

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – MAY 20, 2013

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on May 20, 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: Terry Fedorchak, Township Manager
 John Koopman, Township Solicitor
 Mark Eisold, Township Engineer
 Barbara Kirk, Zoning Hearing Board Solicitor
 Pete Stainthorpe, Supervisor Liaison

Absent: Anthony Zamparelli, Zoning Hearing Board Secretary

APPEAL #13-1658 – SUNFLOWER FARM, LLC.

Mr. Edward Murphy, attorney for the Applicant, requested that Mr. Moffa recuse himself from further participation in this matter. Mr. Murphy stated Mr. Moffa is running for Election to Supervisor. He stated most recently last week the League of Women Voters published its annual guide in the Advance of Bucks County; and it appears from Mr. Moffa's comments in response to a question raised that Mr. Moffa has pre-judged this particular Application. Mr. Murphy stated he has a copy of the Voters Guide and it is of concern to the Applicant that from these published comments it appears that Mr. Moffa has pre-judged this matter, and Mr. Murphy stated he feels it would be appropriate for Mr. Moffa to recuse himself from further participation in this matter. Mr. Bamburak asked for a copy of the publication, and Mr. Murphy provided it this evening. Mr. Murphy stated he has a hand-out which includes other publications where Mr. Moffa commented about this particular Application. This hand-out was marked as Exhibit A-10.

Mr. Murphy read the comments made by Mr. Moffa as follows: There are three key issues of Lower Makefield Township fiscal mismanagement, open space preservation, and infrastructure and more oversight of how the Township spends our money. We need to truly preserve our valuable public resources instead of selling open space, historic land that was supposed to be protected to a Commercial entity. We need a Board that will properly maintain and improve our infrastructure or pressure PECO to fix problem spots. Mr. Murphy stated he is concerned about the particular section in the body of the paragraph which he feels is an unmistakable reference to this Application.

Mr. Murphy stated the other attachments are other similar references in other literature either published by Mr. Moffa or other Voter Guides where he is quoted commenting on this Application.

Mr. Moffa stated he does not see a conflict as he has not commented on the Variance request before the Board, and he stated he feels he has the ability to parse out any opinion there may be on the sale which is a “done deal” and not a matter before the Zoning Hearing Board and the Variances that are before the Board as part of this Application.

Mr. Moffa stated there was an Applicant that came before the Board who he was friends with who wanted a pool, and it was a “terrible” Application; and he had no problem voting against it. He stated Toll Bros. also came before the Board with a proposal for the sign on Oxford Valley Road that they felt was a “terrible” idea and they “hated” the wall, and they wanted to vote against it, but the Board is very impressive being able to parse out what they are supposed to actually be considering as part of Variance requests and other opinions they may have. He stated in the Toll Bros. case they learned that they were just judging the height of the letters on the sign and not the fact that they wanted to put it on a wall which they did not like, and the Board approved it because they did not have a problem with the height of the letters. Mr. Moffa stated he is not aware of any comments he made on this particular case, and he has been very careful not to talk about the particular Variances requested in this case.

Mr. Bamburak asked Mr. Moffa if he still feels he could be impartial, and Mr. Moffa stated he could.

Mr. DosSantos stated after reading the comments Mr. Murphy presented, he feels they are comments on the sale issue and not necessarily on this Application. Mr. Bamburak stated he understands that the sale is contingent upon getting the Variances, and it was noted that this is true; and if the Variances do not go through, the sale goes away.

Mr. Bamburak stated he would like to have Mr. VanLuvanee continue with his questions, and they can take a break at some point this evening so they can confer with Ms. Kirk. Mr. Bamburak asked Mr. Moffa if he would recuse himself, and Mr. Moffa stated he will not. Mr. Bamburak asked Ms. Kirk if this is something the Board can take a vote on, and Ms. Kirk stated the Board does have the power to make a Motion to the effect that in light of information provided that the Board determines it would be more prudent that Mr. Moffa not make any formal vote on the Application. Mr. Bamburak stated there is some time before they have to consider this, and Ms. Kirk agreed. Mr. Bamburak stated they just learned about this so he would like them all to have the opportunity to consider this more carefully as opposed to making a spot decision.

Mr. Murphy stated he fully understands this, but wanted to make his concerns part of the Record.

Mr. VanLuvanee, called Thomas Conoscenti who was sworn in at the prior meeting. Mr. Conoscenti stated he lives at 1595 Gingko Lane and has lived there for twenty years. Mr. VanLuvanee asked Mr. Conoscenti how close his home is to the property that is the subject of these Hearings, and Mr. Conoscenti stated their home is the second lot east of Mirror Lake Road and the Lot Line is about 300' from the lot line for the subject property.

Mr. VanLuvanee asked Mr. Conoscenti at the time he and his wife moved into their home were they able to observe the property that is the subject of this Hearing on a regular basis, and Mr. Conoscenti stated they were. Mr. VanLuvanee asked Mr. Conoscenti to tell the Board whether or not, from his observations, the Satterthwaite House was occupied as a residence at or about the time he moved into the home twenty years ago; and Mr. Conoscenti stated the building closest to Mirror Lake Road was occupied from time to time by what appeared to be the farm laborers in support of the operation of the Farm that were living there during the summer season. Mr. VanLuvanee asked at the same time if the outbuildings that presently comprise the farmstead along with the Satterthwaite House were actively used, and Mr. Conoscenti stated they were. He stated they could see workers going in and out of the buildings and farm equipment going in and out of the buildings.

Mr. VanLuvanee asked what Mr. Conoscenti observed twenty years ago from the street with regard to the physical condition of the Satterthwaite House. Mr. Conoscenti stated during the 90s when they moved in until the property was purchased by the Township, the condition appeared to be fairly “steady” in terms of the appearance of the buildings.

Mr. VanLuvanee marked as Exhibit C-11 a copy of the Deed dated 6/30/98 from the Pattersons to the Township of Lower Makefield to establish the date that the Township acquired the property.

Mr. VanLuvanee asked Mr. Conoscenti if he knows whether the property has been occupied at any time for residential use since the Township acquired Title to the property, and Mr. Conoscenti stated he does not recall that it has been occupied.

Mr. VanLuvanee asked Mr. Conoscenti since June 30, 1998 has he observed changes in the physical condition of the buildings that comprise the five acre property which are the subject of these Hearings, and Mr. Conoscenti stated he has. He stated he has observed deterioration of the bank barn roof and the main house closest to Mirror Lake Road. Mr. VanLuvanee asked Mr. Conoscenti if his view has always been from the perimeter street of Mirror Lake Road, and Mr. Conoscenti agreed.

Mr. VanLuvanee asked Mr. Conoscenti if he is aware that the Township put a Façade Easement on the House and the bank barn, and Mr. Conoscenti stated he is aware of this.

Mr. VanLuvanee marked as Exhibit C-12 a copy of the Recorded Deed of Façade Easement dated 11/2/11 from the Township of Lower Makefield as grantor to the Township of Lower Makefield as the grantee.

Mr. Bamburak asked for an explanation of a Deed of Façade Easement, and Mr. VanLuvanee stated in broad terms it requires preservation of the façades of the Satterthwaite House and the bank barn that are visible from the road. He stated there are also provisions that allow the Board of Supervisors to waive certain provisions upon application. Mr. Koopman stated it is not uncommon in this day and age to preserve historic structures that Townships or others feel deserve restoration, and it usually has to do with a façade that you can see. He stated there are various details about what can and cannot be changed on the façade; and if the façade needs repair, it describes what kind of materials can be used. He stated the purpose is to keep the outward appearance similar to what they were. Mr. Bamburak stated he assumes it would bear more weight than the recommendations of the Historic Commission, and Mr. Koopman stated often the recommendations of the Historic Commission go into what is in a façade easement. He stated it was part of the Agreement of Sale, and the Zoning Hearing Board should look at this to see what was intended to be preserved, in what detail, and in what manner.

Mr. VanLuvanee asked Mr. Conoscenti if he had the opportunity to review the Deed of Façade Easement, and Mr. Conoscenti stated he did. Mr. VanLuvanee asked that Mr. Conoscenti read Paragraph 2B which is The Statement of Purpose as it relates to the viewshed. Mr. Conoscenti read as follows: “For the purpose of insuring the present sight lines and views of the House and the Pennsylvania bank barn located on the property as described and depicted in Exhibit B from the public right-of-way so that public officials may view the House and the Pennsylvania bank barn from the public right-of-way for the purpose of spot inspections and the public may enjoy the historical, architectural, and scenic values of the House and the Pennsylvania bank barn.”

Mr. VanLuvanee asked Mr. Conoscenti if he has reviewed the Plans that Dr. Bentz introduced showing the buildings that she hopes to place on the property if the requested Variances are granted, and Mr. Conoscenti stated he has. Mr. VanLuvanee asked Mr. Conoscenti if, based on his review of that Plan and his familiarity with the property as it exists today and the fact that he has been looking at it for twenty years since he lived on his property, does he have an opinion as to whether the implementation of Dr. Bentz's Plan will impact the view of the Satterthwaite House and the bank barn from Mirror Lake Road; and Mr. Conoscenti stated he does. He stated he feels the Plans if approved with the Variances as requested will significantly and adversely effect the three values that were part of the Façade Easement. He stated this is based on the sight lines from the public right-of-way being impaired both from Mirror Lake Road heading in a southerly direction and heading northerly direction and on Yardley-Newtown Road.

Mr. VanLuvanee stated the Township assumes certain responsibilities under the Façade Easement. He noted Section 3 which describes the functions of the Township as grantee which respect to the Façade Easement. Mr. VanLuvanee noted Sub-Section 3C which has a specific reference to the Township's obligation to preserve the current sight lines and views. Mr. Conoscenti stated there is one sentence that is particularly on point, and he read as follows: "Additionally grantor shall not cause, permit, or allow the location of any landscaping or structure which would materially impede the current sight lines or views of the House or the Pennsylvania bank barn from the public right-of-way without the prior written permission of the Board of Supervisors of grantee except when the landscaping or structure is an in-kind replacement of an existing landscaping or structure." Mr. VanLuvanee stated the Board of Supervisors does have discretion to allow something that would block views from the public right-of-way, and

Mr. Conoscenti agreed. Mr. VanLuvanee stated as noted previously from the Statement of Purpose, that would seem to be in consistent; and Mr. Conoscenti agreed it would be inconsistent, and he feels that the Purposes are controlling.

Mr. VanLuvanee stated in preparation for his Testimony tonight Mr. Conoscenti and his wife did some research to determine the nature of the neighborhoods in which other equine hospitals and clinics have been permitted. Mr. VanLuvanee marked as Exhibit C-13 a document entitled Horse Hospitals and Clinics in Pennsylvania and New Jersey as of April 12, 2013. Mr. VanLuvanee asked Mr. Conoscenti to tell the Board how he went about compiling the information that is contained within the Exhibit. Mr. Conoscenti stated he and his wife were trying to determine the settings for competitive businesses to the one proposed by Dr. Bentz. He stated he did a Google search for equine hospitals and clinics in Pennsylvanian and New Jersey. He stated he wanted to find the businesses that were most closely comparable to her proposal. He stated he excluded equestrian centers and small animal clinics and hospitals. He stated based on public information they wanted to see how other businesses similarly situation positioned themselves in the community and neighborhoods in Pennsylvania and New Jersey.

Mr. VanLuvanee stated Page 1 is an area map with flags, and these indicate the location of facilities that are later described in the report. Mr. Conoscenti stated they wanted to get a sense of the size of other equine hospitals and clinics, and they wanted to get a sense of their position relative to solidly residential neighborhoods. He stated to do that they captured the satellite views for the addresses of the equine hospitals and clinics and they reproduced them on the subsequent pages of the report.

Mr. VanLuvanee stated the second page of the Exhibit shows the proposed location of the Satterthwaite parcel in context with the neighbors; and Mr. Conoscenti agreed it does, and it shows heavy residential buffering to the Patterson Farm. Mr. VanLuvanee stated Mr. Conoscenti then followed the same format for the subsequent pages identifying the facility pictured and the address with a flag showing exactly where it is located, and Mr. Conoscenti agreed. Ms. Conoscenti stated their uniform conclusion was that of all the other equine hospitals and clinics that they could find in the two States, none were located adjoining solid residential areas.

Mr. VanLuvanee asked Mr. Conoscenti if he deliberately excluded any facility other than for the reasons described previously which was that they were not in his opinion similar to what was proposed, and Mr. Conoscenti stated he did not.

Mr. VanLuvanee asked Mr. Conoscenti if, in addition to obtaining the satellite photographs of the facilities he identified, he tried to gain additional information about those facilities; and Mr. Conoscenti stated he did. Mr. VanLuvanee provided an Exhibit marked as C-14. Mr. VanLuvanee asked Mr. Conoscenti to describe what C-14 is and how he went about obtaining the information that is shown on it. Mr. Conoscenti stated in addition to getting a visual impact of the competitive sites, he wanted to understand the nature of the operations; and in fact do a basic business analysis which he feels would be the due diligence that should be done to understand the market. He stated he took the same eighteen facilities for which they have the satellite images and tried to get facts and statistics associated with each one recognizing that they are of varying sizes and are located across the State of Pennsylvania and New Jersey. He stated some of the information was on the Websites of these facilities, but it was very inconsistent. He stated he gathered the information he could in the most uniform manner, and he then e-mailed every single equine hospital and clinic requesting information for the missing bits of information. He stated he waited approximately five days and got one response, and he then called everyone of them. He stated he spoke to individuals, mostly office managers at most of the facilities, and told them the information he was interested in and asked them to get back to him; and a few did. He stated the fact that there are gaps in information does not mean that there is no information, it just means that he has yet to get a response to all his efforts. He stated he tried to gather statistics and facts to make a judgment on the suitability and adequacy of the Doctor's plans for the five acre parcel.

Mr. VanLuvanee stated where a blank is filled in he was able to obtain that information either from the Website or from a telephone conversation he made personally; and Mr. Conoscenti agreed and added it could also have come from an e-mail. Mr. VanLuvanee asked Mr. Conoscenti if he left off any information he obtained, and Mr. Conoscenti stated he did not.

Mr. VanLuvanee stated one of the things that Mr. Conoscenti highlighted was a column labeled stalls per acre, and he asked why this was highlighted. Mr. Conoscenti stated given the range of sizes of the different operations, he wanted to put the facts and numbers in some comparable, uniform presentation; and seeing how other Vets had scaled their businesses over the years, he came up with the ratio as a reasonable basis for comparing one equine facility that might be 700 acres with another that might be 20 acres.

Mr. VanLuvanee stated Mr. Conoscenti is not holding himself as an expert in this field and was just attempting to gather facts, and Mr. Conoscenti agreed.

Mr. VanLuvanee asked Mr. Conoscenti as a neighbor if he has concerns about the impact of this proposal on the neighborhood, and Mr. Conoscenti stated he does.

Mr. VanLuvanee asked Mr. Conoscenti if he has been present at the other Hearings and heard all of the Testimony, and Mr. Conoscenti stated he has. Mr. VanLuvanee asked Mr. Conoscenti as a result of the Testimony he has heard and as a result of the investigation that he has personally done as summarized in Exhibits C-13 and C-14 and his review of the Deed of Façade Easement that was marked as an Exhibit, what concerns, if any, he has about the potential impact of this proposal on his neighborhood. Mr. Conoscenti stated after listening to the Testimony and reading the documents he has several major concerns. He stated he is concerned about maintaining the integrity of the R-1 Zoning District on the Patterson Farm. He stated the other concern is to prevent a Commercial enterprise on the preserved Farm that is most suitable for a rural or an isolated area or that is incompatible with an adjacent and solidly residential neighborhood. He stated in addition, he and his wife have several specific concerns.

Mr. Conoscenti stated they are opposed to the Zoning Variances requested. He stated they have a concern about the Zoning Hearing Board recognizing and approving an exception for a “made-up” medical boarding use that is not permitted or specified in the Ordinance. He stated they have a further concern about the use expanding to include the small animal veterinary business of the Doctor’s husband eventually re-locating to the site. He stated this is especially serious because of Section 20 in the Township’s Bid Conditions and Requirements document dated 5/12/12. He stated Section 20 relates to the leasing of adjoining farmland for pasturing “related to the purchaser’s veterinary business or the purchaser’s personal use.

Mr. Conoscenti stated they have concerns about the adequacy of the security for all the drugs and controlled substances needed for such an operation. He stated on his summary sheet he tried to determine if there were pharmacies or pharmacy managers designated with the other equine hospitals. He stated their concern about the security is based on multiple recent break ins in the area including their own home and several other residences in their neighborhood. He stated this is a very real concern that their area is being targeted because of the proximity to the I-95 Interchange. Mr. Conoscenti stated their concern is also based on those other horse hospitals and clinics having designated facilities, on-line pharmacies which are promoted on their Websites, and designed pharmacy managers.

Mr. Conoscenti stated they have concerns about the environmental consequences of this project due to the inadequacy of controlling the run off from stormwater and from animal waste and due to the downstream impact on the Mirror Lake ponds and the creek running through Yardley Borough and downstream to the intake to the water supply for the Township. Mr. VanLuvanee asked Mr. Conoscenti if he realizes that there would be a Land Development Application and that stormwater would be reviewed at that time, and Mr. Conoscenti stated he is aware of that.

Mr. Conoscenti stated they also have concerns about the lack of significant setbacks and landscaping buffering for the impact of lights, sound, and sights. He stated this is especially relevant because of the bright lights greenhouses that are at the south end of this same Farm property that the Township permitted without any landscape buffering. Mr. VanLuvanee asked Mr. Conoscenti to elaborate on this issue.

Mr. Murphy Objected; however, Mr. Bamburak allowed the question.

Mr. Conoscenti stated in their view the environmental aspects go beyond just the water run off to the whole enjoyment of the site and the scenic values of it including the air, sounds, and the sights.

Mr. Conoscenti stated the other concern is that the Doctor stated in a prior Zoning Hearing Board session that night lighting on the property would consist of a “porch light,” and this seems impractical for a Commercial, twenty-four operation with multiple employees. Mr. VanLuvanee asked if he is concerned that the actual lighting will be more than what was suggested, and Mr. Conoscenti agreed. Mr. Conoscenti stated their other concern is that neighbors said that the local CVS which also abuts the Patterson Farm started with minimal parking lot lighting.

Mr. Koopman Objected stating that it is one thing to testify about what is on Patterson Farm, but it is another to go to the pharmacy which is several miles away. Mr. Bamburak agreed.

Mr. VanLuvanee asked Mr. Conoscenti if his concern is that if the Board were to grant any of the Variances, they should consider imposing Conditions that would minimize lighting; and Mr. Conoscenti agreed.

Mr. Conoscenti stated while they have other concerns, he is confident that his neighbors will express them in the Public Comment session.

Mr. Murphy stated Mr. Conoscenti indicated in his response to Mr. VanLuvanee's questions that he resided in his home for the past twenty years, and Mr. Conoscenti agreed. Mr. Murphy stated Mr. Conoscenti indicated that when he first moved in he could view the subject property from his property, and Mr. Conoscenti agreed.

Mr. Murphy stated he can no longer see the property which is the subject of this Application from his home, and Mr. Conoscenti stated he cannot see it as well as twenty years ago.

Mr. Murphy marked as Exhibit A-11 a photograph taken from the rear of the Satterthwaite House toward Mirror Lake Road and Mr. Conoscenti's Subdivision. Exhibit A-11 was shown to Mr. Conoscenti who agreed that it appears to have been taken as noted by Mr. Murphy. Mr. Murphy asked Mr. Conoscenti to point out his home on Exhibit A-11; however, Mr. Conoscenti was unable to see his home in this photograph. Mr. Murphy stated in the lower left hand corner there are portions of homes and a white picket fence and neither of those structures are on Mr. Conoscenti's property, and Mr. Conoscenti agreed. Mr. Murphy stated from that vantage point Mr. Conoscenti cannot see his home on Exhibit A-11, and Mr. Conoscenti agreed.

Exhibit A-12 was marked and Mr. Murphy stated this is a view somewhat similar to Exhibit A-11 but taken from a slightly different vantage point, and Mr. Conoscenti stated it appears to be taken from the rear of the Satterthwaite property. Mr. Murphy stated this is correct but it is a little bit closer to Mirror Lake Road than Exhibit A-11 since it was taken from more to the side of the Satterthwaite home as opposed to the rear, and Mr. Conoscenti agreed. Mr. Murphy stated the view is to the east toward Mirror Lake Road where you see the telephone pole, and again there appears to be a mature screen of white pines located on the opposite side of the telephone pole along Mirror Lake Road, and Mr. Conoscenti agreed. Mr. Murphy stated from that vantage point Mr. Conoscenti's home is not visible, and Mr. Conoscenti stated he cannot see it. Mr. Murphy asked if Mr. Conoscenti would agree that his view of the Satterthwaite Homestead and the barn is eliminated if not substantially obscured by the current screening along Mirror Lake Road, and Mr. Conoscenti stated he would agree. Mr. Conoscenti stated that the Testimony he gave was with regard to the scenic values from the public right-of-way. Mr. Murphy stated Mr. Conoscenti has no view today of the Satterthwaite Homestead or barn, and Mr. Conoscenti agreed.

Mr. Murphy stated Mr. Conoscenti indicated that during the course of his twenty years ownership of his property and especially since the Township purchased the property in 1998, the property has in fact deteriorated to the condition that it is today, and Mr. Conoscenti agreed.

Mr. Murphy stated with regard to the Façade Easement Mr. VanLuvanee questioned Mr. Conoscenti about Paragraph 2B of the Façade Easement and in particular the fact that one of the purposes was to insure the present sight lines and views of the House and the bank barn, and Mr. Conoscenti agreed. Mr. Murphy stated from Mirror Lake Road looking at the Home, nothing that Dr. Bentz is proposing will alter that sight line; however, Mr. Conoscenti stated he could not answer that. Mr. Murphy advised Mr. Conoscenti that he indicated in direct Testimony that he studied Dr. Bentz's Plan, and Mr. Conoscenti agreed. Mr. Murphy asked Mr. Conoscenti if you are standing on Mirror Lake Road looking at the property, is there going to be anything that will change the view of the Satterthwaite Homestead from Mirror Lake Road; and Mr. Conoscenti stated there is not. Mr. Conoscenti agreed that from that vantage point there will not be an impact. Mr. Murphy asked if you are standing on Mirror Lake Road looking at the barn, will there be any impact on the view of the barn, and Mr. Conoscenti he agreed that there will not be an impact on the view.

Mr. Murphy stated Mr. Conoscenti's testified that the present sight lines will be adversely effected, but he has now agreed that there will be no impact from those vantage points.

Mr. Murphy stated Mr. Conoscenti noted Paragraph 3C of the Façade Easement which indicates that it would be subject to the Approval of the Board of Supervisors to the extent that there would be any proposed landscaping or proposed structures that would have any impact on the Façade Easement, and Mr. Conoscenti agreed.

Mr. Murphy noted Exhibits C-13 and C-14 which Mr. Conoscenti complied and submitted. Mr. Murphy stated he used interchangeably the terms "heavy" and "substantial" residential neighborhoods. Mr. Murphy stated he assumes "heavy" residential is Mr. Conoscenti's term, and he asked Mr. Conoscenti what this means. Mr. Conoscenti stated the other term he used was "solid." Mr. Murphy asked what he based the conclusion that the residential was "solid;" and Mr. Conoscenti it was based on the adjoining neighborhoods being solidly residential. He stated it was not intended to imply the density of the housing. Mr. Murphy stated Mr. Conoscenti looked at the Google aerial and decided it looked like a lot of homes nearby, and he decided to refer to this as "solid;" and Mr. Conoscenti agreed.

Mr. Murphy stated it was Mr. Conoscenti's judgment to determine which of the businesses he included in C-13 were "competitive businesses," and most closely comparable to Dr. Bentz's proposal which was a value judgment he and his wife made; and Mr. Conoscenti agreed. Mr. Murphy stated Mr. Conoscenti chose to exclude equestrian centers and small animal clinics, and Mr. Conoscenti agreed.

Mr. Murphy stated Mr. Conoscenti indicated that when he tried to get information used to compile C-14, he initially looked at Websites of the identified facilities and acknowledged that the information was inconsistent, and he then followed up with e-mails to each of the businesses that he chose to include in C-13 and C-14; and Mr. Conoscenti agreed. Mr. Murphy asked Mr. Conoscenti if he has a copy of the e-mail that he sent to those individual operations; however, Mr. Conoscenti stated he does not have it with him this evening. Mr. Murphy stated they do not therefore know what type of request was made, whether or not he identified himself as a participant and Objector in a contested Zoning Application; and Mr. Conoscenti agreed. Mr. Murphy stated the Board does not know this either because Mr. Conoscenti did not share with them what type of communication he made to each of the facilities to elicit the information, and Mr. Conoscenti agreed.

Mr. Murphy asked Mr. Conoscenti in the course of his compilation of C-13 and C-14 did he visit any of the facilities identified, and Mr. Conoscenti stated he did not.

Mr. Murphy stated in Exhibit C-13 Mr. Conoscenti identified a number of these facilities which he chose in his view were as competitive and substantially similar but they are in fact local, veterinary service operators, and Mr. Conoscenti stated there is one in particular that he recalls is a mobile vet but it does have an equine clinic as part of it. He stated there are some of these vets that do offer ambulatory services. Mr. Murphy asked if he knows this because he spoke to each of the individual facilities that have that information, and Mr. Conoscenti stated you can determine that information basically from the Website. Mr. Murphy stated they do not know whether or not these facilities that Mr. Conoscenti determined were competitive have specialists like Dr. Bentz on staff, and Mr. Conoscenti stated he compiled the information based on what was publicly available through the Website. Mr. Murphy asked if he would agree that is inherently unreliable, and Mr. Conoscenti stated he did not agree. Mr. Murphy asked how they are to objectively measure the information provided if they do not know all the specifics to compare those operations to Dr. Bentz. Mr. Conoscenti stated he was trying to "cast the net broadly" to understand the circumstances of other equine clinics and hospitals in Pennsylvania and New Jersey, recognizing that there is variety in sizes, staffing, and specialties. He stated thinking broadly he wanted to see how other vets decided to situate their businesses and location, what were their business plans, how did they staff, did they have pharmacies, etc. Mr. Murphy stated the purpose of the Zoning Hearing Board proceedings is to identify the specific use proposed by Dr. Bentz as it relates to this

particular location, and Mr. Conoscenti agreed. Mr. Murphy stated “casting the net broadly” really does not serve much value for those trying to make a judgment. Mr. Conoscenti stated he was trying to gather the facts to present to the Zoning Hearing Board because they have to make judgments, and he feels it should be done based on facts that were not otherwise presented. Mr. Murphy stated to date he has not seen Mr. Conoscenti produce anything other than Web-based information of a very general nature without having specific facts to compare the specifics of Dr. Bentz’s operation with any of the others that Mr. Conoscenti cited in C-13 and C-14. Mr. Conoscenti stated the purpose of C-14 was to provide the publicly-available data and make it as comparable as possible to the proposal before the Zoning Hearing Board.

Mr. Murphy noted particularly the New Bolton Center in Kennett Square which was a facility that Dr. Bentz made reference to in her direct Testimony. Mr. Murphy stated Mr. Conoscenti identified that property as having seven hundred acres, and he asked Mr. Conoscenti if he knows how many acres of the seven hundred acres are devoted to their equine hospital; and Mr. Conoscenti stated based on the information for the Widener Large Animal Equine Hospital, they identify seven hundred acres as the size of the facility. Mr. Murphy stated of that seven hundred acres, six hundred and ninety of it is devoted to farmland raising hay, grain, and food stuffs and less than ten acres is devoted to the operation that is the New Bolton Center. Mr. Conoscenti stated he presented the information he knew based on the research he did.

Mr. Murphy asked Mr. Conoscenti if he knows whether or not any or all of the facilities he identified in C-13 and C-14 have the same level of specialty and specialists on staff that Dr. Bentz is proposing in her Application, and Mr. Conoscenti stated he does not know. Mr. Murphy asked Mr. Conoscenti if he knows whether or not those facilities listed in C-13 and C-14 treat their ill horses on fewer acres with the balance of the acreage devoted to pastureland, etc; and Mr. Conoscenti stated he does not know.

Mr. Murphy stated Mr. Conoscenti indicated that one the objections he has to the Application was maintaining the integrity of the R-1 District, and Mr. Conoscenti agreed. Mr. Murphy stated he assumes his Counsel has indicated to him that in the R-1 District there are other uses that are permitted by right, by Conditional Use, or Special Exception; and Mr. Conoscenti agreed. Mr. Murphy asked Mr. Conoscenti if his Counsel has told him that one of the uses that would be permitted in this District for a parcel of this size would be a nursing facility, and Mr. Conoscenti stated he was not advised of this.

Mr. Murphy stated Mr. Conoscenti suggested that a Commercial activity is most suitable for a rural area, and Mr. Conoscenti stated his point was that a Commercial enterprise most suited for a rural or isolated area should not be approved for the Satterthwaite parcel. Mr. Murphy asked Mr. Conoscenti if he would acknowledge that this particular use is entirely surrounded by quite a large farmstead. Mr. Conoscenti indicated he did

not understand the question. Mr. Murphy asked Mr. Conoscenti if he would agree that the Application for 5.14 acres is entirely surrounded by farmland on the western side of Mirror Lake Road, and Mr. Conoscenti agreed.

Mr. Murphy stated Mr. Conoscenti indicated that one of his other concerns was the fear that over time a small animal veterinary use would be located on this property, and Mr. Conoscenti agreed. Mr. Murphy stated Mr. Conoscenti indicated he was present throughout Dr. Bentz's direct Testimony, and Mr. Conoscenti agreed. Mr. Murphy stated Mr. Conoscenti then heard her testify that her husband's use would never be located on this particular property, and Mr. Conoscenti stated his recollection was the response was not definitive on that point. Mr. Murphy stated they could review the transcript on this.

Mr. Murphy stated Mr. Conoscenti indicated that he was concerned about the security associated with controlled substances, but he heard Dr. Bentz's testimony about the security measures she would maintain to house and protect those controlled substances; and Mr. Conoscenti stated he recalled an answer where she responded that her husband had a key to the box at his small animal clinic. Mr. Murphy asked Mr. Conoscenti if he would acknowledge that other existing facilities also had the same concerns such as a nursing home or a CVS would have these issues regardless of the level of security provided, and Mr. Conoscenti agreed.

Mr. Murphy stated Mr. VanLuvanee correctly reminded Mr. Conoscenti that with regard to his concern about stormwater impacts downstream that if this project moves forward, it would be the subject of a Land Development Approval, and those types of concerns would be the subject of further review by the various Township staff including the Township engineer; and Mr. Conoscenti stated he does understand this.

Mr. Murphy stated similarly with respect to the concerns Mr. Conoscenti expressed about lighting, he asked Mr. Conoscenti if he is aware that the Township has Ordinances that regulate lighting and he noted Dr. Bentz's Testimony about her interest in having as minimal residential-scale lighting as possible; and Mr. Conoscenti agreed.

Mr. DosSantos stated Mr. Conoscenti had concerns about the Façade Easement and that one of the goals of the Façade Easement was to preserve the sight lines, and Mr. Murphy asked him some questions about the Satterthwaite House itself, and the view from Mirror Lake Road. Mr. DosSantos asked Mr. Conoscenti, taking the House out of the equation, was there anything else about the project or the proposed buildings on the project that will effect the sight lines of the Pennsylvania barn. Mr. Conoscenti stated he has the same concerns about the bank barn as to the Home itself. He stated the barn is quite visible from Yardley-Newtown Road and traffic heading southerly on Mirror Lake and

traffic heading northerly on Mirror Lake. Mr. DosSantos asked if there is anything proposed on the Plan that will effect that sight line, and Mr. Conoscenti stated there is. He noted the vegetation proposed in the southeast corner. Mr. DosSantos asked Mr. Conoscenti aside from vegetation, with regard to the elective care barn and the two proposed expansions, does he have an opinion as to whether or not those proposed buildings will effect the sight lines; and Mr. Conoscenti stated it very well may although it is hard for him to judge based on the drawing and since there is not a definitive proposal.

Mr. Bamburak asked why it is important to see the barn, and Mr. Conoscenti stated it as important to him as it was to the Board of Supervisors since they gave equal weight to the three values in signing the Façade Easement – there was the historical value, the architectural value, and the scenic values of the property.

Mr. DosSantos asked Mr. Conoscenti to provide a copy of the email he sent out to the various facilities, and Mr. Conoscenti agreed to do so.

Mr. DosSantos asked Mr. Conoscenti in compiling Exhibit C-14 was it his goal to get a sense of facilities in general and not necessarily specific to the specialization of Dr. Bentz; and Mr. Conoscenti stated it was broadly for equine hospitals and clinics to see what other vets have done with their businesses and to provide information to himself and to provide facts for the Zoning Hearing Board.

Mr. Koopman asked Mr. Conoscenti if he would agree that Lower Makefield Township is predominantly a Residential area, and Mr. Conoscenti agreed. Mr. Koopman noted Exhibit C-14, and stated a lot of what he has in the chart has blanks because Mr. Conoscenti was unable to get a lot of the information; and Mr. Conoscenti stated he has not received responses to e-mails or phone calls. Mr. Koopman stated Mr. Conoscenti indicated that he viewed these facilities in some manner being comparable to what is proposed by Dr. Bentz, and Mr. Conoscenti agreed. Mr. Koopman asked Mr. Conoscenti if he is familiar with the New Bolton Center which is the University of Pennsylvania Veterinary Hospital for Horses, and he asked him if he feels that facility is comparable to what is being proposed by Dr. Bentz; and Mr. Conoscenti stated when he started on this he wanted to understand the scope and scale of other similar businesses understanding that some would be larger and some would be smaller. Mr. Koopman stated he did exclude from C-14 other facilities that he considered dissimilar, and he stated he is asking Mr. Conoscenti if he considers the New Bolton Center to be similar; and Mr. Conoscenti stated he does. He stated it is an equine hospital or clinic in Pennsylvania or New Jersey broadly similar.

Mr. Koopman noted other facilities on the list in Pennsylvania including one in Apollo, Pennsylvania; and he asked where that is located. Mr. Conoscenti stated it is east/northeast of Pittsburgh. Mr. Koopman asked if it is a Township, and Mr. Conoscenti stated it was the mailing address identified for that facility. Mr. Koopman asked Mr. Conoscenti if he would suspect that this would be a rural County, and Mr. Conoscenti stated his judgment is based on the satellite views for these facilities and he would judge that it was rural. Mr. Koopman stated it appears that many of these facilities would be rural as opposed to an area like Lower Makefield, and Mr. Conoscenti agreed. Mr. Koopman asked Mr. Conoscenti if it is his suggestion that the facility proposed by Dr. Bentz does not belong in a Lower Makefield type area, and Mr. Conoscenti stated this is his conclusion based on the observation of the facts of other equine hospitals.

Mr. Koopman stated he assumes Mr. Conoscenti would be in favor of a Façade Easement or some manner of preserving the Satterthwaite House and bank barn, and Mr. Conoscenti agreed. Mr. Koopman asked Mr. Conoscenti if he would agree that both of those structures have deteriorated since he moved into his property twenty years ago, and Mr. Conoscenti agreed. Mr. Koopman asked Mr. Conoscenti if he is aware that under the existing Zoning Code assuming a Façade Easement was not on these properties, that those structures could be torn down and a house similar to his own could be put on the property; and Mr. Conoscenti stated he is aware of that. Mr. Koopman asked if he would have an objection to that, and Mr. Conoscenti stated he would not. Mr. Koopman stated Mr. Conoscenti's concern is really not the Façade Easement preserving the Satterthwaite House or the bank barn because if those structures were torn down and a house like his was built there, he would not have a concern that they were not preserved; and Mr. Conoscenti agreed. Mr. Koopman stated Mr. Conoscenti's concern is more that this type of facility does not belong in a Lower Makefield setting, and Mr. Conoscenti stated this business does not belong on a five acre parcel of the Patterson Farm.

Mr. DosSantos asked Mr. Conoscenti if he has looked at the historical preservation proposal that Dr. Bentz put together, and Mr. Conoscenti stated he has. Mr. DosSantos asked Mr. Conoscenti given his long stance in the neighborhood does he feel that the preservation proposed by Dr. Bentz would be detrimental to the neighborhood; and Mr. Conoscenti stated the fact that the Township saw fit to put the Façade Easement on there makes it a fact they have to deal with, and given that, he feels the buildings should be preserved by someone who would use the property consistent with the Farm and the neighborhood.

Mr. Bamburak asked Mr. Conoscenti for an example of what that would be, and Mr. Conoscenti stated he is only responding to this proposal tonight. Mr. Bamburak stated he assumes everyone ideally would like someone to come in and spend \$2 million and pay the taxes and do nothing else with the property, and he questions who would do that. Mr. Conoscenti stated he agrees that something needs to be done, but they should not make the wrong decision for the right reason. Mr. Bamburak stated it is obvious that a lot of money needs to be spent on the property; and he feels if someone is going to spend a lot of money, they will want to make money on the property. Mr. Bamburak stated he hopes that during Public Comment, they will hear what could be done at the property where someone would be willing to spend that kind of money yet not make money on it. Mr. Conoscenti stated their efforts are directed to this specific proposal.

Mr. Murphy stated in the R-1 Zone a nursing facility would be permitted as a Special Exception, and he asked Mr. Conoscenti if a nursing facility were presented and met all the applicable Ordinance requirements that he would have no objection to a nursing facility on this same 5.14 acres; and Mr. Conoscenti stated this is a hypothetical, and he could not provide an answer at this time.

Mr. Murphy asked Mr. Conoscenti if you are a motorist traveling northbound on Mirror Lake Road going toward Newtown-Yardley Road if you look to the left will the view under Dr. Bentz's Plan be adversely effected; and Mr. Conoscenti stated it will because the barn would be not visible or less visible based on the proposed plantings.

Mr. Murphy stated during prior Testimony, Mr. Young indicated that the bank barn is 39' high, and he asked how anything that is proposed adversely impact the view of a this 39' high structure for a motorists going northbound on Mirror Lake Road. Mr. Conoscenti stated it may be less visible because of the mascot barn and the proposed landscape buffer depending on the height of the buffer and the mascot barn. Mr. Murphy stated as you continue to travel north on Mirror Lake Road you get an unobstructed view of the House, you will look behind the House and you will see the barn, and as you almost get to the edge of the property the only structure that might impact a portion of the view would be the one-story elective care barn as per the proposal. Mr. Conoscenti agreed that this appears to be the plan.

Mr. VanLuvanee noted Page 28 of the Façade Easement (Exhibit C-12) and on that Exhibit there is the word "viewshed" from Mirror Lake Road and an arrow and two other lines of triangles from Mirror Lake Road to the back of the bank barn. Mr. VanLuvanee stated assuming that is intended to describe the viewshed that is to be preserved if you superimpose those two lines indicating the viewshed according to Dr. Bentz's Plan, Mr. Conoscenti testified previously that there is landscaping within that viewshed; and Mr. Conoscenti agreed. Mr. VanLuvanee stated there is the mascot barn and on the north side an elective care barn and proposed addition all within that triangle, and Mr. Conoscenti agreed. Mr. VanLuvanee stated therefore from some vantage point

those buildings to some extent would be within the viewshed as defined in the Façade Easement, and Mr. Conoscenti agreed.

Mr. Bamburak stated the property had 234 acres, and a portion was taken out for the greenhouse, and this was not part of the 234 acres; and Mr. Bamburak asked if there were any “surprises” on any of the 234 acres. Mr. Koopman stated the Township does intend to call Mr. Fedorchak anticipating some of the questions about what is preserved and what is not.

A recess was taken at this time. The meeting was reconvened at 9:05 p.m.

Mr. Bamburak stated during the recess the Board conferred with its Solicitor about Mr. Murphy’s request; and they are taking this under advisement, and they have not yet reached a decision.

Mr. Koopman stated an issue had been raised by Mr. VanLuvanee having to do with the impervious surface issue for the original Township Subdivision as compared to the Plan that the Applicant submitted; and Mr. Koopman stated he has had the opportunity to talk to Mr. Majewski about that, and as a result prepared and shared with Mr. VanLuvanee and Mr. Murphy a proposed Stipulation as to what Mr. Majewski would testify to if he were called regarding the impervious surface issues. He stated both Mr. VanLuvanee and Mr. Murphy have agreed to Stipulate to Mr. Majewski’s proposed Testimony.

The Stipulation was marked as Exhibit T-1.

Mr. DosSantos asked if Mr. Majewski was the Township engineer when the property was Subdivided in 2001, and Mr. Koopman agreed.

Mr. Koopman stated what Mr. Majewski would testify to if called would be that Remington, Vernick & Beach was Mr. Majewski’s engineering firm which prepared a survey of existing features of that part of the Patterson Farm that became a 5.14 acres lot as a result of the Recording on November 9, 2011 of the Minor Subdivision/Lot Consolidation Plan which was previously introduced into Evidence as Exhibit C-5. He calculated the impervious surface ratio based on a 2008 Existing Features Plan and concluded that the existing impervious surface at that point was approximately 11% as shown on the Minor Subdivision Plan. Mr. Koopman stated this was what was reflected on the Minor Subdivision Plan as the impervious surface. Mr. Koopman stated then Mr. Majewski explained that sometime after the survey was done the Township laid down a stone base beneath the leaf piles and extended the stockpiling towards Mirror Lake Road. This increased the impervious coverage to that identified as Total Existing Impervious on the January 28, 2013 Gilmore & Associates Plan prepared for Amy Bentz

that was introduced as Exhibit A-2. Mr. Koopman stated the Township Board members may be aware that there is a leaf composting operation that the Township operates on the Farm, and what Mr. Majewski is explaining is that the Township laid down a stone base and part of that apparently was on the Satterthwaite Farm property where leaf piles were extended and the stockpiling was extended toward Mirror Lake Road. Mr. Koopman stated Mr. Majewski does not know whether the additional impervious surface was created by the Township before or after the Minor Subdivision Plan was prepared, and Mr. Majewski's Plan was prepared based on the survey of 2008.

Mr. Koopman stated Mr. VanLuvanee wanted the Stipulation to include the fact that the Township has not obtained a Variance for the additional impervious surface on the property which is the case.

Ms. Kirk stated both Mr. Murphy and Mr. VanLuvanee have no Objections to the submission of Exhibit T-1; and both agreed.

Mr. Fedorchak was called and sworn in. Mr. Fedorchak stated he is the Township Manager of Lower Makefield Township and has held that position for twenty years. He was the Manager when the Township acquired the Patterson Farm. In preparation for tonight's Hearing, he was asked by Mr. Koopman to provide him with certain information regarding the Patterson Farm and in particular the Satterthwaite property which he felt might be helpful to the Zoning Hearing Board in these proceedings. Mr. Fedorchak stated he has reviewed the Township files regarding those particulars which Mr. Koopman inquired of him.

Mr. Koopman stated they already have in evidence the Deed from the Pattersons to the Township dated 1998, and the Deed reflects a consideration of \$7.2 million. Mr. Koopman asked if this is accurate to his knowledge, and Mr. Fedorchak agreed that this is what the Township paid the Pattersons for the Farm.

Mr. Koopman asked Mr. Fedorchak to explain to the Zoning Hearing Board how that purchase price was paid for by the Township. Mr. Fedorchak stated there were two pieces to the financing. He stated the first was a Grant that the Township received from the County through their Open Space Program, and it was approximately \$687,000. He stated the second piece was part of a Bond Issue that took care of the difference between the \$687,000 and the \$7.2 million. Mr. Koopman asked if the purpose of the Bond Issue was specifically for acquisition of the Patterson Farm, and Mr. Fedorchak stated it was for open space purposes. He stated the Bond Issue was floated and closed in July, 1998.

Mr. Koopman stated one of the purposes for that Bond Issue was to acquire the Patterson Farm, and Mr. Fedorchak agreed.

Mr. Koopman asked if there is a copy of the document entitled “Bucks County Municipal Open Space Program Declaration of Covenants, Conditions, and Restrictions” that makes up the easement or restrictions placed on a portion of the Patterson property in consideration of the Grant of the \$687,000; and Mr. Fedorchak agreed there is. This was marked as Exhibit T-2 which is the actual Declaration of Restrictions and Covenants.

Mr. Fedorchak stated Exhibit T-2 is the County document that is the Declaration and Restrictions for the property. Mr. Koopman stated those Restrictions were placed on a portion of the property in return for the Grant from the County of the \$687,000; and Mr. Fedorchak agreed. Mr. Fedorchak stated there is an easement of approximately seventy-one acres that was applied on the Farm. Mr. Koopman stated the Original County Declaration or Easement covered approximately seventy-one acres on the Farm, and Mr. Fedorchak agreed. Mr. Koopman asked how many acres is the Farm altogether, and Mr. Fedorchak stated it is approximately two hundred and thirty.

Mr. Koopman noted Exhibit T-2, and asked Mr. Fedorchak to refer to the third page, Article IV, paragraph 1 and read the first sentence which describes the purpose of the Declaration and what is preserved or restricted. Mr. Fedorchak stated Article IV is entitled “Land Use Restrictions” and reads as follows: “The Township hereby covenants on behalf of itself and its successors and assigns that all lands acquired by the Township with Township land acquisition Grant funds shall be used for wildlife refuge, sanctuary, open space, agriculture, recreational, historical, cultural, or natural resource conservation purposes.”

Mr. Koopman asked if he is correct that the area of the Patterson Farm acquired with the Grant money was the seventy-one acres that Mr. Fedorchak referred to previously, and Mr. Fedorchak agreed.

Mr. Koopman asked if the Township is currently negotiating with the County of Bucks to place an additional Declaration/Conservation Easement on further areas of the Patterson Farm; and Mr. Fedorchak stated the Township has made Application to the County Agricultural Preservation Board for consideration of an Agricultural Easement. This Application was made late last year, and it is still pending. Mr. Koopman asked the status; and Mr. Fedorchak stated there are various steps that the County Ag Board goes through, and at this point it is his understanding that they are getting the property appraised, and once the appraisal is completed, they will approach the Township with an offer. Mr. Koopman stated there is a specific Application that the Township submitted in connection with this request to the County; and Mr. Fedorchak agreed and added that as part of that Application they identified potentially ninety acres to be included in the Agricultural Easement. Mr. Koopman stated this ninety acres would be in addition to the seventy-one acres that was the subject of the 1999 Easement, and Mr. Fedorchak agreed.

Exhibit T-3 was marked which shows the Patterson Farm in its entirety and depicts the original seventy-one acre Easement and the proposed ninety-one acres that would be subject to the Easement that is pending before the County. Exhibit T-3 is entitled “Potential Agricultural Easement Exhibit” prepared by Boucher & James Inc. dated 10/24/12.

Mr. Fedorchak stated Exhibit T-3 shows the Farm in its entirety. He stated the light green represents the seventy-one acres which was the original County Open Space Easement, and the dark green shows the areas that he identified that currently the County Ag Board is considering to include as part of an Agricultural Easement. Mr. Fedorchak stated also identified in the lower right side is the 5.14 acres of the Subdivision which is the subject of this Hearing. Mr. Koopman stated the darker green consists of approximately ninety acres, and Mr. Fedorchak agreed.

Mr. Koopman asked Mr. Fedorchak if subsequent to the Township’s purchase of the Patterson Farm did the Township at various times have people with certain expertise look at the Satterthwaite House and/or barn to access the condition of those structures, and Mr. Fedorchak stated they did.

Exhibit T-4 was marked and Mr. Fedorchak stated this is a report that was prepared by an architect, Carlos Rodriquez, done at the request of the Township. Mr. Fedorchak stated they were asking Mr. Rodriquez to perform an extensive evaluation of the condition of the Satterthwaite House and an idea of what it might cost to properly repair and restore the structure. Mr. Fedorchak stated the inspection by the architect was performed in January, 2003.

Mr. Fedorchak read from the report, the second paragraph as follows: “On Wednesday, January 22, 2003 Mr. Brian McGlade, PE, of Baker, Ingram & Associates, and I (Carlos Rodriquez) inspected the property and found the structure in serious disrepair.

In fact my summary view is that the structure is unfit for human occupancy and in need of extensive reconstruction.” Mr. Koopman asked if Mr. Rodriguez discussed the cost of what improvements may need to be made to make the property habitable; and Mr. Fedorchak read from the third paragraph, last line as follows: “Bear in mind the estimate of \$400,000 is also based on observable items and does not reflect unforeseen or concealed conditions.” Mr. Fedorchak stated in the final paragraph of the first page, Mr. Rodriguez writes, “This project could easily turn out to be a \$500,000 restoration project.” Mr. Fedorchak stated two pages later he breaks down what he refers to as a “Construction Cost Budget.” Mr. Koopman stated these estimates were done ten years ago, and Mr. Fedorchak agreed. Mr. Koopman asked if it would be fair to assume that these costs would have escalated in the last ten years, and Mr. Fedorchak stated he would assume so.

Mr. Koopman asked Mr. Fedorchak if the Township subsequently have other experts look at either the House or barn and opine as to the condition and/or the possible costs for repair, and Mr. Fedorchak agreed they have.

Exhibit T-5 was marked, and Mr. Fedorchak stated this is a response from Rich Carroll who is an architect working in Lambertville, New Jersey. Mr. Fedorchak stated Mr. Carroll was the architect and Project Manager of the Satterthwaite House roof restoration project. He stated Mr. Carroll spent a number of months at the Satterthwaite House and got to know the house very well. Mr. Fedorchak stated he asked Mr. Carroll to give him some sense of what he felt it would cost to properly restore the structure.

Mr. Koopman stated Exhibit T-5 is an e-mail dated January 10, 2008 from Mr. Carroll to Mr. Fedorchak and was subsequent to Mr. Carroll being the Project Manager for the roof on the House; and Mr. Fedorchak agreed.

Mr. Fedorchak read from Exhibit T-5 as follows: “To get the House to a minimally-saleable condition which would get structural problems fixed, a new electrical service, water, and operational heat, you are probably in the \$150,000 to \$200,000 arena. If work needs to be done on the septic or a connection made to Municipal sewer, it would be in addition to this. There are a lot of things that we are not really addressing here like the condition of the windows, the exterior siding, the chimneys, the general soundness of the stone foundations, radon, etc. If you were a homeowner coming to me with the House and asking me to make it into a livable building, I would be telling you to budget at least \$750,000 based on the overall size, condition, and complexity of the building. Let me know if there is anything else you might need.”

Mr. Koopman asked Mr. Fedorchak if the Township, in addition to the cost of the acquisition of the Patterson Farm property, incurred various costs and expenses in maintaining the property including the Satterthwaite House, barn, and structures associated therewith; and Mr. Fedorchak stated they have.

Mr. Koopman stated as a result of his inquiries to Mr. Fedorchak as to what these expenditures were over the year, Mr. Fedorchak prepared a spread sheet; and this was marked as Exhibit T-6. Mr. Fedorchak stated he prepared this report in response to

Mr. Koopman’s questions to him as to what expenses the Township had incurred with respect to the Patterson Farm and/or Satterthwaite House and property. Mr. Fedorchak stated they looked at the period from 2005 through 2012 and broke it into four categories the first being Operating Expenses and Minor Repairs. He stated the second category is taxes, and he stated they are currently paying about \$17,600 in taxes for the entire Farm; and from the period 2005 through 2012 paid \$135,000 in taxes. He stated these are property taxes paid to the County, School District, and the Township. Mr. Koopman stated the bulk of this is to the School District, and Mr. Fedorchak agreed adding that

approximately 80% is paid to the School District. Mr. Fedorchak stated the third category is major capital improvements. He stated in 2005 the Township spent \$35,000 to repair the roof on the main barn on the Janney-Brown Farmstead adding that this is not the Satterthwaite barn. He stated in 2006 the Township spent \$24,000 to repair the front porch and paint the front of the Satterthwaite House. He stated in that case, the Township was able to secure a \$21,700 Community Development Grant to offset the costs. In 2008 the Township spent approximately \$234,000 to renovate the Satterthwaite barn. He stated in 2007 a portion of the roof collapsed which was the portion where the old four-bay had been tied into the main barn. Mr. Fedorchak stated in this particular case the Township reached out to a local barn expert, called Barnology, and Spencer Saunders, the company President, assisted the Township in developing a spec to renovate the barn. Mr. Fedorchak stated they ultimately bid this out and Kistler Builders reconstructed the barn for the Township at a cost of approximately \$234,000. Mr. Fedorchak stated the Township did not receive any Grants for that project.

Mr. Fedorchak stated an additional \$115,500 was also spent in 2008 toward the complete reconstruction of the roof on the Satterthwaite House, and that is the project that the architect, Rich Carroll, was involved in. Mr. Fedorchak stated in that case the Township received approximately a \$46,000 Community Development Block Grant to offset that cost. He stated in that third category – Major Capital Improvements – about \$409,000 was spent in the time period from 2005 through 2012.

Mr. Fedorchak stated the last column is Debt Service, and between 2005 to 2012 the Township averaged approximately \$625,000 a year in paying off the Bond that he earlier testified to that the Township took out in 1998. He stated they have another six years left, and that Bond Issue will be retired in 2018.

Mr. Fedorchak stated with regard to the first category – Operating Expenses and Minor Repairs in 2007 the Township spent \$3,200 repairing glass and fixing framing on several windows on the third and second floor of the Satterthwaite House. He stated another \$4,000 was spent on the Satterthwaite barn where they were repairing some sections of the flooring. He stated underneath the flooring there are support beams, and it became evident that it was necessary to shore up some of these beams to properly support the first floor. He stated \$5,400 was spent repairing and enhancing the structure of the eave area in the front of the house which would be the east side of the Satterthwaite House.

Mr. Bamburak stated he feels the Board appreciates that the Township is spending a lot of money on this. Mr. Koopman stated he believes Mr. Fedorchak is almost done itemizing the costs.

Mr. Fedorchak stated in total in the category of Operating Expenses and Minor Repairs which he partially addressed they have spent approximately \$245,000 over the period from 2005 through 2012. Taxes were \$135,000. Major Capital Improvements were over \$400,000, most of which went toward the Satterthwaite property. Debt Service payments were on an average of \$625,000 a year which they will continue to pay until 2018.

Mr. Koopman stated there were some questions earlier and discussion about the floor plan of the Satterthwaite House, and he asked Mr. Fedorchak if he was able to located a floor plan for the House; and Mr. Fedorchak stated Rich Carroll, the architect who handled the roof restoration project did prepare a floor plan as part of that. Mr. Koopman marked this floor plan Exhibit T-7. Mr. Fedorchak stated lay-outs for all three floors are included in Exhibit T-7. Mr. Koopman stated this document is headed, "Satterthwaite House Patterson Farm Existing First Floor, Second and Third."

Mr. Bamburak asked the significance of the floor plan, and Mr. Koopman stated there was discussion about the House being chopped up so he felt this would be helpful for the Board to look at this. Mr. DosSantos stated he had asked questions about the House.

Mr. Murphy stated when it is appropriate, he does have photos as to the condition of the rooms as there were questions about whether or not it would be appropriate for office space.

Mr. Koopman asked Mr. Fedorchak if, during the last several years, the possibility of a sale of the Satterthwaite House and surrounding acreage become something that was considered by the Board of Supervisors; and Mr. Fedorchak agreed. Mr. Koopman asked in connection with this did the Township at some point in time around 2009/2010 seek an opinion from its then solicitor, David Truelove, as to whether the Township had the right to Subdivide and sell off the Satterthwaite House together with the approximately five acres surrounding the House; and Mr. Fedorchak agreed that the Board did this in May, 2010. He stated in addition the Board asked Mr. Truelove to identify the legal procedures necessary for them to sell the House as an option for the Board to consider. Mr. Koopman asked if the Board also asked Mr. Truelove to address the issue of possibly placing a Façade Easement on the Satterthwaite House and barn; and Mr. Fedorchak stated they did, and they directed him to prepare that Façade Easement. Mr. Koopman asked if Mr. Truelove as the Township solicitor provided the Board of Supervisors with an opinion addressing those questions, and Mr. Fedorchak stated he did.

Exhibit T-8 was marked, and Mr. Fedorchak identified this as the opinion that Mr. Truelove gave the Board of Supervisors dated July 20, 2010. Mr. Koopman asked Mr. Fedorchak to summarize what Mr. Truelove's conclusion was with respect to the questions that were asked of him. Mr. Fedorchak stated Mr. Truelove identified various

options. He discussed the sale and outlined what procedures the Board of Supervisors needed to follow in order to legally accomplish that. He also talked about having to Subdivide the parcel prior to the sale. He also talked about, at the Board's request, a long-term lease that was another option that the Board of Supervisors was considering. He also spoke briefly on the Resident-Curator Program. Mr. Koopman asked if he also addressed the procedure for placing a Façade Easement on the House and barn, and Mr. Fedorchak stated he did.

Mr. Koopman asked if Mr. Truelove concluded that if the property was properly subdivided that the Township had the legal right to sell the Satterthwaite House, barn, and the surrounding five acres; and Mr. Fedorchak agreed adding that there was a procedure that Mr. Truelove outlined that the Board followed in order to get there. Mr. Koopman stated he understands that Mr. Truelove outlined more than one possible option as to how the property could be sold, and one of the options was through the Township Bid procedure; and Mr. Fedorchak agreed.

Mr. Koopman stated there has already been Testimony and an Exhibit that Mr. VanLuvanee entered establishing that the Township did in fact place a Façade Easement on the property in the latter part of 2011, and Mr. Fedorchak agreed. Mr. Koopman stated this was something that was directed by the Board of Supervisors, and Mr. Fedorchak agreed.

Mr. Koopman asked if, per one of the options described by Mr. Truelove in his legal opinion, the Township subsequently Bid the property out for sale; and Mr. Fedorchak stated they did. Mr. Koopman stated he understands that he property was Bid out for sale on more than one occasion, and Mr. Fedorchak agreed.

Exhibit T-9 was marked which is a copy of the original Bid Document which is the 2011 Bid package for the sale of the Satterthwaite Farm.

Mr. Koopman stated the Township went through the process outlined by Mr. Truelove and advertised the property for sale in 2011, and he asked Mr. Fedorchak the result of that advertisement and Bid proposal. Mr. Fedorchak stated the Board authorized advertisement of the sale in September, 2011 and scheduled the Bid opening for December 7, 2011. He stated they did not receive any Bids.

Mr. Koopman asked if the Township received inquiries or were there people who contacted the Township that they would be interested in Bidding, and Mr. Fedorchak stated they did receive a few inquiries which his staff handled although he cannot tell exactly how many. He stated there were no actual Bidders.

Mr. Koopman asked if the Township subsequently put the property out for Bid again, and Mr. Fedorchak agreed that the Board authorized the second Bid in May of 2012. Mr. Koopman asked Mr. Fedorchak what, if any, differences there were in the 2012 Bid Specs from the 2011 Bid Specs; however, Mr. Fedorchak stated he did not know the details. He stated there were some clarifications required as it related to the Façade

Easement, and there were Interior Department Standards versus other Standards and those were clarified. Mr. Koopman asked if it would be fair to say that the 2012 Bid documents were a little more flexible in terms of the Façade Easement and what might be required to comply with that, and Mr. Fedorchak stated that was his understanding.

Exhibit T-10 was marked which is the Township of Lower Makefield Proposed Sale of Satterthwaite Farmstead Bid Cover Sheet. These are the Bid Documents from 2012.

Mr. Koopman asked Mr. Fedorchak whether the Township had inquiries regarding the 2012 Bid, and Mr. Fedorchak stated they did. He stated there were several phone inquiries; and in this case, there were four other interested parties that actually visited the Satterthwaite House. Mr. Koopman asked Mr. Fedorchak what he meant when he said “other interested parties, and Mr. Fedorchak stated they were other than Dr. Bentz. Mr. Koopman asked if any of those four people who visited the House actually make a Bid, and Mr. Fedorchak stated they did not. Mr. Koopman stated it is his understanding that there was only one Bid, and it was Dr. Bentz; and Mr. Fedorchak agreed. Mr. Koopman stated the Township accepted that Bid, and attached to that was an Agreement of Sale that is already in the Record as an Exhibit. Mr. Koopman stated one of the Conditions was that the Applicant proceed before the Zoning Hearing Board to obtain Approval for the equine hospital, and Mr. Fedorchak agreed.

Mr. DosSantos stated Exhibit T-8, the Truelove opinion, it refers to Veterinary Hospital and the entire document from Mr. Truelove seems to focus on what the Township can do to accommodate a Veterinary Hospital. He asked what was the impetus for this, and how did the Township learn that there was an interest in a Veterinary Hospital. Mr. Fedorchak stated this was dated 2010, and Dr. Bentz had been approaching the Board of Supervisors since approximately 2008. He stated there were a number of meetings that Dr. Bentz attended and expressed her interest in the property and identified to the Board what her intentions were. Mr. DosSantos asked if her intentions were as she has proposed before the Zoning Hearing Board for an equine hospital, and Mr. Fedorchak agreed.

Mr. Gruen stated he attended one of the Board of Supervisors meetings when there were two women interested in fixing up and property and leasing it, and he asked if this was Dr. Bentz. A number of people indicated that this was the Ark proposal, and it was not Dr. Bentz.

Mr. Murphy stated Dr. Bentz did approach the Board of Supervisors at a public meeting and expressed interest in being considered in the future depending on what the Board of Supervisors decided to do with the property. Mr. Murphy stated she never expressed interest in leasing the property.

Mr. DosSantos noted the documents from Mr. Truelove, and he stated the question that he presents discussed uses of the property; but the actual document itself seems to be strictly on how the Township could move the land to make it a veterinary hospital.

Mr. Fedorchak stated the Board was concerned about what process they had to comply with in order to sell the property, and this is what they were asking Mr. Truelove.

He stated included in the discussion and in Mr. Truelove's legal opinion was consideration for a Veterinarian/Equine Hospital so that was also addressed.

Mr. DosSantos asked if there was any other contemplated use besides a veterinary hospital during the discussions with the Board of Supervisors; and Mr. Fedorchak stated it was made clear that this would go out to Public Bid and anyone could bid on it, and it would go to the highest bidder regardless of use to a point since there were certain restrictions. Mr. Fedorchak stated someone could not put a multi-family housing development there. Mr. Koopman stated someone could have put a Bid on the property to rehab it subject to the Façade Easement and use it as a single-family residential use, but there were no bidders for that use.

Mr. Moffa stated there is a note in bold on the front page of Mr. Truelove's document that says, "For purposes of discussion, we assume that any new use in or related to the R-1 will be a veterinary hospital." Mr. Fedorchak stated he understands that was one of the considerations. Mr. Moffa stated it appears to be the only consideration.

Mr. Koopman stated it goes on to state, "Other bidders may ultimately apply for use of the property which differs from veterinary hospital." Mr. Koopman stated Dr. Bentz was the one person who had shown interest. Mr. Moffa stated for the purposes of this discussion, this document was prepared as it relates to the use of the veterinary hospital. Mr. Fedorchak stated he feels he has already answered this. He stated there was

Dr. Bentz's veterinary hospital consideration, and Mr. Truelove addressed that; but he also talked about the Resident/Curator Program as well as identifying the whole process that the Board of Supervisors needed to follow in order to get the property sold. He stated as he just indicated, the successful bidder would be determined by who was going to offer the highest price.

Mr. DosSantos stated Mr. Truelove has three or four recommendations on what the Township could do to facilitate the sale. He noted Page 4 which indicates there could be an Application to the Zoning Hearing Board for a Use Variance, and he assumes that was what was decided on since Dr. Bentz is here for that purpose as opposed to amending the Zoning Code or other things for this to take place; and Mr. Fedorchak agreed.

Mr. DosSantos asked when that decision was made, and Mr. Fedorchak stated the Board of Supervisors had a number of discussions over the course of several meetings about this issue, and this was addressed.

Mr. Moffa noted Exhibits T-5 and T-6 which are the financial information about the costs to maintain the property, and he asked what the Township maintains the relevance of this information is to the Variance request before the Zoning Hearing Board. Mr. Koopman stated one of the questions in any Variance case is - are you able to make a practical use of the property or any reasonable use of the property under current Zoning. Mr. Koopman stated the question he feels the Zoning Hearing Board needs to consider is the question Mr. Bamburak raised earlier which is – is anybody going to buy this property with the Façade Easement recognizing that the property is in very poor physical condition and pay anything other than a de minimus price for it in order to develop it for single-family residential use; and this is a consideration that a Zoning Board takes into account in determining whether a Use Variance should or should not be granted. He stated this is a factor that the Board should take into account and consider the property as Zoned with its configuration, physical condition, and in this case the Façade Easement. Mr. Koopman stated it seems to be the consensus from most people that they would like to preserve the façade of the House and the barn and with those parameters do they need to make an adaptive re-use of this to preserve it or is there some realistic possibility that someone will pay anything other than a de minimum price for it to use it for residential development. He stated this is something the Zoning Hearing Board may want to take into account and evaluate.

Mr. Moffa stated with regard to trying to maintain a single-family residential use and someone being able to use the property in its state, he questioned the \$500,000 requirement in the Bid document since if someone wanted to use it as a residential use he feels this would be a steep hurdle. Mr. Fedorchak stated the idea was that they wanted to be sure that whoever bought the property was going to fix it up properly and the number \$500,000 was recognized as being more or less the minimum amount required to do the job properly.

Mr. Gruen noted Exhibit T-4, the last paragraph tells the Township to determine if the property is historically valued at all, and he asked if the Township ever determined whether it is worth preserving the House or should they just tear it down. He stated they have spent so much money on it, and he asked if they ever determined whether historically it is a valuable house to preserve. Mr. Fedorchak stated they would have to ask if a historically-significant individual lived in or visited the site or has a historically-significant event occurred on the site. He stated they also should consider if the specific history of the site plays a significant role in the overall history of the Township. Mr. Fedorchak stated he was not involved in this sort of analysis so he cannot comment on it; however, he feels that there are certain individuals who represent the Historical Commission that may believe that it is in some way significant. Mr. Gruen stated it was

the Township's decision to determine with the advice of the Historical Society and residents whether it is worth spending approximately \$800,000. Mr. Fedorchak stated he feels the answer to this question was made by the Board of Supervisors, and they do not want to spend that kind of taxpayer money on this particular structure. Mr. Gruen asked if they ever determined that it is worth preserving or should they just tear it down rather than turning it into a Commercial property. Mr. Fedorchak stated the direction the Board of Supervisors decided to go was that they did not want to spend taxpayer money on fixing up the House; and the better, more prudent approach in the opinion of the Board was to turn the property over to the private sector and let them fix the property up, and in the process put the property back on the tax rolls.

Mr. Bamburak stated the question he feels Mr. Gruen is asking is did they hire a historic consultant to do a formal report, and Mr. Fedorchak stated the Historical Commission's opinion is that it has historical significance. Mr. Bamburak asked if the Township is in possession of a report that they created that the Zoning Hearing Board could have, and Mr. Fedorchak stated they do have a report from the Heritage Conservancy that provides an assessment. Mr. Bamburak asked if they could have this by the next meeting as he feels this is what Mr. Gruen wants. Mr. Gruen stated he feels it is the Supervisors decision since he knows there are opinions from the public whether to preserve the House or not, but they elect Supervisors to make the decisions, and the public does not make the decisions. Mr. Fedorchak stated the Board of Supervisors may recognize that there may be some historical significance to the House; however, it is clear that the Board of Supervisors does not think that whatever the historical significance is, it does not justify spending \$600,000 to \$700,000 of taxpayer money on this particular structure. Mr. Koopman asked if this has been the Board of Supervisors' opinion consistently for the last five to six years, and Mr. Fedorchak agreed it has been since the report was prepared and presented to the Board of Supervisors in 2003/2004. He stated from that point on all the Boards of Supervisors going back to 2004 recognized that in order to properly fix the structure a very significant financial contribution on the part of the Township would be necessary, and no Board since 2004 felt that this was something they felt was the right thing to do.

Mr. Gruen noted the map provided as to how the Farm was subdivided, and he asked who decided on the first seventy-one acres to be preserved with the money received from the County and not the House. He stated it is a "really weird" configuration. Mr. Fedorchak stated it was a decision made by the Board of Supervisors, the engineer, and Township staff. He stated an appraisal was required, and when they looked at the number the County was giving the Township in relation to the total, \$680,000 translated to seventy-one acres of the property. He stated they then had to consider where to put it. Mr. Gruen stated it was an unusual way that it was subdivided and he noted some other areas where there were straight lines. Mr. Fedorchak stated he agrees that there were different ways it could have been done, although he does not necessarily feel there was a better way. Mr. Gruen stated with the ninety-two acres he assumes it is the same thing with the County money.

Mr. Gruen stated the Farm was purchased under an Open Space Bond Issue, and Mr. Fedorchak stated it was not. He stated as he indicated earlier there were two components to the financing – the \$687,000 from County Open Space and the remaining amount was financed through a Bond Issue in 1998. He stated the Open Space Referendum that Mr. Gruen is referring to did not occur until later that year when the taxpayers approved \$7.5 million in additional money through a Referendum for Open Space purchases. He stated from that point on several open space purchases were made as part of that Referendum, and in the process they are classified as Electoral Debt. Mr. Fedorchak stated the Patterson Farm came before that Referendum and is not in any way part of it.

Mr. Gruen asked how the Bond Issue was worded for the citizens, and Mr. Fedorchak stated the citizens did not vote on it. Mr. Gruen stated that Supervisors just took a loan, and Mr. Fedorchak agreed. Mr. Fedorchak stated it was this purchase that triggered the Referendum because there was conversation at the time amongst the Board about spending this kind of money without voter approvals; and although the purchase was very much well received by the community back in 1998 and applauded by all, the Board felt that on a going-forward basis they should get the voters to sanction similar purchases in the future.

Mr. Gruen asked what they told the citizens when they purchased it – did they tell them they just bought “it on a whim” or they bought it because they wanted open space. He asked why the land was bought. Mr. Fedorchak stated they bought it to protect the property from development. Mr. Fedorchak stated the Pattersons in 1997 and 1998 were being “courted” by Toll Bros. and Realen Homes who were constantly at their door with offers. Mr. Fedorchak stated at some point Tom Patterson came to a Township employee, Jim Coyne, who was the Public Works Director, and expressed an interest in getting the Township to purchase the property.

Some people in the audience disagreed with this, and Mr. Bamburak reminded them that they will have an opportunity to speak during Public Comment.

Mr. Fedorchak stated he was involved in the transaction in 1998 and was very much involved in the negotiations. He stated he was involved in talking to both Thomas and Alice Patterson, and he has sworn an oath to tell the truth. Mr. Fedorchak stated he is the only person in this room who was there at the time and was negotiating the deal.

Mr. Gruen stated Mr. Fedorchak indicated that they pay taxes on the property, and he knows that in other States open space is tax exempt; and he asked if open space is not tax exempt in Bucks County. Mr. Fedorchak stated there are certain conditions, but it is not tax exempt in its entirety. He stated when they purchased the property they were able to

reduce the assessed valuation based on certain public uses for the property, but they still owe a certain amount; and this is the amount that he identified in the report he submitted. He stated the Township pays taxes on almost every piece of property they own.

Mr. Bamburak asked Mr. Murphy and Mr. VanLuvanee if they will have questions for Mr. Fedorchak, and both indicated they would. Mr. Fedorchak was asked to come to the next meeting of the Board.

Mr. Bamburak reminded those in the audience that there should not be any outbursts from the audience. He stated they will have an opportunity to speak during Public Comment and those interested in speaking during Public Comment should understand that if Testimony is completed at the next meeting, they will take Public Comment at that time and those wishing to speak should be prepared to speak at the next meeting.

Mr. Bamburak noted that the next Board meeting is scheduled for June 4, 2013 but it already has a full Agenda. It was agreed that this matter will be continued to June 18, 2013.

Mr. Gruen moved, Mr. DosSantos seconded and it was unanimously carried to continue this matter to June 18, 2013.

There being no further business, Mr. DosSantos moved, Mr. Gruen seconded and it was unanimously carried to adjourn the meeting at 10:25 p.m.

Respectfully Submitted,

Paul Bamburak, Chairman