



**WARRINGTON TOWNSHIP BOARD OF SUPERVISORS  
MINUTES FOR OCTOBER 11, 2011**

The regular meeting of the Warrington Township Board of Supervisors was held on October 11, 2011, 7:30 p.m., at the Township Building located at 852 Easton Road, Warrington, PA 18976, followed by the pledge of allegiance. The members present were as follows:

**ATTENDANCE:**

John Paul, Chairperson; Gerald Anderson, Vice Chairperson; Marianne Achenbach, Secretary; Michael W. Lamond, Jr., Assistant Secretary; and Paul Plotnick, Member. Staff Present were Timothy J. Tieperman, Township Manager; William R. Casey, Esq., Township Solicitor; Richard Wieland, P.E., Township Engineer; and Barry Lubber, Chief Financial Officer;

**EXECUTIVE SESSION REPORT**

Mr. Casey said there was an executive session held re: the 2012 Budget report.

**APPROVAL OF BILL LIST:**

1. **September 27, 2011 to October 11, 2011 - \$1,285,117.29**

Mr. Anderson motioned, seconded by Mrs. Achenbach, to approve the bill list from 9/27/11 to 10/11/11 totaling \$1,285,117.29. This motion passed by a roll call vote of 5-0.

**APPROVAL OF MINUTES:**

2. **August 23, 2011**

Mr. Anderson motioned, seconded by Mr. Plotnick, to approve the August 23, 2011 Meeting Minutes. The motion passed by a vote of 3-2. Mrs. Achenbach and Mr. Lamond abstained.

1. **September 13, 2011**

Mr. Anderson motioned, seconded by Mr. Lamond, to approve the September 13, 2011 Meeting Minutes. The motion passed by a vote of 5-0.

**MINUTES FOR POSTING:**

4. **September 27, 2011**

Mr. Anderson motioned, seconded by Mrs. Achenbach, to approve the posting of the September 27, 2011 Meeting Minutes. The motion passed by a vote of 5-0.

**PUBLIC COMMENT**

The following residents offered comment:

- Andrew Velas (747 Honora Street) regarding maintenance problems along Lower Nike Trail).
- Joseph Stryzewski (502 Henley Court) regarding status of Wells Fargo litigation on escrows.
- Michael Kelly (135 Muirfield Lane) regarding large LED signage at Sunoco Station (611/Street)

Mr. Anderson motioned, seconded by Mr. Lamond, to adjourn the regular meeting at 7:40 p.m. The motion passed unanimously.

### **PUBLIC HEARING:**

5. Continue discussion and consider action on a conditional use application by Penrose Walk (formerly Sunrise Court Associates, LP) to allow the property to be developed with a two family semi-detached dwelling cluster development. This is a conditional use requirement under Section 803 (a) of the Warrington Township Zoning Ordinance (Chapter 27) as amended.

The full edited transcript of this public hearing is attached to these minutes as Attachment A.

Mr. Gundlach presented the Board with twelve (12) conditions, referenced as Exhibit A23, for the granting of conditional use approval for the Penrose Walk development. Mr. Paul stated that he intends to schedule a final vote on the CU application within the month.

Mr. Joe Stryzewski (502 Henley Court) asked that the township engineer review thoroughly this proposal before rendering a final decision. Mr. Paul stated that Board only evaluate the application based on specific requirements outlined in the Municipalities Planning Code (MPC).

Ray Tomlinson (400 Bradford Avenue) expressed concerns over the development's storm water impact on his property.

Mr. Anderson recommended that the Township Solicitor review the applicant's proposal with Lamplighter's Village and provide a summary to the Board if he sees any liability issues and if it has any bearing on the actual Conditional Use from the Board's prospective.

Mr. Anderson motioned, seconded by Mr. Lamond, to close the public hearing at 8:10 p.m. The motion passed unanimously. The regular meeting reconvened at 8:15 p.m.

### **OLD BUSINESS**

#### **6. Pete's Express Car Wash Stipulation Agreement.**

Mr. Paul stepped down as Chairperson and turned over the meeting to Gerald Anderson, Vice Chair because of a personal conflict.

Mr. Robert Gundlach, attorney for Pete's Express 611, LP re-iterated the history on the application for Pete's Car Wash and the expenses incurred by his client because of alleged township delays.

Mr. Anderson reviewed the project's timeline and stated that the Board does not want to create an undue hardship for the applicant, landowner or anyone associated with this project. He reiterated that while he was not happy over the prior Board's failure to schedule a hearing, the Board has a responsibility to process the CU application in accordance to Township ordinances regulating CU proceedings.

Mr. Anderson reviewed a timeline of events associated with the CU application:

- On October 30, 2009 the applicant filed a Conditional Use Application for the car wash.
- On November 23, 2009 the Township Engineer did a Sketch Plan review.
- On December 28, 2009 the applicant filed with the Zoning Hearing Board a request for numerous variances including a portion of the R2-zone property to be used as a service road.
- On December 30, 2009 a sixty (60) day conditional use period expired.
- In June 2010 the Zoning Hearing Board granted various zoning decisions to the applicant.

- On July 2, 2010 the Warrington Township Board of Supervisors challenged the Zoning Hearing Board's decision.
- On November 19, 2010 Judge Mellon remanded the case back to the Warrington Township Zoning Hearing Board for an additional finding regarding the variance for the minimum lot sizes.
- On April 6, 2011 Judge Mellon affirmed his decision to Warrington Township Zoning Hearing Board and approved the car wash.
- On April 11, 2011 the applicant's letter to the Township requested issues including Conditional Use and primary land development be deemed approved
- On May 23, 2011 the applicant filed a mandamus action against the Township alleging deemed approvals
- On September 26, 2011 a petition was filed by the seller and landowners.
- On October 2011 the Board received a proposed stipulation agreement which included revised submissions for the car wash that was brought to the Township.

Mr. Anderson said that a conditional use hearing is central to the Township's review process. Even though a mistake was made, the CU process should still move forward and be advertised and posted before the applicant obtains a deemed approval. He asked for the applicant's cooperation on this, citing that the additional costs and delays from a protracted court challenge are in neither party's interest and could be avoided by holding the hearing. From there the application would proceed to the Planning Commission as part of the normal review process.

In response Mr. Gundlach stated that he would recommend to his client that they modify the original settlement agreement to show compliance with the CU requirements as part of the final land development application. The Board could then advertise a meeting, at which time the applicant would show compliance with all requirements for both the CU and Final Plan Approval. Mr. Gundlach asserted this modified approach would protect the Board's statutory review powers while at the same time honoring the terms of the Settlement Agreement. He further stated his client will comply with all Township consultant review letters.

Mr. Anderson raised concerns over meeting all advertising and posting requirements. He stated the Board should be able to move quickly with the conditional use hearing and if necessary, special meetings could be arranged to help expedite the process. Mr. Gundlach had no issue with this approach as long as the Board would agree to enter into a Stipulation Agreement granting preliminary land development approval. However, Mr. Anderson expressed concern that this process would circumvent the Planning Commission, which up to this point has only reviewed the sketch plan.

Mr. Gundlach stated there needs to be some shared responsibility. He opined that the 2010 Commonwealth Court decision on Maple Street did not apply in this circumstance and reviewed again the alleged costs of delay and potential damages from the pending mandamus action. He said the Stipulation Agreement will waive any claim to these damages.

Mr. Plotnick raised concerns over the long timeframe between the CU applicant and the mandamus filing and why the Township was not notified months ago. Mr. Gundlach responded by stating that it's not the applicant's responsibility to monitor the 60-day clock. He advised Mr. Plotnick that he assumed that the Township had an internal procedure to log in and process CU applications. He stated the former Planning Director was well aware of the application and chose not to schedule it, citing several correspondences.

Mrs. Achenbach commented on the process and agreed that it was not productive to rehash at this point past history. She agreed that were serious errors that occurred but that she was in agreement that the Board should move forward and hold a conditional use hearing. She said the Planning Commission deserves an opportunity to review the application to ensure all CU requirements have been satisfied.

The Board was unanimous that the conditional use process should move forward and that the Board would be willing to move as quickly as possible (scheduling a special meeting if necessary) to convene this hearing and get the applicant before the Planning Commission. It was agreed that this process could be streamlined and coordinated with the Planning Commission and that the applicant would be permitted to file a Preliminary/Final Plan.

Mr. Anderson granted a brief recess to allow Mr. Gundlach to confer with his client. Upon their return Mr. Gundlach stated that his client is withdrawing their proposed settlement proposal and asked that the Township file its answer to the pending complaint. He said the applicant is disappointed that they were unable to reach a settlement this evening and that the process will have to proceed through the courts.

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

7. **Consider Amendment to Ordinance 2011-0-05 Neshaminy Creek Watershed Act 167 Stormwater Management Plan.**

Mr. Anderson motioned, seconded by Mr. Lamond to adopt the amendment to Ordinance 2011-0-05 Neshaminy Creek Watershed Act 167 Stormwater Management Plan. The motion passed unanimously.

8. **MANAGER'S REPORT:**

Mr. Tieperman highlighted the following bulleted items in his report:

a. **Consent Item: Authorize advertisement amending Chapter 27 (Section 2312) Animals and Animal Shelters.**

Mr. Lamond motioned, seconded by Mr. Plotnick to authorize the advertisement amending Chapter 27 (Section 2312) Animals and Animal Shelters after satisfying all required planning review and positing requirements. The motion passed by a vote of 4-1. Mr. Anderson voted no.

b. **Consent Item: Approve 2012 Pension MMO (Minimum Municipal Obligation).**

Mr. Anderson motioned, seconded by Mr. Plotnick, to approve the 2012 Pension MMO (Minimum Municipal Obligation). The motion passed unanimously.

c. **Consent Item: Proposed Fund Balance Policy).**

Mr. Luber reviewed the Proposed Policy #3 (Fund Balance) and asked for the Board's feedback. This policy articulates the appropriate year-end General Fund (GF) unrestricted fund balance reserve levels that should be planned for and maintained by the Township. The Board will officially take action at their October 25, 2011 meeting.

d. **Consent Item: Street Sweeping Recommendation.**

Mr. Luber asked for the Board's authorization to advertise for the bidding of a street sweeping contract. Mr. Paul said he is not in favor of borrowing Warminster's street sweeper for emergency situations if needed. He feels the Township should take care of maintaining a certain core base of equipment. He said the Township does more than two street sweepings a year and in order to continue this and maintain gutters, the Township should own its own street sweeper. He feels it is more than a beautification issue but rather a safety issue in maintaining streets in a proper condition.

Mr. Anderson said he would like to see a work schedule and a procedure for posting the streets in advance of schedule street sweeping to allow the residents to move their vehicles. He agrees the Township should keep its own street sweeper. As part of the upcoming budget process, the Board requested figures on the required man hours required to handle all street sweeping in-house.

e. **Consent Item: Asplundh Proposal.**

Mr. Luber said a request had been received from Steve Happ, who is involved with the Athletic Association's baseball program to discuss the possible use of Barnes Park by Asplundh to park their trucks while trimming trees for PECO. Board was in agreement with this concept subject to the Solicitor's affirmative review.

f. **Consent Item: 2012 Link Recommendation.**

Mr. Tieperman reviewed the Board's earlier policy objectives to transition away from the printed quarterly newsletter *The Link* and gravitate toward a more paperless, online newsletter. His recommendation is to phase out "The Link" and provide this information on line. For an outline version to be fully effective, residents would need to access the Township's web page more frequently and Township Staff would need to find every available means of sending out the new online version of the Link, including social networking.

Mr. Paul feels while going paperless is a good idea he doesn't feel that this is the time to go in that direction. He said it is counter productive to discontinue distributing *The Link* to township residents unless we know how many people we are going to lose who do not have access to a computer.

Mr. Anderson motioned, seconded by Mrs. Achenbach to continue using the paper version for communicating with our residents through *The Link*. The motion passed unanimously.

**General Updates**

a. **September Budget Report.**

Mr. Tieperman reported that Mr. Luber is putting together the Monthly Budget Reports. He said that format will change after the conversion to the new accounting software.

b. **Advisory Board Vacancies.**

Mr. Paul recommended that we advertise for Advisory Board vacancies in November and begin the interview process. Re-appointments would be effective in January 2012. In the meantime letters would be sent to current Board members to determine if they are interested in continuing to serve for another term.

c. **Demolition Projects Timeline.**

Mr. Tieperman provided an updated time for demolition of the Katz property (1169 Easton Road) and a vacant Township-owned structure at 2353 County Line Road.

**SUPERVISORS' COMMENTS****9. Projects in Escrow**

Mr. Paul reported that he has asked Roy Rieder, the Township Engineer, and the Township Solicitor to begin preliminary work on past intersection improvement already approved and funded in part through reserved escrows. He stated the Board has to make a decision on whether they are going to condemn property or return escrow funds and be done with it. Updated appraisals will also be need to move forward with some of these projects.

**ADJOURNMENT**

Mr. Anderson motioned, seconded by Mr. Lamond, to adjourn the meeting at 9:25 p.m. The motion passed unanimously.

Edited and Reviewed By:



---

Timothy J. Tieperman, Township Manager

WARRINGTON TOWNSHIP BOARD OF SUPERVISORS

RE: Conditional Use Application by Penrose Walk  
(formerly Sunrise Court Associates, LLP)

- - -

A Board of Supervisors Meeting was held at Warrington Township on Tuesday, October 11, 2011 at the Warrington Township Administration Building located at 852 Easton Road Warrington, Pennsylvania commencing at 7:30 p.m.

- - -

JOHN R. PAUL, CHAIRMAN  
GERALD B. ANDERSON, VICE CHAIRMAN  
MARIANNE ACHENBACH, SECRETARY  
MICHAEL LAMOND, JR, MEMBER  
PAUL PLOTNICK, MEMBER

ALSO APPEARING:  
WILLIAM CASEY, ESQUIRE, BOARD SOLICITOR  
RICHARD WIELAND, ENGINEER  
TIMOTHY J. TIEPERMAN, MANAGER

Blum-Moore Reporting Services, Inc.  
350 S. Main Street, Suite 203  
Doylestown, Pa. 18901  
215-345-7966

APPEARANCES:

FOX ROTHSCHILD, LLP

ROBERT W. GUNDLACH, JR, ESQUIRE

2700 Kelly Road, Ste. 300

Warrington, Pa. 18976

Representing the Applicant

CLEMONS, RICHTER & REISS

TERRY W. CLEMONS, ESQUIRE

107 East Oakland Avenue

Doylestown, Pa. 18901

Representing Villas at

Lamplighter Village Condominiums

Blum-Moore Reporting Services, Inc.

BLUM-MOORE REPORTING SERVICES, INC.



I N D E X

Witness

Samuel Costanzo

BY: Mr. Gundlach, Jr. 8

E X H I B I T S

A-19	Copy of by-right plan	5
A-20	Copy of conditional use plan cluster option	5
A-21	Letter from Van Cleef	6
A-22	Letter from Carroll Engineering	7
A-23	List of Conditions	12

Blum-Moore Reporting Services, Inc.

1           THE CHAIRMAN: Let us continue the  
2 discussion to consider of action on conditional use  
3 application by Penrose Walk, formerly Sunrise Court  
4 Association, LP, to allow the property to be  
5 developed into two-family single detached cluster  
6 development, the conditional use for the requirement  
7 under section 803(a) of the Warrington Township  
8 Zoning Ordinance Chapter 27 as amended.

9           MR. GUNDLACH: Mr. Chairman, Rob Gundlach  
10 here for the applicant. By way of update since the  
11 last meeting, Mr. Chairman and members of the Board,  
12 myself on behalf of the applicant and attorney  
13 Clemons on behalf of the Lamplighter Association  
14 have had a number of meetings with our respective  
15 clients to attempt to reach an agreement whereby the  
16 applicant could address all the concerns of the  
17 Lamplighter Village residents. I am pleased to  
18 report that there was give and take by both sides  
19 and an agreement was reached between the parties and  
20 signed prior to the start of this evening whereby  
21 the applicant and the association have agreed as to  
22 certain conditions as to the process moving forward.  
23 We intend tonight to present some very brief  
24 testimony from Mr. Costanzo as to revised plans for  
25 this proposed development and then submit to you a

1 list of conditions that we would ask -- that the  
2 Board would impose on the grant of this conditional  
3 use if it found that the applicant satisfied the  
4 requirements for such use. So with that background,  
5 Mr. Chairman, if I could proceed to call  
6 Mr. Constanzo.

7 THE CHAIRMAN: Proceed.

8 BY MR. GUNDLACH:

9 Q Mr. Constanzo, you are still under oath.

10 A Yes.

11 Q Since the last hearing have you revised  
12 the by-right plan in the conditional use plan which  
13 would be two of four sheets which are part of the  
14 conditional plan-set for this project?

15 A Yes.

16 Q And I am going to ask you to put on the  
17 board the plan titled, By-right Plan, which now  
18 bears a last revised date of September 19, 2011 and  
19 also the plan titled, Conditional Use Plan Cluster  
20 Option, which also bears a last revised date of  
21 September 19, 2011. I like to mark those,  
22 Mr. Chairman, as Exhibits A-19 and A-20.

23 (Exhibits A-19 and A-20, were marked for  
24 identification.)

25 MR. GUNDLACH: They have previously been

1 submitted to the township and copies have been  
2 provided to the association. I also like to mark as  
3 A-21 a letter dated September 19, 2011 that  
4 summarizes the revisions that are reflected in these  
5 plans.

6 THE CHAIRMAN: This map is A-19?

7 MR. GUNDLACH: The plans are marked A-19  
8 which was the by-right plan, A-20 which is the  
9 conditional use plan, and A-21 is the letter from  
10 Van Cleef dated September 19th that summarizes the  
11 revisions.

12 (Exhibit A-21, was marked for identification.)

13 BY MR. GUNDLACH:

14 Q Mr. Constanzo, if you could very briefly  
15 describe the revisions that were made since the last  
16 hearing to the by-right plan and then to the  
17 conditional use plan to address the comments that  
18 were raised in responses to the last submission.

19 A Okay. The board that I have on the easel  
20 is the revised by-right plan. At floor level is the  
21 prior by-right plan version. The changes are rather  
22 subtle and may be hard to differentiate between the  
23 two. But today's plan is a 49 lot yield plan, 48  
24 duplex units with one single. On the south side  
25 that configuration is pretty much the same as you've

1 seen before. On the north side we pulled back the  
2 cul-de-sac which we had the opportunity to do and  
3 reflect one new single family lot on that side  
4 having 20,000 square feet as required by the  
5 ordinance and the rest are duplexes. With this plan  
6 we recalculated our open space, our woodland  
7 preservation, our steep slope preservation and it  
8 all depicts compliance with that. We do have a  
9 township engineer review letter based upon that plan  
10 which we can go into probably later in testimony.  
11 That is essentially it, it is a 49 lot yield plan  
12 now. Originally you may recall we had 50, we have  
13 retreated to 48 just to address some early on issues  
14 and we are now at 49, we can still have a compliant  
15 zoning plan.

16 MR. PLOTNICK: When you said duplexes, you  
17 mean semi-detach?

18 THE WITNESS: Semi-detach, you are right.

19 BY MR. GUNDLACH:

20 Q Mr. Costanzo, you referenced a review  
21 letter that was prepared by Carroll Engineering  
22 dated September '29th; if I can mark that as Exhibit  
23 A-22.

24 (Exhibit A-22, was marked for identification.)

25

1 BY MR. GUNDLACH:

2 Q Can I ask you to briefly reference the  
3 comments contained in that review letter and how  
4 they could be addressed. First off can the  
5 applicant address all of the comments that are  
6 contained in the review letter?

7 A Yes.

8 Q Could you briefly describe those comments  
9 and how they can be addressed as part of the  
10 subdivision land development process.

11 A The township engineer's letter highlights  
12 five points of interest; the first one in the review  
13 comments is relative to woodland protection. We  
14 simply agree with this comment that once we engineer  
15 the plans and proceed with grading plans that's when  
16 we will precisely know what the extent of woodlands  
17 that are going to be preserved. This is just a  
18 statement reiterating that the township' engineer  
19 can't make a fine determination yet on woodland  
20 preservation and neither could we at sketch plan  
21 level. We do depict our anticipated woodlands to  
22 preserve in order to meet the requirement and our  
23 plan reflects at this point an excess of woodland  
24 preservation. But once those grading plans are  
25 prepared when we proceed with the engineering of the

1 cluster option, we will know exactly what we have.

2           The second comment is relative to front  
3 yard setbacks. In between the two scenarios the  
4 last version and today's in trying to refine and  
5 promote even further woodland preservation, the  
6 ordinance allows the staggering of front yard  
7 setback, not exactly staggering but it offers a  
8 different way of measuring it from the curb line  
9 versus the right of way line and only to allow a  
10 certain percentage of those lots having different  
11 front-yard setback. We took advantage of that in  
12 areas that we felt we wanted to promote more  
13 woodland preservation, particularly along the rears  
14 of some of the lots. I think the township  
15 engineer's letter is just pointing out that he reads  
16 it or feels the intent is to have a staggering. We  
17 agree to once we proceed with the engineering, we  
18 will look at off setting which lots we have closer  
19 front-yard setback than others and hopefully we can  
20 achieve a mix in that fashion.

21           The third comment is relative to reverse  
22 frontage lots in particularly the open space portion  
23 that we provided along Phillips Road. In this one  
24 area on the by-right plan it would be between lots  
25 39 and 42. On the cluster it is quite frankly a

1 different set of lot numbers. That portion of open  
2 space on the cluster is contiguous with a two point  
3 three nine acre of open space area. The open space  
4 that we provided along Phillips, in our opinion,  
5 there was a need. Phillips Road was designed and  
6 approved to be an off-centered roadway such that the  
7 cartway actually leans towards the Cohen tract, the  
8 Penrose tract such that in this area the curb line  
9 and even some of the utilities are right at the  
10 right of way if not, in fact, encroaching. So by  
11 providing a strip of land of open space we felt that  
12 the road can be better maintained so therefore it  
13 serves as an amenity in compliance with the township  
14 open space criteria. And it will also provide for  
15 the buffering and extra landscaping we are going to  
16 attempt to achieve to do in that area where the  
17 planned community would be responsible for the  
18 maintenance.

19           The next item, comment four, is an  
20 observation that we are noting on our plan sidewalks  
21 are being proposed on one side. The township  
22 engineer obviously points out that that would  
23 require a waiver at the appropriate time and our  
24 note 11 on our cluster option plan has always  
25 reflected that acknowledgment that a waiver would be



1 needed should the board be so inclined.

2           Comment number five is with regards to  
3 the by-right plan only in the spacing of our  
4 proposed Lincoln Street, Street Road intersection  
5 relative to the Phillips road intersection and  
6 Bradford Avenue intersection with Street Road. The  
7 ordinance, I think you may have heard prior  
8 testimony about this from the traffic consultant of  
9 the applicant McMahon, whereby originally in Carroll  
10 Engineering's letter he was reciting an 800 foot  
11 spacing requirement. McMahon provided testimony  
12 based upon average daily trips that the road, he  
13 felt, would be classified as residential.  
14 Mr. Wieland still believes, which is fine, that  
15 technically that would still require a waiver on our  
16 part. I am offering in the response letter that I  
17 did take a look at it, we did not address it or  
18 revise it in between as we didn't feel it was a  
19 matter of issue because of the prior testimony by  
20 McMahon. But we do know that we can terminate this  
21 in a cul-de-sac without it intersecting Street Road,  
22 without it affecting the lot yield. And that  
23 concludes the comments.

24           MR. GUNDLACH: Mr. Chairman, I would like  
25 to mark as Exhibit A-23 and hand up to the Board a

1 list of conditions that the applicant would be  
2 willing to accept on the grant of conditional use  
3 approval if the Board of Supervisors were so  
4 inclined to grant that approval. I'd like to  
5 briefly summarize for you those 12 conditions that  
6 are referenced in Exhibit A-23.

7 MR. CLEMMONS: Can I see Exhibit A-23?

8 MR. GUNDLACH: Yes.

9 (Exhibit A-23, was marked for identification.)

10 MR. GUNDLACH: If you could turn to Page  
11 Three of that document. First off, Mr. Chairman,  
12 the applicant would agree that the area on tax  
13 parcel 50-10-110 outside of the proposed building  
14 envelope which comprises approximately seven point  
15 three acres would be deed restricted from further  
16 subdivision as part of the recordation of the  
17 subdivision and land development plans. So that  
18 area of the property which contains predominately  
19 woodlands would be forever preserved against  
20 development.

21 Second, as to the wearing course on  
22 Phillips Avenue, which has not been installed, the  
23 applicant would agree that if it's not installed  
24 prior to the first issuance of a certificate of  
25 occupancy for these proposed units that this

1 applicant, that was the responsibility of the  
2 development of Lamplighter that was not fulfilled,  
3 this applicant will step up and complete that  
4 wearing course.

5 Third, the applicant will continue to use  
6 due diligence and reasonable efforts to obtain the  
7 required deeds in lieu for Phillips Avenue. Those  
8 deeds for the actual roadway itself have all been  
9 obtained except for two and the applicant is  
10 continuing to work to try to obtain those two deeds.  
11 If the applicant is unable to obtain them then the  
12 applicant and the association will come back before  
13 you and talk about further action that may be needed  
14 to secure those rights of way, it is a small portion  
15 of right of way that is remaining along Phillips.

16 Fourth, the applicant is agreeing that no  
17 building lots would be situated back in open space A  
18 which borders the Lamplighter homes.

19 Fifth, that a 30-foot-wide buffer  
20 consisting of trees and existing vegetation will be  
21 provided in the area along Lamplighter as part of  
22 subdivision and land development process. Mr.  
23 Costanzo will identify out there where the  
24 supplements are needed and he will work with a  
25 representative of Lamplighter and they will come up

1 with a landscaping plan for those materials.

2 Sixth concerns similar concept which is  
3 buffering along Phillips Avenue along these proposed  
4 homes, there is existing vegetation there. And  
5 similarly Mr. Constanzo's office will meet with  
6 representatives from Lamplighter and they will look  
7 to see where they can supplement landscaping to  
8 screen those proposed homes. If the buffering does  
9 not work in certain locations they will then look at  
10 also potentially fencing in that area as well as to  
11 screen. It will be a process that they will work  
12 together to achieve acceptable buffering. They will  
13 limit the two new roads taking access on Phillips to  
14 two as shown on this conditional use plan. And has  
15 been reflected over the most recent draft, no unit  
16 will have direct access onto Phillips. We also  
17 referenced construction traffic and limitations in  
18 that regard with respect to the trucks. And we have  
19 in number ten provided that this applicant will  
20 contribute there pro-rata share of the cost of the  
21 traffic signal at the intersection of Phillips  
22 Avenue and Street Road. We understand that certain  
23 additional funds were allocated for the Lamplighter  
24 project for that signal and this applicant will  
25 agree to their pro-rata share. I think that is a

1 pretty common concept. And the township engineer's  
2 office will take a look and analyze the impact that  
3 this project has to the intersection in light of the  
4 others and come up with what they consider it to be  
5 the percentage share and then we'll work off of a  
6 quote as to that amount as part of the land  
7 development process. That will stay in an escrow  
8 account until this project is built out. I think we  
9 actually provided for an additional two-year period  
10 to see if that traffic light is needed after these  
11 units are built. If it is needed then the monies  
12 would go for it. If the traffic light wasn't needed  
13 then it would be returned back to the applicant.

14           Eleven and twelve are conditions that  
15 relate to the agreement between the applicant and  
16 the association and we'll provide a copy of that  
17 agreement to the township solicitor for his file as  
18 well so he understands the scope of the agreement  
19 that was reached between the parties. And that  
20 agreement was reached to address concerns of the  
21 residents of Lamplighter and properly compensate  
22 them for the impacts and use of certain facilities  
23 in connection with this proposed project.

24           Mr. Chairman, that is a summary of the  
25 proposed conditions and I believe we have submitted

1 all of the evidence of record and would ask you to  
2 consider the grant of conditional use approval for  
3 this project subject to the 12 conditions that I  
4 referenced and are part of Exhibit A-23.

5 THE CHAIRMAN: Thank you. Do you have any  
6 closing comments?

7 MR. CLEMMONS: In view of the settlement  
8 agreement that's been reached I have no questions of  
9 Mr. Constanzo and I believe that Mr. Gundlach is  
10 accurate in stating the conditions in which the  
11 association has agreed.

12 THE CHAIRMAN: Thank you. Okay, there is  
13 no further testimony then?

14 MR. GUNDLACH: That's correct,  
15 Mr. Chairman.

16 THE CHAIRMAN: At this time I don't think  
17 the Board is ready to take a vote on this tonight,  
18 we have some stuff in here to review. There are  
19 some questions I have on material from a legal  
20 aspect. We will schedule a vote on this at either  
21 the next meeting or the meeting after that.

22 AUDIENCE MEMBER: So can Lamplighter  
23 Village agree to -- were any residents on Bradford  
24 Avenue made aware of the construction? I thought  
25 Phillips was wider than Bradford, should they have

1 been made aware that the trucks will be on Bradford  
2 Avenue?

3 MR. GUNDLACH: We have had discussions  
4 concerning that, I don't believe that it was  
5 reference at a prior meeting here, but there was not  
6 a resident of Bradford that we discussed that with.  
7 I would say to you that the difference was that  
8 Phillips was a sole means of ingress and egress for  
9 the Lamplighter folks. Now we did put there, that's  
10 the truck, because we didn't want them blocking  
11 their access in and out. I suspect that there will  
12 be other vehicles, smaller vehicles that will use  
13 that and come in as well. The trucks really are  
14 limited for the most part for the site improvement  
15 work and that site improvement work, those trucks  
16 get deliveries to the site so they can complete the  
17 work, they stay on the job for the most part. But  
18 certainly we can further discuss that as part of the  
19 land development approval process and do it in a  
20 manner that doesn't adversely impact those Bradford  
21 residents as well or to the minimum extent as  
22 possible.

23 AUDIENCE MEMBER: Okay.

24 MR. PLOTNICK: I have one question. I  
25 can't see on this plan or the one that you just took

1 down, that single lot on the north side of Street  
2 Road, I just don't see it.

3 MR. CONSTANZO: The lot of itself is the  
4 entire tract in bold but the buildable area you can  
5 see is the dash line and the balance of the land is  
6 what Mr. Gundlach described as being deed restricted  
7 open space.

8 MR. PLOTNICK: All your other things are  
9 shown with dash, a darker shade, so it would be nice  
10 if you just drew a little thing that looks like a  
11 single property.

12 MR. CONSTANZO: It's an easement line,  
13 it's not a property line that would be dark like the  
14 internal property line. So its property line really  
15 extend out to the bold tract and the rest is the  
16 unincumbered land that is not impacted by an  
17 easement. So that is the easement limit or actually  
18 the deed restricted area.

19 MR. GUNDLACH: I think you are bringing up  
20 a good point. Those details as to that house site  
21 would be shown on the plans as part of the  
22 preliminary subdivision and land development  
23 process. We haven't fully engineered that house  
24 site location but you will get that additional data  
25 as part of that process.



1 MR. PLOTNICK: On this little small plan.

2 MR. CONSTANZO: Understood.

3 THE CHAIRMAN: As to your question the  
4 problem is this is a legal proceeding and you have  
5 to be party of record in order to make a comment.  
6 However, once I close the hearing I will hear you  
7 comment then if that's okay. Yes, sir.

8 AUDIENCE MEMBER: Will the residents still  
9 have an opportunity to testify on this development?

10 THE CHAIRMAN: It still has to go through  
11 the land development process, yes.

12 AUDIENCE MEMBER: The last time you said  
13 we would have an opportunity to comment on the  
14 record; is that correct?

15 THE CHAIRMAN: I don't think I said on the  
16 record. Comments? That's okay. I am going to  
17 close this hearing and the next time I convene the  
18 meeting it would be for a vote.

19 MR. ANDERSON: Let him make his comments.

20 MR. STRYJEWSKI: Joe Stryjewski  
21 S-T-R-Y-J-E-W-S-K-I. I think this Board will be  
22 negligent in accepting any testimony made by this  
23 applicant based on the fact that they have not  
24 gotten complete approval by the township engineer,  
25 number one. Number two, there are a number of

1 residents in the Village of Lamplighter Village who  
2 are really not in agreement this project meets the  
3 zoning code of 39 units that was originally  
4 presented by our attorney. Number Three, we feel  
5 that, I feel, okay, I shouldn't say we, that there  
6 was an offer made by the applicant to our community,  
7 okay, that was a financial offer that shouldn't be  
8 put before this board.

9 THE CHAIRMAN: Before this Board?

10 MR. STRYJEWSKI: That's correct.

11 THE CHAIRMAN: As far as I know it hasn't  
12 been put before the Board.

13 MR. ANDERSON: Let me answer that for you.  
14 Any decision that took place or agreement that took  
15 place between your group and your board and the  
16 applicant is with you, it has nothing to do with the  
17 conditional use hearing.

18 MR. STRYJEWSKI: You guys are not going to  
19 consider that?

20 MR. ANDERSON: That's only one step.

21 MR. STRYJEWSKI: Are you going to accept  
22 that?

23 MR. ANDERSON: We have to look at the  
24 conditional use that they satisfied the six criteria  
25 involved in the conditional use.

1           MR. STRYJEWSKI: That's all I am asking  
2 the board to do is to look at it properly. Okay.  
3 And I ask the engineer, okay, to properly look at it  
4 and give you guys the information before you make a  
5 ruling, not on what this gentleman gave us today in  
6 the letter that says supposedly, something is this,  
7 that or something else.

8           THE CHAIRMAN: I understand what you are  
9 saying. The only thing that we are going to look at  
10 is the six requirements on the conditional use  
11 application, that is what we are required to do by  
12 law.

13           MR. STRYJEWSKI: I ask you to do that,  
14 that's all I ask you to do.

15           MR. PLOTNICK: There is one more thing we  
16 have to do. We have to look at the agreement and  
17 see how we are obligated in that agreement because  
18 that could affect us too

19           THE CHAIRMAN: There was some information  
20 I got tonight that we have to look at to make sure  
21 we give it a conditional use hearing and  
22 automatically approve this because it hasn't even  
23 gone through the land development process. We need  
24 time to look at this. Okay. With that and no other  
25 questions I will ask for a motion.

1           MR. ANDERSON: John, before we move  
2 forward I would recommend that Mr. Casey review the  
3 proposal that the applicant has come up with  
4 Lamplighter, give us a short summary on this whether  
5 you see any liabilities or any other issues and if  
6 it has any bearing on the actual conditional use  
7 from our side of the table or not. I would ask for  
8 that long before I make a decision.

9           THE CHAIRMAN: Okay. With that you can't  
10 ask a question. If you want to make a comment you  
11 can do that.

12           MR. TOMLINSON: Ray Tomlinson, I live at  
13 400 Bradford Avenue. My property directly adjoins  
14 the basin, the proposed basin. That's my property  
15 there. So, obviously, I think you know what my  
16 concerns are with the water issues. I just want to  
17 make sure my property is protected to whatever  
18 recourse needs to be done. And obviously you need  
19 to vote for this for a preliminary approval. I  
20 don't understand the exact process. I want to make  
21 sure I am not shut out or discluded from anything.  
22 Lamplighter, obviously, has an association.

23           THE CHAIRMAN: Whenever the vote takes  
24 place on a conditional use it doesn't automatically  
25 give them a right to do it, they still have to go

1 through land development process. Most of those  
2 things will be addressed during that land  
3 development process and the planning commission  
4 before it even comes back to us. The conditional  
5 use hearing has to be very specific. And I  
6 understand what you are saying and it is a part of  
7 the record and it will be looked at through the  
8 planning process.

9 MR. TOMLINSON: I am not opposed to this  
10 development, I want to make sure my property,  
11 obviously, my interest are safe.

12 THE CHAIRMAN: I can understand that.

13 MR. GUNDLACH: Mr. Chairman, I will also  
14 note that the applicant has no objection to meeting  
15 with Mr. Tomlinson as well as we referenced we would  
16 meet with the Lamplighter folks to share his  
17 concerns and to address them in the preliminary  
18 plans as well.

19 THE CHAIRMAN: Is there any other  
20 comments? I will ask for a motion to close the  
21 hearing.

22 MR. ANDERSON: So moved.

23 MR. LAMOND, JR.: Second.

24 THE CHAIRMAN: We have a move to second.  
25 All those in favor of signifying by saying, aye.

1 MR. ANDERSON: Aye.

2 THE CHAIRMAN: Aye.

3 MR. PLOTNICK: Aye.

4 MR. LAMOND, JR.: Aye.

5 MS. ACHENBACH: Aye.

6 THE CHAIRMAN: So moved.

7 - - -

8 (Tonight's hearing concluded at this time.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, WILLIAM CAMPBELL, being a Court Reporter do hereby certify that the foregoing oral testimony was taken stenographically by me and that this transcript is a true and correct transcript of the same, fully transcribed under my direction, to the best of my ability and skill.

WILLIAM CAMPBELL

Court Reporter

Blum-Moore Reporting Services, Inc.

BLUM-MOORE REPORTING SERVICES, INC.