

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – JULY 14, 2014

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on July 14, 2014. Ms. Friedman called the meeting to order at 7:30 p.m.

Those present:

Planning Commission: Karen Friedman, Chair
John Pazdera, Vice Chair
Tony Bush, Member

Others: Nancy Frick, Director Zoning, Inspection, & Planning
John Torrente, Township Solicitor
Maryellen Saylor, Township Engineer
Kristin Tyler, Supervisor

Absent: Dean Dickson, Planning Commission Secretary
Dan McLaughlin, Supervisor Liaison

DISCUSSION AND RECOMMENDATION OF APPROVAL OF FLOOD PLAIN
ORDINANCE – PROPOSED AMENDMENTS TO THE LOWER MAKEFIELD TOWNSHIP
ZONING ORDINANCE WITH RESPECT TO THE FLOOD PLAIN REGULATIONS

Mr. Bush noted the Definitions and asked if they are consistent with all other definitions throughout the rest of the Ordinances. Ms. Saylor stated these are the definition from FEMA and the State that they want to see in the Ordinance. She agreed to look into whether there are any discrepancies.

Ms. Saylor stated the reason they are proposing this Ordinance is in order for the Township to stay in the National Insurance Program, they have to either amend the present Ordinance or adopt a new Ordinance that meets the minimum requirements. She stated Pennsylvania put together suggested provisions for the Flood Plain Act and it is similar to FEMA's Model Ordinance. She stated the Municipalities have to adopt at least the minimum criteria that has been set forth in the suggested provisions. Ms. Saylor stated FEMA has looked at what the Township is proposing, and they have approved it. She stated the Commonwealth of Pennsylvania also looked at it; and they made some suggested revisions which were made, and Pennsylvania has now approved it.

Ms. Saylor stated FEMA redid the Flood Insurance Rate maps, and they are going to issue the final letter of determination on 9/16/14. She stated the Municipalities in Bucks County then have a six-month compliance period to amend or update their Ordinances to meet the minimum requirements by 3/16/15 or they are suspended from the program. Ms. Saylor stated Lower Makefield is doing it now because they are at the same time taking steps in order to add to the Community Rating System. She stated once the Township is accepted in the CRS, this will reduce the flood insurance premiums for residents depending on how proactive the Township is above and beyond the minimum requirements. She added that Lower Makefield is very proactive and responsible.

Ms. Saylor stated she and Ms. Frick have been working together on this project, and FEMA did come out and did a community assistance visit in the summer. They issued a letter in January indicating the steps the Township needed to take to satisfy their concerns. She stated this is a long process, and they are working through it; and what is proposed tonight is one of the steps in that process.

Ms. Friedman stated she was pleased to see in the Definition Section that historic structures were mentioned, and she asked if they have made sure that they have included every possible historic structure in the way these are listed. She stated she feels it is very comprehensive, and Ms. Saylor agreed.

Ms. Friedman noted Article IV – Administration – and asked who is the Zoning Officer. Ms. Frick stated she is the Zoning Officer. Ms. Saylor stated they have followed the suggested provisions with regard to Administration, and it states that the Zoning Officer can delegate duties. Ms. Friedman stated #3 indicates they can enter into a written agreement or contract with an agency or private entity, and Ms. Friedman asked if the Board would have to make this decision. Ms. Tyler stated she feels this acknowledges the Township's agreement with the Township engineer and legal staff. Ms. Frick stated in some cases the work would be done by the Building Inspector's office as well.

Ms. Friedman noted Section E indicated the "... Floodplain Administrator shall revoke the Permit...;" and she stated she feels this seems strong and asked if they could use the term "suspend," since revoking would mean that they would have to start the process all over again, and if it were suspended, they would not necessarily have to do that. Ms. Friedman suggested that they change it to "suspend and/or revoke." Ms. Saylor stated she is not sure they can do this since the model Ordinance states "revoke." Ms. Saylor noted the end of that sentence which indicates "report such fact to the Township Manager for whatever action it

considers necessary.” Ms. Tyler stated Ms. Frick might revoke it and report it to the Township Manager who could indicate what needs to be fixed, and they could proceed and it would not be a true revocation but would act as a suspension. There was discussion whether or not the Township Manager should have override authority, and it was noted it could be amended to be Township Manager or the Board of Supervisors.

Ms. Friedman noted the top of Page 11 which she feels conflicts with Page 7 G, and Ms. Saylor explained that this would be in the case where a house is going to be elevated.

There was discussion about Article V, and Ms. Saylor stated they still list the 1999 maps but they have indicated “or the most recent.”

Mr. Bush asked if there is not a provision where someone can contest whether or not they are in the floodplain, and he asked if anyone has done that based on what they expect to be the new map. Ms. Saylor stated she does not feel anyone has done that based on the anticipated new map; however, people have asked for an amendment once their house is elevated. She stated surveys are performed, and FEMA will review it and make a determination if they agree that the elevations around the house are higher than the flood elevation map.

Article VI was noted, and Ms. Friedman noted Page 20 C indicates “Basements are prohibited.” She stated she felt there was some discussion in the document about having basements one and a half feet above the water table, etc.; and in this Section it states basements are prohibited. Ms. Saylor stated basements are now prohibited in Residential developments. She stated the one and a half feet is the lowest living space permitted. It was raised to one and a half feet as this would reduce flood insurance premiums dramatically to the homeowner and will help them from being flooded. Ms. Saylor stated if someone is going to elevate their home, they will be required to make the lowest livable floor space a foot and a half above the flood elevation. Ms. Saylor stated she feels non-Residential is allowed to have a basement in certain circumstances.

Ms. Tyler expressed concern that the Board of Supervisors is going to vote to approve this Ordinance before the new flood maps are in place, and she asked about enforcement since they will be enforcing an Ordinance based upon an unadopted piece of legislation. Ms. Saylor stated they will enforce whatever map is in place at the time.

Ms. Friedman noted Section A of Article VII where it discusses prohibitions for hospitals, nursing homes, and jails or prisons. She stated she assumes the reason for this is that it would be difficult to take care of those in these structures in the event of a flood, and she asked if this should be amended to include day care centers and schools because of concerns moving that number of young people out.

Ms. Tyler stated it is her understanding that based on the new maps, Boehm will be in the flood plain so the School District could be prohibited from re-building that Middle School. Ms. Friedman asked if there was a way to go around this by “grandfathering” that school since she feels it would be shortsighted to not prohibit someone from building a new school in the floodplain. Ms. Tyler stated while she does not disagree, hospitals, nursing homes, and jails would be different from schools in that they house people 24/7 whereas the schools would house people part of the day and the schools would be closed in the event of flooding. She stated she would not want to create problems for the School District in re-building Boehm. Ms. Saylor stated the floodplain is 100% protected so that if someone wanted to come in requesting to build a day care or a school, they would have to get a Variance.

Ms. Alison Smith stated she looked on the Website to read a copy of the proposed Ordinance, but could not find it. She was provided a copy this evening. Ms. Smith stated she lives in a house that was not in the flood plain when she moved into it, and she is interested in how this will impact her. As this is being considered by the Board of Supervisors this Wednesday, it was suggested that she contact Ms. Saylor with any questions prior to that time.

Mr. Jeff Benedetto asked if it would be possible to install a pool in the floodplain, and Ms. Saylor stated they would have to get a Variance and prove hardship. It was noted existing pools would be grandfathered.

There was discussion about homes that were previously not in the floodplain but will now be considered to be in the floodplain and the obligation of sellers or Realtors to advise prospective homebuyers. It was noted that the new flood plain map has not yet been adopted. Ms. Saylor reviewed the timetable for adoption by FEMA of the update. Ms. Saylor also discussed benefits to the residents with the Township being proactive, and the Township residents can save between 5% to 40% on their insurance. She added that Lower Makefield is very proactive.

Ms. Saylor stated there are still a number of steps to be followed, and she is working with Ms. Frick and others with the expectation that this should be submitted by the end of the month.

Mr. Bush moved, Mr. Pazdera seconded and it was unanimously carried to recommend to the Board of Supervisors approval of the proposed Amendments to the Lower Makefield Township Zoning Ordinance with respect to the Flood Plain Regulations.

OTHER BUSINESS

Ms. Friedman asked that an announcement be made at the next Board of Supervisors meeting that there is a vacancy on the Planning Commission.

Ms. Friedman asked if it is necessary to have a public meeting if some of the Planning Commission members wish to discuss the next draft of the Master Plan. Mr. Torrente stated the Planning Commission could make a recommendation to the Board of Supervisors asking them to authorize the Planning Commission to do this. Ms. Tyler stated she feels anything substantive would have to be discussed at a public meeting. Ms. Tyler asked that she be advised when the Planning Commission will next discuss this at their meeting so that she can be in attendance as she will no longer be attending the Planning Commission meetings unless they are discussing the Master Plan or the Community Center. It was noted Mr. McLaughlin is the Supervisor Liaison to the Planning Commission.

Mr. Benedetto asked when they will discuss the Community Center, and Ms. Frick stated it will be on the Agenda for the next Planning Commission meeting to be held on July 28, 2014.

Mr. Stephen Heinz, 1333 Edgewood Road, stated he received a letter indicating that the Board of Supervisors had Fieldstone on their Agenda for this Wednesday; and he asked if they had made a further presentation to the Planning Commission. Ms. Frick stated she just learned that it was on the Board of Supervisors' Agenda. She stated they had come before the Planning Commission some time ago and then went before the Board of Supervisors. Mr. Garton had indicated that the Board of Supervisors had made some requests, and Mr. VanLuvanee is now coming back to the Board following those requests. Ms. Friedman stated the Planning Commission has not made any final recommendation to the Board of Supervisors on that Plan.

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There being no further business, Mr. Pazdera moved, Mr. Bush seconded and it was unanimously carried to adjourn the meeting at 8:20 p.m.

Respectfully Submitted,

Karen Friedman, Chair