

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JULY 16, 2013

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on July 16, 2013. Chairman Bamburak called the meeting to order at 7:30 p.m.

Those present:

Zoning Hearing Board: Paul Bamburak, Chairman
Jerry Gruen, Vice Chairman
Keith DosSantos, Member
Mark Moffa, Member

Others: John Koopman, Township Solicitor
Mary Ellen Saylor, Township Engineer
Barbara Kirk, Zoning Hearing Board Solicitor
Pete Stainthorpe, Supervisor Liaison

Absent: Anthony Zamparelli, Zoning Hearing Board Solicitor

APPEAL #13-1658 – SUNFLOWER FARM, LLC

Mr. Edward Murphy, attorney, was present with Applicant Dr. Amy Bentz. Ms. Kelly McGowan, attorney, was present on behalf of Mr. VanLuvanee, attorney, for Mr. Conoscenti.

Mr. Bamburak stated the purpose of tonight's Hearing is to continue to hear Public Comment.

Mr. Zachary Rubin, 1661 Covington Road affirmed to tell the truth. He stated he is opposed to the Application. He stated he understands that to get a Use Variance they cannot use property for what has already been approved. He stated he feels they could use this property for agriculture, there is a single-family detached dwelling is already on the property, and it is possible to put a greenhouse on the Patterson Farm. He stated it is also approved for public, recreational facilities. He stated if they cannot use that property for those purposes, they can get a Use Variance for hardship; but he feels the property could be used for the permitted uses.

Mr. Rubin stated he feels it is a specious argument that what is being proposed is not a veterinarian hospital, and he feels this equine hospital is a veterinarian hospital. He stated there are permitted uses throughout the Township for veterinarian hospitals in C-1, C-2, and C-3. Mr. Rubin noted the Bellemead/Matrix property which was zoned C-3; and for eighteen years, they were unable to sell or develop it. He stated he feels there was an opportunity to have this equine hospital where it would have been permitted. Mr. Rubin noted the parcel of land at 332 and Township Line which is owned by Aria Hospital which is forty acres Zoned O/R, and a veterinary hospital is permitted there with a Special Exception. Mr. Rubin stated he feels the Applicant could find legal counsel to go before the Zoning Hearing Board to argue for a Special Exception for a veterinary hospital. Mr. Rubin stated a Use Variance is only used if you cannot use the property for permitted uses, and he feels they could use the property for the permitted uses he enumerated.

Dr. Joanna Bassert, 641 Hearts Ridge Road, Conshohocken, PA was sworn in. She stated she understands that the Zoning Hearing Board received the letter that she wrote prior to the last meeting. She stated she is the Director of Veterinary Technology at Manor College, a veterinarian, and also on the Board of Trustees at the George School. She stated she grew up in Newtown and has relatives who live in the area. She stated the farm where she teaches at Manor College has many horses with thirty-five acres of turn out, and there are houses close to the pasture. She stated it is an excellent role model for the kinds of challenges that Dr. Bentz might face in a similar community in a suburban area. She stated they have very little problems with any of the issues that have been raised. She stated they have enough turn out to be able to spread their manure rather than collect it as Dr. Bentz is proposing, and they have not had any complaints about odors or flies. Dr. Bassert stated she is also familiar with the equine facility at George School where there are about twenty horses and horses are brought in and out of campus. She stated that facility also has houses very close to the facility, and they have collection of manure because they do not have enough land to spread it; and they have a disposal that comes to collect the manure. Dr. Bassert stated she grew up just off campus, and there is not a odor or fly problem. Dr. Bassert stated concerns were raised about lighting, but she has never received any complaints about lighting since lighting is very modest on farms.

Dr. Bassert stated the most common complaint they receive is the concern expressed from drive-by community members who call them concerned when the horses are lying down to go to sleep since it is falsely assumed that horses only sleep standing up, and the people are concerned when they see the horses lying down that they are dead.

Dr. Bassert stated the DEA has very strict laws for controlled substances. She stated those drugs must be under three locks – a locked safe, in a locked cabinet, in a locked room. She stated this is standard for all facilities that have controlled substances whether it is a veterinary facility or a human medical facility.

Dr. Bassert stated Dr. Bentz has worked at the Fox Chase Farm which in another community farm the college uses, and is a wonderful farm that offers 4H gathering sites, FFA meeting sites, and a place where schoolchildren can gather to see where food comes from. She stated the kind of facility that Dr. Benz is proposing would offer an environment in which school children and Scouts could come and tour and where FFA groups could have their animal projects. Dr. Bassert stated she feels what Dr. Bentz has proposed is wonderful for the community, and the horses will bring in the need for hay and feed which will complement the feed and hay industry in the area. She stated the community is extremely lucky to have such a high-level veterinary practice with Dr. Bentz's level of skill.

Mr. Andrew Martin, 201 Garber Drive, affirmed to tell the truth. Mr. Martin stated he feels the idea is one of the best uses he has heard in a long time and a great use for the land. He stated horses are clean animals, and it would produce income for the Township and might bring in jobs as well. He feels it is a use of the land that is consistent with open space, and he does not see any downside.

Ms. Irene Koehler, 25 Spring Lane, was sworn in and stated she objects to the project. She stated when the Township purchased the Patterson Farm she believed that it would be open space, but she is concerned that it is now being sold off piece by piece. Ms. Koehler stated she feels six Variances is a lot, and she questions why they have Zoning laws if they are going to bypass them. She stated she feels this sets a dangerous precedent.

Dr. Helen Heinz was sworn in. Dr. Heinz stated she has attended all of the meetings and especially appreciated the comments made by Ms. Patterson-Diliplane about the experiences of her Uncle and his wishes for the farm he loved. Dr. Heinz stated she did not mention that Tom Patterson's "poor luck" in coping with people who wanted his property was epic. He was a simple man and an aging man well over ninety years old in the late 90's when it was his third time experiencing condemnation. She stated in the 1950's he had lost his house and farm in Falls Township to the U.S. Steel Factory. She stated he moved to Lower Makefield Township and in the late 1960's/early 1970's he lost about fifty acres to a National condemnation for the building of I-95. She stated he did his best to keep the Farm safe and counted on the people of the Township to continue his farm.

Dr. Heinz stated she feels the testimony of Dr. Bentz was convincing that this is planned to be a high-powered, highly-visible, highly-prized, highly-compensated commercial horse hospital for an exclusive clientele with very specific and necessary surgical procedures already anticipated.

Dr. Heinz stated per the testimony of the veterinarian/lawyer Dr. Wilson, it will compete with New Bolton, and it is so important that Lower Makefield Township get this. Dr. Heinz stated she feels it is sad that this site is too small, but there are other parcels within the Township which are industrially and commercially zoned which are of five to twenty-five acres; and there are some with fields and crops, houses and barns within a short distance to I-95 which are screened from traffic noise and providing wide trailer access. Dr. Heinz stated the difference is that the parcels are not “virtually free” like this one is. Dr. Heinz stated this parcel came at the expense of two “annoying historic structures, a small chunk of change, and a big, deductible legal bill,” but is still cheaper than the other sites.

Dr. Heinz stated the Township Administration thinks Dr. Bentz can get the use changed, and they can give her the rest of the land she definitely needs in a lease; and this Farm will lose more land. Dr. Heinz stated she feels Dr. Bentz should find another site and open her business plan to multiple investors in the marketplace and do it right.

Dr. Heinz stated this is a troubling property. She stated originally in 2004 the Township wanted a two and a half acre Subdivision and a rectangular plan was drawn. She stated politics changed, this offer came along, and a new Township engineer made a few new plans to create what they have today. Dr. Heinz stated it is the best that could be done and still fit into the “around five acres” limitation in the Deed. Dr. Heinz stated just over five acres allows special use exceptions appropriate to the underlying Zoning. Dr. Heinz stated while trying to convince the Board that this was a minor Vet clinic, it was undercut by the “pride of the buyer” and the plot laid out at first glance also appears to be close to the limiting stipulations Mr. Patterson put into his sale document to the Township which states “shall not exceed more than five acres in size.” Dr. Heinz stated this means he did not want to trigger those special exceptions. Dr. Heinz stated he also added that “any Subdivision uses shall remain as a single-family dwelling, and no new structures or structures could be created on the parcel or parcels unless such structure is related to an improved use.”

Dr. Heinz stated the Township lawyers have interpreted this as a misspelling, and have indicated he probably meant that they had to be “approved;” but she feels he knew that structures have to be approved. Dr. Heinz stated another interpretation is that he meant exactly what he said, and any new building had to be related to the improved residential use, and she feels he stated clearly that he did not want a

commercial hospital or other industrial/commercial use interfering with his farming operation. Dr. Heinz stated the current farmer does not want it either, and the adjacent residents do not want it. Dr. Heinz stated the lawyers will tell you that Patterson knew all these conditions they were making would only apply as long as he lived, and Dr. Heinz noted that both Pattersons were over ninety, and Mr. Patterson was over ninety-five.

Dr. Heinz stated Dr. Bentz discussed her proposed improvements to the old Quaker house and had stated that sometimes personnel will be sleeping over and the historical house will be utilized upstairs for that purpose and both downstairs and upstairs uses will be storage and offices and will be rehabilitated under commercial standards. Dr. Heinz stated this was “laughable – what she characterized as a much-cheaper alternative to residential use.”

Dr. Heinz stated this is a joint Application by Dr. Bentz and the Township, and Begley-Carlin is charging the Township to collaborate with Dr. Bentz and Sunflower Farms to demand all the Variances and the Lease in this Application. Dr. Heinz stated the people have to object on their own or hire counsel on their own.

Dr. Heinz stated one of the demands “buried” in the Purchase Agreement was relief from the requirement that this property use Department of Interior Standards for historic preservation. Dr. Heinz stated that fact made Jeff Marshall’s “wonderful” Testimony about Façade Easements, the National Register, and possible State or National financial incentives totally moot. Dr. Heinz stated all references to a Narrative Dr. Bentz paid for from the “sainted” Mr. Milnor, she gets relief from any restrictions the Township residents formerly paid to put on the property. Dr. Heinz stated it will not be restored for domestic use, and it will be rehabbed as a commercial structure.

Dr. Heinz stated the Zoning Hearing Board should know that the high estimates the Township Manager laid out trying to emphasis the hardship the Township has in this including estimates of \$500,000, and three-quarter million to bring it up to Code was not the cost to be lived in but for public use; and he did not explain that part of it. Dr. Heinz stated when those estimates were done, it was before the roof repair, and Mr. Fedorchak did not explain that part either. Dr. Heinz stated Township tax dollars financed that roof repair from the State and local coffers at the highest possible Union wages. Dr. Heinz stated Mr. Fedorchak quoted about \$110,000 for the house roof and gutters and \$125,000 for the barn, and she added those numbers seem to be “flexible and ever-changing” Dr. Heinz stated both Sunflower and the Township claim the roof still needs to be repaired, and she feels they do not know what they are looking at since it was done. Dr. Heinz stated the House and barn are secure and will stand there at least another ten years with no problems unless they are further abused.

Dr. Heinz stated if the requested Variances are granted, Dr. Bentz can rip out windows, remove the cherry stairways, replace siding with vinyl look alike, do subtractions or additions, and anything she wants to do. She stated the Façade Easement placed on the property that says it must be maintained the way it looks now with the original Subdivision language is useless unless the Township wants to invest more money in the Township lawyer and his firm to enforce something that he is currently working to overturn which she feels is wasted money by the Township.

Dr. Heinz stated since Dr. Bentz's improvements will happen long after the implementation of the 1990 and 2008 revision of ADA requirements, the Township Building Department will have to advise her as an employer to comply with the new revised Building Codes for office structures; and she will have to rip out at least one of the three non-Code stairways for a Code-compliance stairway, put in an elevator, a handicap ramp, handicap bathroom on the first floor, and install fire alarms and sprinklers for her Commercial use.

Dr. Heinz stated Dr. Bentz has also negated any possibility of getting historic house relief because it is not a house, and she is not doing a certified NDIS restoration. Dr. Heinz stated this will be much cheaper than leaving it as a home, lived in by people who liked it.

Dr. Heinz stated she is sure at some point there will be an Application to demolish and all this will go away in a suitable manner.

Mr. Bamburak stated the Board recognizes that Dr. Heinz disputes a lot of the Testimony she has heard. He stated the Board does have the right to limit repetitious comments which they feel is not needed, and they have the right to move the proceedings along.

Dr. Heinz stated with regard to the bank barn, it will fall down eventually; and Dr. Bentz's did not have a Plan for the barn so that will happen sooner than later.

Dr. Heinz stated Sunflower Farm will need more land as per the signed Agreement, and the Township will offer an additional twenty acres further breaking Mr. Stewart's Lease. Dr. Heinz stated the farmer should have had the structures to lease with the rest of the Farm, and he would have had the responsibility and the liability. She added he could have rented them or received an income, and they should have gone with him.

Dr. Heinz stated rather than the “sad story” that Mr. Fedorchak laid out for the Zoning Hearing Board of the hardships this property was and is to Lower Makefield Township, she would submit the issue is with the property management by Lower Makefield Township. She stated there is always a difficulty when the Township tries to preserve structures with no plan in place. She stated what they have tonight is the fall out from that lack of leadership, lack of vision, and lack of common sense.

Dr. Heinz stated the Township in conjunction with Sunflower Farms is asking the Zoning Hearing Board to break the Zoning Code. She stated if this Application succeeds, they should be prepared for an onslaught of Zoning Use Change Applications from everyone in the Township that has more than five acres who want any kind of Commercial Use or Special Exception such as yoga studios, mini gyms, dance schools, motor cross, art galleries, specialty shops, etc. She stated present this evening is the start of the “Not In My Back Yard” residents protesting at the Zoning Hearing Board meetings. Dr. Heinz stated impervious surface issues will be set at what Dr. Bentz requests.

Dr. Heinz stated if the Zoning Hearing Board upholds the Zoning, they will have their thanks and do the right thing finally for Mr. Patterson. She stated this will also preserve their property values even if they do not get to look at the Farm every day. She stated even if the House falls down, it would be a better alternative than this Plan; and they should not give Dr. Bentz or anyone else twenty-five acres of the Farm unless it is voted on by Referendum since it is their Farm.

Ms. Donna Doan, 1584 Edgewood Road, was sworn in. Ms. Doan stated her family owned the Satterthwaite parcel and purchased it in 1917. They later sold it to Mr. Patterson who joined the Farms together. Ms. Doan stated her father grew up on the Farm and farmed the property working for Mr. Patterson for fifty years. Ms. Doan stated they have first-hand knowledge of how the Township came to have the Farm. She stated she agrees with Ms. Patterson-Dilliplane about the coercion that was used on the Pattersons. She stated it is not the truth that the Pattersons’ first desire was to have the Township take possession of the Farm. She stated Mr. Patterson would never get off the tractor to talk to the Township representatives, and told them time and again he was not interested in selling. When the Township representatives called him at his home, he would not return their calls; and when the Township did not have success in this, they called her father’s house and asked him to tell Mr. Patterson that the Township wanted to talk to them.

Ms. Doan stated eminent domain was in the picture long before it actually was used on the Pattersons to gain their ground. She stated it was a coercive tactic. She stated Mr. Patterson had enrolled his Farm in Act 319 and the Agriculture Security area in July, 1997; and the Township knew that this was a prerequisite for the Farmland Preservation Program. She stated before that could happen in December of 1997, the Township issued a letter to the Pattersons with an offer giving the Pattersons just six days to decide whether they wanted to sell their Farm to the Township. Ms. Doan stated she believes that the Pattersons were well aware that there would be a condemnation whether or not they were paid for the Farm. She stated the offer was made just as a gesture, and the Pattersons were told that the Township had the right to take the Farm; and if they wanted to protest it they could do it, but they would never live to see the result of that lawsuit, and that the Township had the right to take it without compensation, but they would work with them.

Ms. Doan stated she is opposed to any sale of any parcel of the Farm. She stated she has a Petition tonight that has approximately 1,700 signatures of people who are in favor of the preservation of the Farm. She stated many of those who signed made comments that she asked the Board to read. She stated the public understands how important it is to preserve farmland.

Ms. Doan stated there are four temporary politicians who have foisted this sale upon this Act 319 enrolled farm. Mr. Bamburak asked for an explanation of Act 319, and Ms. Doan stated it is "Clean and Green" which means that any Subdivision of the Farm would have to give notice to the County taxing authority before the Subdivision is complete, and there is a seven year roll back tax that is due when the land is taken out of agricultural use.

Ms. Doan stated when Mr. Fedorchak testified he indicated he could not remember that there was a property inspection done on the Satterthwaite House. She stated that property inspection was done in 1998 and stated that the roof was nearing the end of its useful life and would need to be replaced. She stated the Township was aware that had to happen, and a tenant was there who was her Aunt who was born on the Farm. Ms. Doan stated Mr. Fedorchak testified that he spoke to her, and they mutually agreed that she would move out; and this is 100% false, and he absolutely evicted her. Ms. Doan stated she was paying rent, and there was money coming in. She stated when the money came in from the I-95 Exit loop of about \$483,000 that money could have been used to replace the roof before it got so bad; but the roof was not replaced for almost a decade later. She stated if the Satterthwaite House is in horrendous condition, it is the fault of someone in the Township who did not do their job and did not take care of their fiduciary responsibility to the taxpayers and caused that damage, and someone should have to be accountable for that.

Ms. Doan stated she does not feel the Plan is a good one, and it “squeezes” the farmer off the Farm and adds impediments to Mr. Stewart who is the local farmer.

She stated she feels this is an act by Supervisors who are not well representing their constituency. She stated the farmers may be few, but they have rights. She stated this land was to be protected, and it is an outrage that it is being Subdivided like this, and should never have gotten to this point.

Ms. Doan provided the Petition to the Board. Mr. Murphy Objected to the Petition.

Ms. Jane DelBianco, 835 Sherry Lane, Wrightstown, was sworn in. She stated her first home was in Lower Makefield; and while they moved to Wrightstown because of her husband’s business, Lower Makefield remains special to her. Ms. DelBianco stated she is a member of the Wrightstown Township Historical Commission, a Board member of the County Extension Office, and one of two Bucks County 4H goat leaders. She stated she has a hobby farm with numerous animals. She stated she first met Dr. Bentz at the Grange Fair last year. She stated one of the main parts of 4H is educating the public. She stated she saw Dr. Bentz answer children’s’ questions. She stated she feels Dr. Bentz is being characterized as someone else. Ms. DelBianco stated she has two horses that they love dearly, and if they were to get ill their option is Quakertown. She stated they are not “fancy horse people,” and they are just little hobby people, and they want to instill good responsible values in their children. She stated Bucks County is the number one 4H County in the State. She stated there are people in Lower Makefield that want to have horses, but because of the limited horse care in this area of the County, it is very difficult. Ms. DelBianco stated what Dr. Bentz is proposing will help all of them who have small hobby farms and have large animals, and they need this facility.

Ms. DelBianco stated Dr. Bentz has offered her volunteer help to not only the equine side of Bucks County 4H of which there are three clubs, one of which is devoted to people who do not have horses, but want to have the experience of what it is like to have a horse. She stated Dr. Bentz has also volunteered to take children to the Manor Home and to have seminars free of charge, and she does not want to see her mischaracterized.

Mr. Jeffrey Benedetto, 22 Green Ridge, was sworn in. He stated he is speaking as a Township resident but there is also relevance to his role as a Township Supervisor. He stated he feels Mr. Zewe's Testimony is as clear a statement of why they should deny the Variance as anyone has said. Mr. Benedetto stated as a Supervisor he would like to apologize to the Zoning Hearing Board since he does not feel it should have gotten to this point, and it should have been "squashed" at the Supervisors' level.

Mr. Benedetto stated if you look at the 1998 Agreement of Sale it is clear what their intent was, and it was not to have a 2,200 square foot residence or a horse farm. He stated every Supervisor received the Petition with the 1,700 names and comments. He asked the Zoning Hearing Board to go through the comments since these are area residents who are saying not to do this to the Farm.

Mr. Benedetto stated he has attended every Zoning Hearing Board session. He stated he is a "stickler" for facts, and it is important to know the timeline of events which occurred from 2011. He stated in 2011 the property was put out to Bid with the Bids due the end of 2011, and none were received. He stated in February, 2012 there was a discussion in Executive Session, and a public discussion afterwards because he believed that they violated the Sunshine Act by having that discussion for the sale of real estate in private. He stated in the February, 2012 Executive Session they received a letter with sixteen questions attached to it which ranged from relocating the driveway, moving the leaf pile, land for pasture, putting construction of another home on the property and all of the things that exactly mirror the Bid document. He stated the Bid document had not been created yet and it had not gone out for Bid yet. He asked where the Bid document came from, and if you go back to the meeting Minutes of October 17, 2012, he asked the questions and Mr. Garton said, "they" meaning the sole bidder on this, Dr. Bentz, said they wanted to take the pulse of the Board as to what they wanted in the general parameters of the Bid document. Mr. Benedetto stated it was not authorized until March, and their Bid came in July, 2012. He stated they came before the Board in September of 2012. Mr. Benedetto stated he has copies of all the Bid documents. Mr. Benedetto stated his question is why they were crafting a document for a sole bidder so that what they want, they get. He stated he feels these facts are extremely relevant.

Mr. Benedetto stated there was discussion about the area hospitals, and a mention about Quakertown. Mr. Benedetto stated they keep focusing on Bucks County, but a number of people brought up Mid-Atlantic which is only eighteen miles away in Ringoes. He stated if you MapQuest it, it is thirty minutes; however, Dr. Bentz said in a horse trailer it is an hour. He stated they have a colic barn and have been in the business since 1986. He stated it is the largest private facility in the northeast, and they treat Kentucky Derby winners and Olympic champions. He stated they are on eleven acres and have a staff of forty and have large tractor-trailers that come in and

drop off horses. He stated it is noted in the meeting Minutes of October 17, 2012, that he had talked to the owner of Mid-Atlantic who indicated that this is a declining industry. Mr. Benedetto stated he is concerned that she will get approval for these six Variances for something that is a declining business. He stated everyone thought that the Golf Course was a great investment, and now golf courses are going out of business. He stated he feels this is very relevant.

Mr. Benedetto stated he agrees with Dr. Heinz that if the Board grants these six Variances, they will be rewarding a number of bad decisions on the part of the Township purchasing the Patterson Farm without a defined plan or devoted resources for its upkeep. He stated Subdividing the Satterthwaite Parcel and attempting to now “shoehorn” a five-acre parcel into a large animal hospital on that limited space in addition to putting a 2,200 square foot residence on there is a bad decision, following a bad decision, following a bad decision. He asked that the Board deny the six Variances and return it to the Township residents as they wanted, as the Pattersons wanted, and as the 1,700 area residents want.

Mr. Benedetto provided the letter with the sixteen questions that were discussed in Executive Session from Mr. Garton. Mr. Murphy objected to this letter.

Mr. Tristram Heinz, 532 Stony Hill Road, was sworn in. Mr. Heinz stated he has attended all of the meetings, and it appears to him that the vast majority of the presentation by the Applicant in name, Sunflower Farm/Dr. Bentz, has been about the effect aesthetically and use wise on the neighborhood. He stated all of this Testimony is relevant if you get to it. He stated there were a number of holes in that Testimony, and there were never any artist’s renderings of what the finished project would look like from the side. He stated this is important because the density of buildings and the massing of buildings effects the character of what you see from the roadbed, and this was never provided to the Board. He stated the massing of the buildings is significantly changed in the Plot Plan. He stated if you look at the site currently from the corner of Mirror Lake Road and Newtown Road you see a farm house, a small building behind it, and a barn. He stated what the Applicants are talking about now are several barn buildings and an additional house on the site, and they are changing the massing on the site significantly.

Mr. Bamburak stated this does not fall within the purview of the Zoning Hearing Board, and it is really more Land Development. Mr. Heinz stated it falls under the purview of aesthetics and character of the site. He stated he agrees that the aesthetics and character of the site was the most important and well covered area of the presentation. He stated the point is that there were holes in that evidence, and the Board should focus their attention on the holes when and if they get to that evidence.

Mr. Heinz stated his most salient point is that they never even get to that evidence if the Applicant has not shown a hardship. He stated the Applicant has not shown a hardship. He stated the Applicant is in a business venture, and they are getting a five-acre property in Lower Makefield Township for \$250,000 which generally sells for about \$200,000 an acre. He stated now they are coming to the Zoning Hearing Board and asking for a number of Zoning Variances which will change the use as well as the character of the site. He stated it changes the use to an equine hospital which is a use allowed in a Commercial and/or Office Research District. He stated there are Office Research Districts available for purchase in the Township one of which is directly across I-95 along Old Stony Hill Road where it turns into Stony Hill and Township Line. Mr. Heinz stated the problem is how much. He stated what they are looking at is a Commercial Use, and these people are picking up a Commercial Use for \$250,000 for a five acre Commercial Use. He asked what is the real value of a five acre Commercial Use in this area off of I-95. He asked what will happen if and when the business fails. He stated they will sell the property to a downstream owner who wants to install a use that is less impact, and that next owner will get approved because it will be less impact. He stated according to the Zoning Code those uses could be what is allowed in a Commercial or O/R Use, and it will be a lesser impact than what they are permitting tonight which is a huge problem. He stated this should have been addressed by the Board of Supervisors and it was not. He stated it will be addressed by the Board of Supervisors if the Zoning Hearing Board grants this petition, because the Board of Supervisors will then be personally liable for waste of Township resources and selling a five-acre Commercial lot for \$250,000.

Mr. Heinz stated the Board of Supervisors are the “Applicant in fact.” He stated this sale has not gone through, and the sale has not been registered at the Deeds office in Doylestown. He stated the Township is still the Applicant in fact in this matter, and the Township is trying to “buttress” this hardship claim by saying it costs so much to maintain the property. He stated one of the things never mentioned in the Testimony by Mr. Fedorchak is what happened to all the rent that came in from the Farm over the years, and what happened to the tenant of the Satterthwaite House and all her rents, and why is she still not there and still paying rent. He also asked what is happening to the rents from the Artists of Yardley, but he then added they are not paying any rent. He asked what has happened to the rents for the property behind the Artists of Yardley. Mr. Heinz stated this was all rented by Mr. Fedorchak.

Mr. Bamburak stated this is not part of this Application; however, Mr. Heinz disagreed. Mr. Heinz stated Mr. Fedorchak’s Testimony was “skewed” in that the Township cannot show a hardship here either. He stated the Township tried to buttress this Application by showing that it has a hardship in maintaining this property, and he feels they are not managing this property correctly and not putting the money made on the Farm through rents back into maintaining the House.

He stated they are not taking volunteer offers to maintain the house, and they are not taking volunteer offers to enter into a Residential Stewardship of the House as there have been offers from people to live in the house and maintain it.

Mr. Bamburak while he understands the points, this is not a session to “bash the Supervisors.” Mr. Heinz stated it is relevant because the Township is attempting to buttress the Application by showing a hardship, and he is advising that there is no hardship so they should never even get to the effect on the community.

Mr. John Bentz, 703 Long Acre Lane, was sworn in and stated he is Dr. Bentz’s brother. He stated there are many people in Lower Makefield who could not attend all the Zoning Hearing Board meetings and he is here on their behalf, and he is asking the Board to approve the Variances because the Doctors are good people, they will do what is right for the Township, and they have the only viable plan to save the Satterthwaite House.

Mr. Jack Matthews, 10 Williams Lane, was sworn in. He stated he has attended all of the meetings, and he feels a lot of issues have come up that should not have been brought up such as who bought the Farm, how it was sold, did they want to sell it, is the business going to succeed or not, etc. He stated he goes past the Farm a lot, and he is concerned that one day it will be a pile of rubble. He stated he feels something needs to be done, and he does not feel that the Township should be maintaining it. He feels Dr. Bentz will do a good job, and she has invested a lot of money just in these Hearings. He stated there were horses on the farm before any of us were born. He stated he feels restrictions will be put on which hopefully will be enforced, and he does not feel this is anything other than a plus for the Township.

Mr. Sam Stewart, 586 Stony Hill Road, was sworn in. He stated he farms the Farm and he understands a lot of what Dr. Bentz is going through. He stated the people voted to leave the Farm as open space; and even if he does not farm the property, he has heard from farmers that say they are taking the place apart and he should move; and that once it is Zoned Commercial, they will keep “picking at it.” Mr. Stewart stated he knew Mr. Patterson well enough to know that it “killed him” when he sold the Farm.

Mr. Stewart stated he is concerned about the Variances because when his father built their barn, they were not allowed so many feet from the property line, and now they will put these barns right back against the fields. He stated he also sprays weed killer, and he is concerned about the horses being right next to it. He also asked where they will get their tractor-trailers in, and will he have to park on the street. Mr. Stewart stated he can understand one or two Variances, but is concerned about six Variances. He stated he owns twenty acres down the street, and if he wants to open a nightclub, he questions if they will give Variances to him. He stated

everyone voted for the property to stay open space. He stated Patterson Farm is one of the best ground he farms. He stated he feels they should leave the property alone.

Mr. Stewart stated there are a lot of other properties for sale that would be better for Dr. Bentz. He stated they have also indicated that she could take twenty more acres. He stated there are very few farmers left. He asked that they not change it.

Mr. Stewart also expressed concern with the tractor-trailers. He stated five acres is not enough ground to turn around. He stated the road is a “speedway.” He stated the horse business is declining, and they should be in the area where the high dollar horses are which is not in this area. He stated he is concerned that someone else with five acres will come in and request permission to have a nightclub since the Township has a liquor license at the Golf Course, they should too. He stated here have been a lot of changes in Lower Makefield. He stated he feels this matter should not have gotten to the Zoning Hearing Board, and it should have stopped at the Supervisors.

Mr. Richard Preston, 1522 Stapler Drive, was sworn in and stated he lives across from the Farm, and they have what is left of the Mirror Lake pond. He stated he is concerned about run off from the horse pasture into the pond which feeds the creek going to the Delaware. He stated they already have problems with silt and algae, and he is concerned about horse waste coming off the pastureland. He stated he is also concerned about flooding as they see the Road covered with water which goes into their pond and down the creek. He stated more impervious surface will only aggravate the situation where there is flooding now. Mr. Preston stated he is also concerned about safety of the road as they are at the bend of the guardrail where the cars are trying to turn into the Artists of Yardley. He stated if this is where the large trucks for the farming are going to have to go in, he feels this will be very dangerous. He stated he is also concerned about the odors and light pollution for this twenty-four hour operation of this Commercial facility. He stated it is also a concern whether or not the business succeeds because if it fails, they do not know what is going to come next. He stated he is also concerned about the land being parceled out into more and more Commercial packets.

Ms. Lisa Matthews, 10 Williams Lane, was sworn in and stated she is in favor of Dr. Bentz’s plans. She stated Dr. Bentz is a great person, and she used to work with her. She stated she will do what is right for the Township, and she will make the house look beautiful again. Ms. Matthews asked what will be the alternative if she does not get this Approval and it could sit in disrepair for the next five to ten years before it falls down. She stated she feels people should give this proposal a chance, and there is nothing more beautiful than horses on a farm and caring for horses.

Dr. Anna Lawler, 973 Edgewood Road, was sworn in and stated she lives across from Edgewood Elementary School. She stated Bucks County is characterized by its farms, and unfortunately she does not feel Yardley is as the farms are few and far between. Dr. Lawler stated it bothers her as a citizen that spent far more money on her less than an acre to be subsidizing someone else's business with her tax dollars.

Dr. Lawler stated people have talked about how this will serve a need for the community; and while she loves horses, she does not feel many people in the community own them or would be serviced by this facility. She stated she likes Wegmans and has to go far to get there, and she would prefer to have that in the area but not at the expense of the Farm. She stated the reason the Farm was purchased was for an express purpose for the community, and one business does not serve the people of this County and the Township. She asked the Board not to grant the Zoning Variances.

Mr. Ben Weldon, 2103 N. Crescent Boulevard, was sworn in and stated he has only been to this and the prior meeting and read about it online. He stated he moved into his home three years ago partially due to the fact that there are farms. He stated he wants to spend the next thirty years here, and he is concerned that the Farm could go away piece by piece. He stated he feels what Dr. Bentz is proposing is a fantastic idea, but he feels the residents have paid tax dollars for this; and he agrees they should not be subsidizing someone else's business.

Mr. Bob Toth, 237 W. Ferry, Morrisville, was sworn in. He stated he feels it is the legacy of the property and what will be there the next fifty to one hundred years. He stated he is a sixty year resident of Lower Makefield and has seen the farms go away. He stated he does not feel the Variances should be given. He stated he has always been proud to be part of the Township and one of the reasons was because they saved the Farm. He stated he feels betrayed because he thought it was saved. He stated the development as proposed will be right in the middle of the property. He stated he is trained to look at Plans, but there was not enough information; and he feels that if there were elevations, they would be appalled at what would be developed there. He stated he does not feel that there has been a hardship shown, and he hopes the Board of Supervisors are aware that there is significant opposition.

There was no one else in the audience wishing to make a comment, the Public Comment was closed.

Mr. Stainthorpe stated he feels it is important that someone speak on behalf of the Board of Supervisors. He stated he thinks very highly of his current previous colleagues, and he feels that the Township residents are very well served by a lot of people who are basically volunteers; and while the residents might not always agree with them, they do their best to make good decisions on behalf of the entire Township. He stated this is how the Board is looking at the Patterson Farm.

Mr. Stainthorpe stated they all love the Patterson Farm and want to see it remain as it is, and that includes preserving the Satterthwaite House. He stated it was built in 1760 and it is a unique piece of architecture as most farmhouses in Bucks County are stone, and the Satterthwaite House is frame and wood; and he feels it is important to preserve it. Mr. Stainthorpe stated they have had engineers and architects look at it, and people dispute the numbers; but they are real. He stated it would cost the taxpayers \$800,000 plus to bring it up to a livable spec.

Mr. Stainthorpe stated the question that has to be asked is if they do this, what is the public purpose of the building and who will use it; and he has yet through all the discussions since 2003 to hear anyone come up with a compelling case that has a real public use. He stated they cannot justify spending taxpayer money improving a building that does not have a clear benefit to the public. He stated this is not the first time they have had to consider something like this. He stated the Township owned a historic property called Elm Lowne, and they could not decide what to do with it. Mr. Stainthorpe stated they eventually sold it, and it is private hands, has been restored and is nurtured and loved; and that is the way a historic building should be. He stated the Township also previously owned the State Farm Building in Edgewood Village, and they had problems with tenants and it cost more than it was ever worth. He stated it was put in private hands, and it is preserved, loved, and nurtured. He stated this is how they see what Dr. Bentz wants to do here.

Mr. Stainthorpe stated he feels that if this does not work out, there will be a hardship put on the Township taxpayers; and there will be no viable use for the buildings. Mr. Stainthorpe stated Dr. Bentz represents the best opportunity to preserve this special piece of architecture and to make it useful and beneficial to the community. He stated four out of five of the Supervisors feel that this would make the Patterson Farm fully productive and every piece of it will be contributing something back to the community. He stated the Satterthwaite Parcel will be back on the tax rolls which is important, and it will be a positive thing for the Township.

Mr. Stainthorpe stated he also feels that there is a need in Bucks County for veterinary services. Mr. Stainthorpe stated it is the last piece of the Patterson Farm that is currently not productive.

Mr. Stainthorpe stated if this does not work, they can try to sell it again, but he does not feel that there will be four votes to rise taxes to try to somehow preserve the House without a real public use. He stated he feels this is key in this decision, and he would urge the Zoning Hearing Board to approve the six Variances.

Mr. Stainthorpe stated Sam Stewart has a Lease to farm the property, and the property has been continually farmed since it was purchased, and it will continue to be farmed. Mr. Stainthorpe stated he will not be “squeezed” off the property, and whatever renovations or improvements need to be made to the roads, he will stay as the farmer.

Mr. Stainthorpe stated they are also in the process of putting it in dual ownership, and the Township has applied to the County Ag Preservation Board for them to buy a Conservation Easement on portions that are not preserved now. He stated he has a good feeling about this. He stated it is important to know that the Board’s intent is to preserve the Farm, and not to divide it up and sell it off; but this opportunity is the best opportunity to preserve a historic building that should be preserved.

Mr. Stainthorpe stated he feels that all of his colleagues on the Board of Supervisors going back to when he was first on the Board were all great people who have the best interest of the community at heart. He stated sometimes the right thing is not the most popular thing, and he is convinced that this is the right thing; and he hopes that the Zoning Hearing Board will consider the Variances favorably.

Mr. Bamburak stated the Board will be prepared to render its Decision at the August 6 meeting as there is one member who is not present this evening and wants a chance to review all of the Minutes including the Public Comments tonight. Mr. Moffa stated he will not be available that evening. There was discussion about having the Decision on August 20, but Mr. Gruen stated he is not available that evening. Mr. Gruen asked if they could schedule a Special Meeting just for this vote, and it was agreed to hold that meeting on August 13.

Mr. Gruen moved, Mr. DosSantos seconded and it was unanimously carried to have a Special Meeting to vote on this matter on Tuesday, August 13, 2013 at 7:30 p.m.

There being no further business, Mr. Gruen moved, Mr. Moffa seconded and it was unanimously carried to adjourn the meeting at 9:00 p.m.

Respectfully Submitted,

Paul Bamburak, Chairman

