

TOWNSHP OF LOWER MAKEFIELD  
PLANNING COMMISSION  
MINUTES – MARCH 8, 2021

The regular meeting of the Planning Commission of the Township of Lower Makefield was held remotely on March 8, 2021. 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  
    Daniel Grenier, Supervisor Liaison

APPROVAL OF MINUTES

Mr. Costello moved, Mr. Bruch seconded and it was unanimously carried to approve the Minutes of February 8, 2021 as written.

#679 GOMEZ MINOR SUBDIVISION DISCUSSION AND RECOMMENDATION OF APPROVAL  
Tax Parcel 20-032-017  
R-2 Residential Medium Density Zoning District  
1442 Oxford Valley Road

Proposed Minor Subdivision of an existing Lot containing an existing single-family dwelling into 2 single-family Residential Lots (creating one new building Lot)

Mr. Larry Burn, civil engineer, was present. He showed an aerial of the property which is about 1.9 acres located on Oxford Valley Road. He stated there is an existing house in the front of the Lot, and the proposal is to do a Minor Subdivision of the property and construct one new house in the rear. He showed the Site Plan showing the Subdivision, with the existing house to remain; and they are showing a conceptual house in the rear which will have a single access to Oxford Valley Road

to the flag portion. The existing driveway for the existing house will remain. He stated both lots will be served by public water and sewer. The Plan complies with all the Zoning criteria for dimensions.

Mr. Burn stated they received the Township engineer's review letter dated February 8, 2021, and they are all will comply items; and for the most part he has already revised the Plans to address those comments. Mr. Burn stated they are requesting a few Waivers.

Mr. Burn showed the Existing Features Plan. He stated this shows the trees on the property as well as the contours. There is a water course that traverses the rear of the property which cuts through the rear property line. He stated they are providing the required buffer for that. He stated there were some comments about some minor encroachments into the buffer which they will address by removing any proposed grading in that 50' strip.

Mr. Bush stated there is a shaded area between the two houses, and he asked what that is. Mr. Burn stated that is an existing gravel driveway, and the proposal is to remove that impervious area because it is no longer necessary.

Mr. Bush asked what it leads to at this time, and Mr. Burn stated it does not lead to anything. He stated it is an old gravel driveway that has been there. He again showed the aerial photograph, and showed the driveway area which serves no purpose at this time although it may have years ago. Mr. Burn stated they will remove that portion of the gravel driveway, and that has been accounted for in the stormwater management calculations. He stated they will install new impervious area, but they are also removing some existing impervious area; and that has been accounted for in the stormwater management calculations that were provided to the Township.

Mr. Burn showed a slide of the stormwater management facility which is a rain garden in the back which is designed for the additional impervious area. He noted a small area of grading within the 50' of the water course, and they will be modifying the grading so that they stay out of that 50' area.

Mr. Burn stated they are just showing a conceptual dwelling as the final architectural of the house have not been done yet. He stated the proposed house will probably be smaller than what is shown.

Mr. Pockl stated there is public sewer along Oxford Valley Road, and they are proposing public sewer; however, the back of this site drops down from Oxford Valley Road by approximately 12' to 13 so they will need a grinder pump on site to pump sewer out to the main on Oxford Valley Road. Mr. Burn agreed and showed the location of the conceptual dwelling. He stated they are proposing a grinder pump, and they will have a small diameter PVC force main that would run up along the side of the driveway and connect into the existing sewer in Oxford Valley Road. Mr. Burn stated they would also be connecting into the public water in Oxford Valley Road.

Mr. Majewski asked the size of the conceptual dwelling they are showing on the Plan, and Mr. Burn stated the footprint would be about 2,400 square feet. He stated it is a 60' by 40' footprint; and if it is a two-story house, it would be almost a 4,000 square foot house which is probably larger than the property owners were considering, as they were thinking it would be an approximately 3,500 square foot house. Mr. Burn stated there is sufficient room within the setbacks to accommodate the footprint and even larger if necessary.

Mr. Majewski asked if the stormwater management system accounted for this size building or something larger, and Mr. Burn stated he made provisions for slightly more impervious than he is showing on the Plan; and it could go up to an increase of 5,000 square feet of impervious surface as noted in the stormwater calculations.

Mr. Costello asked if the Lot is split equally, and Mr. Burn stated it is not. He stated the Lot in the back is 1.1 acres, and the Lot in the front is a little over a half acre.

Mr. Costello asked when there is a shared driveway as proposed, how would the two homeowners determine responsibility for maintenance, snow removal, etc.; and Mr. Burn stated it is not a shared driveway, and each Lot has its own private driveway. He stated the existing home will keep the existing driveway, and they will then put in a new driveway down the flag stem portion for the new home.

Mr. Grenier asked if the back of the Lot is considered woodlands, and Mr. Majewski agreed. Mr. Grenier asked if there is a woodlands buffer that needs to be plotted. He stated the edge of the woodlands is closer to the house than the water course buffer. Mr. Burn noted the line on the Plan which is the approximate level of disturbance and the tree line.

Mr. Grenier asked Mr. Majewski the requirement for earth disturbance within a woodlands buffer since he does not see a woodlands buffer line marked on the Grading and Drainage Plan. Mr. Majewski stated they need to measure the building setback from the resource-protected land. He stated whatever they are designating as woodlands to be protected, they have to show the principal building setback line from that. He stated you can put in a shed, swing set or grading right up to whatever is the limit of resource-protected lands are; and they can also have trees that they are saving that are not considered resource-protected lands since they are allowed to disturb up to 30% of the woodlands. Mr. Burn stated there is a Summary Table on the Existing Features Plan that shows that they are permitted to disturb 30% of the woodlands. He stated the Plan does show some disturbance, and he noted the area on the Plan where he had previously showed the grading for the rain garden; but they are not taking out any trees in that location, and they designed it specifically to avoid the trees.

Mr. Grenier asked the discharge location for the rain garden; and Mr. Burn stated there will be a small diameter pipe coming out of the rain garden, and he showed the location on the plan. Mr. Burn stated the rain garden was placed in that location because it is currently a lawn area, and it is generally the direction the water goes. He showed the discharge location for the overflow pipe, and there is a little grading to drain it toward the water course. Mr. Burn noted they will bring the grading back somewhat based on the comments received to keep it out of the 50'.

Mr. Grenier asked Mr. Pockl if he has any concerns with the proposed discharge or channelization that might impact the trees. Mr. Pockl stated the overall grade is 5% in that area. He stated given the fact that this is discharging by gravity and that it is an underdrain underneath the rain garden and an overflow from the rain garden, there might be a little bit of pressure from the overflow, but there is also the spillway. Mr. Pockl asked Mr. Burn what the elevation difference is from the spillway to the top of the overflow pipe, and Mr. Burn stated it is only 9". Mr. Pockl stated that would be 9" over top of the riser before it comes over the spillway. He stated he feels there is enough erosion-protection and it is spread out wide enough with a gradual slope downgrade so that he is not concerned about any erosion. Mr. Burn stated there are no floodways associated with the water course, and they are more than 400' from Brock Creek.

Mr. Burn stated the first Waiver they are requesting is that they not have to submit 25 sets of Plans; and this was suggested by Mr. Majewski who indicated the Township does not need 25 sets of Plans although they do have to request a Waiver since technically that is a requirement in SALDO. He stated another Waiver request is not being required to provide sidewalk on the 80' section of Oxford Valley Road. He stated the third request is to not be required to provide an additional street tree on Oxford Valley Road. Mr. Burn stated there are a couple of existing trees. He also noted the existing and proposed driveway so that there would not be a place to provide a street tree.

Mr. Burn stated there is also a potential fourth Waiver which while not listed, he was thinking about asking for, which is relief from the requirement to identify the species of the trees that are standing alone or being taken out. He stated he felt this Waiver could save his client time and effort. Mr. Pockl stated Mr. Burn had indicated that there were some trees on site that were dead which were part of the trees being removed. Mr. Burn stated there are some trees that are in bad shape, and he showed some of these on the aerial. He noted that there are also a few small trees where the driveway will go which will come out. He noted trees to be saved. He showed the lawn area, and the wooded area in the back which they will not touch. Mr. Bruch asked if the existing tree on Oxford Valley Road will remain, and Mr. Burn stated it will.

Mr. Costello asked if the Township has a requirement that if a property is developed, the street should be lined with trees, and Mr. Majewski agreed it does. Mr. Majewski stated the property frontage is approximately 108', and he believes that the requirement is for a street tree every 30' on average. He stated they have one tree to the east of the proposed driveway, and there is another tree that is set back somewhat off of the existing driveway. He stated by Ordinance, they would probably have to put in one more tree. Mr. Majewski stated he sees that there is a utility pole on the property in that area, and the wires run on that side of the road; and Mr. Burn agreed. Mr. Burn stated the existing water and sewer facilities cut through there as well.

Mr. Majewski stated with regard to the fourth Waiver Mr. Burn discussed that is Item #17 in the Remington Vernick review letter; and if the Planning Commission would entertain it, that would be Section 178-28AA2. Mr. Costello stated he assumes they only have to identify the species of trees that they are taking out. Mr. Bush stated it is also only those that are 15" in diameter or bigger. Mr. Pockl stated if it is only for the trees

that are to be removed, it might be only one tree. Mr. Burn stated he felt it was a requirement to identify by species all of the trees on the property which would result in a lot of trees having to be identified.

Mr. Pockl stated the requirement is for trees standing alone with a diameter of 15" or greater measured 4' above grade level. Mr. Majewski stated it does say trees need not be individually identified in wooded areas declared to be set aside for undeveloped resource protection land. Mr. Majewski stated because they are not proposing to disturb the wooded area in back, they would not have to identify the species of those trees; and it would just be the larger trees that are stand alone outside of those areas or ones proposed to be removed in what is defined in a woodland area which would have to be identified. Mr. Pockl stated the Planning Commission could issue a partial Waiver to have them identify whatever trees they want identified on the Plan. Mr. Costello stated it seems that based on the Ordinance they would only have to identify the species of five to six trees at the top of the Plan and six to eight trees at the bottom of the Plan. Mr. Costello stated he assumes that it could even be less as all of them may not be 15" or larger in diameter.

Mr. Grenier stated he assumes they would have to find an expert who would be qualified to identify the trees and put that on the Plan. Mr. Costello asked if the EAC could help with this. Mr. Grenier stated he would not want to commit the EAC to providing free consulting work. Mr. Grenier stated it would not be difficult to have an expert identify the trees.

Mr. Burn advised the Planning Commission that he would not request this Waiver if it is just identifying the few larger trees as his concern was that they were going to have to identify the species of the more than 100 trees in the back.

Mr. Grenier asked if there is a requirement that whoever identifies the trees has to be a certified arborist or landscape architect, and Mr. Pockl stated it does not specifically state that.

Mr. Bush noted it was indicated that Mr. Majewski was supportive of the Waiver of submitting fewer than 25 sets of Plans, and he asked what would be the right number. Mr. Majewski stated the Applicant did submit what he asked them to submit. Mr. Bush asked if the Township should consider changing this Ordinance to reflect current practices, and Mr. Majewski agreed.

Mr. Majewski stated at one point the Planning Commission did recommend approval of that, and they will include that with some other SALDO changes to be presented as one package to the Board of Supervisors.

Mr. Bush asked with regard to the requested Waiver for the sidewalk, if the Township has plans on either side of the road with regard to sidewalks. He added that he believes on the other side for at least a portion of the road there is a bike path. Mr. Majewski stated the bike path goes from Stony Hill Road to Heacock Road with one gap in front of one property across the street from this property, and down to the east. He stated it is a 180' gap in the bike path which would be good to complete.

Mr. Costello stated if there is no sidewalk on their side of the road, he understands their request for a Waiver; however, he would be concerned about Waiving this and at some point in the future, there is another 180' gap of sidewalk on this side.

Mr. Majewski noted the aerial photo, and he stated to the west of the property, there is sidewalk in front of that property; and then there is a gap of about 280' before getting to the property. He stated it may make sense to put this section of sidewalk in; and if something is done in the future, they could connect the gap. Mr. Majewski stated they could also accept a Fee-In-Lieu of the sidewalk. He stated in the Township Budget they have set aside a separate fund for the Fees-In-Lieu of sidewalk so that when opportunity arises to make connections, the money is there and not co-mingled with the rest of the General Fund.

Mr. Grenier stated there is a length of sidewalk in front of the Manor Care facility in the opposite direction. Mr. Majewski stated there is a 600' gap between Manor Care and this property.

Mr. Costello stated he does not have an issue with not putting in the sidewalk at this time; however, he would be in favor of having the ability of doing the sidewalk in the future, and not ending up with another gap.

Mr. Burn stated in the past he has seen a Note put on the Plan that the sidewalk is not Waived, but it is deferred to a future date. He stated it would be noted on the Plan that if in the future a sidewalk is required, they would have to put it in.

Mr. Burn stated the Applicant could also just put the sidewalk in now.

Mr. Gill asked if they know the approximate cost of that sidewalk, and Mr. Burn estimated it would cost \$8,000. Mr. Bush stated since costs in the future could go up, he would be in favor of putting the sidewalk in. He stated there is sidewalk on that side of the road so it makes sense to start filling in the gaps now.

Mr. Bruch asked if the sidewalk deferment option that was suggested has ever been used in Lower Makefield. Neither Mr. Majewski nor Ms. Kirk recalled that ever having been done. Mr. Costello stated since this is not their regular practice he would be concerned with this given the potential of subsequent home sales. Mr. Burn stated he has seen it utilized for small, Minor Subdivisions but not large-scale developments. He stated a future home buyer would see this on the Title Report. Mr. Burn stated if the Applicant is required to install the sidewalk, they will put it in.

Ms. Kirk stated in addition to a Note being on the Plan, when the legal description for the Lots are drafted, a Condition could be added that either one or both property owners at some future time may need to install a sidewalk in accordance with the Note set forth on the Final Record Plan. It would be a restriction as part of the Deed and the legal description of the properties.

Mr. Bruch stated he is less in favor of installing the sidewalk as a stand-alone piece which he feels would be unsightly compared to additional lawn/green space. He stated it does not serve a functional purpose and if the other properties at 1436 Oxford Valley Road and the property in between 1442 and 1436 will most likely never install sidewalks he is inclined to not want the sidewalk installed especially in light of the fact that there is a walking path across the street if bikes or pedestrians need to access Oxford Valley Road. Mr. Bush asked Mr. Bruch his opinion about requiring that money to be put aside, and Mr. Bruch stated he would be okay with that. Mr. Costello stated he does see Mr. Bruch's point that in the short-term that sidewalk would look unusual. He stated he feels giving the Township the money is probably the easiest, although he would also be in favor of adding the Note on the Plan.

Ms. Stern asked how much of that side of the road has no sidewalk. Mr. Majewski stated to the west there is about 285' without sidewalk that goes in front of two houses. He stated to the east of the subject property, there is an area without sidewalk up to Manor Care.

Mr. Costello stated after discussion, he agrees with Mr. Bruch that they should not be required to build the sidewalk; and they should pay the cost of the sidewalk to the Township.

Mr. Burn stated there is a bike path on the other side of the road. Mr. Costello stated he understood that there was a gap across the street, and Mr. Majewski stated further down across the street from the subject property, there is one Lot without a sidewalk for about 150'.

Mr. Costello stated he is in favor of having the funds paid by the developer so that the funds are there when the Township can install the sidewalk when ready.

Ms. Stern stated she agrees it would not make sense to just have this one strip of sidewalk and it could be difficult to police a future requirement in a Deed to have a future owner install the sidewalk so she would be in favor of the Applicant paying the Fee-In-Lieu. Ms. Kirk stated if it is in a Deed, when a Title Company does their search, they will pick up on that restriction. Mr. Bush stated his concern is that this could “fall through the cracks;” and he agrees that if they are not going to require the sidewalk be installed at this time, the money should go into the fund so that there is not a problem in the future. Mr. Majewski stated as he noted earlier, the Township now has a dedicated Fund in the Budget for these Fees so that they do not get lost in the General Fund.

Mr. Burn stated the Applicants may decide that they would prefer to put the sidewalk in at this time.

Mr. Grenier asked if the sidewalk were not installed at this time would they have to put an Easement on the property to allow for the sidewalk in the future and would that have to be written in the legal description.

Mr. Majewski stated there is an ultimate right-of-way. Mr. Grenier asked who would design the stormwater management system for the impervious from the sidewalk. Mr. Pockl stated this Lot does slope from the road back to the stream, and they would consider that as additional impervious that would need to be compensated for by the Applicant. Mr. Grenier stated whether they build it or not, they should design the stormwater system under the assumption that it will be there at some point; and Mr. Pockl agreed.

Mr. Bush noted the other review letters. The SAFE Highway Engineering letter was noted; and Mr. Burn stated he was asked to show the clear sight triangles on the Plan, and that is a will comply. Mr. Bush stated there was also an issue about an Impact Fee for the traffic, and Mr. Burn stated they will comply with that Ordinance requirement. Mr. Majewski stated they are showing last year's Fee, and the new Fee is \$50 more which will be \$2,955.

The EAC comments were noted. Mr. Burn stated the EAC discussed protection of the stream buffer which is a will comply. He stated he does not feel the owners would be willing to put in a Conservation Easement as the EAC has suggested, and that is not mandatory or required.

Mr. Bush stated with regard to the tree removal, the EAC wanted to make sure that the trees being removed that are 10" or greater are calculated. Mr. Burn stated that is an Ordinance requirement, and they will identify the trees that are being take out as discussed earlier.

Mr. Burn noted the Ebert Engineering sewer letter, and they will comply with those comments.

Mr. Pockl asked if they have submitted to the Bucks County Conservation District; and Mr. Burn stated they did, and they received the "adequate" letter from them dated October 13, 2020. It was noted that the Township and the Township engineer did not receive a copy of that, and Mr. Burn agreed to e-mail that to them. Mr. Majewski stated the disturbance is less than one acre. Mr. Burn stated this is just the adequate letter for the erosion control.

Mr. Grenier asked if Mr. Burn was a Civil PE licensed and Registered in Pennsylvania, and Mr. Burn agreed and reviewed his qualifications and experience. Mr. Burn added that his seal is on the Plan.

Mr. Costello moved and Mr. Bruch seconded to recommend to the Board of Supervisors' approval of the Minor Subdivision at 1442 Oxford Valley Road subject to compliance with the Conditions as set forth in the Remington Vernick letter of February 8, 2021, noting that there were three Waivers requested. The Planning Commission recommends that two of the three Waivers be approved, but the Waiver as to not requiring sidewalks be denied and direct that the Applicant either install the sidewalk or pay a Fee-In-Lieu of installation of the sidewalk. The Planning Commission recommends compliance with the other review letters issued by SAFE, the traffic engineer, of February 16, 2021, the Ebert Engineering review letter of February 12, 2021, and the recommendations set forth in the EAC review of February 11, 2021 leaving the issue of a Conservation Easement to the discretion of the Board and Applicant.

There was no one from the public wishing to make comment.

Motion carried unanimously.

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

Respectfully Submitted,

Adrian Costello, Secretary