

# WARRINGTON TOWNSHIP BOARD OF SUPERVISORS

## MINUTES FOR MARCH 24, 2009

The regular meeting of the Warrington Township Board of Supervisors was held on March 24, 2009, 7:30 p.m., at the Township Building located at 852 Easton Road, Warrington, PA 18976. The members present were as follows:

### 1. ATTENDANCE:

Carol M. Butterworth, Chairperson; Michael W. Lamond, Jr., Vice Chairperson; Glenn McKay, Secretary; Rebecca A. Kiefer, Assistant Secretary; and Paul Plotnick, Member; Timothy J. Tieperman, Township Manager; Thomas F. Zarko, Township Engineer; Carolyn Hanel, Director of Administrative Services/Parks and Recreation; Fire Chief Michael J. Bean; Michael Mrozinski, Director of Planning and Economic Development; Michael P. Clarke, Esq.; Township Solicitor; Thomas F. Zarko, Township Engineer; Richard Lesniak, Director of Fire, Inspection and Emergency Services; and Vivian S. Bell, Township Treasurer.

### 2. PLEDGE OF ALLEGIANCE

The meeting opened with a pledge to the flag.

3. EXECUTIVE SESSION REPORT. Mr. Clarke reported that at the conclusion of our last meeting held on March 10, 2009 the Board held an executive session at which time they discussed several litigation matters, a potential litigation matter, and a personnel matter.

### 4. APPROVAL OF BILL LIST: 3/10/09-3/24/09 - \$881,820.73

Motion – It was moved by Mr. Lamond, seconded by Mr. McKay, that the Board of Supervisors voted to approve the bill list from 3/10/09 to 3/24/09 in the amount of \$881,820.73. This motion passed by a roll call vote of 4 yeas. Mrs. Kiefer voted nay.

### 5. APPROVAL OF MINUTES

#### a) February 24 2009

Motion – It was moved by Mr. Lamond, seconded by Mr. Plotnick, that the Board of Supervisors voted to approve the minutes of the February 24, 2009 meeting. This motion passed by a vote of 5-0.

### 6. MINUTES FOR POSTING

#### a) March 10, 2009

Motion – It was moved by Mr. Lamond, seconded by Mr. Plotnick, that the Board of Supervisors voted to post the minutes of the March 10, 2009 meeting. This motion passed by a vote of 4-1. Mrs. Butterworth abstained.

### 7. PUBLIC COMMENT

a) Lamplighter Village. Mr. Ernest Gallo, who resides in Lamplighter Village located on Street Road & Folly Road, expressed his concerns. He said he's a representative of the Lamplighter Village

Condominiums Association. He addressed some of the structure and infrastructure deficiencies that can effect their community and the health and welfare of their residents. He said with the recent Chapter 11 protection request by our builder of our community we are concerned that these deficiencies will not be addressed. He said while this community was completed in 2005 there are numerous infrastructure problems and resident concerns that exist. He highlighted a few of their major concerns: 1) Underground stormwater collection problems; 2) Aqua installation problem; 3) Inadequate stormwater runoff control; 4) Community sidewalk problems; 5) Topsoil removal by bidder during construction and not adequately replaced; 6) Rotted door frames; 7) Clubhouse flooding, etc.

Mr. Gallo said the residents are asking for the Board's help to resolve these problems. Mrs. Butterworth said that Chapter 11 is for anyone to alert their creditors. She suggested that the Board look at Mr. Gallo's statement and address the questions that our solicitor has and definitely put this item on the agenda for discussion at a future meeting.

b) **Adult Communities that Exist in Warrington.** Mrs. Frances Reaman, who resides at 200 Fiddle Leaf Lane, complemented the township on the lovely newsletter she recently received. She also noted that there is no reference of one article on adult communities that exist in Warrington. She is upset that our Board of Supervisors will ignore the needs of the seniors in this community when 3/5 of our supervisors are in that category. She said Warrington has the second highest percentage of seniors in Bucks County. She said we have nothing for our seniors. We provide no transportation, do not have a senior citizen, no activities, etc. She asked the Board to revisit this issue and said the Board has no representation to the Senior Central Bucks Task Force or to the Summit on Aging. She requested that something be done to make this a community of everybody.

Mrs. Butterworth suggested that Katie Braun and Gay Currie, who are the ones who put this newsletter together, to sit down with you and take some ideas and maybe have a corner in the newsletter referencing what you just mentioned.

Mrs. Hanel said the Young Rembrandts are offering a drawing course every Thursday starting April 16 for six weeks just for seniors here at the township building.

#### 8. **PUBLIC HEARING:**

##### a) **Conditional Use Hearing for Metro PCS to allow the collocation of communications antennas and equipment located at 2647 County Line Road.**

Motion – It was moved by Mr. Lamond, seconded by Mr. McKay, that the Board of Supervisors voted to open the conditional use hearing for Metro PCS to allow the collocation of communications antennas and equipment located at 2647 County Line Road. This motion passed by a vote of 5-0.

Mr. Clarke reported that this is a conditional use hearing for Metro PCS Pennsylvania, LLC. He said the property is tax parcel #50-15-4 and 50-15-6 and is located in Warrington Township, Bucks County, PA. He said this is an application requesting conditional use to allow the collocation of communications antennas and equipment located at 2647 County Line Road. He said the applicant is represented by Edward Wild, Esq.

Mr. Wild said he's coming before the Board primarily pursuant to Section 2324 of the Warrington Township Zoning Ordinance, which regulates communication antennas and communication equipment buildings as a conditional use. He said he had previously marked and circulated a series of fifteen exhibits that were submitted in December 2008. He said he has three additional exhibits and he'll briefly summarize why he believes the documents submitted and the witnesses here this evening will demonstrate compliance with the applicable criteria.

Mr. Wild said Metro PCS seeks to add some equipment cabinets at the base of the tower inside the existing fenced compound that's at the Schmucker landscaping property and to add 10' to the top of the tower to raise its height from 170' to 180', and to attach some additional antenna at the top of the tower. He introduced his three witnesses: Bruce Hoffmaster, Michael Bohlinger Project Engineer; and Sheldon Burke, Radio Frequency Engineer.

Mr. Zarko reported that CKS did provide a review of the proposed application that was submitted by Metro PCS and we issued a review letter dated 1/12/09. He asked the applicant if he was amenable to complying with the items as outlined in CKS' letter dated 1/12/09. Mr. Wild said the applicant would comply with the items as outlined in CKS' letter dated 1/12/09.

Motion – It was moved by Mr. Lamond, seconded by Mr. McKay, that the Board of Supervisors voted to close the conditional use hearing for Metro PCS to allow the collocation of communications antennas and equipment located at 2647 County Line Road. This motion passed by a vote of 5-0.

Motion – It was moved by Mr. McKay, seconded by Mrs. Kiefer, that the Board of Supervisors voted to approve the conditional use application for Metro PCS to allow the collocation of communications antennas and equipment located at 2647 County Line Road conditional upon the items in CKS Engineers review letter dated January 12, 2009 and conditional upon the tower shall, not in the future, exceed 180'. This motion passed by a vote of 5-0.

**b) Ordinance amending Chapter 15 (Motor Vehicles and Traffic) Section 213 (Stop Intersections Established) to provide for the installation of stop signs on Kelly Drive at the intersection or through street Cornell Drive in the north and south directions of travel.**

Motion – It was moved by Mr. Lamond, seconded by Mrs. Kiefer, that the Board of Supervisors to approve an Ordinance amending Chapter 15 (Motor Vehicles and Traffic) Section 213 (Stop Intersections Established) to provide for the installation of stop signs on Kelly Drive at the intersection or through street Cornell Drive in the north and south directions of travel. This motion passed by a vote of 5-0.

**c) Ordinance amending Chapter 15 (Motor Vehicles and Traffic), Section 210 (U-Turns Prohibited at Certain Locations) to provide for the prohibition and enforcement of U-Turn restrictions in either direction of travel along the entire length of Valley Square Boulevard.**

Motion – It was moved by Mr. Lamond, seconded by Mr. Plotnick, that the Board of Supervisors voted to approve a Ordinance amending Chapter 15 (Motor Vehicles and Traffic), Section 210 (U-Turns Prohibited at Certain Locations) to provide for the prohibition and enforcement of U-Turn restrictions in either direction of travel along the entire length of Valley Square Boulevard. This motion passed by a vote of 5-0.

**d) Ordinance designating a sanitary sewer district authorizing construction of a sanitary sewer collection system, and establishing a benefit assessment upon the subject properties requiring connection along Woodlawn Avenue.** Mr. Zarko said the township completed construction of a public sewer extension project addressing eighteen (18) properties located along Woodlawn Avenue, Limekiln Pike, and County Line Road. He said the township must adopt an ordinance establishing a new sewer district and assessment costs for the system installation. He said the Board of Supervisors authorized the advertisement of a proposed ordinance at their February 24, 2009 meeting and the Ordinance has been advertised. He said the primary contents of the ordinance were to establish the new sewer district for the Woodlawn Avenue area, establishes a requirement to connect, and establishes the cost for the assessment for the project, and it also establishes an option for financing the assessment costs through the township.

Paul Smith, who resides at 96 Woodlawn Avenue, asked if the township engineer could go over the Ordinance meeting of February 24, 2009. She asked who met and who passed this Ordinance. Mr. Zarko said the ordinance wasn't passed. What happened at the meeting is the Board of Supervisors authorized the advertisement of the Ordinance that is being considered this evening.

Eugene Pourun, who resides on Woodlawn Avenue, said he missed the Ordinance advertisement and asked what are the requirements for connecting. He understood that we would have to use iron pipe. Mr. Zarko said there have been revisions made to those specifications and they have to be formally adopted by the Board. Staff is recommending that the option for PVC pipe be allowed for private building connections.

Motion – It was moved by Mr. Plotnick, seconded by Mr. Lamond, that the Board of Supervisors voted to approve an Ordinance designating a sanitary sewer district authorizing construction of a sanitary sewer collection system, and establishing a benefit assessment upon the subject properties requiring connection along Woodlawn Avenue as discussed in more detail by our township engineer. This motion passed by a vote of 5-0.

9. **MANAGER'S REPORT.** Mr. Tieperman reviewed the manager's report which included a) Prioritized Transportation and Infrastructure Projects; b) 202 Parkway Signalization; c) 202 Parkway Task Force Meeting; d) 611 Closed Loop System; e) Collective Bargaining Arbitration; f) 2009 Roadway Improvement Program Follow-Up; g) Verizon Utility Pole Relocations – West End Fire Station Project Follow Up; h) Lamplighter Villas HOA Meeting; i) Stone Manor Corporate Center; j) Other Business; and k) Correspondence.

**EAC Grant.** Mrs. Kiefer reported that EAC is attempting to obtain another Water Resources Education Network (WREN) Grant along the Little Neshaminy River Conservation Plan.

Motion – It was moved by Mrs. Kiefer, seconded by Mr. Plotnick, that the Board of Supervisors authorize the township manager to proceed with the EAC in the application for the Water Resources Education Network (WREN) Grant from the League of Women Voters. This motion passed by a vote of 5-0.

**275<sup>th</sup> Anniversary Celebration.** Mrs. Butterworth reported that she has been serving as a liaison for the 275<sup>th</sup> Anniversary Celebration and has been working with Katie Braun, Gay Currie, and Carolyn Hanel to aid in kicking off this celebration and helping them make some decisions they need. She said "Warrington Cares" donation containers have been distributed at many of the businesses at Valley Square. The Board has to come up with a policy as to how the money is distributed when it comes back to the township.

a) **Warrington Fire Company Monthly Report.** Mr. Michael Bean, Fire Chief, reviewed his monthly report for February 2009.

b) **Fire, Inspections, and Emergency Services Monthly Report.** Mr. Rick Lesniak asked if the Board had any questions as his Fire, Inspections, and Emergency Services Monthly Report for February 2009 had been included as part of the Board's packet. He reviewed the outcome of a fire call received on a property located on Palomino Drive.

c) **Parks and Recreation Monthly Report.** Mrs. Hanel reviewed her Parks and Recreation Monthly Report for March 2009. She highlighted what's been happening in preparation for the Township's 275<sup>th</sup> Anniversary Celebration being held on May 2.

**NEW BUSINESS (ACTION/DISCUSSION ITEMS):**

10. **Disposition of bids for 3627 County Line Road sewage pump and force main installation.** Mr. Zarko reported that this is the project that would extend public sewer service to the Phelps property. He said their septic system is being affected by PennDOT's County Line Road widening project. He said the cost for this project is wholly reimbursable through PennDOT. PennDOT has asked us to put together a project to connect it to public sewer, which the township did. We received bid packages for the project on March 3, 2009.

Motion – It was moved by Mr. McKay, seconded by Mr. Lamond, that the Board of Supervisors voted to award the contract for the 3627 County Line Road sewage pump and force main installation to B.P. Paterson, Inc. at the bid price of \$30,810, subject to PennDOT's approval of the contractor. This motion passed by a vote of 5-0.

11. **Disposition of bids for the Bucks County Consortium Road Material Bid.** Mr. Tieperman reported that Staff has reviewed the 2009-2010 Road Material Bid as prepared by New Britain Township on behalf of the Bucks County Consortium.

Motion – It was moved by Mr. Lamond, seconded by Mr. Plotnick, that the Board of Supervisors voted to award the 2009-2010 Bucks County Consortium Road Material Bid to the Eureka Stone Quarry for the quantities and amounts quoted in their tabulation spreadsheets as stated by the township manager. This motion passed by a vote of 5-0.

12. **Discussion on King Park resident petition.** Mrs. Hanel reported that in January 2009 residents of Warrington Ridge presented a petition to the Park and Recreation Board re: the expansion of King Park with the following requests: 1) No advertising is to be hung from the fence surrounding the outfield; 2) No scoreboard, electronic or other, is to be erected; 3) No other permanent structure is to be erected to provide advertising for league supporters; 4) No permanent structure to provide dug-out shelter is to be constructed; 5) No permanent structure to announce ball games is to be constructed; and 6) No P.A. system is to be installed. The Park and Recreation Board discussed the petition at their February 26, 2009 meeting and made responses/recommendations as noted in her memo dated 3/4/09.

Dean Edenson, who resides at 908 Noah's Circle, said he was there just to hear what the outcome was of the Park and Recreation Board's meeting.

13. **Review a proposed charge for the creation of a special ad hoc task force to evaluate and recommend proposals to the board of supervisors for solid waste, recycling, and leaf disposal services.**

Motion – It was moved by Mr. McKay, seconded by Mrs. Kiefer, that the Board of Supervisors voted to table the review of a proposed charge for the creation of a special ad hoc task force to evaluate and recommend proposals to the board of supervisors for solid waste, recycling, and leaf disposal services until the Board's 4/14/09 meeting. This motion passed by a vote of 5-0.

**OLD BUSINESS (ACTION/DISCUSSION ITEMS):**

14. **Consider approval of a Resolution for Preliminary Plan approval for Bhakta.** Mr. Zarko reported that this land development plan was initially discussed at the 1/27/09 Board of Supervisors meeting. He said this development site is located on northeasterly side of Bristol Road immediately west of Bristol Road & Pickertown Road intersection. He said this site is approximately 4.205 acres in size and is located within the "C2 – Commercial District". He said the applicant proposes to construct a four

(4) story, 80,280 square feet personal care facility and associated public and site improvements as part of the project.

Mr. Zarko said at the 1/27/09 meeting the Board of Supervisors raised several issues and concerns and requested that the applicant review these issues, resolve them, and report back to the Board. He said the applicant's attorney has issued a letter dated 2/27/09 outlining the applicant's response to the nine issues raised by the Board of Supervisors.

Mr. Smith summarized the nine issues and the applicant's response: 1) Install no-parking signs along the entrance driveway. The Bhaktas will install the requested no-parking sign at locations determined by the Township Engineer; 2) Install a sidewalk along the entrance drive to Bristol Road. The Bhaktas will install a sidewalk along the eastern side of the entrance drive to Bristol Road; 3) Opportunity to review schematic floor plans of the proposed building. Design of the building is not required for approval of a land development plan, whether preliminary or final, under the Pennsylvania Municipalities Planning Code or the Warrington Township Subdivision and Land Development Ordinance. Nevertheless, Mr. Bhakta has prepared schematic floor plans for the proposed building; 4) Opportunity to review elevation drawings for the proposed building. We will bring full-sized, color elevation drawings to the next Board meeting so that the Board will have a better understanding of the appearance of the proposed building; 5) Gazebo shown on the Plan in the vicinity of the emergency access road be relocated or removed. The Bhaktas will remove the gazebo; 6) Requested more information regarding the retaining wall and the proposed fence at the top of the retaining wall. The Bhaktas engineer will provide more details regarding the variations in height of the retaining wall at the next Board meeting; 7) Proposed fence continue along the rear of the building where the Bhakta property abuts the Warrington Greene property. The Bhaktas will comply with this request; 8) Install a paved road for emergency vehicles at the rear of the building. The Bhaktas have determined that it is neither practical nor feasible to install the requested road. The existing design complies with the Warrington Township Fire Code; and 9) Questioned whether a 50' buffer is required where the Bhaktas property abuts a residential use. This issue was raised in Section I.6 of the Township Engineer's first review letter dated January 8, 2007. Mr. Smith summarized the findings of that inquiry.

Mr. Brian L. Horner, Project Manager with Pro Tract Engineering, Inc. reviewed the Retaining Wall Cross-Sections Elevation Plan.

Mr. Smith said the Board had asked the applicant to consider paving an emergency access road around the entire perimeter of the property. He said we looked at that and the feasibility of doing so and do to the topography of the rear of that lot it's not practical to pave a road that would accommodate fire trucks all the way around to the rear of the property. In addition, the fire code does not require that an access road be paved around the perimeter of the building. He said the requirement is that the end of the access road can be no further than 150' from any point on the building and we comply with that requirement at both the western and eastern side of the building.

Thomas Smith, Esq., attorney for the applicant said at the last meeting we agreed to meet with the neighbors to discuss their concerns. He gave an update on his discussions with the neighbors. He said he met with Mr. & Mrs. Marks, who reside at 2320 Stagner Avenue, and they are represented by counsel, William Benner, who is present this evening. He said the substance of the discussion was that their primary concern was the use of Stagner Avenue. He said we have agreed to the extent that Stagner Avenue would be limited solely for emergency access for emergency vehicles, gated with bollards, and with a lock that would only be accessible to emergency personnel. He said the Marks do not want Stagner Avenue used for any purpose including emergency access. He stated back in April 2008 when we were first analyzing the emergency access issue we submitted a memo to the township staff with which we attempted to demonstrate that we can comply with the requirements of the township's fire code without using Stagner Avenue at all. Mr. Horner showed a preliminary sketch plan to determine that this

is feasible and the theory is that we would use a median strip in the center of a wider Bristol Road access point and that would provide two means of access into the site from Bristol Road. He said the curbing would be mountable in the event that 1) The fire truck or some other emergency vehicle were stuck on one side of the median. The other side would still be available to provide a means of ingress and egress for emergency personnel. He said in that event we would not continue with what is labeled as the "proposed emergency access road", which is to the western side of the building. We would eliminate that altogether.

Mr. Smith said we are prepared to proceed with either of those two alternatives. He said the alternative, which is reflected on this plan, which proposes to use the Warrington Greene side of Stagner Avenue as a means of emergency access only. We're prepared to use some other means of access restrictions other than gates and bollards. He said some townships prefer breakaway gates that no one has access or when there's an emergency the emergency vehicles simply run through the gates and replaced afterwards.

Mr. Smith said we would like to present to the Board as a second alternative that we can eliminate Stagner Avenue altogether and use the wider entrance with the median strip at Bristol Road and eliminate the concerns. He said the Marks have additional concerns and they are outlined in their letter that was sent to the Board. Briefly, they relate to the possible use of Stagner Avenue by the employees of the Bhakta Personal Care Facility to get to and from the bus stop at Bristol Road and Route 611. He said Mr. Bhakta is willing to tell his employees as a policy that they are not to use Stagner Avenue as a pedestrian ingress and egress to his property.

Mr. Smith said we have agreed as a condition of the Warrington Township Planning Commission's recommendation to put signs at the end of Stagner Avenue at Easton Road that say "No Outlet".

Mr. Smith said the other issue that Mr. & Mrs. Marks have is the proposed location of the kitchen for this facility in the southwestern corner. He said we have a waiver request before the Board for the provision of the Subdivision and Land Development Ordinance, which provides that loading in service areas, shall not be located on the side of the building that is closest to the road. We're proposing a loading area in front of the building.

Mr. Clarke reported that the International Fire Code of which we have been following and requiring that the applicant have two means of fire access requires two means of fire access. In the review that Rick Lesniak, Tom Zarko, and myself have done on this that it has been determined to mean two independent separate means of fire access and not just one overly large means of fire access. He said what Mr. Smith is suggesting on behalf of his client is an alternative that they are proposing. He said it's the proposal that they have been making for several months now, which the fire marshal originally rejected, which led us to the issue of Stagner Avenue.

Mr. Zarko reviewed the significant issues that the staff has identified with this project. He said the first one has to do with the roadway improvements along Bristol Road. Staff had previously recommended that the proposed widening improvements that are proposed across the frontage of this site be extended across the adjacent property located to the west so that they match the improvements that are installed on the Forest Ridge development. He said the applicant has agreed to provide those improvements as requested with the condition that the associated right-of-way acquisition would be obtained by the township.

Mr. Zarko said the Board may recall that there is some widening that is going to be done Bristol Road as part of the Forest Ridge development and there is some right-of-way acquisition that has to be done by that developer. He said this additional widening that's being recommended as part of this project would extend beyond the right-of-way that is being obtained by Forest Ridge by approximately 3'. There is essentially about 302 sq. ft. of additional right of way area that would have to be obtained. We're

presenting that issue to the Board to see if you would be amenable to obtaining that right-of-way area in order to get the improvements. Mr. Smith said Mr. Bhakta has had discussions with the Prieto family and he has been told in no uncertain terms that they have no interest in granting additional right-of-way.

Mr. Clarke asked Mr. Smith if the township were to acquire the needed right of way from the other property owner would your client agree to complete the road improvements as detailed by Mr. Zarko. Mr. Smith said he would be subject to approval of PennDOT of highway access. Mr. Clarke asked if his client would consider reimbursing the township for the cost of acquiring that right of way. Mr. Smith said his client said if the cost was something small he would agree. If the cost is something large, then his client's answer would be no.

Mr. Clarke asked if that number were to be for the acquisition and not for the development would it be a number not to exceed \$2,500. Yes, said Mr. Smith.

Mr. Zarko said that in addition to the roadway improvements there were also two waivers that the applicant is requesting on this plan. The first waiver request is from the requirement that trash enclosures be attached to the building. He said the applicant is proposing a dumpster enclosure on the easterly side of the parking lot at the rear of the building. The enclosure would be screened. He said considering that construction Staff has no objection to that waiver request.

Mr. Zarko said the next waiver request is from the requirement that the on-site loading area not be placed on the side of the building facing an external street. As noted on the plan, the on-site loading area is on the westerly side of the building. Staff has no objection to that waiver request.

Mr. Zarko said in addition to the two waiver issues the final item to discuss with the Board is if the applicant is requesting both a preliminary and final plan approval. He said a preliminary plan review has been done. However, the engineering has been substantially completed on the project. He said he feels the remaining issues on the plans are minor technical items. In addition, Staff has resolved the major portion of the various development related documents required for the project. There have been draft development agreements and easement agreements prepared for the project. Staff is comfortable with the format of those agreements.

Mr. Zarko said Staff has prepared a draft approval resolution that the Board may consider this evening for this project. He said Staff is recommending approval subject to the conditioned outlined in the resolution. In addition, subject to compliance with the obligations that we're committed to in Mr. Smith's 2/27/09 letter.

William Benner, Esq., said he is here on behalf of his clients, Dan and Terry Marks. He said his comments concern one aspect of the development, and this specifically concerns Stagner Avenue. Mr. Benner said Mr. Bhakta's project came before Warrington Township and was essentially a development concept that was approved by the Zoning Hearing Board in June 2006. He said to develop this property for the Personal Care Assisted Living Facility Mr. Bhakta needed zoning approval. He said at this zoning hearing Mr. & Mrs. Marks along with their neighbors appeared at this hearing and they were concerned primarily about the utilization of Stagner Avenue for this project.

Mr. Benner said at the hearing the applicant's attorney, not Mr. Smith, but someone in his office made a representation that Stagner Avenue wouldn't be part of the development. Through nobody's fault, the notes of testimony of that hearing have now disappeared. Those in attendance believe that the representation made at the zoning hearing board was that Stagner Avenue wouldn't be part of the development. There is a defining fact in the decision that says that Stagner Avenue will not affect the project. He said from the residents who attended that meeting they believe that representation made to the



zoning hearing board was that Stagner Avenue would not be a means of ingress and egress for the proposed Assisted Care Facility.

Mr. Benner said on that basis the residents elected not to challenge the zoning hearing board decision. He said and similarly they elected not to challenge the subsequent decision that allowed the project to grow in size from three (3) stories to four (4) stories because their primary concern was Stagner Avenue. He said the plans that were before the zoning hearing board did not provide for any means of ingress and egress either as a primary means of ingress and egress or as a secondary means of ingress and egress. He means by that as an emergency access.

Mr. Benner said the International Fire Code seems to say that a secondary emergency access road is a requirement if the buildings are in excess of 120,000 sq. ft. or if less than 120,000 sq. ft. if they are not supported by an automatic suppression system. He said Mr. Smith has represented to him that the design of the building is such that there is an automatic fire suppression system built into the plan. He said if that representation is accurate this building is less than 120,000 sq. ft. then under the fire code there doesn't seem to be a requirement for an emergency access.

Mr. Benner said Stagner Avenue arose many years ago from an ancient subdivision going back 80-90 year and it has been a "paper street" from the very beginning. If there is to be a secondary emergency accessway using Stagner Avenue and your engineer properly noted in his review letter that the emergency accessway needs to be improved and needs to be widened to 20'. He said if Stagner Avenue is widened to 20', it will change its character for those residents who live along Stagner Avenue in the past.

Mr. Benner said the residents ask now that the Board not use its power to effectively make Stagner Avenue a quasi-public street. He asked the residents in the audience to stand and let the Board know that you firmly oppose using Stagner Avenue as a way of ingress and egress for emergency vehicles. He said when the zoning hearing board authorized the use of this property as an Assisted Living Facility they did on the basis of the plans and materials submitted to them. Those plans did not provide for an access way. These plans are substantially different because they do provide for an emergency access way.

Mr. Benner said the residents are not opposing this development. They believe that their interests and the applicant's interest can be harmonized if the Board were to find and make a threshold finding that there was not a requirement for a separate emergency access way as illustrated on the plan in this area. He said the residents would ask the Board that they approve this project in one of two fashions. One is that you eliminate this access way in its entirety or two that you accept the compromise that the applicant has proposed providing for a secondary access way at the entrance to Bristol Road. He said Stagner Avenue is an old paper street and in the more than 20 years that has elapsed can't be opened. He said by imposing a requirement that Stagner Avenue be improved for an emergency access Stagner Avenue starts taking on the trappings of a public street.

Nancy Branden, who resides at 2513 Bristol Road, said she is already concerned because she has a lot of traffic already walking on her property and this development is going to add additional traffic. She said there is talk about widening Bristol Road an additional 3' and asked if that pertained to her side of the property. Mr. Zarko responded not as far as this development. He said as part of Forest Ridge there is going to be some widening along Bristol Road.

Ann Shade, who resides on Stagner Avenue. She said she was listening to the comments made about how our road would be changed if it was widened and made an access road for the fire engines. She is concerned about how much improvement would be needed, especially in front of the Marks home for the weight of the fire engines, because there is a swale there.

Mr. Zarko said the fire marshal has reviewed the condition of Stagner Avenue and as part of this application has not recommended that any further improvements or widening be done to Stagner Avenue,

and that it maintained in its current condition. However, to insure that it is usable for emergency access the fire marshal has recommended that some maintenance obligations be imposed on this developer for Stagner Avenue going forward. He said those maintenance obligations include requirements for inspection of the roadway, repair of any potholes that would impact access, requirements for this applicant to plow the road in the event of snowfall and generally be responsible to maintain the road so it is available for use by emergency vehicles. He said there are no widening or paving improvements proposed as part of this development or being requested by the fire marshal.

Terry Marks, who resides at 2320 Stagner Avenue, showed the Board pictures of Stagner Avenue showing how wide the street is presently.

Mr. Rick Lesniak, fire marshal, said he reviewed the International Fire Code regarding the threshold. He said there are two independent sections of the fire code and we don't feel that they are tied together. Mr. Clarke said Mr. Benner correctly quoted the section of the International Fire Code regarding buildings exceeding 62,000 sq. ft. only requiring one access if they are sprinklered but there is a section before then D104.1, which states that buildings with facilities exceeding three (3) stories or 30' in height shall have at least three means of fire apparatus access for each structure. Mr. Lesniak has determined that that is actually a typo but it is actually two means of fire apparatus access. While Mr. Benner correctly quoted a section, we do not believe that that is the section that applies here. We believe since the building is 30' or more in height Section D104.1 requires two means of fire apparatus access for each structure.

Ann Shade said a comment was made that the way Stagner Avenue is now that it could adequately be used for emergency fire access. She is afraid that this road will be used for construction access. Mr. Clarke reported that the applicant will not be allowed to use Stagner Avenue for construction.

Robert Trout, who resides at 2450 Stagner Avenue, said we put up with it for four years. They came up and down our street building Warrington Greene and now you're making another statement. He said the last time the zoning hearing board lost the minutes and now all of a sudden you've lost minutes again. Mr. Clarke said the transcript of the May 2006 zoning hearing board hearing is lost and nobody seems to know where this transcript is. He said the opinion of the zoning hearing board and the order was issued on June 19, 2006 that we do have a copy of.

Mr. Tom Smith said we back to the zoning hearing board last summer in response to Mr. Mrozinski's interpretation that the original special exception decision prohibited four (4) stories structures. He said we appealed that determination and the zoning hearing board sustained our appeal. This was not an issue of we requested relief to allow a four (4) story structure. He said the original special exception decision did not prohibit a four (4) story structure.

Mr. Clarke said if this project is approved the Site Development Agreement that will be entered into with the applicant will include all of those restrictions on using Stagner Avenue.

Ann Shade commented about the grade issue. She said she doesn't know why there is a problem from Warrington Greene to the new property.

Mrs. Butterworth said her first concern is the assurance that the people would have even if an emergency access was granted to go onto Stagner Avenue. Her second concern is that this is a paper street. Mr. Smith said he doesn't know the circumstances that you're describing in this other matter but he does know, with regard to Stagner Avenue, Mr. Bhakta has the absolute right as a owner of one of the original lots created by the Stagner Subdivision to use Stagner Avenue. It's not an issue of your telling Mr. Bhakta he must find an alternative means of emergency access and he's asking to use Stagner Avenue as a paper street. Mr. Bhakta has proposed not to use Stagner Avenue as an emergency access because of the neighbors concern. At the same time he's not going to sit by and not develop this property that he

spent three years trying to develop. Mr. Smith said what Mr. Bhakta has proposed is to limit his use of Stagner Avenue to only emergency access.

Mr. Benner took issue with Mr. Smith. He agrees that Mr. Bhakta has the right to use the paper street as a property owner that abuts it but he doesn't have the right to use it based on his representations before the zoning hearing board. He said if the International Fire Code requires a secondary access it is the applicant's duty to find a secondary access. He said maybe the prudent thing to do is have the township engineer look at whether or not it is feasible to utilize Warrington Greene as the secondary means of access, if indeed, that is required.

Mr. Smith said he disagrees with Mr. Benner. There is no restriction in the zoning hearing board special exception decision on Mr. Bhakta's use of Stagner Avenue. He said Mr. Bhakta was not required to prepare a plan that complies with the provisions of the Township's Subdivision and Land Development Ordinance in order to obtain zoning approval. He said that is a process that occurs after zoning approval.

Mr. Smith said Mr. Bhakta would be willing to extend the fence along the common property line with the Marks property up to the iron gate on the emergency access.

Motion – It was moved by Mr. Plotnick, seconded by Mr. McKay, that the Board of Supervisors voted to approve the resolution for preliminary/final plan approval for Arvind Bhakta: Personal Care Facility as read by the township solicitor and township engineer and subject to the thirteen (13) conditions as noted in the resolution. This motion was defeated by a vote of 3-2. Mr. Lamond, Mrs. Kiefer, and Mrs. Butterworth voted no.

Mr. Clarke said in addition the applicant agrees that only township personnel will have keys to the gate that is located at Stagner Avenue that is represented by Mr. Smith this evening. In addition, the applicant will agree that any construction on the area of Stagner Avenue that no construction vehicles will use Stagner Avenue and a violation of that will constitute a violation of this preliminary/final plan approval and of the Site Development Agreement.

**15. Consider approval of a resolution for the Reese Lot Line Change.**

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to table the resolution for the Reese Lot Line Change until the Board's 4/14/09 meeting. This motion passed by a vote of 5-0.

**16. Consider approval of the PennDOT Lighting Agreement.** Mr. Zarko reported that this agreement addresses the requirements for operation and maintenance pertaining to the proposed lighting that is going to be installed by PennDOT at the County Line Road trail head to Bristol Road trail head as well as the underpass lighting at the Pickertown Road bridge. He said PennDOT is proposing that the operation and maintenance of the lights at those locations be the responsibility of the township, which is consistent with what they are requiring in other municipalities. He said township staff has reviewed several versions of the lighting agreement and made a number of changes as requested by township staff.

Motion – It was moved by Mrs. Kiefer, seconded by Mr. Plotnick, that the Board of Supervisors recommended the approval of the PennDOT Lighting Agreement as stated by the township engineer. This motion passed by a vote of 5-0.

**17. Consider approval of the Verizon Pole Relocation Agreement.** Mr. Zarko said this was something that was discussed at the last Board of Supervisors meeting. He said this agreement pertains to the West End Fire Station site. He said there are two poles that have to be relocated as part of that project. Those poles are located outside of the right of way road. He said they are easements on the property. We had

requested that Verizon waive the cost for the pole relocation. They declined to do that and are requiring a fee for the poles relocation because these poles are not located within the right of way.

Motion – It was moved by Mr. Plotnick, seconded by Mr. Lamond, that the Board of Supervisors approved the Verizon Pole Relocation Agreement as it concerns the West End Fire Station in the amount of \$10,945.00 as stated by the township engineer. This motion passed by a roll call vote of 4 yeas. Mr. McKay voted nay.

18. **To consider the following escrow releases:**

| Development Name          | Release # | Amount       |
|---------------------------|-----------|--------------|
| St. John Neumann Cemetery | 4         | \$118,760.00 |

Motion - It was moved by Mr. Lamond, seconded by Mr. Plotnick, that the Board of Supervisors approved the escrow release for St. John Neumann Cemetery, Release #4 in the amount of \$118,760.00. This motion passed by a vote of 5-0.

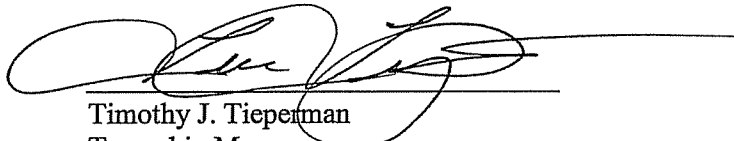
19. **To consider the following extension requests:**

a) **Ball/Colibraro Tract.**

Motion – It was moved by Mrs. Kiefer, seconded by Mr. Lamond, that the Board approved the extension request for Ball/Colibraro Tract until 5/31/09. This motion passed by a vote of 5-0.

20. **ADJOURNMENT**

It was moved by Mr. McKay, seconded by Mrs. Kiefer, the Board of Supervisors voted to adjourn the meeting at 11:40 p.m. This motion passed by a vote of 5-0.

  
 Timothy J. Tieperman  
 Township Manager

4/28/2009  
 Date