

## **BUILDING AND ZONING COMMITTEE**

Morton J. Simon, Jr. - Chair  
Harvey Portner - Vice Chair  
Kathy A. Hampton - Member  
Charles McKeown - Member  
J. Andrew Sharkey - Member  
Daniel Norris - Member

**Wednesday, February 6, 2013**

**8:00 PM**

**Curtis Hall**

### **AGENDA**

1. Review of the Zoning Hearing Board Agenda for February 11, 2013 (see attached).
2. Review of the Planning Commission Meeting Minutes of January 28, 2013 (see attached).
3. Review of a draft Ordinance and scheduling of a Public Hearing to amend the Zoning Code pertaining to the Lloyd Tract (a/k/a Laverock) (see attached).
4. Review of recent Decision(s) of the Zoning Hearing Board (see attached).
5. Report of the Building Inspector for January 2013 (see attached).
6. Old Business
7. New Business
8. Citizens' Forum
9. Adjournment



---

Bryan T. Havar  
Township Manager

**ZONING HEARING BOARD**

**AGENDA**

**FOR**

**FEBRUARY 11, 2013**

## NOTICE

**NOTICE IS HEREBY GIVEN that an application for zoning relief for 521 Montier Avenue, Glenside, PA 19038 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:**

- a. Cheltenham Township Planning Commission on Monday, January 28, 2013 at 7:30 P.M. in Curtis Hall at Curtis Arboretum, Wyncote, PA 19095.**
- b. Cheltenham Township Building and Zoning Committee on Wednesday, February 6, 2013 at 8:00 P.M. in Curtis Hall at Curtis Arboretum, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, February 11, 2013 at 7:30 PM at Curtis Hall, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**APPEAL NO. 3456: Appeal of The Pennsylvania Trust Company, Trustee of the Malik Finney Special Needs Trust, Owner of Premises known as 521 Montier Avenue, Glenside, PA 19038, zoned R-5, from the decision of the Zoning Officer for the following Zoning Relief in order to add a 4' x 20' +/- wheel chair ramp to the front of the premises:**

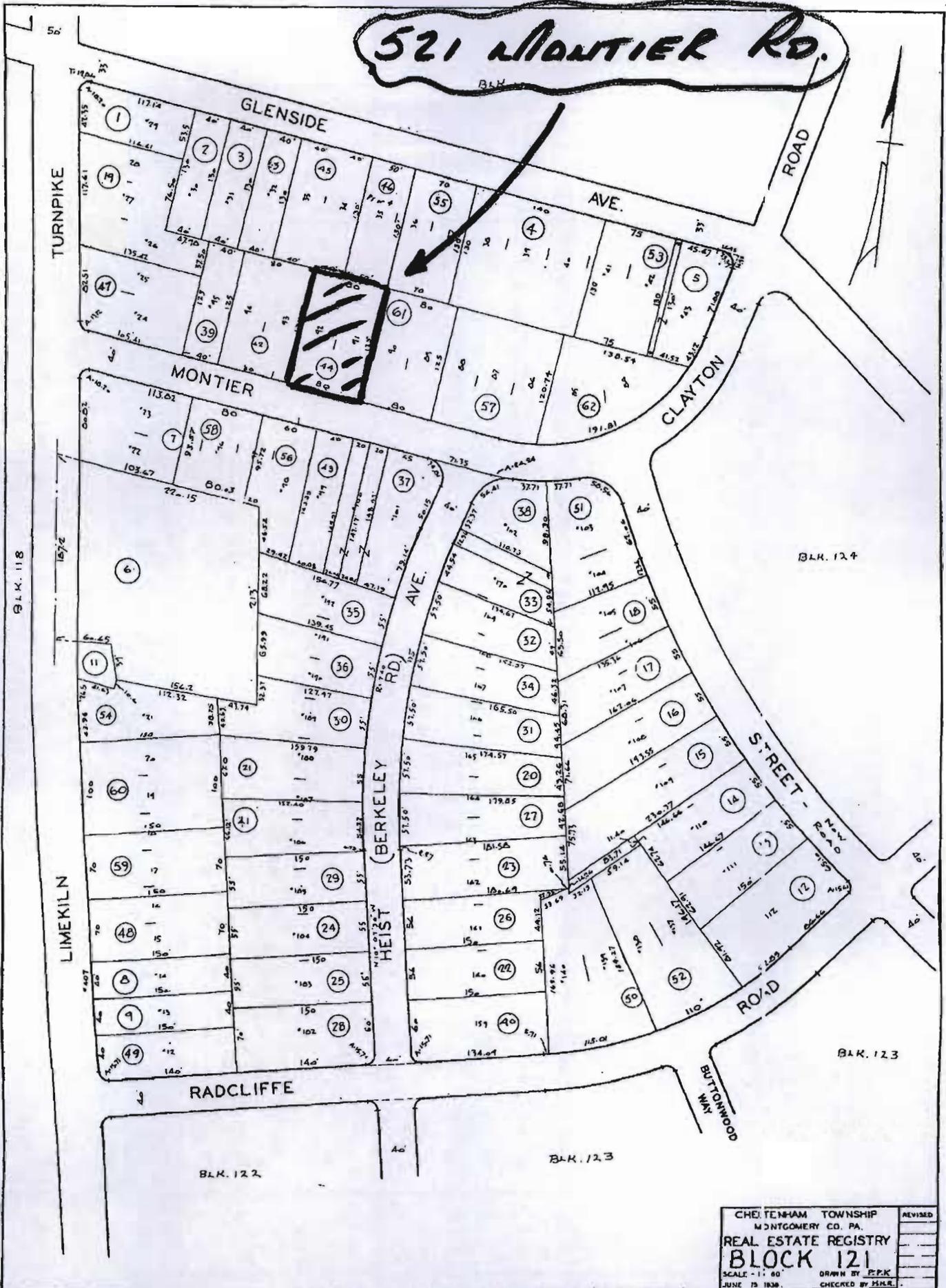
The following Zoning Relief is required for the existing single family dwelling:

- a. A Variance from the rules and regulations of CCS 295-46.A (1) to allow the construction of a 4' x 20' +/- wheel chair ramp with a front yard setback of 33'+/- which is less than the required 40' front yard setback.**

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**

**521 MONTIER RD.**



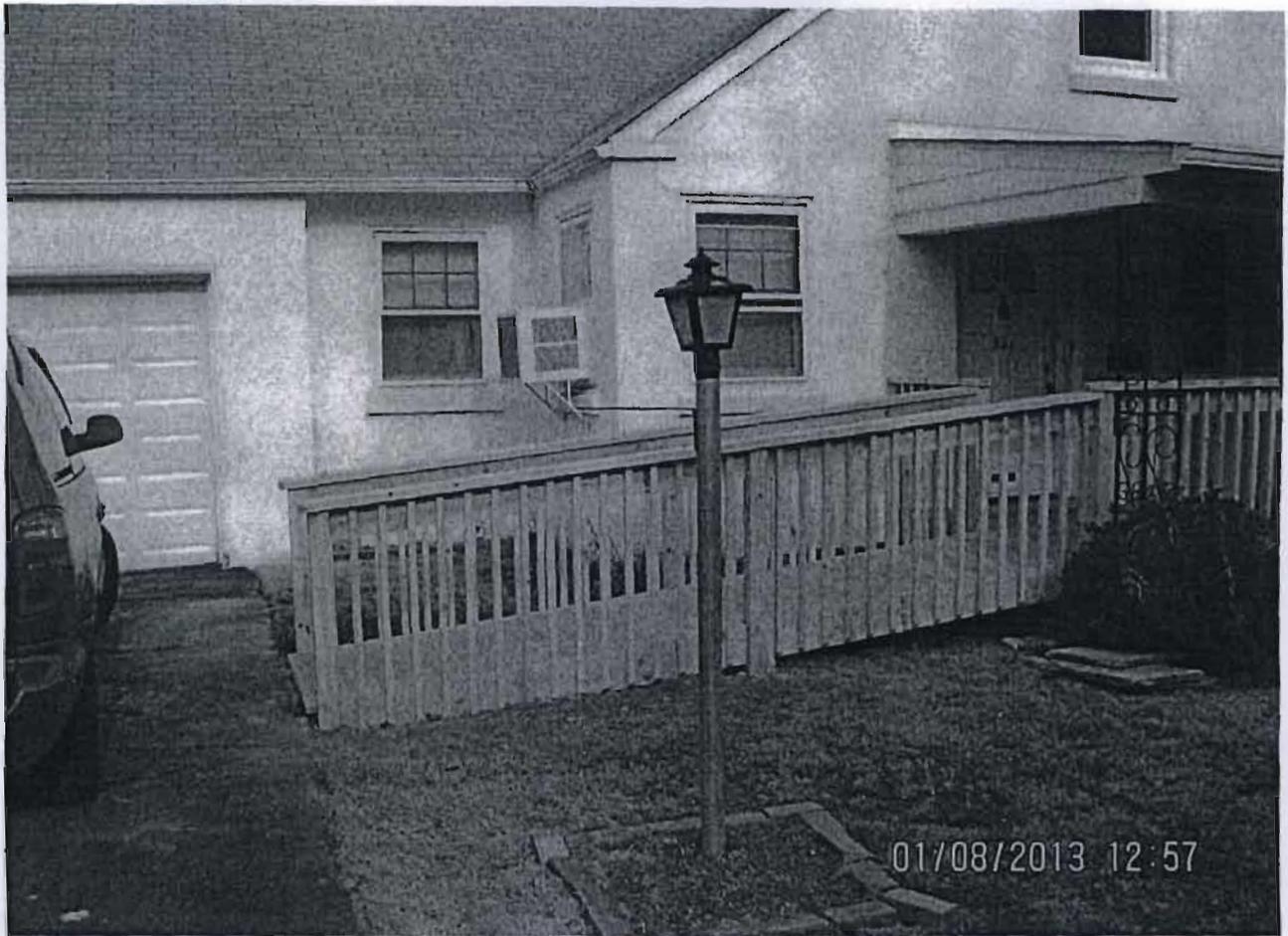
CHEYENNE TOWNSHIP  
 MONTGOMERY CO. PA.  
 REAL ESTATE REGISTRY  
**BLOCK 121**  
 SCALE - 1" = 60'  
 DRAWN BY P.P.K.  
 JUNE 15 1936. CHECKED BY H.M.R.

ZHB 3456-4



21A 3456-8.2

521 MONTIER RD



2HA 3456-8.5

## NOTICE

**NOTICE IS HEREBY GIVEN that an application for zoning relief for 1509 Ashbourne Rd, Elkins Park, PA 19027 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:**

- a. **Cheltenham Township Planning Commission on Monday, January 28, 2013 at 7:30 P.M. in Curtis Hall at Curtis Arboretum, Wyncote, PA 19095.**
- b. **Cheltenham Township Building and Zoning Committee on Wednesday, February 6, 2013 at 8:00 P.M. in Curtis Hall at Curtis Arboretum, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, February 11, 2013 at 7:30 PM at Curtis Hall, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

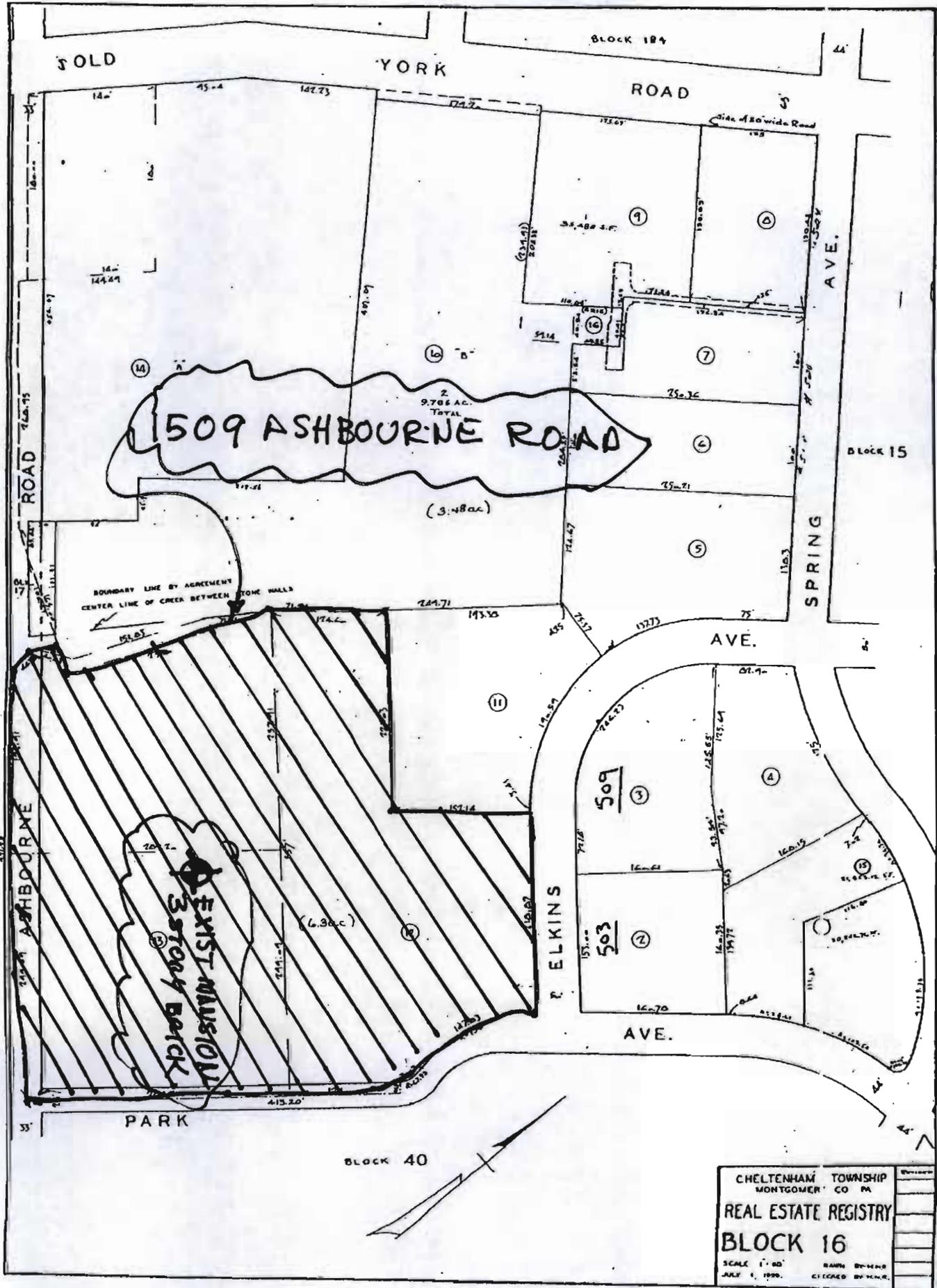
**APPEAL NO. 3457:** Appeal of 509 Ashbourne Road, L.P., owners of premises known as 1509 Ashbourne Rd., Elkins Park, PA 19027, Zoned R-4, from the decision of the Zoning Officer for the following modification to Zoning Relief granted under Appeal 3277 in order to demolish the existing mansion and convert it into green space:

The following modification to Zoning Relief is required to remove the existing structure located on the premises:

1. Modification of Condition #1 of the Decision, so as to eliminate the retention of the three-story mansion.
2. Modification or elimination of Finding of Fact #10, which provided that the Applicant proposed to demolish three (3) of the four (4) buildings then existing on the property leaving the mansion to be renovated.
3. Modification or elimination of Finding of Fact #41, which provided for the conversion of the existing mansion into eight (8) dwelling units.
4. Modification or elimination of Finding of Fact #41 through #46 and #48 through #53 which referred to the conversion of the existing mansion into eight apartment units.
5. Modification or elimination of Conclusions of Law #1 through #4 which referenced the conversion of the existing mansion.

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**



ZHB 345674 16



## NOTICE

**NOTICE IS HEREBY GIVEN** that an application for zoning relief for 7904-7910 Washington Lane, Wyncote, PA will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:

- a. **Cheltenham Township Planning Commission on Monday, January 28, 2013 at 7:30 P.M. in Curtis Hall at Curtis Arboretum, Wyncote, PA 19095.**
- b. **Cheltenham Township Building and Zoning Committee on Wednesday, February 6, 2013 at 8:00 P.M. in Curtis Hall at Curtis Arboretum, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, February 11, 2013 at 7:30 PM in Curtis Hall at Curtis Arboretum, Wyncote, PA 19095.**

**APPEAL NO. 3458** – Appeal of Calvary Assembly of God Church, owner of premises known as 7904-7910 Washington Lane, Wyncote, PA from the decision of the Zoning officer to construct a new multi-purpose addition and sanctuary along with required parking.

The following Zoning Relief is required for the proposed site improvements within the R3 Residential District:

1. A variance from CCS 295-227 C. (2) and CCS 295-227 C (3) “No addition or structural alteration for such nonconforming use shall exceed 25% of said building when the building first became nonconforming and shall no increase the number of employees and the magnitude of the use more than 25%” to construct an addition.
  - a. 6,795 square foot Multi-Purpose room.
  - b. 9,706 square foot 2- storey wing.
  - c. Construct a pedestrian bridge to connect the new addition to the existing church building.
  - d. New 500-seat Sanctuary
2. A special exception is requested under section 295-227.B 295.227.C. (3) to allow for the expansion of the existing nonconforming church and sanctuary building as follows.

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

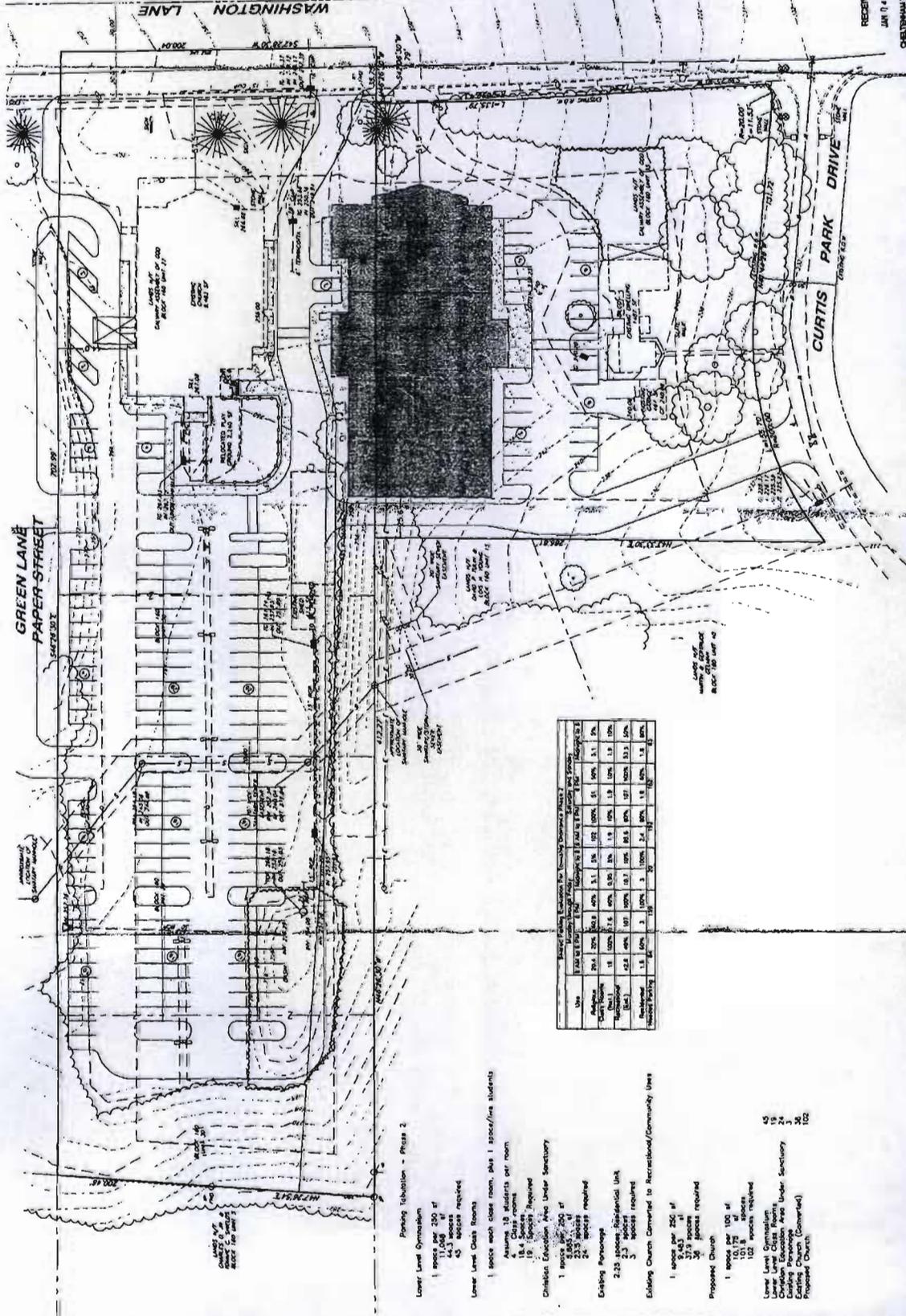
**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**

115134  
 CALVARY ASSEMBLY OF GOD  
 WINCOLE, PA 19095

2. ZONING DATA  
 R-3  
 RESIDENTIAL  
 DISTRICT NON-CONFORMING USE

3. ZONING DATA  
 MIN. LOT AREA: 100 FT.  
 MIN. YARD SETBACKS: 25 FT.  
 MAX. YARD SETBACKS: 44.0 FT.  
 MAX. GROUND COVER: 15%  
 MAX. BUILDING COVERAGE: 15%  
 MAX. IMPERVIOUS COVERAGE: (39.13)

EXISTING: 212,000 S.F.  
 RECALCULATED: 20,000 S.F.



Use	1000 sq ft	2000 sq ft	3000 sq ft	4000 sq ft	5000 sq ft	6000 sq ft	7000 sq ft	8000 sq ft	9000 sq ft	10000 sq ft
Adults	20	40	60	80	100	120	140	160	180	200
Children	10	20	30	40	50	60	70	80	90	100
Students	15	30	45	60	75	90	105	120	135	150
Religious	10	20	30	40	50	60	70	80	90	100
Community	10	20	30	40	50	60	70	80	90	100
Other	10	20	30	40	50	60	70	80	90	100

**Parking Utilization - Phase 2**

Lower Level Gymnasium  
 1 space per 200 of seating  
 14.3 spaces  
 45 spaces required

Lower Level Class Rooms  
 1 space each class room, plus 1 space/line students  
 18.4 spaces  
 24 spaces required

Division Education Area Under Sanctuary  
 1 space per 200 of seating  
 23.5 spaces  
 24 spaces required

Existing Gymnasium  
 233 spaces, Religious Unit  
 2.3 spaces  
 3 spaces required

Existing Church Converted to Recreational/Community Uses  
 1 space per 200 of seating  
 8.4 spaces  
 37.5 spaces required

Proposed Church  
 1 space per 100 of seating  
 10.1 spaces  
 102 spaces required

Lower Level Gymnasium  
 Existing Gymnasium  
 Existing Recreation Area Under Sanctuary  
 Existing Gymnasium (Converted)  
 Proposed Church

45  
 24  
 3  
 102

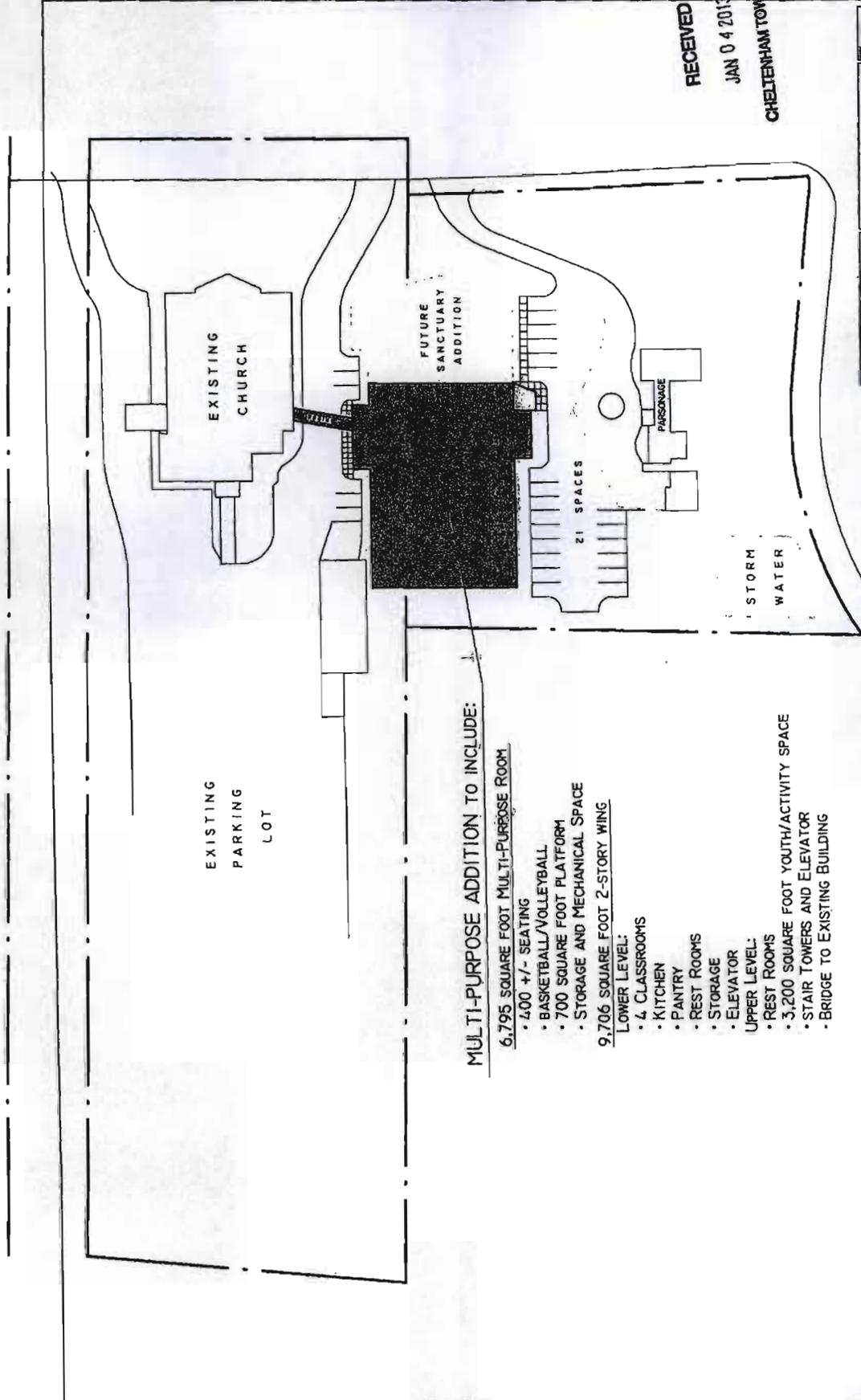
RECEIVED  
 JAN 17 4 2019  
 CHELSEA TOWNSHIP

**SPECIAL EXCEPTION / ZONING VARIANCE F**

**Boucher & James, Inc.**  
 CONSULTING ENGINEERS  
 2724 BROADWAY, PHILADELPHIA, PA 19104  
 PHONE: (215) 421-0000 FAX: (215) 421-0008

CALVARY ASSEMBLY OF GOD  
 7904 WASHINGTON LANE  
 WINCOLE, PA 19095

115134  
 SHEET NO. 1 OF 1  
 SCALE: 1" = 30'  
 DATE: 11/15/18



RECEIVED  
 JAN 04 2013  
 CHELSEHAM TOWNSHIP

EXISTING  
 PARKING  
 LOT

FUTURE  
 SANCTUARY  
 ADDITION

21 SPACES

PARSONAGE

STORM  
 WATER

**MULTI-PURPOSE ADDITION TO INCLUDE:**

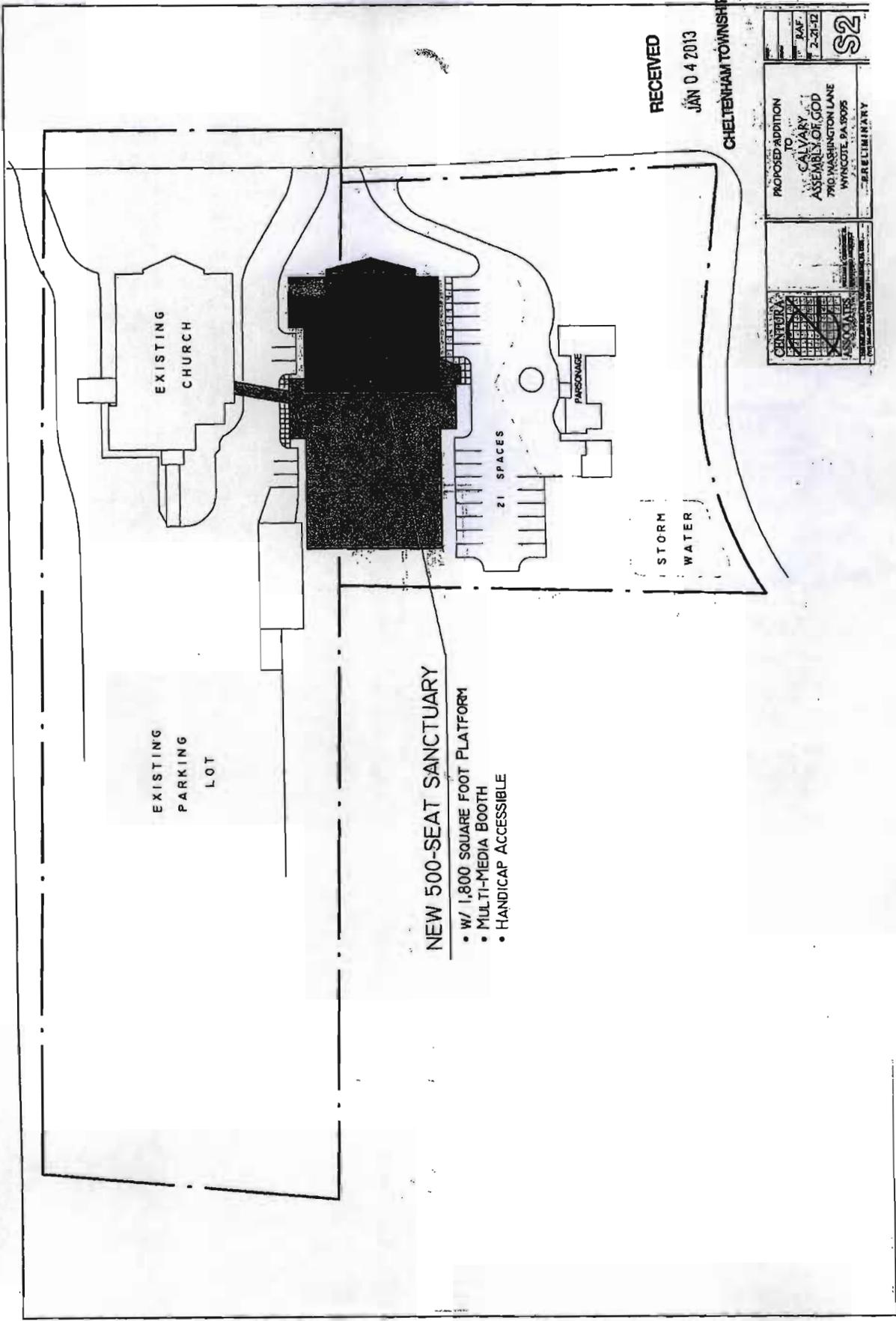
6,795 SQUARE FOOT MULTI-PURPOSE ROOM

- 400 +/- SEATING
- BASKETBALL/VOLLEYBALL
- 700 SQUARE FOOT PLATFORM
- STORAGE AND MECHANICAL SPACE

9,706 SQUARE FOOT 2-STORY WING

- LOWER LEVEL:
- 4 CLASSROOMS
  - KITCHEN
  - PANTRY
  - REST ROOMS
  - STORAGE
  - ELEVATOR
- UPPER LEVEL:
- REST ROOMS
  - 3,200 SQUARE FOOT YOUTH/ACTIVITY SPACE
  - STAIR TOWERS AND ELEVATOR
  - BRIDGE TO EXISTING BUILDING

	PROPOSED ADDITION TO CALVARY ASSEMBLY OF GOD 7910 WASHINGTON LANE WYNCOTE, PA 19095	PRELIMINARY  <b>S1</b>
	RECEIVED JAN 04 2013 CHELSEHAM TOWNSHIP	



**NEW 500-SEAT SANCTUARY**

- W/ 1,800 SQUARE FOOT PLATFORM
- MULTI-MEDIA BOOTH
- HANDICAP ACCESSIBLE

RECEIVED

JAN 04 2013

CHELSEHAM TOWNSHIP

	PROPOSED ADDITION TO CALVARY ASSEMBLY OF GOD 7910 WASHINGTON LANE WYNGO, PA 15095	
	PRELIMINARY	

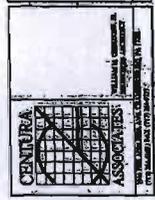
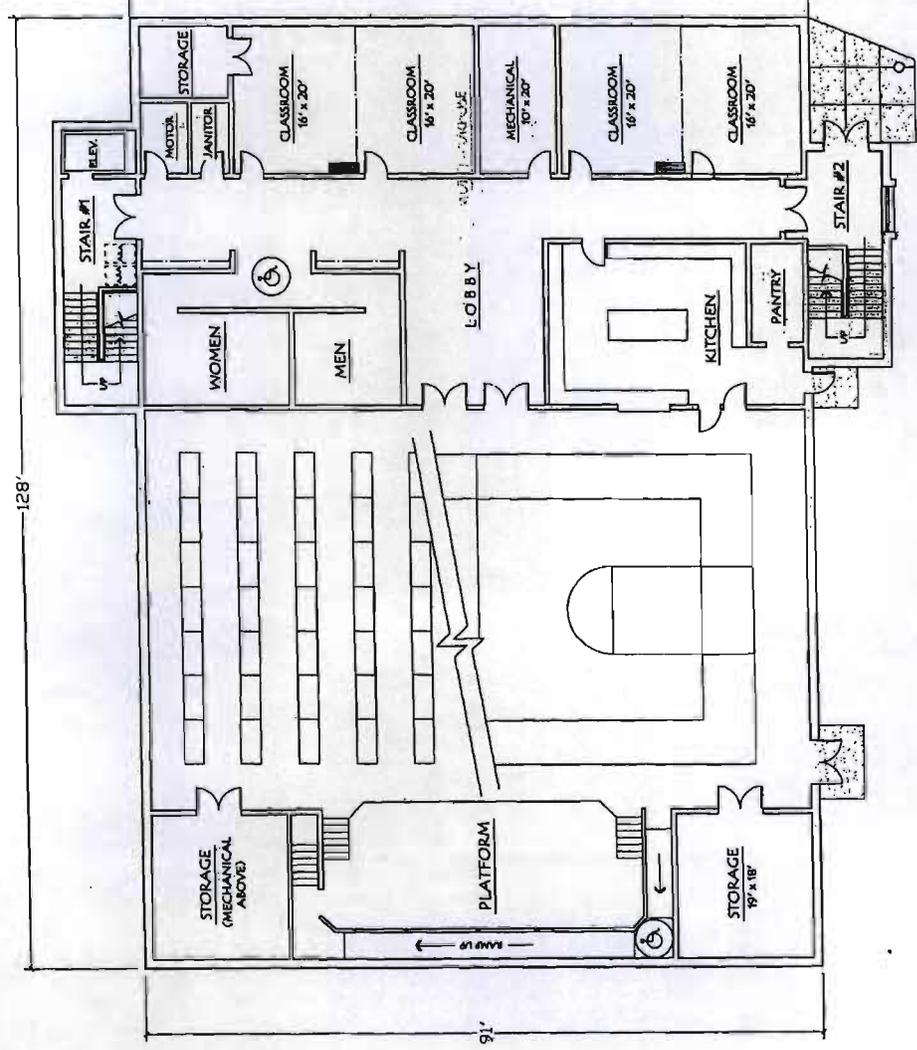
128'  $\times$  91'  $\angle$  12,348 gross sq ft STAIR WELLS  
 11,648 ft<sup>2</sup>

RECEIVED  
 JAN 04 2013  
 CHELSEHAM TOWNSHIP

128'

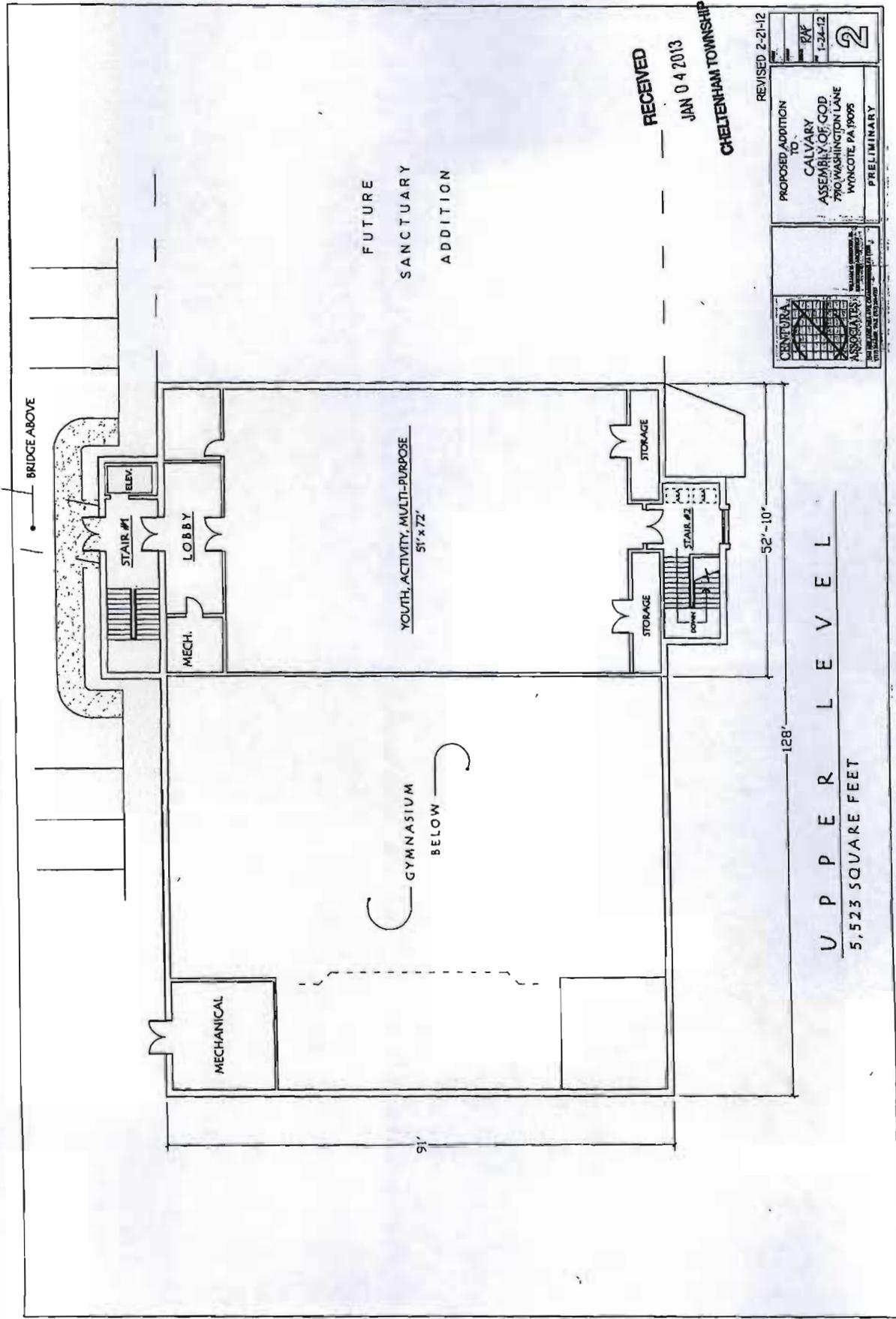
91'

FUTURE  
 SANCTUARY  
 ADDITION



REVISED 2-21-12  
 PROPOSED ADDITION  
 TO  
 CALVARY  
 ASSEMBLY OF GOD  
 7910 WASHINGTON LANE  
 WYNGOTE, PA 19095  
 PRELIMINARY

L O W E R L E V E L  
 12,348 SQUARE FEET



FUTURE  
SANCTUARY  
ADDITION

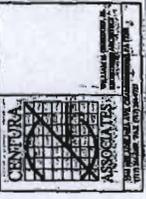
YOUTH, ACTIVITY, MULTI-PURPOSE  
51' x 72'

GYMNASIUM  
BELOW

REVISED 2-21-12

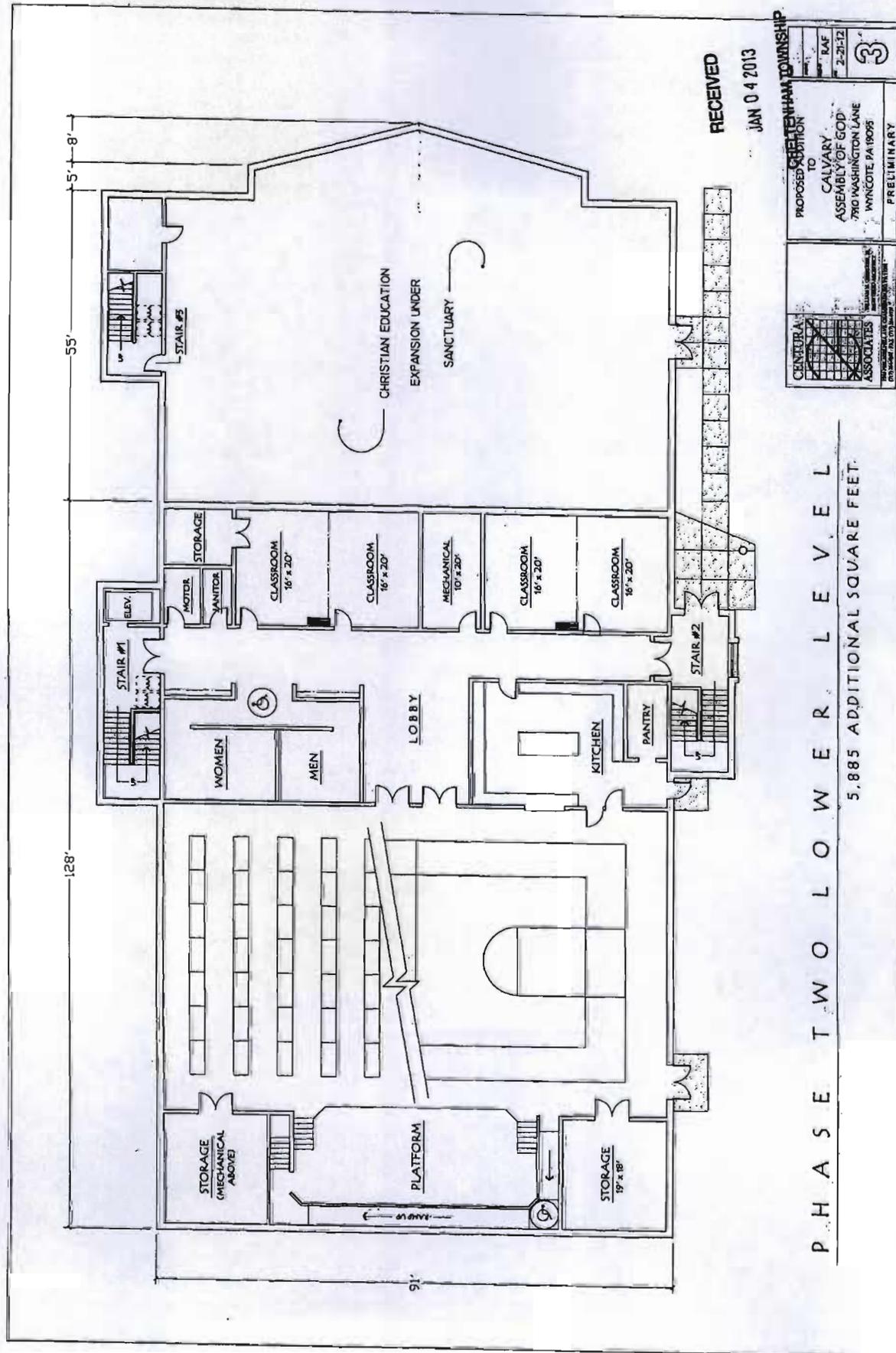
PROPOSED ADDITION  
TO  
CALVARY  
ASSEMBLY OF GOD  
790 WASHINGTON LANE  
WYNCOTE, PA 19095

PRELIMINARY



RECEIVED  
JAN 04 2013  
CHELTENHAM TOWNSHIP

UPPER LEVEL  
5,523 SQUARE FEET



RECEIVED  
JAN 04 2013

**GREENHAM TOWNSHIP**

PROPOSED ADDITION TO  
CALVARY ASSEMBLY OF GOD  
7910 WASHINGTON LANE  
WINGATE, PA 19095

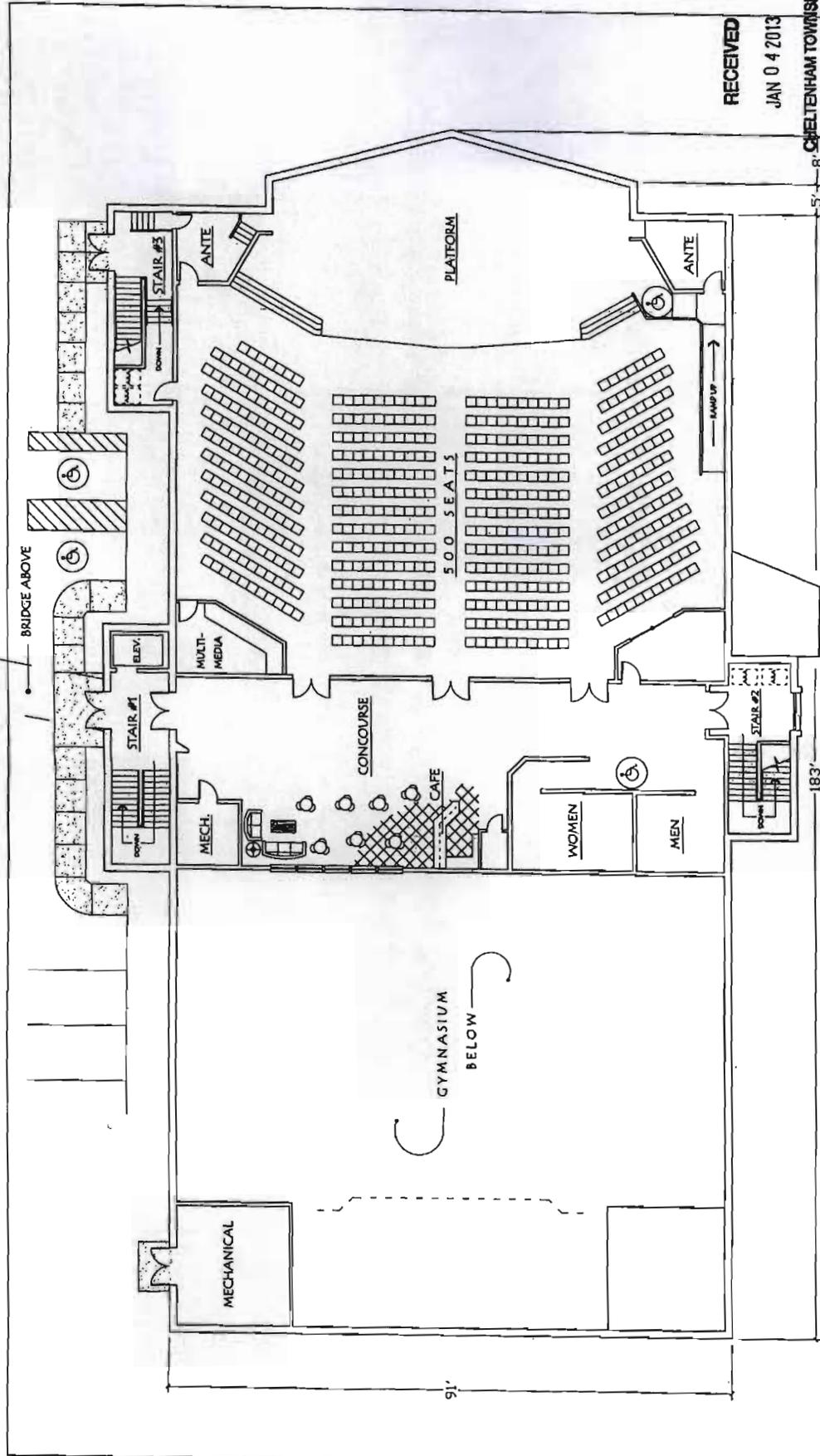
**CENTRAL ASSOCIATES**  
ARCHITECTS

DATE: 2-21-12

3

PRELIMINARY

P H A S E T W O L O W E R L E V E L  
5,885 ADDITIONAL SQUARE FEET



RECEIVED  
JAN 04 2013

5' 8" CHELTENHAM TOWNSHIP

	PROPOSED ADDITION TO <b>CALVARY ASSEMBLY OF GOD</b> 7710 WASHINGTON LANE WYNGCOTE, PA 19095	RAJ 2-21-12 <b>4</b>
	CENTURA ASSOCIATES <small>1000 MARKET STREET, SUITE 200 PHILADELPHIA, PA 19107</small>	PRELIMINARY

P H A S E T W O U P P E R L E V E L  
5,885 ADDITIONAL SQUARE FEET

The Planning Commission ("PC") meeting was held tonight at Curtis Hall. The following Planning Commission members were present: Messrs. Cross, Leighton, Goldfarb, Winneberger, Harrower, and Laughlin and also present was David R. Jones, Director of Engineering, Zoning & Inspections.

**1. Election of Chair Person and Vice Chair Person of the Planning Commission 2013.**

Mr. Cross opened the meeting at 7:30 PM and asked for nominations for Chair of the Planning Commission. Mr. Winneberger nominated Mr. Cross for Chair; Mr. Goldfarb seconded the nomination.

Mr. Cross asked if there were any other nominations for Chair; there were none. Mr. Winneberger made the motion for election of Mr. Cross as PC Chair by acclamation; Mr. Goldfarb seconded the motion; the motion passed.

Mr. Cross asked if there were any nominations for Vice- Chair of the Planning Commission. Mr. Goldfarb nominated Mr. Winneberger Vice-Chair; Mr. Harrower seconded the nomination for Vice-Chair.

Mr. Cross asked if there were any other nominations for Vice-Chair; there were none. Mr. Goldfarb made the Motion for election of Mr. Winneberger as PC Vice-Chair by acclamation; Mr. Leighton seconded the Motion; Mr. Winneberger was elected by acclamation.

**2. Acceptance of the minutes of the November 26, 2012 Meeting.**

Mr. Harrower stated that on the last page there is a typo it should read ensued instead of insured.

Mr. Leighton made a Motion to approve the minutes as amended, Mr. Laughlin seconded the Motion; the Motion passed .

**3. Review of Zoning Hearing Board Agenda for February 11, 2013.**

**APPEAL NO. 3456:** Appeal of The Pennsylvania Trust Company, Trustee of the Malik Finney Special Needs Trust, Owner of Premises known as 521 Montier Avenue, Glenside, PA 19038, zoned R-5, from the decision of the Zoning Officer for the following Zoning Relief in order to add a 4' x 20'+/- wheel chair ramp to the front of the premises:

The following Zoning Relief is required for the existing single family dwelling:

- a. A Variance from the rules and regulations of CCS 295-46.A (1) to allow the construction of a 4' x 20' +/- wheel chair ramp with a front yard setback of 33'+/- which is less than the required 40' front yard setback.

Mr. Jones stated that the handicap ramp has already been constructed and that the Township Staff has had experience with ramps in the past.

Mr. Cross asked if the ramp was structurally sound. Mr. Jones stated that the ramp will be inspected upon permit issuance.

Ms. Loretta Leader a neighbor in the community stated that the house was for sale for over a year. Ms. Leader expressed concern about the number of occupants in the house. Ms. Leader wanted to be assured that the property will not turn into a care facility for numerous people.

Mr. Cross made a motion of No Action with the recommendation of finding out the number of occupants residing at the address. Mr. Leighton seconded the motion, the motion passed.

**APPEAL NO. 3457:** Appeal of 509 Ashbourne Road, L.P., owners of premises known as 1509 Ashbourne Rd., Elkins Park, PA 19027, Zoned R-4, from the decision of the Zoning Officer for the following modification to Zoning Relief granted under Appeal 3277 in order to demolish the existing mansion and convert it into green space:

The following modification to Zoning Relief is required to remove the existing structure located on the premises:

1. Modification of Condition #1 of the Decision, so as to eliminate the retention of the three-story mansion.
2. Modification or elimination of Finding of Fact #10, which provided that the Applicant proposed to demolish three (3) of the four (4) buildings then existing on the property leaving the mansion to be renovated.
3. Modification or elimination of Finding of Fact #41, which provided for the conversion of the existing mansion into eight (8) dwelling units.
4. Modification or elimination of Finding of Fact #41 through #46 and #48 through #53 which referred to the conversion of the existing mansion into eight apartment units.
5. Modification or elimination of Conclusions of Law #1 through #4 which referenced the conversion of the existing mansion.

Peter Friedman, Esq. and Eric Naftulin, Executive Director of Federation Housing were present for this application.

Mr. Naftulin gave a presentation about the proposed demolition of the mansion.

Mr. Naftulin stated that the 84 unit building that was built under the previous appeal is now fully occupied with an extensive waiting list. Mr. Naftulin stated that the initial plan was to convert the mansion on the property into 8 apartments for seniors; however they have now concluded that they are unable to convert the building as originally planned.

Mr. Naftulin stated that Federation Housing asked 20 different agencies and institutions if they would be interested in leasing the 3 storey mansion. Mr. Naftulin read from a list of interested buyers that were previously contacted. Mr. Naftulin stated the solicitation process began in May of 2011 and that they received no positive responses. Mr. Naftulin stated that during this time there was extensive vandalism done to the building.

Mr. Naftulin stated that due to costs of the repairs, the state of deterioration and the cost of insurance Federation Housing would like to demolish the mansion and convert it into Green Space.

Mr. Friedman stated that he believed the relief previously granted by the ZHB has nothing to do with the mansion and that the mansion is laced inside of the zoning decision due to it being left on the plan originally.

Mr. Naftulin stated that a committee called the "Mansion Reused Committee" was put together to develop ideas to reuse the mansion. Mr. Naftulin stated that the building had been chopped up throughout the years by previous owners and has sat unheated and vacant. Mr. Naftulin stated that the Greens the original donors suggested tearing down the mansion and putting in a park like setting.

Discussion ensued regarding various tax credits obtained by Federation Housing.

Mr. Cross stated that this is not a creative adaptive reuse. Mr. Cross stated that there is a concern in the community to keep a certain building style and a certain feel to the neighborhoods. Mr. Cross stated that it was a condition of the original approval that the mansion be kept.

Mr. Cross further stated that the mansion was a very important part of the approval process of the first appeal and the land development process and that his concern is that this would not remain green space for very long. Mr. Cross stated that there is not a good enough argument to justify removing the mansion.

Mr. Cross stated that the building has historical significance and he doesn't believe that all the possibilities have been exhausted.

Mr. Cross stated that the building could be used as many other things, it may not be in Federation Housings business plan but the Planning Commission would still like see the building maintained.

Mr. Naftulin stated that when the first plan was originally done, Federation thought they would be able to use the mansion, but didn't do a full study on the property first. He stated that due to the severe deterioration of the building restoring it isn't feasible. Discussion ensued regarding various ADA issues pertaining to the building.

Mr. Naftulin stated that the Fire Marshall required Federation Housing to block up the rear windows of the mansion because of the close proximity to the new building. Mr. Naftulin stated that everything in the building would need to be redone to meet current code.

Mr. Cross asked about the average size of the other units in the complex. Mr. Naftulin stated that individual units are about 600 sf and they are 1 bedroom units only.

Mr. Laughlin asked if there was any restrictions due to state financing that would prevent Federation from selling the mansion for uses outside of a 62 plus housing.

Mr. Naftulin stated the list of interested parties did include companies beyond 62 plus housing and they were considering sale of the mansion as part of the investigation.

Mr. Winneberger stated that all issues that are being brought up this evening were also known issues in 2008 when project was originally approved. Mr. Winneberger stated that he is puzzled why all of a sudden there is now an issue and why a full study wasn't done then. Mr. Winneberger stated that a simple walk thru would have alerted them to the problems.

Mr. Laughlin stated that he recalled that Township approval was given originally to the project based on knowledge that the mansion would be additional living units.

Mr. Cross stated that accessibility was known issue back in 2008.

Mr. Harrower stated that the idea is to preserve a historic resource. Mr. Harrower stated that he is not sympathetic to this situation as the preservation of the mansion was a condition of approval by the Township originally.

Discussion ensued regarding points on a presented plan for the green space.

Discussion ensued regarding accessibility distances and ADA codes. Mr. Cross stated that there are creative ways of incorporating the building that have not been considered or may not be part of the Federations Business Plan.

Discussion ensued regarding elevation differences and fire blocking. Mr. Naftulin stated that they originally looked to incorporate the mansion into the current new building but couldn't because of the different levels.

Mr. Harrower stated that he recalls discussing the issue of having the new building too close to the mansion.

Mr. Cross read into the record an email from a concerned member of the community, Mr. David Cohen, dated Monday, January 28, 2013. (See Attachment PC-1.)

Mr. Laughlin made a motion of denial; Mr. Winneberger seconded the denial; the motion passed.

**APPEAL NO. 3458** – Appeal of Calvary Assembly of God Church, owner of premises known as 7904-7910 Washington Lane, Wyncote, PA from the decision of the Zoning officer to construct a new multi-purpose addition and sanctuary along with required parking.

The following Zoning Relief is required for the proposed site improvements within the R3 Residential District:

1. A variance from CCS 295-227 C. (2) and CCS 295-227 C (3) "No addition or structural alteration for such nonconforming use shall exceed 25% of said building when the building first became nonconforming and shall no increase the number of employees and the magnitude of the use more than 25%" to construct an addition.
  - a. 6,795 square foot Multi-Purpose room.
  - b. 9,706 square foot 2- storey wing.
  - c. Construct a pedestrian bridge to connect the new addition to the existing church building.
  - d. New 500-seat Sanctuary
2. A special exception is requested under section 295-227.B 295.227.C. (3) to allow for the expansion of the existing nonconforming church and sanctuary building as follows.

Mr. John Tresslar from Boucher and James, Inc. and Rev. John Holt were present for this application.

Discussion ensued regarding points on the presented plan. Mr. Tresslar stated that the area is now zoned R3 but when the church was originally built the church was a permitted use. Mr. Tresslar stated that due to the zoning change, the church needs a variance and a special exception to expand.

Mr. Tresslar stated that the plan is to proceed with construction of the project in 2 phases. Mr. Tresslar stated that now churches must provide activities for young people thus the need for the basketball court and community center. Mr. Tresslar stated that when funds become available phase 2 a new sanctuary would be constructed. Discussion ensued regarding percentages of increase.

Mr. Cross asked how large of a congregation currently attends. Rev. Holt stated approximately 400 adults, youth and children, Mr. Winneberger asked about the time lines for Phases 1 and 2. Rev. Holt stated that the projects are fund driven and depend on congregation growth and financial growth. Rev. Holt stated that the church would like to begin construction of Phase 1 in mid 2014 to 2015.

Mr. Harrower asked why build a new structure instead of renovation. Rev. Holt stated that there was a renovation done in 2003 which added additional spaces upstairs and downstairs, but the church has experienced growth and they again need more room.

Mr. Cross asked if the plans were to mimic the frontage of Washington Lane. Rev. Holt explained that the church hasn't expended any funds for detailed architectural plans yet.

Mr. Tresslar stated that there would be a bridge joining the existing sanctuary to the new proposed building. Mr. Laughlin questioned if the bridge would be enclosed and heated. Mr. Tresslar stated that all plans were conceptual.

Mr. Leighton asked if Green Lane which is listed as a paper street is currently being used by the church. Rev. Holt stated no, that Wyncote Academy uses Green Lane now. Rev. Holt stated that a discussion was held with former Township Engineer Mr. Patrick Duffy, P.E. and Mr. Duffy stated that he thought it would be acceptable for the church to use Green Lane.

Discussion ensued regarding various points on presented plan and parking.

Mr. Cross stated that the retention basin is being paved over for additional parking and that the applicant will have to use subsurface stormwater management.

Mr. Cross asked if the parking is sufficient for 400 people and will there be an overflow agreement with Wyncote Academy. Rev. Holt stated that there is no agreement in writing just a verbal agreement between the church and Wyncote Academy.

Mr. Leighton asked if Washington Lane was a state highway and stated that it seems appropriate to use Green Lane for a driveway. Discussion ensued regarding driveways.

Mr. Cross asked if there was a Township review done on this project. Mr. Jones stated that no review has been done by the Township Staff or its consultants.

Mr. Winneberger asked what the facade of the building facing Washington Lane will look like in between the two construction phases.

Mr. Cross asked if there was a possibility of being able to do Phase 1 without Phase 2. Rev. Holt stated Yes.

Mr. Winneberger made a motion of No Action; Mr. Laughlin seconded the motion; the motion passed.

**4. Review of Cheltenham Township Development Application No. 08-12: Tentative Sketch Plan Laverock - 1729-35 and 1777 E. Willow Grove Avenue.**

Mr. Jones stated that the applicants of CTDA 08-12 provided a time extension letter to the Township for the review period to April 30, 2013 and that the pending tentative sketch plan has been removed from the Planning Commission agenda tonight.

**5. Laverock- Petition for Amendment to the Zoning Ordinance.**

Ross Weiss, Esq. Attorney for Hansen Development Inc. was present.

Mr. Weiss made a presentation about the various phases of the Laverock project.

Mr. Weiss stated that the applicant was previously asked by the Board of Commissioners and Planning Commission to save the gardens and the mansion on the property.

Presentation ensued regarding various differences in the plans over the years.

Mr. Weiss stated that he believes Springfield Township is willing to cooperate with Cheltenham Township to save the mansion currently on the property.

Mr. Weiss stated that the applicant has come up with a plan to use for the mansion that exists on the property. Mr. Weiss stated that the developer Hansen Development, Inc. restored Normandy Farms in Blue Bell into an event facility.

Mr. Weiss stated that Hansen is proposing an event facility in the Lloyd Estate Mansion and wouldn't be in use 24/7 and would be used for meetings and events only.

Mr. Weiss continued with his presentation of Plan A and Plan B.

Mr. Weiss stated that the Zoning Amendment proposed would provide for an event facility; recognize and address parking and steep slopes. Mr. Weiss stated that the steep slopes are man made and probably were developed because of the development of Rte. 309. Mr. Weiss stated that the developer sees this as a landmark and feels that this request should be considered in attempt to save a landmark.

Mr. Weiss stated that the same presentation was made before the Springfield Board of Commissioners on January 7, 2013. Mr. Weiss stated that the Springfield Board of Commissioners suggested that representatives from both municipalities should get together and have discussions about the project.

Mr. Harrower asked if the mansion would work as an event facility. Mr. Weiss said his client has already done this before and believes this property can be successfully used as an event facility.

Mr. Cross asked if there are other structures on the site. Mr. Weiss stated that there are currently 5 buildings all of which are currently single family residences and are proposed to stay that way.

Mr. Cross stated that the parking of the event facility is close to the townhouses. Mr. Weiss stated that valet parking would be used and would be separated from the proposed townhouse driveways.

Mr. Weiss stated that the plans are examples of what could be developed; the details are customarily dealt with in Land Development.

Discussion ensued regarding density totals proposed on the various different plans he displayed for the Planning Commission.

Mr. Weiss stated that the Amendments that are being requested are necessary to save the mansion and have market rate housing.

Mr. Harrower stated that he's very appreciative of the developer trying to save the Lloyd estate and also appreciates the effort to preserve the Trumbauer Building.

Mr. Cross asked which plan was preferred by Springfield Township. Mr. Weiss stated that there was nothing specific chosen, but everything is still evolving. Mr. Cross asked if there are any meetings planned between the Townships. Mr. Weiss stated that the Cheltenham Township Solicitor Joseph Bagley is working on a date convenient to both Townships. Mr. Weiss stated that Hansen was asked to make the same presentation to the Cheltenham Township Building and Zoning Committee on February 6, 2013.

Mr. Cross asked what the Township's position was on the matter. Mr. Jones stated that the Township is currently providing information to Ken Amey a Land Planner that the Township has engaged. Mr. Jones stated that the Planning Commission will have a month or two to consider the Ordinance and to review Mr. Amey's comments once they are available.

Mr. Joseph Nixon from Montgomery County Planning Commission suggested that the Township proceed with caution when going through the review.

Mr. Cross stated that he appreciated the presentation and noted the Planning Commission would not be acting on anything related to this matter at the meeting tonight.

**Community Comments:**

Mr. Edward Kohler-

Dr. Kohler stated that this sounds a lot like Spot Zoning. Mr. Kohler stated that the only portion of the presentation he is in agreement with is preserving the mansion. Mr. Kohler also stated that the slopes on the property are not due to the development of 309 and that the steep slopes found are prior to this property and are natural occurring Steep Slopes.

Mr. Joel Pearlstein-

Mr. Pearlstein stated that he is part of the neighborhood group concerned about the development of this property. Mr. Pearlstein stated that he opposes the change to the zoning ordinance. Mr. Pearlstein stated that without the change in the ordinance the applicant would be subject to the Zoning Hearing Board's stricter standards.

Mr. Pearlstein stated that the property has been zoned R3 for decades and to change the zoning for this developer would set a bad precedence. People want to live in that neighborhood with single family homes.

Mr. Pearlstein stated there is no benefit to Cheltenham Township in granting this request.

Mr. Robert Elfant -7812 Froebel Road.

Mr. Elfant stated that he recognizes the property will be developed eventually and the neighborhood is prepared to work towards a solution. Mr. Elfant requested that no action be taken for 90 days to allow the neighbors to hire professionals to come up with a plan acceptable for everyone. Mr. Elfant asked that if a decision must be made at this evening to please recommend denial.

Dr. Jane Gilmore- 8409 Newbold Lane, Springfield Township.

Dr. Gilmore stated that she is directly impacted by this project. Dr. Gilmore stated that the traffic on Newbold Lane and Cobden Road in the mornings is bad. Dr. Gilmore also expressed concern about the impact on the schools.

Mr. John Degasse- Willow Grove Avenue.

Mr. Degasse stated that he is concerned about the traffic impact. Mr. Degasse applauds trying to save the mansion.

Ms. Wendy Bludstein-

Ms. Bludstein stated she also applauds reuse of the mansion. Ms. Bludstein stated that she is concerned about the parking lots and all the beautiful trees being removed. Ms. Bludstein stated that the removal of the trees and all the parking will change the feel of the neighborhood.

Mr. Cross asked if any parking studies have been done. Mr. Weiss stated not yet.

A resident stated that the traffic density of Willow Grove Ave is going to be horrible. The resident stated that the quality of life will be directly impacted. The project will impact the wildlife and have a negative effect on pollution and noise. The resident urges the Planning Commission to take into consideration how this will impact the neighborhood and people's lives.

Mr. Edward Buchanan- 634 Twickenham Road.

Mr. Buchanan asked if any pedestrian improvements are apart of this? Mr. Buchanan stated that Willow Grove Avenue is not a walkable road. Mr. Buchanan asked if there will be any sidewalks installed or if Willow Grove Avenue will be widened. Mr. Weiss stated that the project is not at that stage yet and such considerations would be part of the land development process.

**6. Review of a draft Ordinance establishing a Riparian Corridor Conservation District scheduled for a Public Hearing on February 20, 2013.**

Mr. Nixon stated that this Overlay District is to protect waterways for properties abutting the creek. Discussion ensued regarding various setbacks and Ordinance language.

Mr. Nixon stated that this Ordinance model has been used numerous times by various municipalities.

Mr. Cross questioned the usefulness in massive flooding. Mr. Nixon stated that the reason for the Ordinance is not for flooding but to protect the waterways. Mr. Nixon stated that any buffer done tends to help during floods, but the Ordinance's purpose is to protect the waterways from future development.

Mr. Harrower recommended approval; Mr. Winneberger seconded the motion; the motion passed.

**7. Acknowledgement of receipt of the Act 537 Plan.**

Holly Nagy stated that she would forward a link to the Act 537 Plan for the Planning Commission to review.

**8. Old Business:**

Mr. Harrower stated that he is concerned about the wording of the Age Restricted Ordinance. Discussion ensued regarding the criteria for a property being eligible for historic status.

Mr. Harrower proposed a change of wording in the ordinance.

Mr. Harrower stated that he thinks the problematic word is "found". "Listed or *found* eligible for listing on the National Register..." Mr. Harrower stated that he thinks things would be clearer by eliminating the word "found". Mr. Harrower suggested the wording "Listed or eligible for listing on the National Register..."

Mr. Harrower stated that when a historic property is surveyed, the State Historic Preservation Office - PHMC (Pennsylvania Historical and Museum Commission) responds with a "finding of eligibility".

The Planning Commission made a recommendation to change the wording of the Age Restricted Ordinance to reflect Mr. Harrower's suggestions.

Mr. Harrower stated that the Cheltenham School District stated that Wynote Elementary School was not a historic building. Mr. Harrower submitted a document from the Cheltenham Township Comprehensive Plan that lists 333 Rices Mill Road "Wyncote Elementary School" historic.

Mr. Harrower also expressed concern about the Zoning Hearing Board's determination regarding 1050 Ashbourne Road. Mr. Harrower stated that there was a technicality regarding the use of the word structure. The reported decision of the ZHB states that the building was no longer considered a structure because all that's left is remnants of the building, and thus no longer qualified as a structure and no longer considered historic.

**9. New Business:**

Mr. Cross stated that there is a need for a Planning Commission member to also be apart of the Ad-Hoc Zoning Committee since Mr. Gordon stepped down. Mr. Winneberger volunteered.

**10. Adjournment:**

Mr. Cross made a motion for adjournment; Mr. Goldfarb seconded the motion, the motion passed. The meeting adjourned at 11:00 P.M.



---

Bryan T. Havir  
Township Manager

Per: Holly Nagy

## Thom Cross

---

**From:** David Cohen [dlcohen1@ix.netcom.com]  
**Sent:** Monday, January 28, 2013 9:31 AM  
**To:** msimon@cheltenham-township.org; ahaywood@cheltenham-township.org; Bryan Havar; Tom Cross; Bill Winneberger; Eric Leighton; Howard Greenberg; I. Brockington; I. Goldfarb; Paul Gordon; Scott Laughlin; Tom DiBeneditto; David Harrower  
**Subject:** Federation Housing Requested Zoning Relief ZHB No. 3456

1/28/13

I am writing to express my opposition to and concerns regarding the requested zoning relief for the Federation Housing property located at 509 Ashbourne Road. Due to scheduling conflicts, I will not be able to attend the Planning Commission meeting tonight or the Building and Zoning Committee meeting on 2/6/13. I am asking that my comments be included in any appropriate record and considered by the Planning Commission, the Building and Zoning Committee and Township staff. I am strongly opposed to the granting of the requested relief, including all five requested modifications, to the decision under Zoning Hearing Board No. 3277 for the following reasons:

1. Under appeal No. 3277, on May 21, 2008, the applicant was granted relief by the Zoning Hearing Board through a series of variances and special exceptions to build a three-story 84 unit age restricted facility with one additional unit for a live-in building manager. As part of the Zoning Hearing Board decision, the existing (Stephano) mansion was to be converted to 8 additional dwelling units. This relief followed a lengthy series of discussions and negotiations with the Township and neighbors to the property.
2. Under appeal 3277 and during discussions with the neighbors, the applicant stated as part of their plans that the mansion would be maintained and used as phase 2 of the age restricted project.
3. The mansion is a significant building from both an historical and a design perspective and contributes significantly to the built environment and neighborhood.
4. The decision in appeal No, 3277 was less than four years ago, and the new age restricted building opened less than half a year ago during September 2012.
5. It is unclear as to what if any actions have been taken by the owner of the property to maintain, improve, market, sell, rent or to reuse the mansion. Being active in the community, I am unaware of any attempts to sell, rent or market the building. The reuse and preservation of the mansion not only represents a preservation issue, but an economic development issue as the building is located two blocks from the Elkins Park train station; could provide an opportunity for jobs and tax revenue in both the renovation and the reuse of the building as either apartments or as an office or for another use.
6. I respectfully request that the application be denied; that the applicant be encouraged to pursue an active and thorough course of action to market the building for for sale or lease; that the applicant be directed to maintain the building pursuant to their plans as presented under appeal No 3277 and under Township code; and that the Township work with the applicant to identify potential alternative reuses for the building including its sale or lease that recognize its proximity to the Elkins Park train station.

Thank you for your consideration of my comments.

--  
Dvid L. Cohen, AICP  
[dlcohen1@ix.netcom.com](mailto:dlcohen1@ix.netcom.com)

**CHELTENHAM TOWNSHIP**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF CHELTENHAM, CHAPTER 295, THEREOF, ENTITLED "ZONING" BY ADDING A DEFINITION OF EVENT FACILITY; ADDING AREA AND BULK STANDARDS FOR THE DEVELOPMENT OF TOWNHOUSES WHEN PART OF A LOCAL LANDMARK PRESERVATION DEVELOPMENT; EXEMPTING LOCAL LANDMARK PRESERVATION DEVELOPMENTS FROM THE PRESERVATION OVERLAY DISTRICT; AMENDING THE STEEP SLOPE PROVISIONS; AND TO AMEND THE PARKING REQUIREMENTS TO PROVIDE FOR EVENT FACILITY PARKING.**

**SECTION 1.** Chapter 295, entitled "Zoning", Article I, §295-2 C. Definitions and word usage is hereby amended by adding the following definition:

**EVENT FACILITY**

An existing building, in excess of 15,000 square feet in size, that has been designated, or is eligible for designation, and is to be maintained as a Local Landmark and capable of being used for rental facilities for banquets, weddings, parties, meetings, conferences, receptions and similar affairs as a means to preserve its integrity.

**SECTION 2.** Chapter 295, entitled "Zoning", Article V, R3 Residence Districts, §295-21, Use regulations are hereby amended to read as follows:

B. Row houses or townhouses as provided in Article XXIX, §295-226. When the row houses or townhouses are proposed as part of a plan to preserve a Local Landmark, only the provisions of §295-226 B (1) and §295-226 C. (e) [1] shall apply. The tract, in such case, shall be in one ownership or shall be the subject of an application filed jointly by the owners of the entire tract, and it shall be agreed that the tract will be developed under single direction and completed in accordance with the approved plan.

E. (5) A greenhouse, garden area, maintenance building, parking, and guest rooms for an Event Facility.

H. Multiple-dwelling housing for the elderly is permitted when authorized as a special exception. A multiple-dwelling housing for the elderly project must have frontage and right of access by way of a perpetual easement to at least one state road.

I. Event Facility.

**SECTION 3.** Chapter 295, entitled "Zoning", Article V, R3 Residence District, §295-22, Lot area and lot width is hereby amended by adding a new subsection §295-22 C. to read as follows:

C. The minimum lot area for an Event Facility shall be two acres and a lot width of not less than 400 feet at the street line shall be provided for every principal building hereafter erected, altered, or used in this district.

**SECTION 4.** Chapter 295, entitled "Zoning", Article V, R3 Residence District shall be amended by adding a new subsection §295-22 D. to read as follows:

D. The dimensional requirements for row houses or townhouses in the R3 District when proposed as part of a plan to preserve a Local Landmark shall be as follows:

- (1) Minimum lot width: 22 feet
- (2) Minimum lot area: 1,800 square feet per unit
- (3) Building to Building Setbacks
  - (a) Front to front: 60 feet
  - (b) Front to back: 60 feet
  - (c) Back to back: 40 feet
  - (d) Side to front or back: 40 feet
  - (e) Side to side: 30 feet
- (4) Maximum building length: 150 feet.
- (5) Setback to the curb line of a street: 25 feet
- (6) Setback to parking areas: 20 feet
- (7) Setback to pedestrian walking trails: 15 feet
- (8) Building Area: 25% based on the portion of the development devoted to row houses or townhouses.
- (9) Building Height: 40 feet.
- (10) Green Area: There shall be maintained a Green area the depth of which shall be at least 10' between any proposed street and an existing perimeter tract property line. There shall be maintained a Green area, the depth of which shall be at least 40 feet measured from the street line along an existing public highway to any proposed row house or townhouse.

(11) Common Open Space: A minimum of 30% of the area being developed for row houses or townhouses shall be set aside as common open space. Such areas shall be governed by the provisions of §295-190.

(12) Where a tract of land proposed for development lies in Cheltenham Township and an adjacent municipality, and which includes a master plan for the detailed use of the entire tract, yard setback requirements shall be dispensed with along the municipal boundary line.

(13) The lot area per family to establish the permitted density shall not be less than 6,000 square feet per family for the portion of the development devoted to row homes or townhouses.

**SECTION 5.** Chapter 295, entitled "Zoning", Article V, R3 Residence District, §295-23, Building area, is hereby amended to read as follows:

The building area shall not exceed 15% of the lot area except for multifamily housing for the elderly or townhouse development where the building area shall not exceed 25% of the lot area.

**SECTION 6.** Chapter 295, entitled "Zoning", Article V, R3 Residence District, shall be amended by adding a new subsection §295-24 D. to read as follows:

D. An accessory building may be separate from the principal building. An accessory use in existence as of the date of this ordinance that is part of the cultural landscape of a Local Landmark, but does not meet the required yard, buffer or other setback requirements, may have the applicable setbacks modified by conditional use when part of a land development application.

**SECTION 7.** Chapter 295, entitled "Zoning", Article XXII Steep Slope Conservation District shall be amended to add the following to §296-164 A. (1):

(1) This Article shall regulate only those steep slopes which exist for three consecutive two-foot contour intervals (six cumulative vertical feet of slope), and consist of 1,000 square feet or more of horizontal area.

**SECTION 8.** Chapter 295, entitled "Zoning", Article XXII Steep Slope Conservation District §296-164 B. (2) shall be amended to read as follows:

(2) Man-made slopes shall be exempted from the provisions of this article if the alteration, regrading, clearing or construction upon such slope can be accomplished without causing erosion of the slope; will not result in soil failure, stream siltation or contamination of surface waters; and/or increase the total runoff into any watercourse. Such disturbance shall not be injurious to the health, safety and welfare of Township residents. It shall be the burden of the applicant

to demonstrate that the slopes were man-made and to establish the absence of impact in accordance with the criteria stated herein.

**SECTION 9.** Chapter 295, entitled "Zoning", Article XXII Steep Slope Conservation District shall be amended to add the following to §295-167 B.

(5) Yard setback areas, buildings, driveways, parking areas and roads so long as disturbance is minimized to protect the steepest areas of a site; and the proposed development employs reasonable mitigation techniques and procedures such as re-vegetation measures, control of soil erosion and sedimentation; and stormwater management to reduce the impacts of any disturbance. However, in no case shall buildings, driveways, parking lots or roads be constructed on naturally occurring steep slope areas of 25% or more.

**SECTION 10.** Chapter 295, entitled "Zoning", Article XXIV Preservation Overlay District, §295-187 C. is hereby amended to read as follows:

C. Notwithstanding the foregoing, multiple-dwelling housing for the elderly projects, and projects that include the preservation of a Local Landmark are exempt from the requirements of this Article.

**SECTION 11.** Chapter 295, entitled "Zoning", Article XXIX, General Regulations, §295-221 Parking and loading is hereby amended, and a new subsection H shall be added to read as follows:

B (5) (a) Surface parking shall be located to the rear of the principal building or to the side, unless a designated or eligible for designation as a Local Landmark building is being preserved, in which case parking may also be located in front of the building. Parking shall be set back 10 feet from the legal right-of-way.

H. Event Facility: 1 space per 100 square feet of gross floor area devoted to the use.

**SECTION 12.** Nothing in this Ordinance or in the Code of the Township of Cheltenham shall be construed to effect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued or any cause or causes of action existing under the said Code prior to the adoption of this amendment.

**SECTION 13.** In all other respects, the Code of the Township of Cheltenham, Chapter 295, entitled "Zoning" is hereby ratified and reaffirmed except where the same is inconsistent with the provisions contained in this Ordinance.

**SECTION 14.** The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not effect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Cheltenham Township Board of

12-17-12

Commissioners that this Ordinance would have been adopted if such legal, invalid or unconstitutional section, sentence, clause, part or provisions had not been included herein.

**SECTION 15.** This Ordinance shall take effect and be in force from and after it is approved as required by law.

ENACTED into an ORDINANCE this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

**TOWNSHIP OF CHELTENHAM  
BOARD OF COMMISSIONERS**

BY: \_\_\_\_\_  
Art Haywood, President

ATTEST: \_\_\_\_\_  
Township Manager





**STEEP SLOPES LEGEND**

SLUPES 10% - 20%

SLUPES 20% AND GREATER

**TOTAL SLOPE AREA**

SLUPES 10% - 20% 5.8 AC

SLUPES 20% AND GREATER 6.8 AC

**DISTURBED SLOPE AREA**

SLUPES 10% - 20% 1.3 AC

SLUPES 20% AND GREATER 1.4 AC

**SITE STATISTICS**  
SPRINGFIELD TOWNSHIP

1. TOTAL AREA: 100.0 AC
2. TOTAL AREA: 100.0 AC
3. TOTAL AREA: 100.0 AC
4. TOTAL AREA: 100.0 AC
5. TOTAL AREA: 100.0 AC
6. TOTAL AREA: 100.0 AC
7. TOTAL AREA: 100.0 AC
8. TOTAL AREA: 100.0 AC
9. TOTAL AREA: 100.0 AC
10. TOTAL AREA: 100.0 AC
11. TOTAL AREA: 100.0 AC
12. TOTAL AREA: 100.0 AC
13. TOTAL AREA: 100.0 AC
14. TOTAL AREA: 100.0 AC
15. TOTAL AREA: 100.0 AC
16. TOTAL AREA: 100.0 AC
17. TOTAL AREA: 100.0 AC
18. TOTAL AREA: 100.0 AC
19. TOTAL AREA: 100.0 AC
20. TOTAL AREA: 100.0 AC

**SITE STATISTICS**  
CHEL TENHAM TOWNSHIP

1. TOTAL AREA: 100.0 AC
2. TOTAL AREA: 100.0 AC
3. TOTAL AREA: 100.0 AC
4. TOTAL AREA: 100.0 AC
5. TOTAL AREA: 100.0 AC
6. TOTAL AREA: 100.0 AC
7. TOTAL AREA: 100.0 AC
8. TOTAL AREA: 100.0 AC
9. TOTAL AREA: 100.0 AC
10. TOTAL AREA: 100.0 AC
11. TOTAL AREA: 100.0 AC
12. TOTAL AREA: 100.0 AC
13. TOTAL AREA: 100.0 AC
14. TOTAL AREA: 100.0 AC
15. TOTAL AREA: 100.0 AC
16. TOTAL AREA: 100.0 AC
17. TOTAL AREA: 100.0 AC
18. TOTAL AREA: 100.0 AC
19. TOTAL AREA: 100.0 AC
20. TOTAL AREA: 100.0 AC



**LAVEROCK**  
SKETCH PLAN 'B'

MONTGOMERY COUNTY, PENNSYLVANIA  
SCALE: 1" = 100'  
DECEMBER 3, 2012

**RECENT  
ZONING HEARING BOARD  
DECISIONS**

**ZONING HEARING BOARD  
OF CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**APPEAL NO. 3451**

Applicant: Patricia Fiedler  
309 Paxton Road  
Glenside, Pennsylvania 19038

Subject Premises : 1309 Ashbourne Road  
Elkins Park, Pennsylvania

Owner of Premises: Patricia Fiedler

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that modification of the zoning relief at Appeals 661 and 243 to allow an occupant other than the owner of the Property to rent the existing apartment over the garage would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-42, regulating permitted uses.

Applicant seeks a review the rules and regulations of Section 295-42 of the R-5 Residence District to modify the conditions of previous zoning appeals (Appeal Nos. 661 and 243) to eliminate the imposed conditions and allow an apartment over the existing garage to be rented to and occupied by someone other than the owner of the Property.

Time and Place of Hearing: Monday, November 19, 2012 – 9:50 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

**FINDINGS OF FACT**

1. Applicant Patricia Fiedler (“Applicant”) is the owner of the premises known as 1309 Ashbourne Road, Elkins Park, Pennsylvania (the “Property”).

2. Prior to the holding of the hearing in this matter, an advertisement, noting the time and place of the hearing and the contents of the appeal, was placed in a newspaper of general circulation.

3. The property is located in an R-5 Residence District and is improved by a multi-family residential dwelling and an unattached accessory garage with apartment.

4. The following documents were made a part of the record:

ZHB-1. a listing of exhibits;

ZHB-2. a copy of the legal notice with regard to the holding of hearing;

ZHB-3. an Application to the Zoning Hearing Board, referenced as Appeal No. 3451;

ZHB-4. a location map marked as Real Estate Registry Block 42, showing the location of the property;

ZHB-5. MEA Land Record Parcel Information on Property dated September 13, 2012;

ZHB-6. Building and Zoning Committee recommendation letter dated October 15, 2012;

ZHB-7. proposed zoning plan and proposed shared parking plan;

ZHB-8. copy of Continuance Agreement dated November 1, 2012;

A-1. copy of the decision at Appeal No. 661 of the Zoning Board of Adjustment, dated October 26, 1954;

A-2. copy of notes of testimony for Appeal No. 661;

A-3. copy of deed to the Property;

A-4. series of photographs of the Property; and

A-5. site plan of the Property.

5. Neither the Applicant's attorney or land planner nor Township officials was able to locate the Township's records of the development of the property with the exception of a 1954 Zoning Board of Adjustment decision and transcript.

6. The Property is located in an R-5 Residence District and is rectangular in shape with a frontage of 60 feet and a depth of 200 feet. Accordingly, the Property conforms as to lot area and width.

7. The Property is improved by a principal 2½-story residential building that now contains three apartment units. In 1954, the record before the Zoning Board of Adjustment contains the then-applicant's representation that the building contained three dwellings.

8. The Property is also improved by an accessory unattached garage. This building had been improved by the conversion of an area of the first floor and the second floor for an apartment.

9. At Appeal No. 661, the then-applicant sought zoning relief in order to occupy the apartment in the garage and offered to use the garage/apartment as a summer place for his personal use while he performed caretaking duties and not as a rental dwelling use.

10. On October 26, 1954, the Zoning Board of Adjustment granted zoning relief to allow the use of the garage for living quarters subject to the following conditions:

- a. "that no heat be installed;
- b. that it be not occupied except during the summer months; and
- c. that it not be rented or occupied by any other person and that this right shall cease when the said Harry Mackleer shall sell or cease to occupy the premises."

11. Applicant requests to eliminate the imposed conditions of previous zoning appeals in order to allow someone other than the owner to occupy the apartment over the garage on the Property.

12. Howard Lichtman of GLP Architects, PC, was sworn and accepted as an expert in architecture and land planning on behalf of Applicant.

13. Mr. Lichtman testified that the existing 2½ story structure, which faces out onto Ashbourne Road, contains three residential apartment-type units, each occupying one floor.

14. Each apartment has two bedrooms, one full bathroom, and a full kitchen. Each apartment is served by two means of egress.

15. Mr. Lichtman testified that the apartment dwelling in the existing unattached garage contains two bedrooms and one bathroom on the second floor and a full kitchen on the first floor.

16. The apartment/garage unit has heat, electricity, air conditioning, smoke detectors, and fire separations.

17. Mr. Lichtman testified that the Zoning Code would require 1½ parking spaces per dwelling unit or a total of six parking spaces if the Zoning Board grants relief. Mr. Lichtman demonstrated that the parking spaces can be accommodated through a reconfiguration of the existing paving on the Property. On-street parking is permitted directly in front of the Property on Ashbourne Road.

18. Mr. Lichtman prepared and presented a plan of the Property. However, the plan was not sealed and provided no dimensions of the Property or the structures on the property.

19. Mr. Lichtman admitted that this scheme of apartment-type units is not permitted in an R-5 Residence District.

20. Applicant produced no building permits or any other document that would support a finding that the installation of heat was in accordance with governing zoning or building code.

21. At the time of purchase, the Applicant was aware that there was no use and occupancy certificate for the apartment unit above the garage and that it could not be lawfully rented for a dwelling.

22. The Property is currently used for three residential units, and the residential use is generally permitted in the zoning district.

23. Harry Mackleer ceased to occupy the premises before the Applicant acquired the Property.

24. Harry Mackleer or his heir ceased to own the Property at a time no later than the conveyance of the Property to Applicant.

25. Applicant did not demonstrate a hardship.

26. A grant of relief would be contrary to the public interest.

### **DISCUSSION**

Applicant Patricia A. Fiedler acquired the Property at 309 Ashbourne Road in 2008. There is little record of permits and improvements to the Property that can be found in the Township's record. For purposes of this decision, the Zoning Board agrees that, in 2008 and since at least 1948, the Property has been improved by a 2 1/2-story building that contains three two-bedroom apartments. Each apartment occupies one floor and has a full bathroom and a full kitchen. Each apartment has two methods of exit.

The Property also contains a two-story garage building. The second story of the garage has been converted to a two-bedroom apartment, and a kitchen has been installed on the first floor of the building. In 1954, Harry Mackleer owned the Property. Mr. Mackleer

petitioned the Zoning Board of Adjustment in order to use the garage as a summertime caretaker dwelling. Mr. Mackleer represented to the ZBA that he would not install heat in the apartment, would use it for his own use while performing caretaker duties and would not convert the area into a rental apartment.

The ZBA granted relief subject to three specific conditions: (1) no heat would be installed in the Property; (2) the apartment would not be occupied except in the summer months; and (3) that the apartment would not be rented or occupied by anyone other than Harry Mackleer. The ZBA further provided that the occupancy right would cease when Mr. Mackleer either cease to own the Property or ceased to occupy the premises. There is no record of this decision having been appealed or altered prior to this application.

Applicant provided no other record of any permitting activity at the Property and now asks the Zoning Board to relieve the Property from the 1954 conditions.

Before examining Applicant's claims, the Board notes that the right to occupy the garage apartment under any circumstances has now lapsed by the terms of the grant of relief. Accordingly, there are no conditions to use which have survived and from which a petition is appropriate.

Assuming, arguendo, that a right to occupy the garage apartment survives, the Applicant failed to create a record showing that the interests protected by the restrictions imposed by the conditions to the grant of relief no longer require protection. In order to earn relief from the restrictions of a condition to zoning relief, an applicant must show that the interest protected by the condition no longer requires protection or new grounds (*i.e.* unnecessary hardship) to support the relief. The lawfulness of restrictions of the Zoning Code, § 295-42 *et*

*seq.*, limiting residential use to single-family homes and to townhomes under certain conditions has been well settled. *See Belle Terre v. Boraas*, 416 US 1 (1974) ("the police power is not confined to elimination of filth, stench, and unhealthy places; it is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion, and clear air make the area a sanctuary for people"). Applicant presents few facts and no legal basis for abandoning the limitation against the extension and additional to existing multi-family use in these circumstances.

Considering the application as one for a variance to allow the Property to be used for a four-family use, Applicant has failed to demonstrate an unnecessary hardship. To the contrary, the Property enjoys a use -- the existing triplex.

Section 910.2(a) of the MPC clearly empowers the Board to grant variance only in a matter where the Board can make all of the following findings where relevant:

- (1) That there are unique physical circumstances or conditions, including the irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstance or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the appellant.
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In order to grant a variance, the Board must be empowered by authority delegated through the MPC. The requirements for a variance are, in this case, clear and bind the Board's discretion. Accordingly, upon the record in this matter, the Board is without power to grant relief and must deny Applicants' request for variance.

#### CONCLUSIONS OF LAW

1. Modification of the previously granted zoning relief to allow an occupant other than the owner of the Property to rent and occupy the existing apartment over the garage is not permitted by the Cheltenham Township Zoning Ordinance. However, in accordance with the Pennsylvania Municipalities Planning Code and the Cheltenham Zoning Ordinance, the Cheltenham Township Zoning Hearing Board is empowered to hear and decide requests for variances where it is alleged that strict conformance with the governing ordinances would result in unnecessary hardship.

2. The governing R-5 Residence District use regulations generally prohibit multi-family use and particularly the additional use of the garage apartment as a dwelling at the Property.

3. By grant of relief at Appeal No. 661, the Zoning Board of Adjustment granted the then-applicant/owner zoning relief to occupy the premises subject to specific conditions.

4. In accordance with the terms of the Zoning Board of Adjustment decision, the grant of relief to allow any dwelling occupancy of the garage lapsed in accordance with the terms of the decision that limited the relief to the time during which Harry Mackleer owned the Property and occupied the garage apartment during summer months.

5. Conversion of the Property to an all season dwelling is not supported by building or zoning permits and the use as a rental apartment is not lawful.

6. Applicant has not demonstrated that the protections of the conditions to the 1954 grant of relief are no longer necessary.

7. In addition and under the circumstances of this matter, Applicant has not met her burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief would result in an unnecessary hardship.

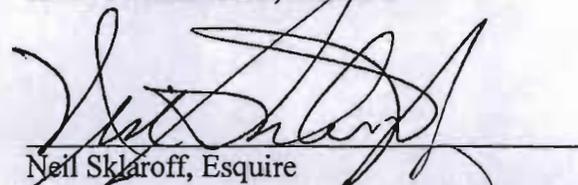
8. Applicant has not established a hardship and is not entitled to a variance from the strict enforcement of the regulations of the R-5 Residence District.

**DECISION**

**WHEREFORE**, this 10<sup>th</sup> day of November, 2012, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, denies Applicant's request for relief.

**CHELTENHAM TOWNSHIP ZONING HEARING BOARD**

**PETER LABIAK, Chairman**  
**ALAN S. GOLD, Vice Chairman and Secretary**  
**AMEE FARRELL, Member**



Neil Sklaroff, Esquire  
Solicitor to the Cheltenham Township Zoning Hearing Board

**THIS DECISION IS OFFICIALLY ISSUED ON JANUARY 10, 2013.**

January 31, 2013

COMMISSIONERS OF CHELTENHAM TOWNSHIP  
ELKINS PARK, PA 19027

COMMISSIONERS OF CHELTENHAM TOWNSHIP  
REPORT OF THE BUILDING INSPECTOR FOR JANUARY, 2013

	# PERMITS	TOT. FEES	\$ VALUE
<b>RESIDENTIAL</b>			
RENOVATIONS / ALTERATIONS	43	3,802	190,000
<b>MULTI-FAMILY</b>			
RENOVATIONS / ALTERATIONS	0	0	0
<b>COMMERCIAL</b>			
RENOVATIONS / ALTERATIONS	9	2,105	105,000
<b>INSTITUTIONAL</b>			
RENOVATIONS / ALTERATIONS	0	0	0
<b>FENCE</b>	0	0	0
<b>JANUARY, 2013</b>	52	5,907	295,000
<b>JANUARY, 2012</b>	38	15,082	755,600
<b>YEAR-TO-DATE 2013</b>	52	5,907	295,000
<b>TOTAL 2012</b>	604	224,950	11,247,500
<hr/>			
<b>HEATING &amp; AIR CONDITIONING</b>			
<b>JANUARY, 2013</b>	6	890	44,000
<b>JANUARY, 2012</b>	3	3,565	178,250
<b>YEAR-TO-DATE 2013</b>	6	890	44,000
<b>TOTAL 2012</b>	48	20,671	1,033,550
<hr/>			
<b>ELECTRICAL</b>			
<b>JANUARY, 2013</b>	4	220	10,000
<b>JANUARY, 2012</b>	9	9,749	487,450
<b>YEAR-TO-DATE 2013</b>	4	220	10,000
<b>TOTAL 2012</b>	80	20,055	1,002,750
<hr/>			
<b>PLUMBING</b>			
<b>JANUARY, 2013</b>	6	580	28,000
<b>JANUARY, 2012</b>		NOT PREVIOUSLY RECORDED	
<b>YEAR-TO-DATE 2013</b>	6	580	28,000
<b>TOTAL 2012</b>		NOT PREVIOUSLY RECORDED	

  
\_\_\_\_\_  
David R. Jones  
Interim Director - Engineering, Zoning & Inspections