

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JULY 21, 2009

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on July 21, 2009. Mr. Malinowski called the meeting to order at 7:15 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman
Jerry Gruen, Member
Anthony Zamparelli, Member
Paul Kim, Alternate Member

Others: David Truelove, Township Solicitor
James Majewski, Township Engineer
Allen Toadvine, Zoning Hearing Board Solicitor
Matt Maloney, Supervisor Liaison

Absent: Paul Bamburak, Zoning Hearing Board Vice Chairman
Gregory J. Smith, Zoning Hearing Board Secretary

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

Mr. Smolow called Mr. Stephen Mosley who was sworn in. Mr. Mosley stated he resides at 1558 Brookfield Road with his family. He is a consultant for the pharmaceutical industry. He reviewed his education and experience. He stated he lives one and a half miles north of the proposed location for the Hospital. He is involved with the organization RAFR and is a member of the Steering Committee of which there are approximately twelve members. He stated RAFR was formed in August, 2008; and they are a grass roots organization of citizens from Lower Makefield who are opposed to the project and are opposed for a number of reasons including concerns about traffic. He stated the proposed location is the worst intersection in the Township in terms of traffic and, as Chief Coluzzi testified, in terms of accidents. Mr. Mosley stated he himself was involved in an accident at this location a number of years ago.

Mr. VanLuvanee objected to Mr. Mosley's comments regarding what Chief Coluzzi testified to, and Mr. Mosley stated it is part of the record. Mr. Malinowski allowed this.

Mr. Mosley stated it is one of the worst intersections in Lower Makefield Township. Mr. Mosley stated they are also concerned about taxes. He stated Chief Coluzzi testified that additional Police and safety people will need to be hired at close to \$500,000; and since the Hospital is non-profit that will be a direct cost, according to the Lower Makefield Township Supervisors, in terms of increased taxes to the residents of Lower Makefield. Mr. Mosley stated RAFR also does not feel there is a need for this Hospital. He stated St. Mary's Hospital is five miles away to the west; and there is currently under construction a larger, state-of-the art hospital being built six miles to the east. He stated currently the existing Frankford Hospital on Oxford Valley Road is laying off employees and are not able to fill their 120 beds so he does not feel it makes sense to build another Hospital in between the two hospitals that are existing.

Mr. Smolow asked if RAFR circulated a petition seeking public support for their position in opposition to the Hospital, and Mr. Mosley stated they did. He stated there were at shopping centers, polling places, did mailings, made phone calls, went door to door, and were present at Lower Makefield Township meetings asking people to sign their petition. Marked as Exhibit R-8 were eleven binders which are the copies of the petitions which were signed by over 1,000 people with at least 90% of those who signed being residents of Lower Makefield Township. Each binder is a complete set of the signed petitions. Mr. Mosley added that this does not include those who signed this evening.

Mr. VanLuvanee stated he would object as this is not evidence that has merit with respect to the subject matter before the Board. Mr. Malinowski allowed the petitions.

Mr. Smolow asked Mr. Mosley about his familiarity with the intersection of 332 and Stony Hill Road. Mr. Mosley stated it is approximately one and a half miles south of his home and on a daily basis he would access 332 from Lindenhurst Road. He is familiar with the traffic at this location during the morning and evening rush hours, during the hours in between, and on the weekends. Mr. Smolow asked Mr. Mosley to describe the conditions of traffic at this intersection during these times. Mr. Mosley stated during rush hour it is almost impossible to turn left from Lindenhurst to 332 because of the back up which continues past Lindenhurst Road west on 332.

Mr. VanLuvanee stated he has an objection to this line of questioning as Mr. Mosley is dealing with generalities. He stated he recognizes that the witness is not testifying as an expert; and to that extent he recognizes that some generalities are probably appropriate, but he is not sure for what purpose his testimony is being offered.

Mr. Smolow asked Mr. Mosley to focus on eastbound traffic on 332 heading towards I-95 during rush hour morning and evenings. Mr. Mosley stated the queue is always extremely long. Mr. Smolow asked about traffic at Stony Hill heading north as it approaches 332 during rush hours, and Mr. Mosley stated the entire intersection is usually backed up in every direction since this is also the access point for I-95.

Mr. Smolow asked about conditions heading eastbound on 332 in between the rush hours, and Mr. Mosley stated in between the rush hours it is manageable, and is not absolutely horrible and it might take two lights to get through. Mr. Smolow asked about traffic on the weekends on 332 heading eastbound. Mr. Mosley stated in the mornings at 7:00 a.m. on the weekends you might make it through.

Mr. Smolow asked Mr. Mosley what strategies he uses during rush hours to deal with the traffic. Mr. Mosley stated he generally avoids that intersection by going down Creamery Road and other side streets such as Quarry Road although you can then get caught behind School buses as there are three Elementary Schools on Quarry Road. Mr. Mosley stated generally they try to avoid the intersection at all costs if possible during rush hour morning and evening. Mr. Smolow stated because of the traffic conditions instead of using 332, he uses one of the smaller roads in the Township; and Mr. Mosley agreed adding that if you try to go to Newtown Township by Twining Road, this backs up for ten lights this way so it is not always a good solution either.

Mr. Smolow showed photographs which had been identified in the record by two of the traffic engineers. He showed two photographs dated 3/12/09 which he marked collectively as Exhibit R-9. Mr. Smolow asked Mr. Mosley if he recognizes the orientation of the photograph and asked if it would be fair to say that it represents traffic eastbound on 332; and Mr. Mosley stated it does. Mr. Smolow noted the second photograph, and Mr. Mosley stated this is the traffic coming east to west.

Mr. Smolow showed photographs that were presented in the McMahon Traffic Study as Exhibits to the Study. Mr. Smolow these are already in the record as part of the Traffic Report. Mr. VanLuvanee stated these were not part of the Traffic Report as indicated in the e-mail. Mr. Smolow asked that they look at the Traffic Study adding that what he is presenting are color renditions of the black and white photographs that are part of the McMahon report. Mr. VanLuvanee stated the e-mail stated that these photographs were not included in the Traffic Report. Mr. Smolow stated he does feel that these photos match up with the photographs in the Traffic Report.

Mr. VanLuvanee reintroduced Mr. O'Brien, and Mr. VanLuvanee stated Mr. O'Brien has indicated that this was a second set of photographs and some of these photographs were duplicates of the first set so that some of them are in the Traffic Study and some are not.

Mr. Smolow stated he believes they are all in the Traffic Study. It was suggested that Mr. Smolow mark his photographs separately; but Mr. Smolow stated he wants to show that these were the photographs that came from the report. After further review of the report, Mr. VanLuvanee agreed that this set of photographs are a part of the photographs that were included in the Traffic Study.

Mr. Smolow marked the e-mail dated 5/18/09 along with five pages of colored photographs as Exhibit R-10. Mr. Smolow noted Exhibit R-9 and Exhibit R-10, which were part of the McMahon Traffic Study, and asked the Board which of the sets of photographs accurately reflects traffic condition during rush hour traffic at the intersection.

Mr. VanLuvanee objected to the relevance of the questions noting that the photographs were not included as depictions of the traffic conditions and were presented to show configuration of the roadway which is clear in the Report. He stated this is not represented to be the condition of the road at rush hour.

Mr. Malinowski agreed, and the Objection was sustained.

Mr. Smolow asked if he is Objecting to the introduction of R-10.

Mr. Malinowski stated he sustained the Objection that the photos were not meant to depict traffic but were merely meant to depict the road.

Mr. Smolow noted Exhibit R-10 and asked what those photographs depict. Mr. Mosley stated they show something that he has never seen before which is an empty road. Mr. Smolow stated the photographs were attached and were apparently intended to depict the appearance of the intersection which is why the photographs were attached to the report. He stated if the traffic engineer did not want to show a picture as to what conditions look like, they would not have attached the photographs. He stated the purpose for the testimony was to show what in fact is the truth.

Mr. Kim stated they discussed extensively the queue and the conditions of the road, and these were never presented as clear roads during rush hours at any of the testimony, and there was no deceptions regarding this.

Mr. Smolow stated as long as the Board takes this as a photograph of the intersection that is at a time that is unusual and not typical of traffic at the intersection, this is fine; and this was the purpose of the testimony.

Mr. Smolow called Mr. Majewski who was sworn in. Mr. Smolow stated Mr. Majewski testified earlier as the Township engineer, and he asked if he is still the Township engineer; and Mr. Majewski agreed. Mr. Smolow stated he asked Mr. Majewski to calculate for him the number of vehicle trips that would be expected to be generated by the Hospital and medical offices in this project if it were allowed to proceed and to compare those trips with the number of trips that would be generated by a general office and an office park at the location.

Mr. VanLuvanee stated he objects to this line of questioning as this Witness was not qualified as a traffic expert, and they have had plenty of traffic experts testify as to how many vehicle trips were going to be generated by these uses.

Mr. Smolow stated the purpose of the testimony is to fill in a gap in the Record as the Record shows the number of trips that will be generated by the proposed use during the rush hour times; however, there is no testimony as to the total number of vehicles that will be generated on an annual basis daily, weekends, and a total number for the year; and this is the purpose for the testimony.

Mr. VanLuvanee stated there is no testimony by an expert that the total number of cars is relevant to anything as far as the road capacity is concerned.

Mr. Malinowski stated he does not feel Mr. Majewski was qualified as an expert to testify as to these numbers. He stated they could allow Mr. Majewski to give his personal opinion as to the numbers, but they would have no more weight to the Board than any other personal opinion.

Mr. Smolow stated Mr. Majewski will explain how he arrived at these numbers, and the Board could then decide how to consider them.

Mr. VanLuvanee stated he recalls that Mr. Angelastro provided a table which showed the peak during the week, added them up, and showed the peak numbers on Saturdays. He stated he did not extend it 365 days, and he feels Mr. Angelastro would have done that if he felt it was relevant. He stated everyone can do the arithmetic if they felt it was worth doing. He stated Mr. Majewski is not a traffic expert and was not qualified as such.

Mr. Kim stated Mr. Smolow was present when they had detailed discussion as to Mr. Majewski's expertise as well as had detailed testimony from the traffic experts. He stated he feels if Mr. Smolow wanted to extend that to 365 days, he could have asked that question of the Township traffic engineer at the time he testified or could have brought him back to this evening's meeting. Mr. Smolow stated this was not his case and not his time to present evidence. He stated he feels Mr. Majewski is capable as the Township engineer to testify as to how he arrived at the numbers. Mr. Smolow stated he will lay a

foundation, and the Board can either accept it or reject it or he will make an Offer of Proof.

July 21, 2009

Zoning Hearing Board – page 6 of 16

Mr. Koopman stated he feels the residents are entitled to make their case and if they have a Witness who they feel has relevant Testimony, he feels it should be presented.

Mr. Truelove stated he would join in this. He stated they did have Testimony from a lay witness about observing traffic and taking traffic counts on behalf of the Applicant, and there were Objections to that. He stated it was allowed, and it was a very interested Party, so he feels this is no worse since the Township engineer does have oversight responsibilities for all projects and this includes traffic. He stated Ms. Fountain already testified to this from Newtown's perspective as their Township engineer with respect to traffic issues there. He stated he understands that this will just be a compilation and a reasonable extrapolation, and he feels it should be admissible and considered for weight. Mr. VanLuvanee stated it was his recollection that it was Mr. Smolow who called Mr. Powell and not himself to ask Mr. Powell about his traffic counts.

Mr. Malinowski stated he would tend to agree that there is very little relevance here, and that Mr. Majewski is not the traffic engineer and therefore these numbers do not carry a lot of weight; however, he agreed to allow Mr. Smolow to proceed in the interest of getting as much on the Record as possible.

Mr. Smolow asked Mr. Majewski to summarize his experience with traffic as the Township engineer and what experience he has reviewing Subdivision and Land Development Plans for the Township insofar as traffic is concerned.

Mr. VanLuvanee stated they have already been over this. Mr. Toadvine agreed and stated this Witness has already testified to this.

Mr. Smolow stated he asked Mr. Majewski to conduct a study as to the number of vehicles which will be generated by this Hospital and compare them to General Office/Office Park use, and Mr. Majewski agreed. Mr. Majewski stated based on one of the Exhibits Mr. Angelastro had presented to the Board during the Hearing, he extrapolated numbers out and did a calculation based on fifty weeks in a year times five days during the week and two days on the weekend. He discounted two weeks because of vacations and holidays. Mr. Smolow asked if in making this extrapolation did he consult any official guides to determine the number of vehicles that would be expected, and Mr. Majewski stated he used the Institute of Transportation Engineer's 7th Edition Manual that was issued in 2003.

Mr. Smolow marked as Exhibit R-11, which is the chart that was prepared by Mr. Majewski as a result of his study. Mr. Smolow stated the ITE Code is on the left, and the next column identifies the particular use in question; and Mr. Majewski agreed. Mr. Smolow asked why Mr. Majewski showed the square footage in the next column,

and Mr. Majewski stated the calculation for the average weekday and weekend trips are based on the gross square footage. Mr. Smolow stated the next column toward the center July 21, 2009

Zoning Hearing Board – page 7 of 16

shows “weekday average trips,” and Mr. Majewski stated this represents the number of weekday average trips for fifty weeks in a year, five days per week. Mr. Smolow stated the next column is weekend average trips, and he asked what this represents; and Mr. Majewski stated this represents the average weekend trips for fifty weeks in a year, two days on the weekend. Mr. Smolow asked what is in the right hand column, and Mr. Majewski stated this is the total number of trips adding up the weekday average and weekend average trips.

Mr. Smolow asked what would the result be if he added up the total number of trips for the year for the Hospital and medical office, and Mr. Majewski stated it would be 2.84 million. Mr. Smolow noted the General Office location, and asked Mr. Majewski if this property were developed as General Office Use according to the ITE Code, how many trips would be expected on an annual basis to be generated by that use. Mr. Majewski stated they used an assumption of having the same square footage as the Hospital and the medical office combined; and based on that gross square footage number, they came up with 1.17 million trips per year. Mr. Smolow asked if he also made a calculation for an Office Park at this location; and Mr. Majewski stated Mr. Angelastro in his testimony had calculated an Office Park and assumed 420,000 square feet; and the total number of annual trips for this use would be 1.27 million.

Mr. Smolow offered into Evidence Exhibit R-11, and Mr. VanLuvanee stated he would Object for the reasons already noted. Mr. VanLuvanee’s Objection was noted.

Mr. VanLuvanee stated he understands that Mr. Majewski used ITE Trip Generation Manual 7th Edition, and Mr. Majewski agreed. Mr. VanLuvanee asked when he had a figure for the weekend average, did he do separate calculations for Saturday and Sunday which is found if you look at ITE, or did he use Mr. Angelastro’s figure where he used Saturday only in his trip generation. Mr. Majewski stated he just used Mr. Angelastro’s number. Mr. VanLuvanee asked if Mr. Angelastro’s figures that were used came out of the Study that was offered into evidence which was Mr. Angelastro’s power point, and Mr. Majewski agreed that this is where he got the information.

Mr. VanLuvanee asked Mr. Majewski if he would agree that the trip generation rates he utilized were for any 375,000 square foot hospital at any location and he did not attempt to localize the figures; and Mr. Majewski agreed. Mr. VanLuvanee asked if this is also true for the General Office and Office Park use and there was nothing specific to this location that were contained within the figures to which he has testified to this evening, and Mr. Majewski agreed.

Mr. Smolow stated he has no further Witnesses to present this evening. He stated it is his understanding that a number of residents wish to testify as residents of the community; and he feels they have the right to testify in these proceedings as residents of the Township. He stated if this is the case, he will rest so long as they can testify; but if they cannot, he will call them as Witnesses.

Mr. Malinowski stated the normal procedure once all have rested would be for Public Comment at this time. He stated they will ask to hear from those who wish to speak in favor of the Special Exception and from those who wish to speak in opposition to the Special Exception. He stated they will allow as many people to speak as wish to speak, and he asked that they try to keep it as civil as possible. He stated because he assumes that there are many people who wish to speak, and they want to allow as many people to speak as possible, he stated they will put a two minute time limit on the Testimony for each speaker.

Mr. Smolow stated he does not feel that two minutes is a fair amount of time for residents to express their opinion completely adding that many of these people have sat through approximately one year's worth of testimony at the Zoning Hearing Board. He stated a number of issues have been raised by a number of the Witnesses, and the Board has raised a great number of issues. He stated they have also seen a great number of Exhibits. He stated he hopes that the Board would be flexible in permitting the residents to testify without a hard and fast time limitation. He feels this would be fair to the residents so that they have a fair opportunity to express their concerns and opinions.

Mr. Malinowski called for Order at this time.

Mr. Malinowski stated he does not disagree with this, and they will have leeway to a certain extent. He stated the Board's normal procedure is that if someone raises an issue such as traffic, normally the Board would not listen to additional comments on this subject as they have already heard about traffic and would ask that those who have something new to add to the matter speak on another subject. He stated in this case, he was not intending to limit that this evening so that if fifty people wish to speak to traffic, they will allow this. He stated he does not feel that fifty people would need to state this for five to ten minutes each, and at some point it does become redundant. He stated given the number of people that it appears want to speak, he feels two minutes is fair.

Mr. Zachary Rubin, 1661 Covington Road, affirmed to tell the truth. Mr. Rubin stated he is Vice President of the Makefield Glen Community Association's Executive Board which is a neighborhood of 848 homes, and the largest housing development in the Township. He stated on 7/14/09, the Association's Executive Board passed a Resolution to oppose the Application of Frankford/Aria Hospital to relocate in Lower Makefield and

gave him the authority to convey that message. Mr. Rubin stated speaking as a resident, he would like to do some perambulatory foundations and asked the Board to do some actions before they vote on the Special Exception.

Mr. Rubin stated in reviewing the Bohler Engineering report, which was Frankford Hospital's engineering report, they included the Traffic Impact Study of the Frankford Hospital of June 2008; and he quoted from that Report as follows: "Through discussion with the Township and review of PennDOT's Twelve Year Transportation Program, there are no plans to improve any of the study area roadways by the Township, PennDOT, or any other developer that would have a significant effect on the traffic operations."

Mr. Rubin continued quoting from Frankford's Report, "The capacity under existing condition which has already been put into evidence, the Stony Hill and Route 332 Level of Service (LOS) according to PennDOT currently is an E and a F." Mr. Rubin stated C is satisfactory. Mr. Rubin stated an E and an F is a failing grade. Mr. Rubin continued quoting as follows, "The Lindenhurst Road and Campus Drive to Route 332, the Level of Service is an F during peak hours as conditions exist today. Stony Hill Road and Township Line with the proposed development and the proposed signal optimization, the intersection will continue to operate at the overall Level Service of E and F, the same as if there was no development." Mr. Rubin stated according to their Report, putting the traffic light at that intersection or putting an egress or ingress right-turn onto 332 will not improve that intersection. Mr. Rubin stated they heard a lot from the Institute of Transportation Engineers publication, Trip Generation, Seventh Edition; and according to their statistics, the new Hospital and Office Center will have 9479 additional daily trips so there will be 9479 more cars at the intersection of 332 and Stony Hill Road.

Mr. Rubin stated he does not feel that the Level of Service will be the same with the Hospital and their improvements since you cannot get a lower grade than an F. He stated they cannot be given a G or an H, and it will be worse according to their own Testimony with their improvements.

Mr. Rubin stated Article 6, Section 604, paragraph 2 of the Pennsylvania Municipalities Planning Code states, "The provisions of the Zoning Ordinance shall be designed to prevent danger and congestion in travel and transportation." Mr. Rubin stated the Township's Citizens Traffic Commission Traffic Study Traffic Flow Issue reported in January, 2008, "Sixteen percent of all accidents in the Township occur on Stony Hill Road." Mr. Rubin read from the Lower Makefield Township Zoning Code, Section 298A3b, the Special Exception Application, as follows: "The proposed location of public industrial or commercial use is suitable with respect to probable effects on highway traffic and that is suitable with respect to adequate access arrangements in order to protect major streets and highways from undue congestion and hazard." Mr. Rubin quoted from

the New Webster Comprehensive Dictionary of the English Language defining “undue” as follows, “improper and excessive.”

July 21, 2009

Zoning Hearing Board – page 10 of 16

Mr. Rubin noted Section 298B has not been discussed at the meetings for the last year, and the Zoning Hearing Board has the authority to implement it; and he feels it is incumbent upon the Zoning Hearing Board to do what is civically-responsible and adhere to the Zoning Ordinances for Special Exception. He quoted Paragraph B as follows: “The Zoning Hearing Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this Chapter.” Mr. Rubin stated this Chapter is to protect the Township against undue dangerous or excessive traffic. He stated it is the job of the members of the Zoning Hearing Board to enforce the Special Exception paragraph, and they have the authority to impose on the Applicant anything to improve the traffic conditions.

Mr. Rubin asked that the Zoning Hearing Board direct Aria Hospital to pay for a traffic engineering firm mutually-agreed upon by the Applicant, the Township, RAFR, and Newtown Township and to commission a study of the intersections around the proposed development and devise engineering plans to improve the Level of Service to a passing grade of C; and that Aria must agree to incur the cost of those recommended improvements before the Zoning Hearing Board grants the Special Exception. He stated the Zoning Hearing Board has the power to fix the intersections regardless of what the cost is according to the law.

Mr. Rubin stated he heard the Board indicate that they never denied anyone because of traffic, and they also asked Newtown if they had ever done this. Mr. Rubin stated he is not asking them to deny them because of traffic, but is asking that the Board impose the Special Exception that they have the authority to tell them to fix the intersection so that it is safe and there is no undue burden on the residents.

Mr. Malinowski called for Order at this time.

Ms. Irene Koehler, 25 Spring Lane, affirmed to tell the truth. Ms. Koehler stated she has been a resident of Lower Makefield since she was a child, and she feels this the most important land use issue ever to come to Lower Makefield. She stated a hospital at the proposed site creates major hardships for Township residents, huge traffic increases, and extra taxes to pay for services the Township must provide for a hospital that is not needed. She urged the Board to vote against the Special Exception needed to allow a hospital to be built at this location.

Ms. Koehler stated the Newtown By-Pass is the major conduit to I-95 for the Townships above Doylestown. She stated there is a huge back up of vehicles currently at the off and on ramps on I-95 onto the By-Pass which is jammed with residents from Lower Makefield, Upper Makefield, Newtown, Wrightstown, Ivyland, Richboro, Pineville,

Buckingham, Doylestown, and beyond who use the Newtown By-Pass every day to access I-95. She stated the new Veterans' Cemetery traffic and imminent developments
July 21, 2009 Zoning Hearing Board – page 11 of 16

in neighboring Newtown Township have not been taken into account. Ms. Koehler asked the Board how they could see these traffic statistics and with any conscience vote for this proposal. She stated the Hospital will add 9,400 more vehicles a day at these intersections and gridlock will be the result. She stated 9,400 additional cars a day will not only flood the Newtown By-Pass but also the secondary roads neighboring it such as Quarry Road which has three Elementary Schools.

Ms. Koehler stated both St. Mary's and Capital Health are within a ten minute drive to the proposed site for the new Frankford Hospital. She stated with Lower Bucks Hospital having great financial difficulties, such that it has been suggested they might close, she feels it is unconscionable for Frankford/Aria to move to a "higher-financial demographic area," leaving the whole lower end of the County without any hospital services at all.

Ms. Koehler stated the Lower Makefield Township residents will have to pay for the extra Police services. She stated she does not feel there is any benefit to be gained as they have good hospital service currently, and Frankford hospital will not generate taxes as it is a non-profit. She stated an office building at that site would bring in tax monies; and she stated she would like to see the site developed in a manner that would allow the Township to receive greater revenues and not cost the citizens a tax increase for additional services for a hospital that is not needed.

Ms. Koehler stated in excess of 1,200 citizens of Lower Makefield Township have signed their petition in opposition to this use. Ms. Koehler stated there is tremendous opposition to this unneeded hospital at this site. She stated the provisions of the Zoning Ordinance are designed to promote and protect the health, safety, and welfare of the people of Lower Makefield Township, the ones the Zoning Hearing Board took a vow to protect, and this is their obligation. She asked that the Board not vote yes to something that is so obviously detrimental to the community and the safety of its citizens and that would so negatively impact their quality of life.

Ms. Koehler asked that her statement be put into the Record, and she provided a written copy to Mr. Malinowski.

Mr. Michael Blivess, 1448 Heather Ridge Drive, was sworn in. Mr. Blivess stated at the 8/26 meeting, Mr. Kim indicated that the Board would be looking at the health, safety, and environmental impact relative to this use. Mr. Blivess stated at the 10/21 meeting, Mr. Malinowski stated the only issues before the Zoning Hearing Board was whether the use of the land for a hospital would have an adverse impact on the health, safety, and welfare of the Municipality. Mr. Blivess stated despite almost a year of Hearings, he has heard nothing that addresses the concern of biological and radioactive waste so close to a food source. He stated with respect to the health and welfare of the Municipality, he has

not heard anything addressing the total financial impact on the Municipality. He stated

July 21, 2009

Zoning Hearing Board – page 12 of 16

he has heard that Lower Makefield Police expenses are expected to increase and the non-profit status of the Hospital implies that Lower Makefield's revenue will be lower, and he would view these as adverse impacts on the financial health and welfare of Lower Makefield. He stated he does not believe it is in their best interest to approve this land use.

Ms. Janet Bryant, 1753 Horseshoe Bend, was sworn in. Ms. Bryant stated she has been a Township resident for seventeen years. She stated Mr. VanLuvanee stated at the 8/26 meeting "there is nothing about a hospital that would create any more of an environmental impact than an office building; and she stated this is untrue. She stated she is a 22 year Board Certified Medical Physicist and a Radiation Safety Officer listed on the Nuclear Regulatory Commission License for three Hospitals, and her experience and knowledge in the field goes deeper than the day-to-day operations of a hospital and the amount of traffic it will bring.

Ms. Bryant stated as a first responder to radiation disasters involving injured patients brought to health care facilities, she had a statement from the American College of Radiology reprinted from the Department of Homeland Security Working Group on Radiological Dispersion Device Preparedness, known to the general public as a "dirty bomb;" and she read as follows: "When there is any type of radiation incident, many persons will want to know whether they have been exposed or are contaminated. Provisions need to be made to potentially deal with thousands of such persons." She stated in addition two out of ten items which the American College of Radiology lists as "basics of response" will add to traffic and congestion. She quoted from the American College of Radiology as follows, "You or your Hospital must be prepared to manage large numbers of frightened, concerned people who may overwhelm your treatment facility. You or your Hospital must have a plan for distinguishing between patients needing hospital care and those who can go to an off-site facility." Ms. Bryant stated this article deals with nuclear disasters. Ms. Bryant stated a hospital is required by the Joint Commission on the Accreditation of Health Care Organizations to accept patients injured from biological and/or chemical attacks.

Ms. Bryant stated for these reasons she asks the Zoning Hearing Board to answer the question: Do they want the tax burden for additional Police Officers and Firefighters coupled with the additional traffic this Hospital will bring in our community. She urged the Board to vote no.

Ms. Bryant provided her written remarks to Mr. Malinowski for the record.

Mr. Fran McDonald, 937 Randolph Drive, was sworn in. He stated the Applicant has come in with a great deal of money wanting to duplicate the quality of hospital services

they already have. He stated they have come into a small town and will cause an increase in taxes to pay for their services. He stated they will make a traffic situation that is
July 21, 2009 Zoning Hearing Board – page 13 of 16

already inadequate into a disaster. He stated they are leaving a poorer area and coming into an area where they can make more money. Mr. McDonald stated the cost to the Township for the Hospital will be at least \$440,000 in additional Police and other services, and the Hospital will contribute nothing for that. He stated a tax-paying office building would generate approximately \$750,000 or more in revenue to the Township, and the cost to the Township for a tax-paying office would be nothing. Mr. McDonald stated this is a small Township and the Hospital is a major corporation. Mr. McDonald stated he does not feel the Township wants to pay for their services.

Ms. Virginia Torbert, 1700 Yardley-Newtown Road, was sworn in. Ms. Torbert stated she is Vice Chair of the Citizens Traffic Commission and she lives approximately one half mile from the proposed site. Ms. Torbert stated she recognizes that the Board is very limited in terms of the Ordinances and how they can decide this case; but she asked that they focus on the sentence in the Ordinance that discusses the proposed location of a public, industrial, or commercial use being suitable with respect to probable effects on highway traffic. Ms. Torbert quoted part of the Ordinance as follows: “That it is suitable with respect to adequate access arrangements in order to protect major streets and highways from undue congestion.” Ms. Torbert stated this location is on the edge of the O/R District, on the edge of Lower Makefield Township, and on the edge of what is left of the Agricultural District of the Township, and she asked that the Board consider this. She stated just because a use is allowed by Special Exception in the District does not mean that it has to be everywhere in that District. She stated it is already difficult for the people who work the farms in this area to get out of their driveways. She stated it is very difficult to get a tractor out onto the By-Pass and drive it down the street. Ms. Torbert stated it has already been noted that the intersection is a failed intersection.

Ms. Torbert stated she has had experience with hospitals, and a hospital is basically a small city. She stated employees, patients, visitors, maintenance people, and suppliers are all coming to the facility which is a 24/7/365 days per year facility. She stated most hospitals need an infrastructure in place before they are built and the proposed location has no public transportation and very little infrastructure. She noted the existing Frankford location has the mall, strip shopping centers, restaurants, dry cleaners, and gas stations in the area. She is concerned about the long-term effects of putting a hospital at the proposed location and asks how long it will be before they want restaurants, dry cleaners, and gas stations there as well. She stated while some may indicate that the area is not Zoned for this, there is a Dunkin’ Donuts across the street and the adjacent Fleming property already has a number of operations at their location. She asked how they will stop this entire section of the By-Pass, Stony Hill Road, and Township Line Road from becoming another Oxford Valley Road/Route 1. She stated it will entirely change the character of that area. She stated she knows that the Board must be careful about generalities, and she understands the Board’s limitations; but she feels letting the Hospital in at this location will fundamentally turn that section of the Township from

Office/Research /Agricultural/ Residential into something fundamentally different.

July 21, 2009

Zoning Hearing Board – page 14 of 16

Ms. Torbert stated that once this is over she feels the Township needs major changes to its Ordinance since they are “easy pickings; but added that even though the Board is limited in terms of the Ordinance and there are limited requirements about Hospitals, she does feel that there is in these sections about traffic and because of the uniqueness of this location, that there is “something to hang their hat on.”

Mr. Michael Upton, 13303 Cornerstone Drive, was sworn in. He stated he is opposed to the Hospital relocation. He stated there are a number of adverse environmental impacts such as the carbon footprint and the noise and pollution that result from increased traffic. He stated there is one adverse environmental impact that will directly affect the welfare of the community and is therefore relevant to the Board’s deliberations and this is stormwater management. He stated the proposed project will convert forty acres of farmland to forty acres of impervious surface and building footprint. He stated a project of this magnitude in the community will have a severe adverse impact on the ability to manage stormwater and potential flooding. Mr. Upton stated although it may be impossible to prove that a raindrop that falls on Shady Brook Farm will end up in the basement of a Lower Makefield Township resident who lives along the River, they can conclude that continued development on this scale will only add to the volume of water that drains into the Delaware River where they have already experienced severe flooding; and he does not feel they should approve development that will exacerbate the problem. He stated while the developer will attempt to prove that they can manage stormwater in the vicinity of the project, this is a regional problem and is relevant to the Board’s decision making. He strongly urged the Board to vote against the Hospital relocation project. He submitted his statement to Mr. Malinowski for the record.

Mr. Stephen Mosley, Brookfield Road, stated he is still sworn in. He stated he has attended Zoning Hearing Board proceedings in the past and the normal procedure was that when a Variance was requested and two neighbors objected, the Board would then deny it on the basis of the objections of the two neighbors.

Mr. Malinowski stated this is not accurate.

Mr. Mosley stated they have presented 1,300 signatures which is 10% of the population that are opposed to this, and he asked that the Board take this same consideration into account when they decide how to vote on this issue.

Mr. Ron Smith was sworn in. He welcomed all those from out-of-town from the Hospital who came to the meeting under instruction. Mr. Smith stated while he is a Township Supervisor he is not present as a Supervisor or candidate for office and instead is present as a resident and taxpayer of Lower Makefield Township. Mr. Smith stated about one year ago the Hospital group came before the Board of Supervisors with their initial

presentation of the project. He stated he feels this is the worst possible project for Lower Makefield Township. He stated he has been a resident of the Township for over twenty-five years. He stated in 1988 this region was charged with synchronizing the lights on Route 332. He stated he has been a member of the Regional Traffic Task Force for the past four years, and that charge has yet to be completed. Mr. Smith stated when the experts tell the Board that they are going to make something better, they need to weigh this evidence and look at the reality of the situation.

Mr. Smith stated at the top of Stony Hill Road they are building the Matrix project which he voted against recently because of traffic concerns. He stated the Matrix developers had to do certain road improvements according to Agreements, and the Township has been told that many of those improvements are not going to be done until they build houses. He stated this will result in traffic concerns at that location which will pile down onto Route 332 and Stony Hill Road of an untold magnitude.

Mr. Smith stated if you live on the south side of the railroad tracks which cut through the Township and you have a serious problem you have a choice as to which hospital to go to. He stated if there is no train, you can go right to St. Mary's or you can go left to Frankford Hospital; but once that Hospital is removed from that area and put at the proposed location, there is only one way to go which is toward 332. He stated if the train is there, and you have a serious problem, as you cannot go left anymore and you are dead. He stated he is not doing this just to arouse the crowd and stated this is fact. He stated this is a negative impact on the community.

Mr. Smith stated he and Mr. Caiola serve on the Regional Traffic Task Force and in the four years they have served, the Task Force has not done much to improve the traffic situations.

Mr. Smith noted the impact to the Township with regard to taxes. He stated currently one resident recently wrote in the paper that the Hospital would be a good project and will not really have a traffic problem plus it will bring in approximately \$100,000 to the Township; however, Mr. Smith stated the Police Officers alone that they will need will cost the Township close to half a million dollars.

Mr. Smith asked the Board, before they vote, to look at what is going on in the economy in the Township adding that behind many closed doors people are suffering including not only the Senior Citizens who are on a fixed income but also couples and families who are out of work and cannot afford what they have now. He stated this Hospital will cost well over \$1 million a year with no help. Mr. Smith stated last year the Hospital brought in a marketing expert to tell the Supervisors what a great thing this will be for the Township and that the Township should feel honored and privileged to have this Hospital; however, once Mr. Smith cross-examined that gentleman and he was unable to answer some of his

questions, Mr. Powell, the CEO, had to step in and take his place. Mr. Smith stated Hospitals are necessary but he does not feel they want one or need one in the Township.
July 21, 2009 Zoning Hearing Board – page 16 of 16

Mr. Smith stated if this Hospital gets in because of the Zoning Hearing Board's vote, it will be another "nail in the coffin" to all the Senior Citizens and other people suffering economically.

Mr. Malinowski stated this project cannot go through just with the Zoning Hearing Board's vote. Mr. Smith stated Mr. Malinowski has been quoted in the newspaper. Mr. Malinowski stated his comments to the newspaper are not relevant to this Testimony. Mr. Smith stated he will not bring up Mr. Malinowski comment in the paper that it is going to be Appealed. Mr. Malinowski stated he was only stating to Mr. Smith that it is not up to the Zoning Hearing Board whether this goes through. Mr. Smith advised Mr. Malinowski that his vote has been phoned in for over a year by his rulings.

Mr. Malinowski advised Mr. Smith that he was out of order, and asked that he sit down. Mr. Smith refused to sit down. Mr. Malinowski again advised Mr. Smith that he was out of order. Mr. Smith stated Mr. Malinowski missed a number of meetings because of his son's baseball games and stated that Mr. Malinowski was out of order. Mr. Smith asked that the Board reflect on what the wonderful people of the Township have said this evening. He stated the Board should not allow eminent domain happen to Mrs. Wright's farms and other farms in the area. Mr. Malinowski again advised Mr. Smith that he was out of order.

Audience members refused to come to order and Mr. Malinowski entertained a Motion to adjourn, Mr. Kim seconded and the Motion was unanimously carried to adjourn the meeting at 8:30 p.m.

Respectfully Submitted,

David Malinowski, Chairman