconded and it was unanimously carried to adjourn the meeting at 8:37 p.m.

Respectfully Submitted,

Tony Bush, Secretary