

IN THE COURT OF COMMON PLEAS OF
LYCOMING COUNTY, PA

ROSE VALLEY/MILL CREEK	:	
WATERSHED ASSOCIATION,	:	
Appellant	:	NO: 11-00589
	:	
vs.	:	
	:	
LYCOMING COUNTY PLANNING	:	
COMMISSION,	:	CIVIL ACTION
Appellee	:	
	:	
vs.	:	
	:	
ROBERT A. MAGUIRE,	:	
Applicant/Intervenor	:	
	:	
GAMBLE TOWNSHIP,	:	
Intervenor	:	

ORDER

AND NOW, this 6th day of July, 2011, this Court ORDERS and DIRECTS as follows:

1. Mr. Maguire’s Motion to Quash Appeal is hereby DENIED. In Miravich v. Township of Exeter, 6 A.3d 1076 (Pa.Commw. 2010) the Commonwealth Court held, “[i]t is well-established that adjacent property owners have substantive standing to object to subdivision plans both before the governing body and in land use appeals to common pleas.” Id. at 1080. Provided that a member or members of an organization allege an immediate, direct and substantial injury to any one of them, the organization itself had standing. 1000 Grandview Association, Inc. v. Mt. Washington Associates, 434 A.2d

796 (Pa.Super. 1981). Appellant's Notice of Appeal alleges an interest in the subject matter that is substantial, direct and immediate, and identifies specific members who are immediately adjacent property owners in addition to other members who live in close proximity to the property in question.

2. Mr. Maguire's Motion for Reconsideration of Bond Petition is DENIED, as no new arguments have been proffered, and this Court relies upon its previous Order of May 16, 2011.
3. The Appellant's Motion for Clarification and/or Objection to Certification of Certain Portions of the Bond is hereby DENIED. Appellant's Motion for Clarification asserts that as no transcript was prepared of the March 17, 2011 meeting of Appellee LCPC "there is nothing in the record that reflects how Appellee LCPC reached its decision in this matter..." Appellant's Motion for Clarification and/or Objection to Certification of Certain Portions of the Record, ¶ 9.

Following submission of the Certified Record, the Solicitor notified this office that a tape recording of the March 17, 2011 had been located and that a transcript would be promptly prepared and filed. On June 22, 2011 a Supplement to Certification of Record containing the relevant transcript was filed. Appellant filed a Letter Brief on June 27, 2011 in response to Appellee's supplemental submission. This Court accepts the Supplemental filing of the Appellee. Although the Appellant re-asserts its request for an evidentiary hearing, or a remand of this matter based upon its belief that the Board's decision has "not been established as required," this Court notes that

the record is what it is. As a transcript from the meeting at issue has been filed, the Court will review the sufficiency of the entire record and will determine whether substantial evidence existed to support the Appellee's decision to grant Mr. Maguire's request for preliminary subdivision plan approval at the time that a decision is rendered on the merits of this appeal.

Argument on the merits shall be scheduled to take place **September 6, 2011** at **9:30 a.m.** in Courtroom No. 3. Appellant's Brief shall be filed fourteen (14) days before argument. Briefs shall be submitted by Appellee and Intervenors five (5) days prior to argument.

BY THE COURT,

Date

Richard A. Gray, J.

cc: J. Michael Wiley, Esquire
Marc S. Drier, Esquire
Charles Greevy, Esquire
Benjamin E. Landon, Esquire