

## **BUILDING AND ZONING COMMITTEE**

### **AGENDA**

**WEDNESDAY, AUGUST 3, 2011**

**8:00 P.M.**

**CURTIS HALL IN CURTIS ARBORETUM  
CHURCH ROAD AND GREENWOOD AVENUE**

**MICHAEL J. SWAVOLA – CHAIRMAN  
ART HAYWOOD – VICE CHAIRMAN  
KATHY A. HAMPTON - MEMBER  
CHARLES D. MC KEOWN – MEMBER  
J. ANDREW SHARKEY – MEMBER  
MORTON J. SIMON, JR. – MEMBER  
HARVEY PORTNER – EX-OFFICIO MEMBER**

1. Review of the Zoning Hearing Board Agenda for August 8, 2011; see attached.
2. Review of the minutes for the Planning Commission meeting of July 25, 2011 (to be forwarded prior to the meeting).
3. Requests for Certificates of Appropriateness for signage.
4. Review of the draft Age-Restricted Overlay District Ordinance (see attached).
5. Review of Recent Decision(s) of the Zoning Hearing Board  
(Review of the Zoning Hearing Board Decision on Appeal No. 3336, Ashbourne Matrix L.P. ("Ashbourne Country Club"), will not be discussed due to pending litigation).
6. Report of the Building Inspector for July 2011 (see attached).
7. Old Business
8. New Business
9. Citizens' Forum
10. Adjournment



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David G. Kraynik  
Township Manager

**ZONING HEARING BOARD**

**AGENDA**

**FOR**

**AUGUST 8, 2011**

## NOTICE

**NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 8340, 8360 and 8380 Old York Road and 50 Breyer Drive, 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, July 25, 2011, at 7:30 P.M. at the Township Administration Building Boardroom, 8230 Old York Rd. Elkins Park, PA 19027.**
- b. **Cheltenham Township Building and Zoning Committee on Wednesday, August 3, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, August 8, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

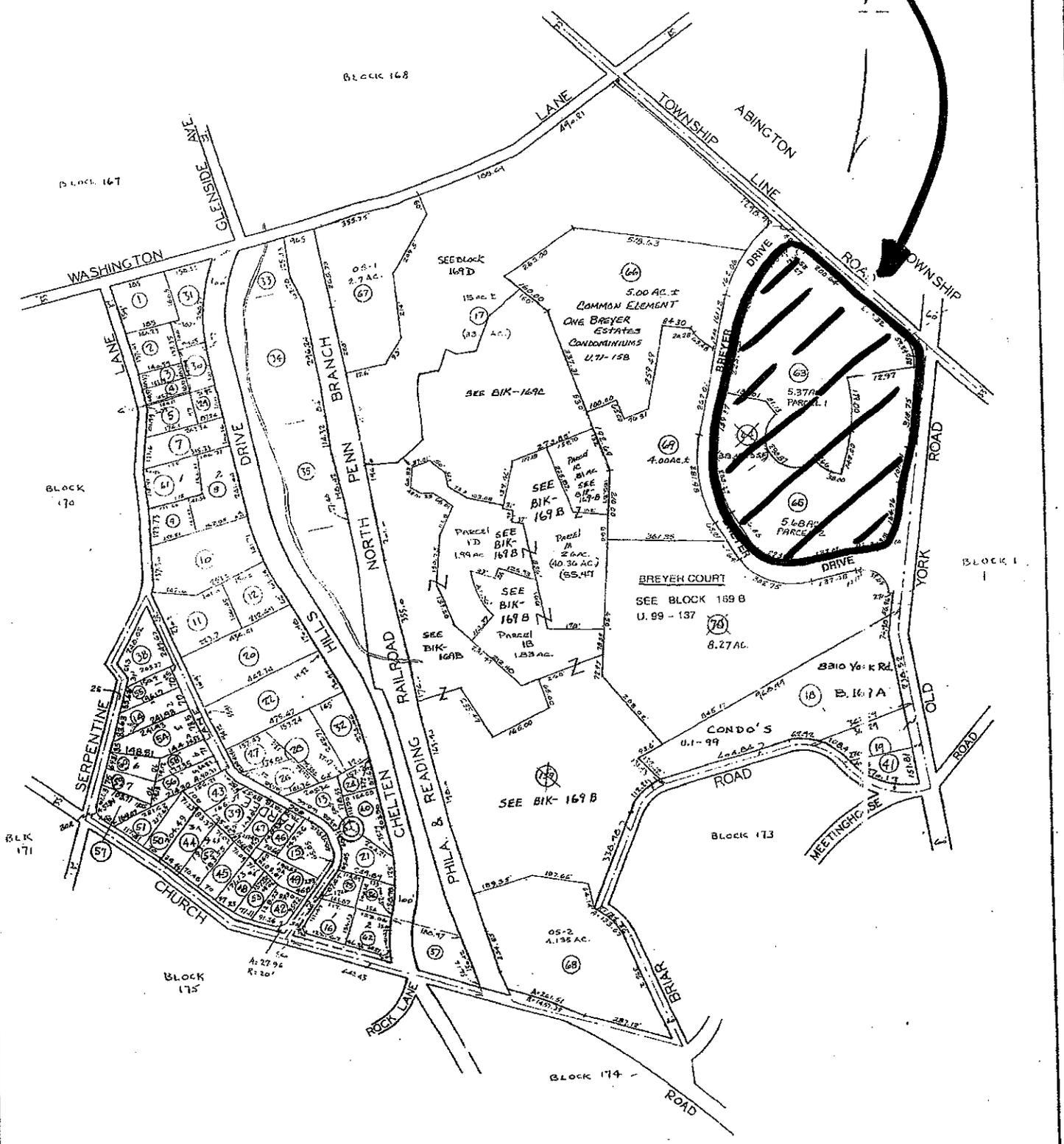
**APPEAL NO. 3406** –(Continued) Appeal of Salus University (formerly “Pennsylvania College of Optometry” (“PCO”), owner of premises known as 8340, 8360 and 8380 Old York Road and 50 Breyer Drive, Elkins Park, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to erect two (2) free-standing signs: one on the Township Line Road frontage of premises and one on the Old York Road frontage of the premises; said free-standing signs having a sign area of 53.83 SF (7.68’H x 7.01’W) and a sign height of 8.68’; said premises being within the Class C-1 Commercial District:

- a. Applicant requests a Determination from the Zoning Hearing Board that the Premises is subject to the signage requirements in CCS 295-197.C.(1) which includes properties located within the C-1 Commercial District where there is an individual or single use of property.
- b. If the ZHB rules in the affirmative on Item a., above, Applicant requests the following variances from CCS 295-197.C.(1)(a):
  - i. For aforesaid signs being the fourth and fifth free-standing signs on the premises instead of the maximum permitted one (1) free-standing sign.
  - ii. For aforesaid signs having a sign area of 53.83 ± SF instead of the maximum permitted 50 S.F.
- c. In the alternative to Items a. and b., above, Applicant requests a Determination from the ZHB that the premises is subject to the signage requirements of CCS 295-197.A. which includes “Institutional Uses” in residential and multiple dwelling Zoning Districts.
- d. If the ZHB rules in the affirmative on Item c., above, Applicant requests the following variances from CCS 295-197.A.(4):
  - i. For aforesaid signs being the fourth and fifth free-standing signs on the premises instead of the maximum permitted three (3) free-standing signs (one per street frontage).
  - ii. For aforesaid signs having a sign area of 53.83 ± SF instead of the maximum permitted 20 SF.
  - iii. For aforesaid signs having a sign height of 8.68’ instead of the maximum permitted 4’.
  - iv. For aforesaid signs being internally illuminated instead of the required external illumination.

**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.**

8340, 8360, 8380, OLD YORK RD.



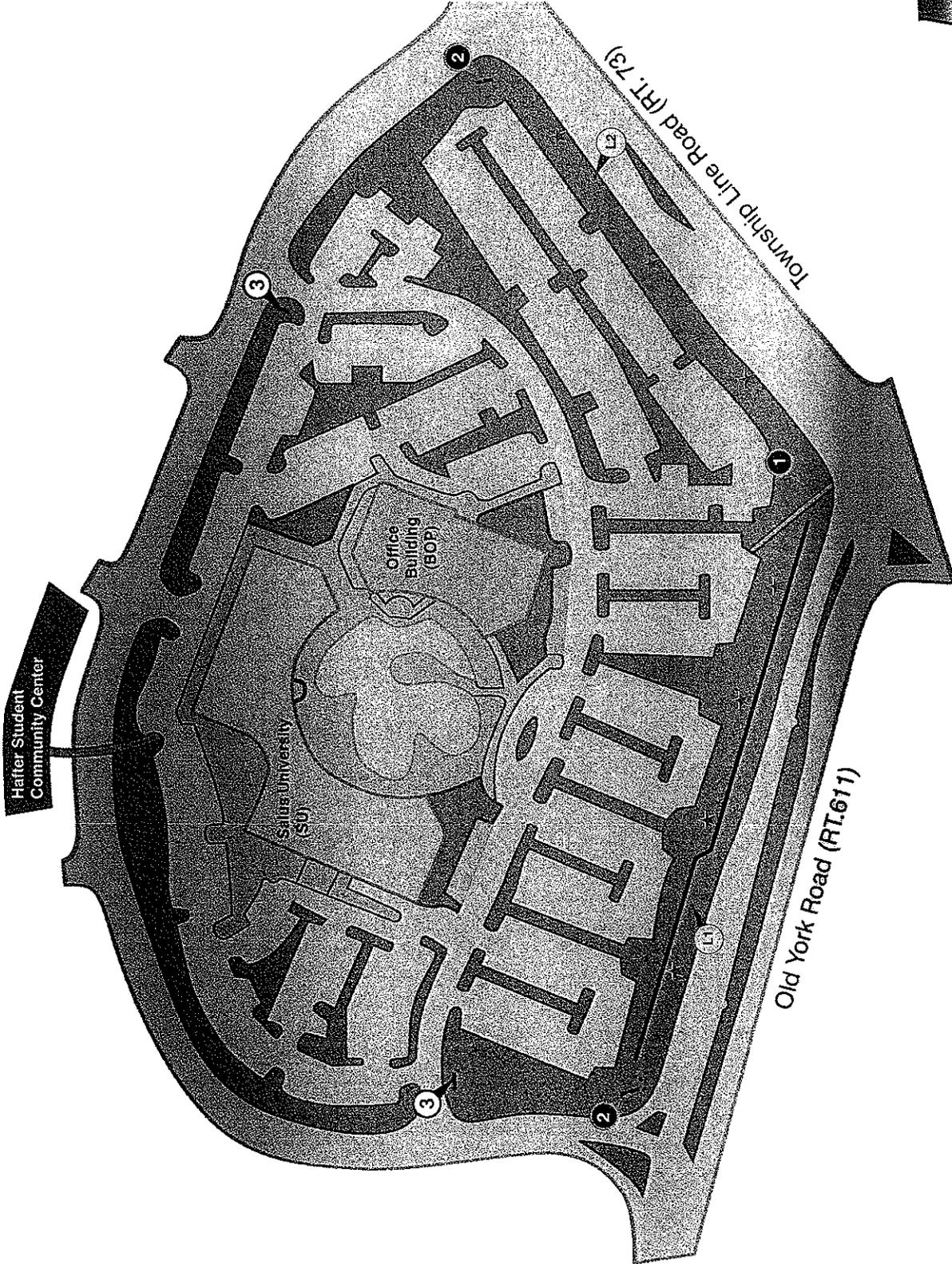
24B 3406-4

CHE TENHAM TOWNSHIP		REVISED
MONTGOMERY CO. PA.		
REAL ESTATE REGISTRY		
<b>BLOCK 169</b>		
SCALE - 200	DRAWN BY F.P.K.	
AUG. 10, 1938.	CHECKED BY H.M.K.	

# Salus University Map With Signage Placement

Exterior Signage

Hafter Student  
Community Center



# SALUS

## Signage Location Key

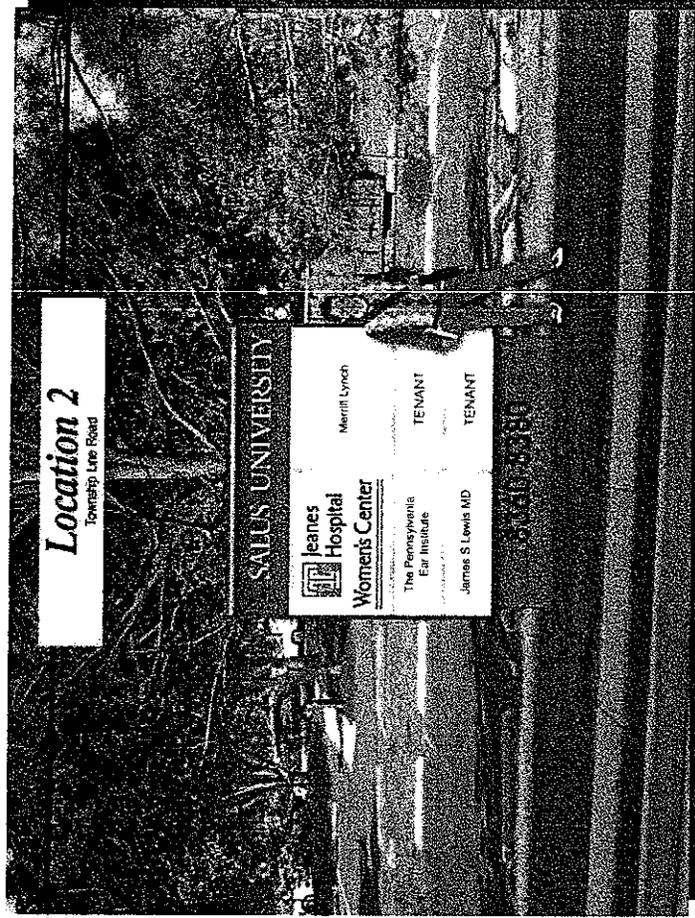
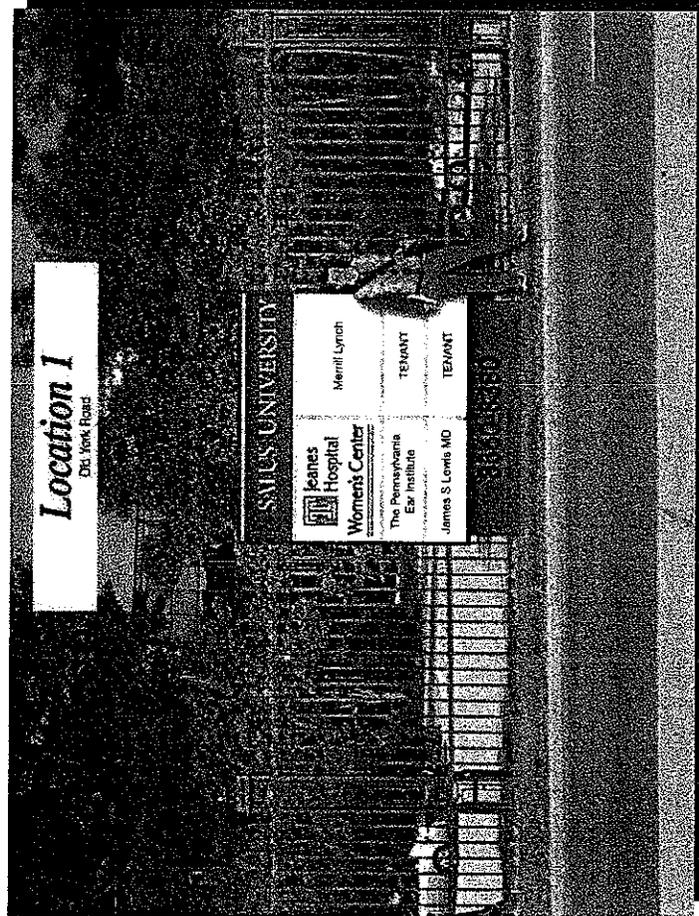
- Main Identification (Existing Signage)
- Directional/Tenant (Existing Signage)
- Location 1&2 New Tenant Sign

## KEY

- Salus University (SU) & Parking
- Office Building (BOP) & Parking
- Hafter Student Center
- Hafter Parking
- Parking
- Sidewalk



Single Face, Double Internal Post, Custom Painted Finish, Illuminated





**NOTICE**

**NOTICE IS HEREBY GIVEN** that an application for Zoning Relief for 7437 Coventry Lane Melrose 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, July 25, 2011, at 7:30 P.M. at the Township Administration Building Boardroom, 8230 Old York Rd. Elkins Park, PA 19027.
- b. Cheltenham Township Building and Zoning Committee on Wednesday, August 3, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

**This application will be heard by the Zoning Hearing Board on Monday, August 8, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

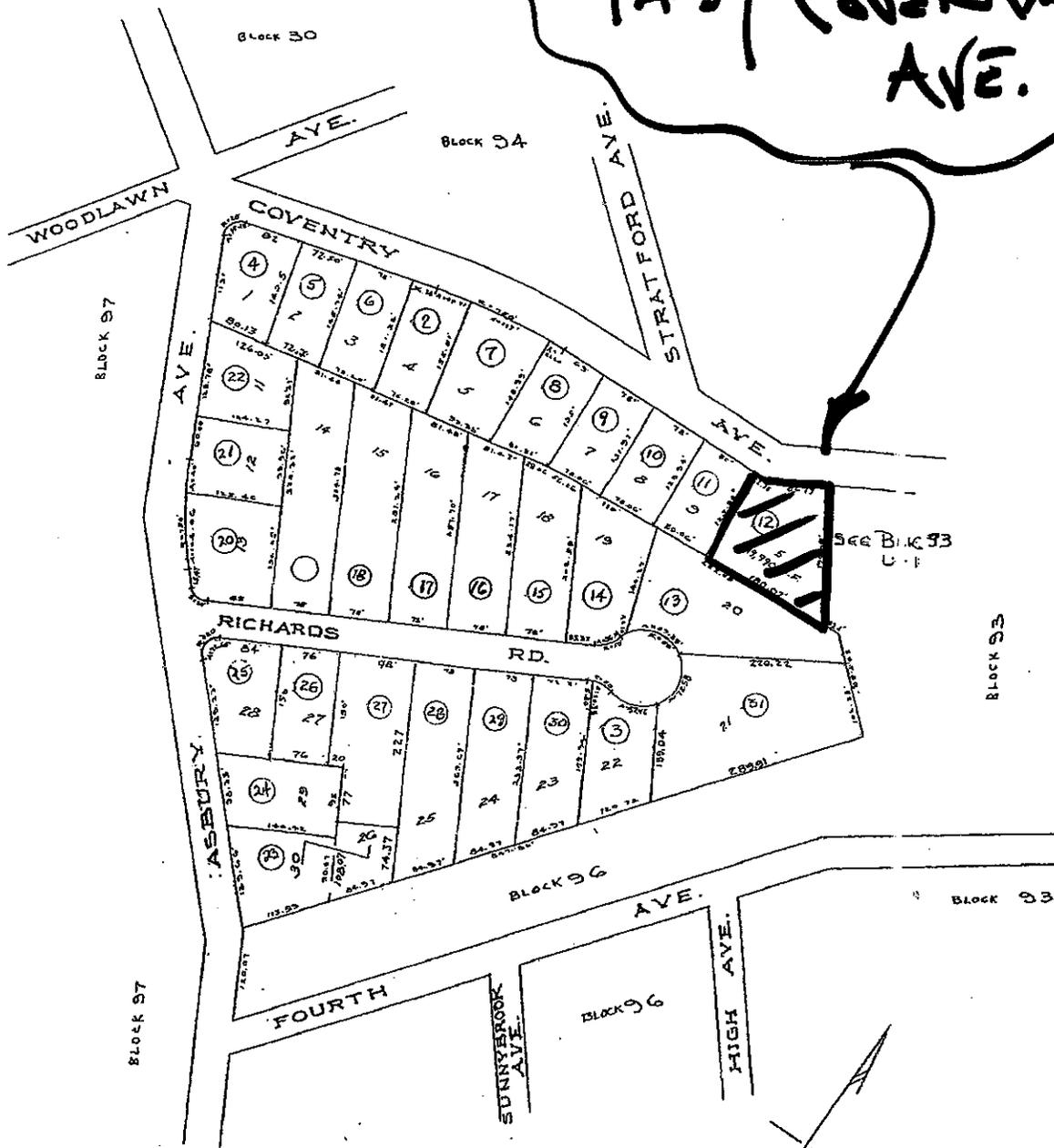
**APPEAL NO. 3409**: Appeal of Kyung-Yun Shumaker, owner of premises known as 7437 Coventry Avenue Melrose Park PA 19027, from the Decision of the Zoning Officer for the following Zoning Relief in order to use two (2) rooms as an acupuncture clinic:

- a. A Variance from the Rules and Regulations of the Class R-4 Residence District as outlined in CCS 295-36. in order to operate an acupuncture clinic instead of one of the enumerated permitted uses.
- b. A Determination as to the amount of required off- street parking.

**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.**

7437 COVENTRY AVE.



SEE BLK 93

CH. ILENHAM TOWNSHIP  
 MONTGOMERY CO. PA.  
**BLOCK 95**  
 SCALE 1"=100'

ASBURY ACRES

ZAB 3409-4

NOTICE

NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 7900 Old York Road Elkins Park, PA 19027(A/K/A "Elkins Park House") will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:

- a. Cheltenham Township Planning Commission on Monday, July 25, 2011, at 7:30 P.M. at the Township Administration Building Boardroom, 8230 Old York Rd. Elkins Park, PA 19027.
- b. Cheltenham Township Building and Zoning Committee on Wednesday, August 3, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

This application will be heard by the Zoning Hearing Board on Monday, August 8, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

APPEAL NO. 3410: Appeal of New Cingular wireless PCS, Prospective tenant at Premises known as 7900 Old York Road Elkins Park, PA 19027(a/k/a "Elkins Park House") from the Decision of the Zoning Officer for the following Zoning Relief in order to upgrade an existing wireless communications facility by adding three (3) new antennas and by placing additional equipment with the existing equipment room:

- a. A Variance from the Rules and Regulations of the Class M-3 Multiple Dwelling and Office District as outlined in Article XIV of Chapter 295 of the Cheltenham Code, as follows:
  - i. From CCS 295-89. for the proposed wireless communications facility upgrade instead of one of the enumerated permitted uses.
  - ii. From CCS 295-95. for a structure height of 108' ± above grade level ("AGL") instead of the maximum permitted 85' AGL

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.

WHITEWOOD

ROAD

AVENUE

7900  
 OLD YORK RD

TELECOMMUNICATION  
 FACILITY  
 LOCATED

PARKING

GARAGE  
ENTRANCE

POOL  
HOUSE

POOL

PARKING

UNITS ① THRU ②②

PARKING

②③  
COMMON ELEMENT  
9.77 Ac.

SPRING

OLD YORK

ROAD

ELKINS PARK HOUSE  
7900 YORK ROAD

OUT OF BLOCK 179, UNITS 2, 3 & 4  
CONDOMINIUM PLAN BOOK C-2, PAGE 2

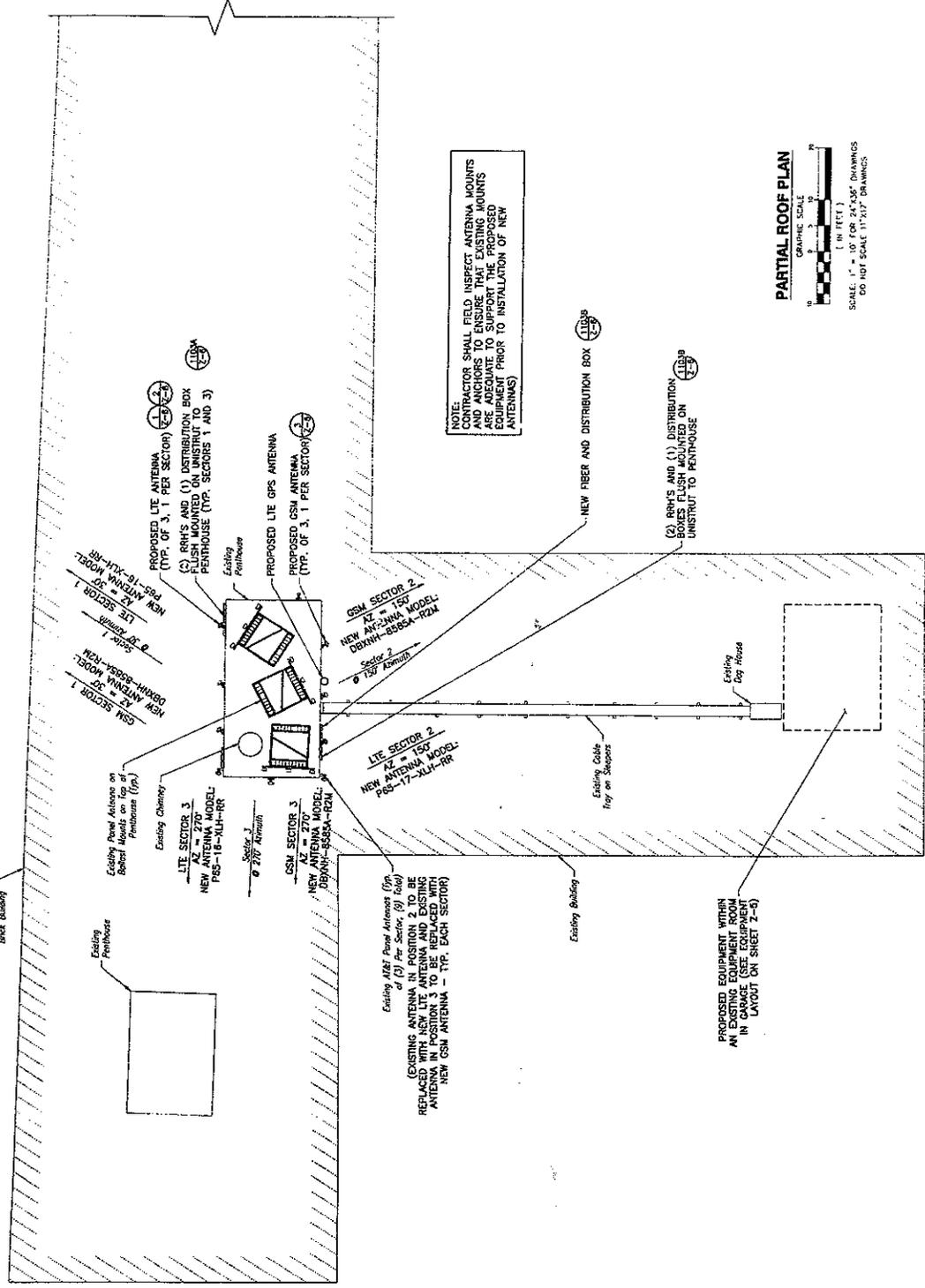
CHELTENHAM TOWNSHIP  
 BLOCK 179A  
 SCALE: 1in. = 10ft.



243 3410-4

179A





**NOTE:**  
 CONTRACTOR SHALL FIELD INSPECT ANTENNA MOUNTS AND ANCHORS TO ENSURE THAT EXISTING MOUNTS ARE ADEQUATE TO SUPPORT THE PROPOSED EQUIPMENT PRIOR TO INSTALLATION OF NEW ANTENNAS

(2) RRHS AND (1) DISTRIBUTION EQUIPMENT MOUNTS ON UNSTRUCTURED PENHOUSE

PROPOSED EQUIPMENT WITHIN AN EXISTING EQUIPMENT ROOM IN GARAGE (SEE EQUIPMENT LAYOUT ON SHEET 2-5)

EXISTING RRHS PENTHOUSE (TYP. OF 3, 1 PER SECTOR)  
 (3) RRHS AND (1) DISTRIBUTION BOX FLUSH MOUNTED ON UNSTRUCTURED PENHOUSE (TYP. SECTORS 1 AND 3)



DATE		BY	CHKD	APP'D
NO. DATE		REVISED	BY	FOR
SCALE: AS SHOWN		ENCLOSED BY	DATE	BY

**LTE PROJECT**  
 PARTIAL ROOF PLAN  
 JOB NUMBER: PAL01421  
 FA NUMBER: 10009817  
 SITE NAME: LAMOTT  
 7400 OLD YORK ROAD  
 ELKINS PARK, PA 19027



**BECHTEL COMMUNICATIONS, INC.**  
 200 NORTH WARNER ROAD  
 SUITE 180  
 KING OF PRUSSIA, PA 19405  
 PHONE: (610) 350-7704

**Dewberry**  
 Dewberry-Goodland, Inc.  
 1000 MARKET STREET  
 PHILADELPHIA, PA 19106  
 JOB / 50014130

**NEW CINGULAR WIRELESS PCS, LLC**  
 200 NORTH WARNER ROAD  
 KING OF PRUSSIA, PA 19406

218 344-83



## NOTICE

NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 111 Waverly Road Wyncote, PA 19095 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:

- a. Cheltenham Township Planning Commission on Monday, July 25, 2011, at 7:30 P.M. at the Township Administration Building Boardroom, 8230 Old York Rd. Elkins Park, PA 19027.
- b. Cheltenham Township Building and Zoning Committee on Wednesday, August 3, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

This application will be heard by the Zoning Hearing Board on Monday, August 8, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

APPEAL NO. 3411: Appeal of Scott Goss, owner of Premises known as 111 Waverly Road Wyncote, PA 19095, from the Decision of the Zoning Relief in order to construct a one and two storey addition (434 ± SF) to the rear of the residence:

- a. From the Rules and Regulations of the Class R-4 Residence District as outlined in Article VII of Chapter 295 of the Cheltenham Code, as follows:
  - i. A Variance from CCS 295-38. for a Greater Building Area of 29.64% instead of the maximum permitted 20% (the existing Building Area is 23.47%).
  - ii. Special Exceptions in accordance with CCS 295-39.B.(1), as follows:
    1. For a lesser side setback of 6' ± from the northeast corner of the addition to the easterly property line instead of the minimum required 10'.
    2. For a lesser aggregate side yard setback of 15.5' ± instead of the minimum required 30'.

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.

BLK. 141

BLK. 140

RICES

MILL

ROAD

WAVERLY

HEWETT

ROAD

111 WAVERLY RD

BLK. 147

ROAD

BLK. 154

NORTH AVE.

BLK. 148

GLENSIDE

WAVERLY RD.

BLK. 148

N BENT RD.

HEWETT

ROAD

BLK. 152

GLENVIEW AVE.

BLK. 150

PARK LANE

BLK. 150

ROAD

CHELSE HAM TOWNSHIP  
MON GOMERY CO. PA.

REAL ESTATE REGISTRY

BLICK 149

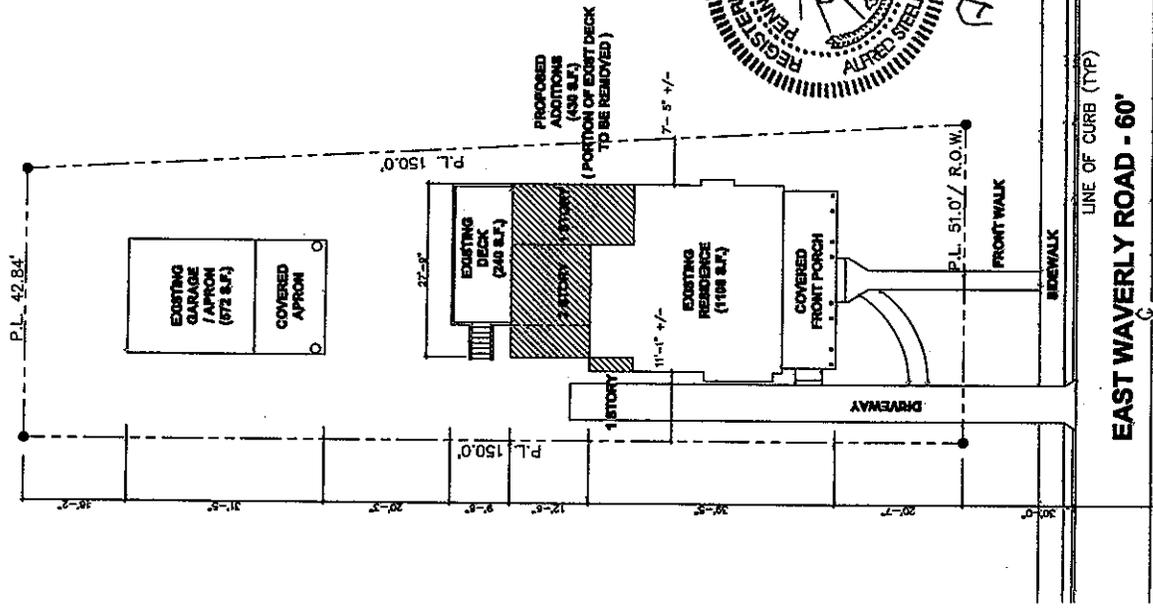
SCALE - 1" = 100'  
DRAWN BY: J.E.K.  
JULY - 12 - 1977  
CHECKED BY: H.N.B.

REVISED

ZAB 3411-4

**SITE INFORMATION**

TOTAL LOT AREA: 7600 S.F.  
 ALLOWABLE BUILDING COVERAGE: 20% = 1520 S.F.  
 EXISTING BUILDING COVERAGE: 1680 S.F.  
 EXISTING DECK COVERAGE: 508 S.F.  
 TOTAL BUILDING COVERAGE: 2278 S.F. = 30%  
 430 S.F.  
 PROPOSED NEW BUILDING COVERAGE: (LESS EXISTING DECK AREA)  
 PROPOSED TOTAL BUILDING COVERAGE: 2360 S.F. = 30.92%  
 (INCLUDES EXISTING REMAINING DECK)



*Alfred S. Jones*

SITE PLAN  
 1/20" = 1'-0"

*ZHB 3411-7*

*ZHB 3411-7*

OWNER: GOSS RESIDENCE 111 WAVERLY ROAD WYNCOTE, PA	ADDITION
ARCHITECT: ALFRED S. JONES 1515 EASTON ROAD, ABINGTON, PA 19001 P: 215 219 1350	DATE: 7.13.11
	DRAWN BY: R.W.
	SCALE: AS NOTED
	DWG. NO: <b>A1</b>

**NOTICE**

NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 7870 Spring Avenue 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, July 25, 2011, at 7:30 P.M. at the Township Administration Building Boardroom, 8230 Old York Rd. Elkins Park, PA 19027.
- b. Cheltenham Township Building and Zoning Committee on Wednesday, August 3, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

This application will be heard by the Zoning Hearing Board on Monday, August 8, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

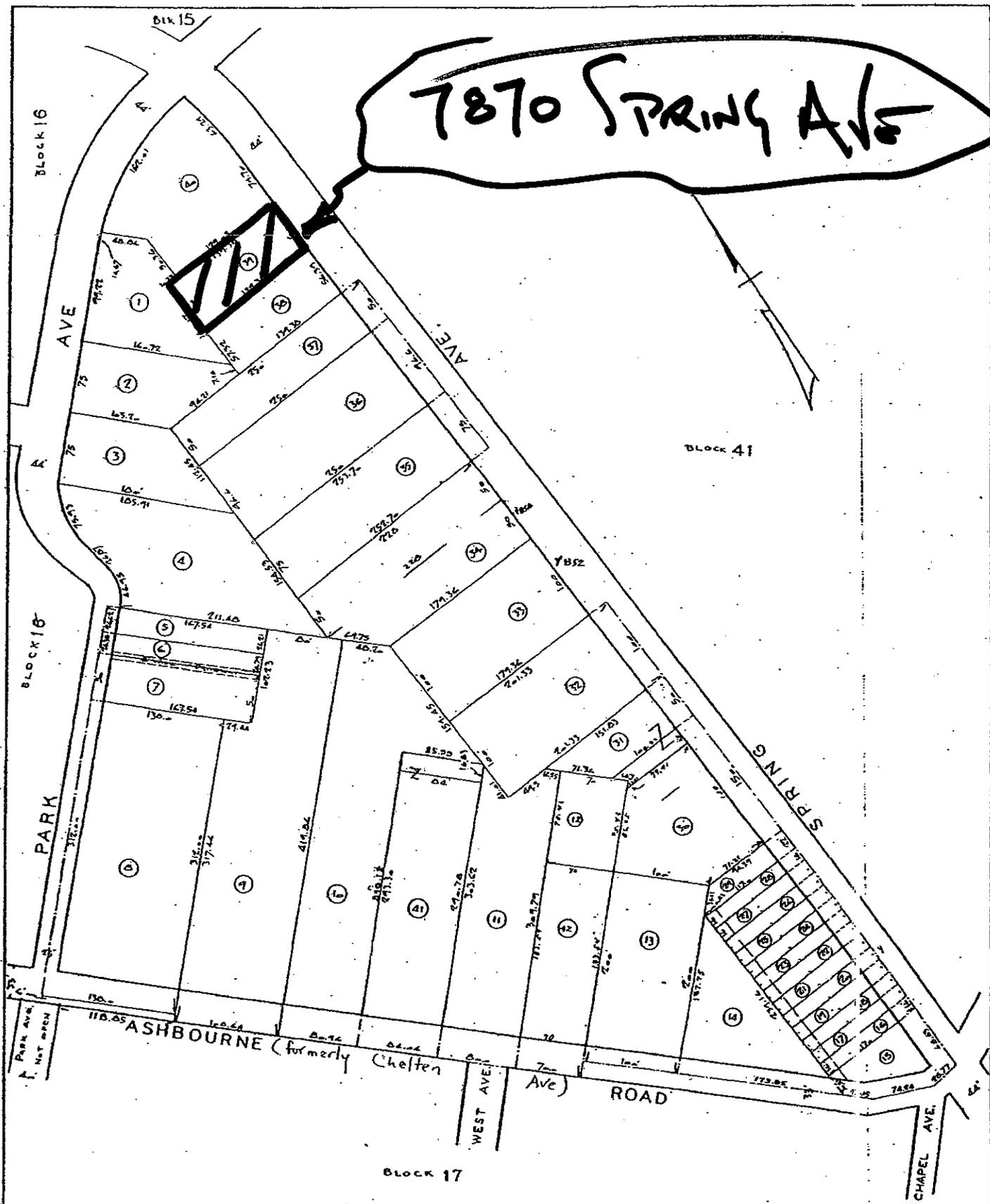
**APPEAL NO. 3412:** Appeal of Elkins Associates, LLC, owner of Premises known as 7870 Spring Avenue Elkins Park, PA 19027 from the Decision of the Zoning Relief in order to use the front portion of the first floor as a book and music shop:

- a. A Variance from the Rules and Regulations of the Class M-2 Multiple Dwelling District as outlined in CCS 295-80. for the Proposed Retail Use instead of one of the enumerated permitted uses.
- b. A Determination as to the number of required off-street parking spaces.

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.

7870 SPRING AVE



CHELTEMHAM TOWNSHIP  
 MONTGOMERY CO PA  
 REAL ESTATE REGISTRY  
**BLOCK 40**  
 SCALE 1" = 60'  
 JULY 1, 1939. DRAWN BY H.M.C.  
 CHECKED BY J.M.C.

ZHTS 3412-4

ZAB 3412-7.1



Supper

35+  
Unit  
Apartment  
Building

7810 Sporn

Top's  
Station

**NOTICE**

NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 8460 Limekiln Pike, Wyncote, PA 19095 (aka Building No. 1 at "Towers at Wyncote" apartment complex), will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:

- a. Cheltenham Township Planning Commission on Monday, July 25, 2011, at 7:30 P.M. at the Township Administration Building Boardroom, 8230 Old York Rd. Elkins Park, PA 19027.
- b. Cheltenham Township Building and Zoning Committee on Wednesday, August 3, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

This application will be heard by the Zoning Hearing Board on Monday, August 8, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.

**APPEAL NO. 3414:** Appeal of Fairfield Wyncote, LLC, owner of Premises known as 8460 Limekiln Pike, Wyncote, PA 19095 (aka Building No. 1 at the "Towers at Wyncote" apartment complex), from the Decision of the Zoning Relief in order to construct and operate a 75' x 132' (9,900 SF) Dog Park for the use of the residents of the Apartment Complex only:

- a. A Determination that a Dog Park is a "customary" accessory use for a Multiple Dwelling and thus permitted per CCS 295-98.D.
- b. In the alternative to a; above, a Special Exception in accordance with the Rules and Regulations of CCS 295-98.E. as the proposed Dog Park is of the same general character as any of the enumerated permitted uses.
- c. In the alternative to a. and b., above, a variance from the Rules and Regulations of the Class C-1 Commercial District as outlined in CCS 295-98. for the proposed Dog Park instead of one of the enumerated permitted uses.

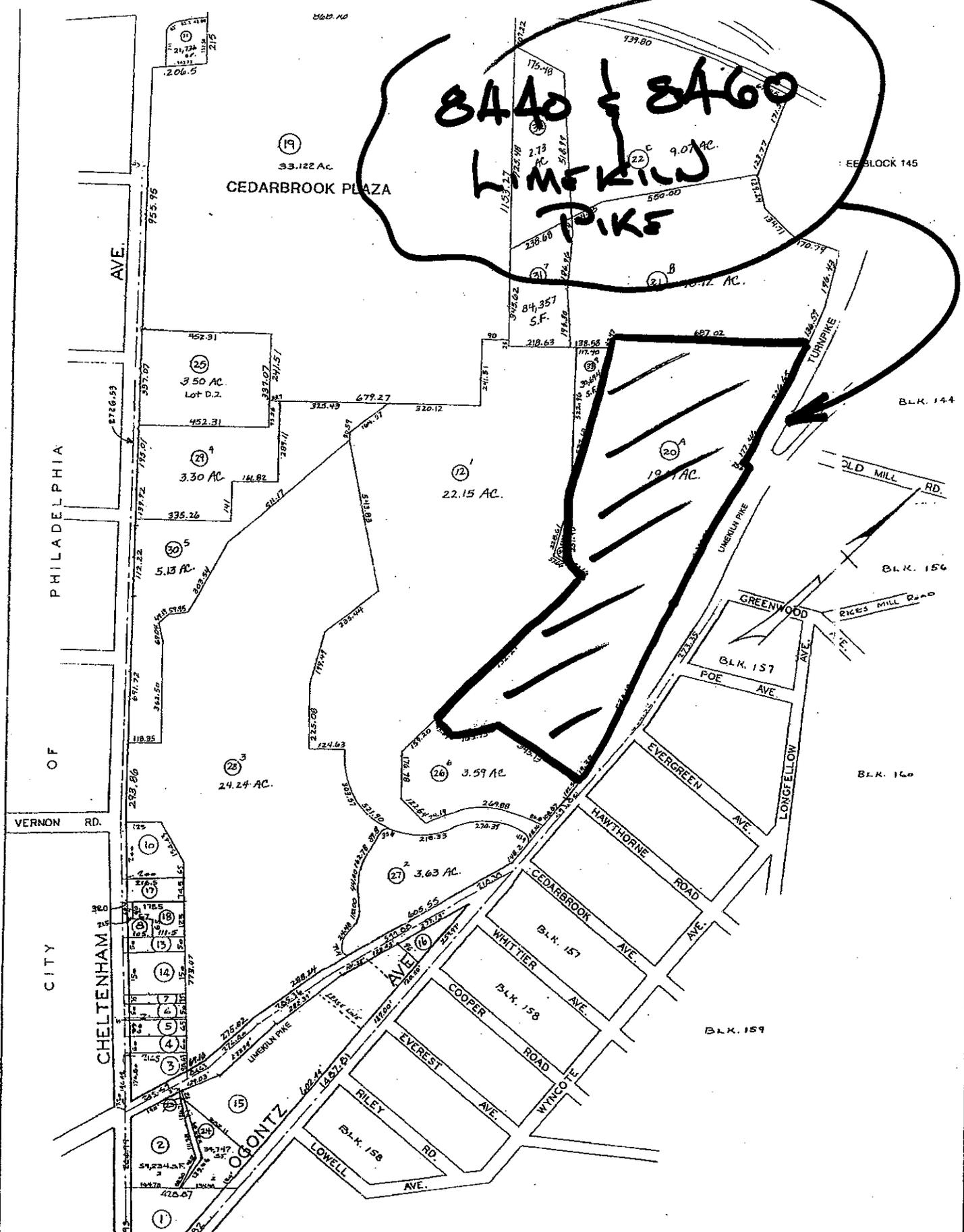
The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.

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.

8440 & 8460  
LIMERICK  
PIKE

33.122 AC.  
CEDARBROOK PLAZA

EE BLOCK 145



CITY OF PHILADELPHIA

VERNON RD.

CHELLENHAM

OGONTZ

BLK. 160

BLK. 159

BLK. 157

BLK. 158

BLK. 157

GREENWOOD

OLD MILL RD.

BLK. 144

BLK. 156

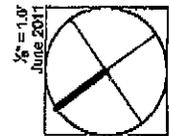
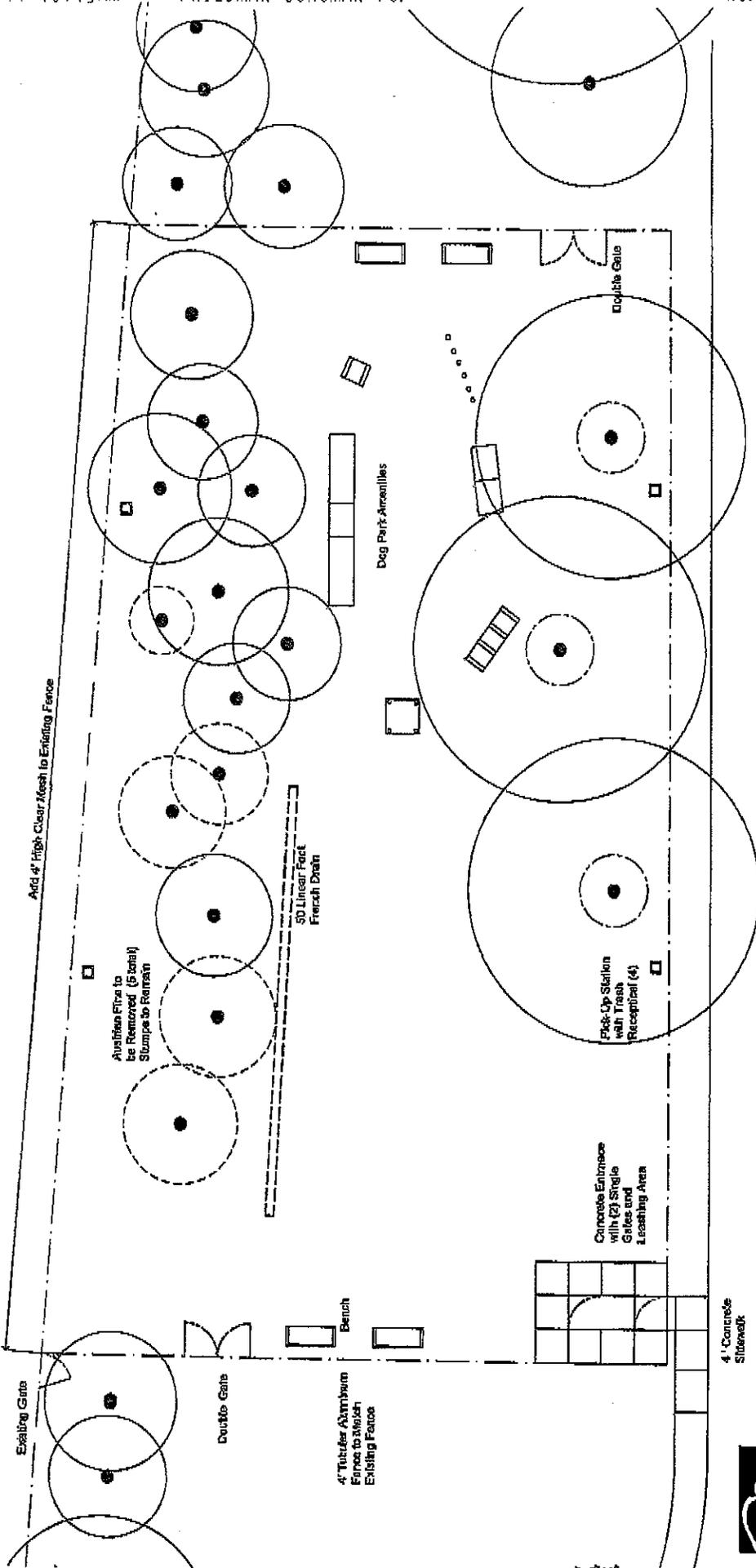
BLK. 145

CHELLENHAM TOWNSHIP MONTGOMERY CO. PA.	REVISED
REAL ESTATE REGISTRY	
<b>BLOCK 146</b>	
SCALE - 1" = 200'	DRAWN BY: P.P.K.
JULY 11 - 1933.	CHECKED BY: H.M.K.

ZNB 3414-4



Route 313



Concept Plan - Dog Park

# Towers at Wyncote

Chesterborn Township, Montgomery County, Pennsylvania

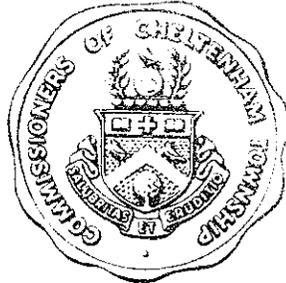


213 3414-3.9

# Township of Cheltenham

Montgomery County, Pennsylvania

**Board of Commissioners**  
Harvey Portner, President  
Art Haywood, Vice President  
Kathy A. Hampton  
Charles D. McKeown  
J. Andrew Sharkey  
Morton J. Simon, Jr.  
Michael J. Swavola



**Administration Building**  
8230 Old York Road  
Elkins Park, PA 19027-1589

Phone: 215 887-1000  
FAX: 215 887-1561  
Website: [cheltenhamtownship.org](http://cheltenhamtownship.org)

**Township Manager**  
David G. Kraynik

## MEMORANDUM

**TO:** David M. Lynch, P.E., P.L.S., Director – Engineering, Zoning & Inspections

**FROM:** Bryan T. Havir, Assistant Township Manager

**RE:** Requests for Certificates of Appropriateness for signage

**DATE:** July 20, 2011

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Messrs. Kratzer and Havir reviewed the three sign permit applications last evening at the Economic Development Task Force (EDTF) meeting that were recently filed with the Township's Building and Zoning Office. They were as follows:

- *580 Township Line Road - Vikki's Nails Spa.* The Committee recommended to the EDTF that the sign be approved on the condition that it has an opaque background with illuminated lettering in the 3' X 12' sign cabinet. The text should be modified to remove the address. Upon motion by Vice Chairman Cohen, the recommendation was unanimously accepted by the EDTF.
- *2 Limekiln Pike – Salon<sup>2</sup>Two.* The Committee recommended to the EDTF that the two (2) façade signs be approved on the condition that it has an opaque background and illuminated lettering in the cabinet portion of the sign. Upon motion by Vice Chairman Cohen, the recommendation was unanimously accepted by the EDTF.
- *61 W. Cheltenham Avenue, Melrose Shopping Center- Springleaf Financial.* The Committee recommended to the EDTF that the sign be approved as submitted. Upon motion by Vice Chairman Cohen, the recommendation was unanimously accepted by the EDTF.

Please schedule these applications for Certificates of Appropriateness to be reviewed by the Building and Zoning Committee at is August 3, 2011 meeting.

BTH/km

cc: David G. Kraynik, Township Manager  
Richard Parkes, Building and Zoning Department

**CHELTENHAM TOWNSHIP  
ORDINANCE NO. \_\_\_\_ - \_\_**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF CHELTENHAM, CHAPTER 295, THEREOF, ENTITLED “ZONING”, BY ADDING DEFINITIONS FOR BUFFER, BUILDING, COMMON OPEN SPACE, DEVELOPABLE ACREAGE, BUILDING COVERAGE, HISTORIC RESOURCE, IMPERVIOUS COVERAGE, INTERNAL ACCESSWAY, FLOODPLAIN, STEEP SLOPES, WETLANDS, RIPARIAN BUFFER, RIPARIAN CORRIDOR, AND STREET TO ARTICLE I; AND BY ADDING A NEW ARTICLE XXXIII, ENTITLED “AGE RESTRICTED OVERLAY DISTRICT”**

**SECTION 1.** The Board of Commissioners hereby amends the Code of the Township of Cheltenham, Chapter 295, entitled “Zoning”, by inserting the following definitions in Article I, Section 295-2.C, in alphabetical order:

**BUFFER** – An area designed to separate the land uses which it abuts and to ease the transition between them. A buffer shall be comprised of vegetation arranged to soften and screen the view from one side to another during all seasons of the year. Unless otherwise specified, buffers may be included as part of the required setbacks and yard areas.

**BUILDING** – Any structure having a roof supported by columns, piers, pipes, studs, walls or other building materials located upon the land. A parking structure shall also constitute a building.

**BUILDING COVERAGE** – The ratio of the building area on a lot to the developable acreage of the lot.

**COMMON OPEN SPACE** – An outdoor portion of a development or tract of land that is designed or functions as a recreational area and/or for the preservation of sensitive natural features. Private yards directly adjacent to a residence shall not be considered common open space.

**DEVELOPABLE ACREAGE OR AREA** – The area within the lot lines, except those portions located within the ultimate right-of-way of existing public or private roads, wetlands, floodplains, land continuously covered by water, watercourses, riparian buffers, or slopes 15% or greater.

**FLOODPLAIN** – That area defined in Article XXI of this Chapter as the Floodplain Conservation District(s). The floodplain definition contained therein shall be considered the definition for floodplain for all purposes and uses of this Chapter.

**HISTORIC RESOURCE** – A structure listed in the National Register of Historic Places, the Pennsylvania Historic Resources Survey, the Montgomery County Inventory of Historic and Cultural Resources, the Montgomery County Comprehensive Plan, the Cheltenham Township Comprehensive Plan, the Cheltenham Township Inventory of Cultural Resources, a listing of historic and cultural resources compiled by the Board of Commissioners or Planning Commission, or other appropriate documentation, or a structure seeking listing as a historic resource from any of the above listings. The term historic resource shall also include historic accessory uses.

**IMPERVIOUS COVERAGE** – The ratio of the area of all portions of a lot covered in any way so as not to allow the ground beneath to absorb water at a natural rate, to the developable acreage of the lot.

**INTERNAL ACCESSWAY** – A private roadway or driveway providing access to a property from a public or private street.

**RIPARIAN BUFFER** – An area with a width defined by this Chapter, designed to protect the riparian corridor.

**RIPARIAN CORRIDOR** – Lands adjacent to streams, wetlands, and water bodies.

**STEEP SLOPES and STEEP SLOPE AREA** – An area with slopes of 15% or greater as further defined in Article XXII of this chapter as the Steep Slope Conservation District(s). The steep slope definition contained therein shall be considered the definition for steep slopes and steep slope area for a purposes and uses of this chapter.

**STREET** – A right-of-way, whether municipally or privately owned, serving as a means of vehicular travel, furnishing access to abutting properties and space for sewers and public utilities.

**WETLANDS** – Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances to support, a prevalence of vegetation typically adapter for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

**SECTION 2.** The Board of Commissioners hereby adopts the following as Chapter 295, entitled "Zoning", Article XXXIII, "Age Restricted Overlay District".

**§295-240. PURPOSE.**

The purpose of this district is to provide accommodation for age restricted housing developments by establishing regulations to permit development by special exception, tailored to the needs of residents 55 years of age and older, recognizing their different housing needs and relatively reduced impacts on surrounding land uses; and to require protection and preservation of historic resources in the development of land for age restricted housing, as follows:

- A. By providing a greater variety of housing to serve the needs of older persons who prefer an active and independent residential environment.
- B. By encouraging the preservation of the character of neighborhoods adjacent to the district.
- C. By encouraging the preservation of natural features, such as woodlands, streams and open space by allowing compact development.
- D. By promoting a pedestrian environment and providing a pedestrian orientation of buildings and streets.
- E. To address Sections 603, 604, and 605 of the Pennsylvania Municipalities Planning Code by requiring the protection and preservation of historic resources.

**§295-241. OVERLAY.**

The Age Restricted Overlay District shall be permitted by special exception on all parcels meeting the following criteria:

- A. The tract of land to be developed shall be a minimum of 5 acres in gross area and shall have been held in single and separate ownership before and since the date of adoption of this overlay district. No tract proposed for development under this ordinance shall be subdivided, either during or after the development process.
- B. The tract must be located within a Residential or Institutional Zoning District, or the C-1 Commercial District. The C-2, C-3, and C-4 Commercial and Business Districts; and the G Manufacturing and Industrial Districts are specifically excluded from this overlay district.
- C. The tract must have frontage on a state highway and must take access from that highway. Minimum frontage on a state highway shall be as follows:

1. For parcels between 5 and 8 acres: 450 feet
2. For parcels greater than 8 and not more than 12 acres: 750 feet
3. For parcels greater than 12 and not more than 30 acres: 850 feet
4. For parcels greater than 30 and not more than 60 acres: 900 feet
5. For parcels greater than 60 acres: 2500 feet

D. All development under the Age Restricted Overlay District shall comply with the provisions of this Article. If conflict exists between the requirements of this Article and another provision of the Cheltenham Township Zoning Ordinance, the requirements of this Article shall apply.

#### **§295-242. USE REGULATIONS.**

The following uses are permitted in the Age Restricted Overlay District:

- A. Any use permitted in the underlying zoning district, subject to compliance with all provisions of that district.
- B. The following uses are permitted by special exception, subject to the provisions of this Article:
  1. Age restricted housing in accordance with the Federal Fair Housing Act and the standards set forth in this Chapter including, but not limited to, §295-244 K.3.b. An applicant for such a special exception shall demonstrate compliance with Sections 295-243. and 295-244. of this Article as well as the criteria for granting special exceptions provided in Article XXVII.
  2. Retail shops, personal service shops, and professional offices may be permitted as accessory uses within one or more of the principal residential buildings. These uses shall be limited to the first floor only. In addition, such a use(s) may be located in a separate free-standing building(s); however, in that case the total area occupied by such a use(s), including building and parking areas, shall not exceed 5% of the developable acreage of the tract.
  3. Accessory uses customarily incidental to age restricted housing including clubhouse, dining facilities, indoor and outdoor recreational facilities, and maintenance and security facilities.

#### **§295-243. PERFORMANCE STANDARDS.**

- A. Perimeter Setback. (In addition, see setback modifications contained in subsection F.2.)
  1. The minimum building or parking setback from an exterior or perimeter street right-of-way, or a municipal boundary, shall be 100 feet.

2. The minimum building setback from an adjacent property zoned for single family detached or attached use shall be 75 feet. The minimum building setback from property zoned for any other use shall be 50 feet.
3. The minimum parking setback from an adjacent property zoned for single family detached or attached use shall be 50 feet. The minimum parking setback from property zoned for any other use shall be 25 feet. In all cases, driveways shall conform to the parking setback requirement except that portion of the driveway required to make a transverse crossing from the right-of-way to the setback line.

B. Housing Types. The following housing types shall be permitted in the age restricted overlay district:

1. Single family detached dwellings.
2. Single family semi-detached dwellings.
3. Two family detached dwellings.
4. Two family semi-detached dwellings.
5. Townhouses. Within the Age-Restricted Overlay District a row of townhouses shall contain no more than 5 attached units.
6. Midrise Multi-family dwellings. For the purposes of this Article, Midrise Multi-family dwellings shall be defined as multiple dwelling buildings at least 4 stories in height, and no greater than 8 stories or 96 feet in height.

C. Density.

1. The overall density shall not exceed 8 dwelling units per developable acre for single family detached dwellings, single family semi-detached dwellings, two family detached dwellings, two family semi-detached dwellings, or townhouses.
2. The overall density for Midrise Multi-family dwellings shall be as follows:
  - a. 4 or 5 story buildings – 12 units per developable acre
  - b. 6 or 7 story buildings – 15 units per developable acre
  - c. 8 story buildings – 20 units per developable acre
3. In all cases, a single qualifying tract developed under this overlay shall not contain more than 300 total dwelling units.

D. Building coverage.

1. Building coverage shall not exceed 20% of the developable area of the tract.

E. Impervious coverage.

1. Impervious coverage shall not exceed 45% of the developable area of the tract.

F. Maximum building height.

1. Except as provided in subsection F.2., the maximum building height shall be 45 feet, not to exceed three stories.
2. In the case of Midrise Multi-family dwellings, the maximum building height shall be 96 feet, not to exceed 8 stories; however, for every foot or fraction thereof in excess of 45 feet in height, each and every setback requirement shall be increased by 3 feet; and for every story in excess of 3 stories in height, the building coverage limitation shall be reduced by 2% and the impervious coverage limitation by 3%.

G. Building arrangement.

1. The minimum distance between buildings shall be the greater of 30 feet or half the height of the taller building.
2. The maximum building length shall be 160 feet, including angles.
3. Buildings shall be set back a minimum of 25 feet from the cartway of internal accessways. In the case of any internal streets required to be designed with a right-of-way, the 25 foot setback shall be measured from the right-of-way line.

H. Common open space.

1. All development under this Article shall provide not less than 50% of the total area of the tract as common open space. In all instances, all nondevelopable area shall be preserved as common open space, and at least 20% of the developable area shall be included as common open space.
2. Provision shall be made to provide continued protection and maintenance of the common open space so as to insure its preservation. This shall be accomplished in one of the following manners:
  - a. The Township may, but shall not be required to, accept any portion of the common open space by fee simple dedication, provided that:

- 1) There is no cost to the Township; and
  - 2) The Township agrees to and has adequate access to maintain such facilities.
- b. With permission of the Township, and with appropriate deed restrictions in favor of the Township and in language acceptable to the Township Solicitor, the owner may transfer the fee simple title in the common open space or a portion thereof to a private, nonprofit organization among whose purposes is the conservation of open space land and/or natural resources; provided that:
- 1) The organization is acceptable to the Township and is a bona fide conservation organization with a perpetual existence.
  - 2) The conveyance contains appropriate provision for proper retransfer or reverter in the event that the organization becomes unable or unwilling to continue to carry out its functions.
  - 3) A maintenance agreement acceptable to the Township Solicitor is entered into by the developer, organization and Township.
  - 4) A deed restriction is recorded with the office of recorder of deeds for the applicable open space restricting its use as open space only.
- c. The developer may provide for and establish an organization for the ownership and maintenance of the common open space consistent with the requirements for unit owners associations found in the Pennsylvania Uniform Condominium Act, 68 Pa.C.S.A. §3101 et seq. If such an organization is created, the deeds and agreements of sale for the common open space and for all individual lots within the tract shall contain the following requirements in language acceptable to the Township Solicitor:
- 1) Such organization shall not dispose of the common open space by sale or otherwise except to the Township or other governmental body unless the Township has given prior, written approval. Such transfer shall be made only to another organization which shall maintain the common open space in accordance with the provisions of this article.
  - 2) The organization and all lot owners within the development shall agree to be bound by the provisions of §705(f)(2) and (3) of the Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. §10705(f)(2) and (3), relating to Township maintenance of deteriorating open space and providing

for the ability of the Township to access and lien the properties within the development.

3) All lot owners within the development shall be required to become members of the organization and pay assessments for the maintenance of the common open space which may be increased for inflation and which may provide for professional management; and the organization may lien the lots for nonpayment of maintenance assessments in the same manner as other assessments.

4) The Township may require the formation of a reserve fund to cover capital improvements and maintenance to the common open space.

5) A deed restriction is recorded with the Office of the Recorder of Deeds for the applicable open space restricting its use as open space only.

I. Riparian buffer.

1. A riparian buffer with a minimum width of 100', or as required by the Riparian Corridor Conservation District, shall be provided along all riparian corridors.

**§295-244. DEVELOPMENT REQUIREMENTS.**

A. Master Plan.

1. The project shall be developed and constructed in accordance with an overall master plan for the site. The master plan shall be submitted as part of any application for approval in this district.
2. The development shall be carried out in phases, with each phase so planned that the requirements and intent of this article for any phase shall be fully complied with at the completion of that phase. For housing types other than midrise multi-family dwellings, the initial phase of development shall contain no more than 10 dwelling units, or 15% of the total number of dwelling units proposed under the master plan, whichever is greater. For midrise multi-family dwellings, the initial phase shall be one building.
3. Prior to the start of construction of the initial phase, financial guarantees shall be posted to ensure the completion of all amenities, including, but not limited to: swimming pools, tennis courts, recreational areas and buildings, community centers, fitness centers, and walking trails, as shown on the master plan.

B. Off-Street Parking and Loading.

1. Parking Spaces – 1.5 spaces per unit, plus one guest space for every 5 units and one space for each employee on the largest shift.
2. Parking and loading for accessory uses shall be in addition to the above requirements and shall be provided as required by §295-221. of this chapter.

C. All utility lines shall be located underground. Any required above-ground structures shall be screened from adjoining properties and road rights of way. Screening shall consist of a fully landscaped buffer.

D. All development in this district shall be served by public water and sewer.

E. Pedestrian Design Standards.

1. Sidewalks are required along all exterior or perimeter road frontages, and along all interior streets and accessways.
2. Pedestrian connections shall be provided to all front building areas, parking areas, and other pedestrian destination points.
3. Whenever possible, sidewalks shall connect to existing sidewalks on abutting properties and other nearby pedestrian destination points and transit stops.
4. Walking trails shall be incorporated into the common open space area and shall be available for use by the general public.

F. Landscaping. Any application for development in this district shall be accompanied by a landscape plan prepared by a registered landscape architect. In addition to all requirements of the Subdivision and Land Development Ordinance, the plan shall include a landscaped buffer with a minimum width of 25' along the entire perimeter of the tract. All existing trees greater than 6" in caliper shall be identified and preserved to the maximum practicable extent.

G. Lighting. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways shall be clearly marked and well lit. Lighting shall be sufficient for security and identification purposes, and shall be shielded so the source of light is not visible. Illumination onto existing residentially used areas shall at no time exceed 0.5 footcandle at the property line. The height of fixtures shall be a maximum of 20 feet for parking lots and 16 feet for pedestrian walkways.

H. Refuse, Service, and Loading Areas. Areas provided for refuse storage, service, and loading must be located to the side or rear of buildings and be visually screened from

streets and pedestrian ways with landscaped buffers, privacy fencing and/or walls, sufficient to provide year-round separation.

I. Architectural Guidelines.

1. All buildings shall be designed with a single unifying architectural theme which shall reflect and enhance the visual and historic character of the area.
2. The use of dormers, cupolas, bay windows, offsets, chimneys, balconies, and other architectural details is encouraged and shall be included where appropriate.
3. Exterior wall and detail materials are to be brick, stone (natural or manmade), stucco, wood or other approved materials on at least 75% of all building facades. Blank or windowless walls are not permitted. Building facades which face residentially zoned properties or properties with a predominately residential character shall be designed to complement those uses.
4. As part of the special exception application, the applicant shall provide architectural renderings of all proposed buildings along with samples of the actual materials to be used. The applicant shall also provide graphic representations showing the relationship between the proposed development and structures in the surrounding area.

J. Preservation of Historic Resources.

1. Historic resources within the Township shall be identified and preserved as a part of the development plan, in a manner acceptable to the Board of Commissioners.
2. When a historic resource is preserved as required by this Article, the area of the historic resource may be counted toward a maximum of 25% of the required open space, and it shall not be counted toward the maximum building or impervious coverage limits.
3. The setting of the historic resource shall be protected by creating a buffer from new construction. At a minimum, the historic resource shall be separated from new development by 50 feet.
4. A historic structure may be used as part of a development under the Age Restricted Overlay District for any permitted use in this district or the underlying zoning district, provided a special exception for such a use is granted by the Zoning Hearing Board and subject to such conditions as are approved by the Zoning Hearing Board. In deciding an application for such a special exception, the Zoning Hearing Board shall duly consider the suitability of the proposed use for the structure, whether the applicant has minimized the impact of the use upon adjoining properties and whether a majority of the purposes of the District, set forth in Section 295-240, will be accomplished.

5. Provisions shall be made to provide continued protection and maintenance of the historic resource, in a form acceptable to the Board of Commissioners and the Township Solicitor.

K. Additional Requirements.

1. A property approved for development in accordance with the provisions of this article shall not be changed from age restricted use unless all requirements of the underlying zoning district are met.
2. An applicant for an age restricted community in this district shall provide at the time of final plan approval proof of deed restrictions or other documentation satisfactory to the Township Solicitor that limits the residential use of the property to those residents who meet the requirements of this Article.
3. All documentation pertaining to the establishment of a homeowners association, condominium association, management or maintenance group, or other similar community association shall be subject to review and approval by the Township Solicitor. Such documentation shall include, in addition to those provisions required by the Township Solicitor, the following items:
  - a. Rules implementing age verification, in accordance with regulations of the United States Department of Housing and Urban Development (the "Department"), as amended, that the units in the housing facility or community are intended and are operated for occupancy by at least one person who is 55 years of age or older.
  - b. Rules implementing verification , in accordance with regulations of the Department, as amended, if any, that at least 90% of the occupied units are occupied by at least one person who is 55 years of age or older.
  - c. A requirement that the housing facility or community publish and adhere to policies and procedures which demonstrate the intent for the facility or community to qualify for the statutory exemption from claims of familial status discrimination.
  - d. Such procedures and policies as are required by the Secretary of the Department for periodic verification of occupancy, as amended, including verification by reliable surveys and affidavits and policies and procedures relevant to a determination of compliance.
  - e. A definition of "occupied unit" identical to the definition in the Departments' regulations, as amended.

**SECTION 3.** Nothing in this Ordinance or in the Code of the Township of Cheltenham shall be construed to affect any suit or proceeding in any Court, and rights acquired or liability incurred, any permit issued or any cause of causes of action existing under the said Code prior to the adoption of this amendment.

**SECTION 4.** The provisions of the 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 affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provisions had not been included herein.

**SECTION 5.** This Ordinance shall take effect and be in force from and after its approval as required by law.

**ENACTED** into an **ORDINANCE** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**TOWNSHIP OF CHELTENHAM  
BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_  
Harvey Portner  
President

**ATTEST:** \_\_\_\_\_  
David G. Kraynik  
Secretary and Township Manager

**RECENT  
ZONING HEARING BOARD  
DECISIONS**

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

**APPEAL NO. 3399**

Applicant: Teresa Minetti  
510 East Avenue  
Glenside, Pennsylvania 19038

Subject Premises : 510 East Avenue  
Glenside, Pennsylvania

Owner of Premises: Teresa Minetti

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of an addition expanding a nonconforming structure, measuring 8 feet by 29.75 feet, to the east side of the residence located on the Property and creating a less than required front yard setback would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating nonconforming uses, and Article VIII, Section 295-46, regulating yard setbacks.

Applicant seeks variances from the rules and regulations of the R-5 Residence District as follows:

- (1) a variance from Section 295-227(K) to allow an expansion of the nonconforming residence in connection with the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property; and

in the alternative,

- (2) a variance from Section 295-46(A)(1) to allow the construction of an addition, measuring 8 feet by 29.75 feet, to the east

side of the existing residence on the Property, with a lesser front yard setback of 18 feet to the addition instead of the minimum required 40 feet (the front yard setback for the existing structure is 18 feet).

Time and Place of Hearing: Monday, May 9, 2011 – 7:35 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

### FINDINGS OF FACT

1. Applicant Teresa Minetti (“Applicant”) is the owner of the premises known as 510 East Avenue, Glenside, 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 single-family residence.
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. 3399;
  - ZHB-4. a location map marked as Real Estate Registry Block 120, showing the location of the property;
  - ZHB-5. MEA Land Record Parcel Information on Property dated March 30, 2011;
  - ZHB-7. floor plans for the Minetti residential addition;
  - ZHB-8. elevation plans for the Minetti residential addition;
  - ZHB-9. site plan of the Property;
  - ZHB-10. copy of decision of the Zoning Hearing Board at Appeal No. 3312;

5. Applicant proposes to construct an addition to the existing single-family residence, measuring 8 feet by 29.75 feet.

6. The proposed addition to the residence would include a staircase, laundry area, new roof and an extension of the porch to match the width of the addition.

7. The proposed addition will occupy an additional 8 feet in an existing side yard, leaving 47 feet 4 inches.

8. The proposed addition will have a front yard setback of 18 feet, equivalent to the current residence's existing front yard setback.

9. The Property has an existing side yard measuring 5 feet where a side yard measuring 8 feet is required. Accordingly, the existing side yard setback is nonconforming.

10. Applicant's project does not propose to alter the existing nonconforming side yard setback.

11. Requiring the existing nonconforming side yard to be brought into conformance would require substantial demolition of the existing residence and would result in unnecessary waste.

12. A grant of relief to allow an expansion of the nonconforming residence in connection with the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

13. A grant of relief to allow an expansion of the nonconforming residence in connection with the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

14. A grant of relief to allow an expansion of the nonconforming residence in connection with the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property will not be contrary to the public interest.

15. A grant of relief to allow the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property, with a lesser front yard setback of 18 feet to the addition instead of the minimum required 40 feet will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

16. A grant of relief to allow the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property, with a lesser front yard setback of 18 feet to the addition instead of the minimum required 40 feet will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

17. A grant of relief to allow the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property, with a lesser front yard setback of 18 feet to the addition instead of the minimum required 40 feet will not be contrary to the public interest.

### CONCLUSIONS OF LAW

1. An expansion of a nonconforming residence by constructing an addition, measuring 8 feet by 29.75 feet, is not permitted by the Cheltenham Township Zoning Ordinance.

2. Construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on a property, which creates a lesser front yard setback of 18 feet to the addition instead of the minimum required 40 feet is not permitted by the Cheltenham Township Zoning Ordinance.

3. 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.

4. Under the circumstances of this matter, Applicant has/have met his/her/their burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property would result in an unnecessary hardship.

5. The variances as hereafter granted are the minimum variances that will afford Applicant relief and represent the least departure from the governing regulations.

6. The variances will not be contrary to the public interest.

### DECISION

**WHEREFORE**, this 9th day of May, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant the following variances:

- (1) Two (2) variances from the rules and regulations of Article VIII, Section 295-46, to allow the construction of an addition, measuring 8 feet by 29.75 feet, to the east side of the existing residence on the Property, with a front yard setback measuring 18 feet and a side yard setback measuring 5 feet.

This grant of relief is subject, however, to the following conditions:

- (1) a complete copy of the recorded deed of the subject Property shall be submitted to the Zoning Officer within four (4) weeks of the date of Hearing.

- (2) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its May 9, 2011 meeting.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

**CHELTENHAM TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

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**AMEE FARRELL, Member**

**THIS DECISION IS OFFICIALLY ISSUED ON JULY 7, 2011.**

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

**APPEAL NO. 3398**

Applicant: Cheltenham Hook and Ladder Company No. 1  
413 Ryers Avenue  
Cheltenham, Pennsylvania 19012

Subject Premises : 413 Ryers Avenue  
Cheltenham, Pennsylvania

Owner of Premises: Cheltenham Hook and Ladder Company No. 1

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of a two-story addition containing a bay on the first floor and offices and bunk room on the second floor with additional parking in the rear of the Property which is a nonconforming structure and use of the Property, disturbs a Steep Slope Conservation District, includes parking space changes, and the installation of a continuous wall/fence or plantings along the Ryers Avenue frontage, the northeast side and the southeast side of the Premises would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating nonconforming uses; Article XI, Section 295-64, regulating uses; Article XXII, Section 295-168, regulating uses within a Steep Slope Conservation District; Article XXII, Section 295-167, regulating permitted conservation uses with a Steep Slope Conservation District; and Article XXIX, Section 295-221, regulating off-street parking.

Applicant seeks special exceptions and/or variances from the rules and regulations of the R-8 Residence District as follows:

- (1) a variance from Section 295-227(C)(2) and (C)(3) to allow the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor as a nonconforming structure and use of the Property in excess of the maximum permitted 20%;
- (2) a special exception to Section 295-227(B) and (C) permitting the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor as an expansion of the nonconforming structure and use of the Property; or

in the alternative to (1) and (2) above,

- (3) a variance from Section 295-64 to allow construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor as an expansion of the nonconforming structures and use of the Property instead of one of the enumerated permitted uses;
- (4) a variance from Section 295-64 to allow two principal uses of the Property: the Fire Company station and a single family dwelling instead of the one principal use in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (5) a variance from Section 295-168 to allow for not submitting a Lines and Grades Plan in accordance with the stated requirement of a Steep Slope Conservation District in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;

- (6) a variance from Section 295-168 to allow for the expansion of the parking field over an existing Steep Slope area in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (7) a variance from Section 295-221 for a determination as to the number of parking spaces required in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (8) a variance from Section 295-221(B)(3) for not providing a continuous 3 foot high wall/fence or plantings along the 5 feet of road frontage along Ryers Avenue for the reconfigured parking in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (9) a variance from Section 295-221(B)(3) for not providing a continuous 6 foot high wall/fence or plantings along the northeast side of the Property (adjacent to single family dwelling) in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (10) a variance from Section 295-221(B)(3) for not providing a continuous 6 foot high wall/fence or plantings along the southeast property line (Rear Property Line) in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (11) a variance from Section 295-221(c)(2)(c) to

allow the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor, creating a lesser aisle width of 22 feet instead of the minimum required 24 feet for the 13 parking spaces to the northeast of the proposed addition.

Time and Place of Hearing: Monday, April 11, 2011 – 7:30 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

### FINDINGS OF FACT

1. Applicant Cheltenham Hook and Ladder Company No. 1 (“Applicant”) is the owner of the premises known as 413 Ryers Avenue, Cheltenham, 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-8 Residence District and is improved by a fire and rescue company building.

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. 3398;

ZHB-4. a location map marked as Real Estate Registry Block 70, showing the location of the property;

ZHB-5. MEA Land Record Parcel Information on Property dated March 14, 2011

ZHB-6. Building and Zoning Committee recommendation letter dated April 8, 2011;

ZHB-7. Zoning Analysis Plan, prepared by Cowan Associates, Inc., dated September 14, 2010;

ZHB-8. Existing Features/Demolition Plan, prepared by Cowan Associates, Inc., dated September 14, 2010;

A-1. copy of the original deed to the Property dated June of 1922, where the fire house is situated;

A-2. copy of deed dated July 18, 1952, representing the first of the enlargements of the Property, where the parking lot to the fire company is situated;

A-3. copy of deed, dated October 31, 1962, for 407 Ryers Avenue located next to the fire company parking lot on which is situated a single-family residence;

A-4. a panoramic photograph of the Property from Ryers Avenue;

A-5. a closeup photograph of the existing firehouse from Ryers Avenue;

A-6. a photograph showing the sidewalk of Ryers avenue looking south along the frontage of the parcel;

A-7. a photograph showing the rear door of the existing firehouse behind the main section of the existing building;

A-8. a photograph showing the southern corner of the adjacent twin showing the rear entrance to the building and the small retaining wall and existing split rail fence;

A-9. photograph of the southwest corner of the Baust neighboring property, showing the existing holly tree to be removed and the existing 4 foot high chain link fence with green slates in it;

A-10. photograph of the southeast corner of the Baust neighboring and southeast corner of the Property, showing the existing chain link fence, the neighbors' shed, and the trees along the southeast property line;

A-11. photograph of the southern property line of the Property immediately to the rear of the older section of the building; and

A-12. elevation drawing of the proposed construction, prepared by Architectural Alliance of Wilmington, Delaware;.

5. Applicant proposes to construct of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor.

6. The proposed construction would assist Applicant in efficiently serving the community.

7. The fire company has over 60 members, approximately 47 of which are active members.

8. The current firehouse on the Property consists of a meeting room, a day room for members to gather, and storage closets in the basement; and a gear room, several small office, a small workout room, an engineer's room, and three bays on the first floor. There is no second story to the firehouse.

9. The offices currently located on the first floor are small in size and are shared; however, there is only room for one desk in each. Applicant states that the space is inadequate for the needs of the fire company.

10. The fire company is included in the Cheltenham Township's emergency management program, requiring crews to be immediately available for significant weather events and other catastrophes. There is no bunk room or facility for any fireman required to stay over at the firehouse as part of this emergency management program.

11. The existing equipment at the firehouse consists of two fire engines, one ladder truck, and a special services truck. The current housing situation for this equipment requires Applicant to park the equipment one in front of the other in the current firehouse bays.

12. Applicant must move a truck out of the bay area in order to get to the water rescue equipment, consisting of a boat and a service vehicle for its transportation. Further it will be necessary to replace the service vehicle in order to efficiently respond to water rescue calls and the existing firehouse on the Property does not have enough space to house such a vehicle.

13. Applicant also owns an SUV that is parked outside of the firehouse in which portable radios and other equipment cannot be stored for security reasons.

14. The proposed construction is for a fourth bay to the existing firehouse, providing the capability to adequately house all firehouse equipment. Applicant proposes to include a second-story to the fourth bay which would house male and female bunk rooms and office space for all administrative offices.

15. Applicant's neighbor has requested the removal of an existing holly tree bordering between the two properties and allowing maintenance of the neighbor's 4 foot high fence, in an area requiring a 6 foot high fence, and Applicant has agreed to these requests.

16. Wayne Doyle of Cowan Associates was sworn and accepted as an expert in civil engineering on behalf of Applicant. The Board relied upon Mr. Doyle's testimony.

17. There is currently 20 off-street parking spaces on the Property.

18. Mr. Doyle testified that a reconfiguration of the parking lot would allow for 21 off-street parking spaces on the Property, sufficient to meet existing zoning requirements.

19. Mr. Doyle testified that the proposed construction is 40% of the footprint and exceeds the allowed 25% building area. In addition, Mr. Doyle testified that use of the Property as a fire company is a nonconforming use.

20. Mr. Doyle testified that the proposed construction deletes the lot line of the southern twin portion of the residence owned by the fire company, which twin is the closest to the firehouse. Removal of the lot line in this manner would avoid the insufficient side yard on the residential lot adjoining the Property and creating a poorly-nonconforming footprint of the adjoining twin residence.

21. The proposed changes on the Property expands the parking lot towards the rear or southeast portion of the Property. Mr. Doyle testified that in order to proceed with the proposed construction and reconfiguring of the parking lot, it is necessary to disturb the Steep Slope Conservation District located on this portion of the Property.

22. Mr. Doyle testified that the additional parking space is a required handicapped-accessible space in the right-of-way at Ryers Avenue, and does not impact the frontage of the Property.

23. Mr. Doyle testified that Applicant will provide a code-appropriate fence on top of the retaining wall, but not the required 6 foot high chain link fence that would block the windows of the twin.

24. Mr. Doyle testified that the construction of the fourth bay would reduce the aisle between the building and the parking lot to 22 feet. Said aisle reduction would be sufficient in that section of the parking lot.

25. Mr. Doyle testified that a merger or consolidation of the two lots would require subdivision approval and the building would require land development approval from the Township Commissioners.

26. The existing curb cut on the front of the Property at Ryers Avenue runs nearly the full width of the Property. Mr. Doyle testified that the curb cut would not be increased but would be repaired and replaced.

27. A grant of relief to allow the expansion of the nonconforming structure and use of the Property by constructing a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor in excess of the maximum permitted 20% building area will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

28. A grant of relief to allow the expansion of the nonconforming structure and use of the Property by constructing a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor in excess of the maximum permitted 20% building area will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

29. A grant of relief to allow the expansion of the nonconforming structure and use of the Property by constructing a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor in excess of the maximum permitted 20% building area will not be contrary to the public interest.

30. A grant of relief to permit the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor as an expansion of the nonconforming structure and use of the Property will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

31. A grant of relief to permit the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor as an expansion of the nonconforming structure and use of the Property will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

32. A grant of relief to allow two principal uses of the Property: the Fire Company station and a single family dwelling instead of the one principal use in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

33. A grant of relief to allow two principal uses of the Property: the Fire Company station and a single family dwelling instead of the one principal use in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

34. A grant of relief to allow two principal uses of the Property: the Fire Company station and a single family dwelling instead of the one principal use in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will not be contrary to the public interest.

35. A grant of relief to allow for not submitting a Lines and Grades Plan in accordance with the stated requirement in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

36. A grant of relief to allow for not submitting a Lines and Grades Plan in accordance with the stated requirement in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

37. A grant of relief to allow for not submitting a Lines and Grades Plan in accordance with the stated requirement in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will not be contrary to the public interest.

38. A grant of relief to allow for the expansion of the parking field over an existing Steep Slope area in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

39. A grant of relief to allow for the expansion of the parking field over an existing Steep Slope area in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

40. A grant of relief to allow for the expansion of the parking field over an existing Steep Slope area in connection with the construction of a two-story addition, measuring 1,830 square feet, will not be contrary to the public interest.

41. A grant of relief for a determination as to the number of parking spaces required in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

42. A grant of relief for a determination as to the number of parking spaces required in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

43. A grant of relief for a determination as to the number of parking spaces required in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor will not be contrary to the public interest.

44. A grant of relief to allow for not providing a continuous 3 foot high wall/fence or plantings along the 5 feet of road frontage along Ryers Avenue for the reconfigured parking in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

45. A grant of relief to allow for not providing a continuous 3 foot high wall/fence or plantings along the 5 feet of road frontage along Ryers Avenue for the reconfigured parking in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

46. A grant of relief to allow for not providing a continuous 3 foot high wall/fence or plantings along the 5 feet of road frontage along Ryers Avenue for the reconfigured parking in connection with the construction of a two-story addition, measuring 1,830 square feet, will not be contrary to the public interest.

47. A grant of relief to allow for not providing a continuous 6 foot high wall/fence or plantings along the northeast side of the Property (adjacent to single family dwelling) in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

48. A grant of relief to allow for not providing a continuous 6 foot high wall/fence or plantings along the northeast side of the Property (adjacent to single family dwelling) in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

49. A grant of relief to allow for not providing a continuous 6 foot high wall/fence or plantings along the northeast side of the Property (adjacent to single family dwelling) in connection with the construction of a two-story addition, measuring 1,830 square feet, will not be contrary to the public interest.

50. A grant of relief to allow for not providing a continuous 6 foot high wall/fence or plantings along the southeast property line (Rear Property Line) in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

51. A grant of relief to allow for not providing a continuous 6 foot high wall/fence or plantings along the southeast property line (Rear Property Line) in connection with the construction of a two-story addition, measuring 1,830 square feet, will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

52. A grant of relief to allow for not providing a continuous 6 foot high wall/fence or plantings along the southeast property line (Rear Property Line) in connection with the construction of a two-story addition, measuring 1,830 square feet, will not be contrary to the public interest.

53. A grant of relief to allow a lesser aisle width of 22 feet instead of the minimum required 24 feet for the 13 parking spaces on the northeast side of the proposed construction of a two-story addition, measuring 1,830 square feet, will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

54. A grant of relief to allow a lesser aisle width of 22 feet instead of the minimum required 24 feet for the 13 parking spaces on the northeast side of the proposed construction of a two-story addition, measuring 1,830 square feet will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

55. A grant of relief to allow a lesser aisle width of 22 feet instead of the minimum required 24 feet for the 13 parking spaces on the northeast side of the proposed construction of a two-story addition, measuring 1,830 square feet, will not be contrary to the public interest.

### CONCLUSIONS OF LAW

1. The expansion of a nonconforming structure and use of a property in excess of the maximum permitted 20% building area in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor is not permitted by the Cheltenham Township Zoning Ordinance.

2. Allowing a property to have two principal uses instead of the one principal use in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor is not permitted by the Cheltenham Township Zoning Ordinance.

3. Not submitting a Lines and Grades Plan in accordance with the stated requirement in connection with the construction of a two-story addition, measuring 1,830 square feet, is not permitted by the Cheltenham Township Zoning Ordinance.

4. Expansion of a parking field over an existing Steep Slope area in connection with the construction of a two-story addition, measuring 1,830 square feet, is not permitted by the Cheltenham Township Zoning Ordinance.

5. A smaller number of parking spaces than required in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor is not permitted by the Cheltenham Township Zoning Ordinance.

6. Not providing a continuous 3 foot high wall/fence or plantings along the 5 feet of road frontage along Ryers Avenue for the reconfigured parking lot in connection with the construction of a two-story addition, measuring 1,830 square feet is not permitted by the Cheltenham Township Zoning Ordinance.

7. Not providing a continuous 6 foot high wall/fence or plantings along the northeast side of the Property (adjacent to single family dwelling) in connection with the construction of a two-story addition, measuring 1,830 square feet is not permitted by the Cheltenham Township Zoning Ordinance.

8. Not providing a continuous 6 foot high wall/fence or plantings along the southeast property line (Rear Property Line) in connection with the construction of a two-story addition, measuring 1,830 square feet is not permitted by the Cheltenham Township Zoning Ordinance.

9. A less than required parking lot aisle width of 22 feet instead of the minimum required 24 feet is not permitted by the Cheltenham Township Zoning Ordinance.

10. 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. Similarly, the Zoning Hearing Board is empowered to grant special exceptions where the application meets the criteria of the zoning ordinances.

11. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor would result in an unnecessary hardship.

12. Under the circumstances of this matter, Applicant has met its burden in establishing that the application meets the criteria of the ordinance and Applicant is entitled to special exception.

13. The variances and special exception as hereafter granted are the minimum variances that will afford Applicant relief and represent the least departure from the governing regulations.

14. The variances will not be contrary to the public interest.

### DECISION

**WHEREFORE**, this 11<sup>th</sup> day of April, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant the following:

- (1) a variance from the rules and regulations of Article XXIX, Section 295-227(C)(2) and (3), to allow the expansion of the nonconforming structure and use of the Property in excess of 20% building area in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (2) a special exception to the rules and regulations of Article XXIX, Section 295-227(B) and (C), permitting the expansion of the nonconforming structure and use of the Property in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;
- (3) a variance from the rules and regulations of Article XI, Section 295-64, to allow two principal uses of the Property: the Fire Company station and a single family dwelling instead of the one principal use in connection with the construction of a two-story addition, measuring 1,830 square feet, containing a bay area on the first floor and offices and bunk room on the second floor;

- (4) a variance from the rules and regulations of Article XXII, Section 295-168, to allow Applicant to not submit a Lines and Grades Plan in accordance with the stated requirement of a Steep Slope Conservation District;
- (5) a variance from the rules and regulations of Article XXII, Section 295-167, to allow the expansion of the parking field over an existing Steep Slope area;
- (6) a determination that the provision of 21 parking spaces in the context of this application meets the requirements of the applicable zoning regulations;
- (7) a variance from the rules and regulations of Article XXIX, Section 295-221(B)(3), to allow for not providing a continuous 3 foot high wall/fence or plantings along the 5 feet of road frontage along Ryers Avenue;
- (8) a variance from the rules and regulations of Article XXIX, Section 295-221(B)(3), to allow not providing a continuous 6 foot high wall/fence or plantings along the northeast side of the Property (adjacent to single family dwelling);
- (9) a variance from the rules and regulations of Article XXIX, Section 295-221(B)(3), to allow for not providing a continuous 6 foot high wall/fence or plantings along the southeast property line (Rear Property Line);
- (10) a variance from the rules and regulations of Article XXIX, Section 295-221(C)(2)(c), to allow a lesser parking lot aisle width of 22 feet.

This grant of relief is subject, however, to the following conditions:

the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its April 11, 2011 meeting.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

**CHELtenham TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

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**STANLEY ELLENBERG, Member**

**THIS DECISION IS OFFICIALLY ISSUED ON JULY 7, 2011**

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

**APPEAL NO. 3400**

Applicant: St. Nicholas Serbian Orthodox Church  
506 Stahr Road  
Elkins Park, Pennsylvania 19027

Subject Premises : 506 Stahr Road  
Elkins Park, Pennsylvania

Owner of Premises: St. Nicholas Serbian Orthodox Church

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of a two story rectory addition within the current building footprint with 5 foot wide sidewalk and stairway from the existing driveway to the main entrance of the rectory addition, which is a nonconforming use, would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-43, regulating uses, Article XXIX, Section 295-227, regulating nonconforming uses, Article XXII, Section 295-168, regulating uses permitted in a Steep Slope Conservation District, and Article XXII, Section 295-167, regulating permitted conservation uses within a Steep Slope Conservation District.

Applicant seeks special exceptions and variances from the rules and regulations of the R-5 Residence District as follows:

- (1) a special exception to Section 295-43(C) permitting the construction and use of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition;

in the alternative,

- (2) a special exception to Section 295-227(B) and (C) permitting the construction and use of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition as a nonconforming use of the Property;.
- (3) a variance from Section 295-168(b) to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition; and
- (2) a variance from Section 295-167 to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses.

Time and Place of Hearing: Monday, May 9, 2011 – 7:45 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

### **FINDINGS OF FACT**

1. Applicant St. Nicholas Serbian Orthodox Church (“Applicant”) is the owner of the premises known as 506 Stahr 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 church.

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. 3400;

ZHB-4. a location map marked as Real Estate Registry Block 14, showing the location of the property;

ZHB-5. MEA Land Record Parcel Information on Property dated April 5, 2011;

ZHB-7. a color rendering of the church rectory addition plan;

ZHB-8. site improvement plan for the church rectory;

ZHB-9. letter from Mainstay Engineering Group;

ZHB-10. decision of the Zoning Hearing Board at Appeal No. 3370;

A-1. copy of the recorded deed to the Property;

A-2. an 11 X 17 size color rendering of the church rectory addition plan;  
and

P-1. letter from Fr. Milorad Orlic to Mr. Lynch.

5. Applicant proposes to construct and use a two story rectory addition within the current building footprint and a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition.

6. Applicant previously came before the Zoning Hearing Board in connection with certain proposed improvements to the Property.

7. The proposed addition would provide needed residence space and office space to the church property. The first floor of the proposed addition includes a small kitchen with dining room, a large rectory office and a powder room; the second floor includes one master suite with private bathroom, two bedrooms, and a bathroom.

8. The present congregation is 68 members. The church holds services on Sunday, with special services on Christmas and Easter. Church attendees park on the street or on the Stahr Road public parking area. Applicant has a small Sunday school accommodating up to ten children.

9. Matt Hilbush of Mainstay Engineering Group was sworn and accepted as an expert in engineering on behalf of Applicant. The Board relied upon Mr. Hilbush's testimony.

10. Simeon Vukovic of Vukovic ArchDesign was sworn and accepted as an expert in architectural design on behalf of Applicant. The Board relied upon Mr. Vukovic's testimony.

11. Mr. Vukovic testified that the addition will be built within the existing footprint of the church and that the exterior materials will match those of the existing structure.

12. Mr. Vukovic testified that the proposed addition would measure approximately 2,200 square feet.

13. Mr. Vukovic testified that the first floor dining area measures 19 feet by 12 feet or 200 square feet; the first floor great room area to be used as office space measures 21 feet by 21 feet or 400 square feet; the second floor master bedroom measures approximately 17.10 feet by 15.9 feet; the two additional bedrooms on the second floor measure 10.9 feet by 14 feet.

14. Mr. Vukovic testified that the church sanctuary must have 7 square feet of space per person inside the church. The church pews can accommodate five to six people per pew bench.

15. The proposed use of the rectory and walkway is a religious use.

16. The application meets the requirements of the Zoning Code for the grant of a special exception.

17. A grant of relief to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

18. A grant of relief to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

19. A grant of relief to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition will not be contrary to the public interest.

20. A grant of relief to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

21. A grant of relief to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

22. A grant of relief to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses will not be contrary to the public interest.

### DISCUSSION

Applicant St. Nicholas Serbian Orthodox Church (the “Church”) seeks zoning relief to construct an addition to an existing church building located at 506 Stahr Road, including corners made by intersections of Park Road, Stahr Road and Church Road. The use proposed for the addition is church-related offices and rectory.

The addition would be 2,036 square feet one two floors to the building. Construction would not result in an increase in building footprint as the addition would be constructed directly over the roof or top of an existing basement. The plans (Exhibit A-2) illustrates a first floor layout with office and great room, dining room, powder room, kitchen and entrance. The second floor is proposed to have three bedrooms and two baths.

The addition is designed to provide a rectory for the Church. That use could extend to the permanent residence of the priest serving the Church or could be used to provide temporary lodgings for Church officials or other church-related visitors. The current priest assigned to the Church informs the Zoning Board that he does not intend to use these facilities

and has his own home in the immediate area.<sup>1</sup> In any event, when the addition is not in use as lodgings for officials or guests, the first floor will be used for church offices. With regard to each instance of possible use, the Zoning Board concludes that each reasonably fits within the scope of religious uses as permitted by special exception in Cheltenham Township.

The plans demonstrate that the exterior is proposed to replicate the architecture and exterior finishes of the existing building. The addition will not exceed the height of the existing building as the gable ridge line will be lower than the existing ridge line of the main portion of the existing church building. The Zoning Board concludes that an addition constructed with materials matching the existing structure will not, due to its architecture and aesthetics, result in any adverse effect to the public interest. To insure that result, the Zoning Board hereafter conditions its approval upon the use of natural materials. The Zoning Board also hereafter conditions approval upon the Church conducting a structural analysis of the addition's foundational and geotechnical study of the Church Road retaining wall. In view of those conditions, the Zoning Board concludes that the building will result in no adverse effect to the public interest.

In order to access the addition, the Church proposes a modest walkway from an entrance to the driveway. The walkway would, however, encroach and disturb areas designated as having steep slopes. The Zoning Board concludes that the walkway is an inherent part of the church building and is, indeed, part of the religious use. The walkway will not be contrary to the public interest.

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<sup>1</sup> Indeed, Fr. Milorad Orlic wrote to express his opposition to the Application to Zoning Hearing Board for Zoning Relief. Fr. Orlic questioned safety interests. Those concerns, however, are protected by Cheltenham Township's building codes.

The application for these religious uses meets the specific and general requirements of the zoning ordinances and the applicant is entitled to a special exception to permit the construction of the rectory addition and walkway.

The walkway is located,, in addition, in areas designated as having steep slopes. The Church seeks a variance to allow the sidewalk to be constructed in these steep slope areas instead of uses otherwise permitted. In order to qualify to ask for such zoning relief, the Zoning Code requires an applicant to submit a Lines and Grades Plan. Here, the area of disturbance is minor and disturbances of steep slopes for construction of the walkway cannot begin until the Church obtains land development approval. By the terms of the Subdivision and land Development Ordinance, the Church will need to submit a Lines and Grades Plan acceptable to the Board of Commissioners and the Township Engineer. The Zoning Board notes that the customary time for investing the resources and time in preparing a Lines and Grade Plan is at the land development approval stage and not at zoning approval. The Zoning Board concludes, therefore that, given the project's modest size and the protections provided by the conditions to the grant of zoning relief, the submission of the Lines and Grades Plan would not have advanced or hindered the Church's application before the Zoning Board. Accordingly, the Zoning Board grants a variance from the requirement for a Line and Grades Plan.

Finally, the walkway is a reasonable amenity to the rectory addition, without which the rectory could not be used in a customarily acceptable fashion. The facts of record demonstrate that failure to include the walkway would result in an unnecessary hardship to the property. The Church has demonstrated hardship resulting from the physical circumstance of the property and that the hardship is not a product of the Church's own actions. Accordingly, the

Church is entitled to a variance to allow construction of the walkway in areas designated as having steep slopes.

### **CONCLUSIONS OF LAW**

1. Construction and use of a two story rectory addition within the current building footprint of a church and construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the proposed rectory addition is not permitted without a special exception or other zoning relief 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. Similarly, the Zoning Hearing Board is empowered to grant special exceptions where the application meets the criteria of the zoning ordinances.

2. Support by the proofs of record, applicant has met its burden to establish that the proposed addition and walkway are religious uses that will result in no adverse effect to the public interest. Accordingly, the application meets the requirements of the zoning ordinances, and the applicant is entitled to a special exception to permit the construction of the addition and walkway.

3. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow relief from the requirement for a Lines and Grades Plan would result in an unnecessary hardship.

4. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow construction of the proposed walkway in areas designated as having steep slopes would result in an unnecessary hardship.

5. The special exceptions and variances as hereafter granted are the minimum variances that will afford Applicant relief and represent the least departure from the governing regulations.

6. The variances will not be contrary to the public interest.

### **DECISION**

**WHEREFORE**, this 9<sup>th</sup> day of May, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant the following variances:

- (1) a special exception to the rules and regulations of Article VIII, Section 295-43(C), permitting the construction and use of a two story rectory addition within the current building footprint and for a 5 foot wide

sidewalk and stair from the existing driveway to the main entrance of the rectory addition as a permitted use on the Property;

- (2) a variance from the rules and regulations of Article XXII, Section 295-168(B), to allow for a request for variance relief from Article XXII, Section 295-167 without submission a Lines and Grades Plan in connection with the construction 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition; and
- (3) a variance from the rules and regulations of Article XXII, Section 295-167, to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition as a permitted use of the Property.

This grant of relief is subject, however, to the following conditions:

- (1) the uses in the rectory shall be accessory to church uses;
- (2) the exterior materials shall be genuine and not simulated or cultured;
- (3) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its May 9, 2011 meeting;
- (4) Applicant shall submit a structural analysis of any foundation for the rectory to the Zoning Officer; and
- (5) Applicant shall submit a geotechnical analysis of the walls on Church and Stahr Roads to the Zoning Officer.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

**CHELTENHAM TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

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**AMEE FARRELL, Member**

**THIS DECISION IS OFFICIALLY ISSUED ON JUNE 24, 2011**

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

**APPEAL NO. 3400**

Applicant: St. Nicholas Serbian Orthodox Church  
506 Stahr Road  
Elkins Park, Pennsylvania 19027

Subject Premises : 506 Stahr Road  
Elkins Park, Pennsylvania

Owner of Premises: St. Nicholas Serbian Orthodox Church

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of a two story rectory addition within the current building footprint with 5 foot wide sidewalk and stairway from the existing driveway to the main entrance of the rectory addition, which is a nonconforming use, would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-43, regulating uses, Article XXIX, Section 295-227, regulating nonconforming uses, Article XXII, Section 295-168, regulating uses permitted in a Steep Slope Conservation District, and Article XXII, Section 295-167, regulating permitted conservation uses within a Steep Slope Conservation District.

Applicant seeks special exceptions and variances from the rules and regulations of the R-5 Residence District as follows:

- (1) a special exception to Section 295-43(C) permitting the construction and use of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition;

in the alternative,

- (2) a special exception to Section 295-227(B) and (C) permitting the construction and use of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition as a nonconforming use of the Property;
- (3) a variance from Section 295-168(b) to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition; and
- (2) a variance from Section 295-167 to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses.

Time and Place of Hearing: Monday, May 9, 2011 – 7:45 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

### **FINDINGS OF FACT**

1. Applicant St. Nicholas Serbian Orthodox Church (“Applicant”) is the owner of the premises known as 506 Stahr 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 church.

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. 3400;

ZHB-4. a location map marked as Real Estate Registry Block 14, showing the location of the property;

ZHB-5. MEA Land Record Parcel Information on Property dated April 5, 2011;

ZHB-7. a color rendering of the church rectory addition plan;

ZHB-8. site improvement plan for the church rectory;

ZHB-9. letter from Mainstay Engineering Group;

ZHB-10. decision of the Zoning Hearing Board at Appeal No. 3370;

A-1. copy of the recorded deed to the Property;

A-2. an 11 X 17 size color rendering of the church rectory addition plan;  
and

P-1. letter from Fr. Milorad Orlic to Mr. Lynch.

5. Applicant proposes to construct and use a two story rectory addition within the current building footprint and a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition.

6. Applicant previously came before the Zoning Hearing Board in connection with certain proposed improvements to the Property.

7. The proposed addition would provide needed residence space and office space to the church property. The first floor of the proposed addition includes a small kitchen with dining room, a large rectory office and a powder room; the second floor includes one master suite with private bathroom, two bedrooms, and a bathroom.

8. The present congregation is 68 members. The church holds services on Sunday, with special services on Christmas and Easter. Church attendees park on the street or on the Stahr Road public parking area. Applicant has a small Sunday school accommodating up to ten children.

9. Matt Hilbush of Mainstay Engineering Group was sworn and accepted as an expert in engineering on behalf of Applicant. The Board relied upon Mr. Hilbush's testimony.

10. Simeon Vukovic of Vukovic ArchDesign was sworn and accepted as an expert in architectural design on behalf of Applicant. The Board relied upon Mr. Vukovic's testimony.

11. Mr. Vukovic testified that the addition will be built within the existing footprint of the church and that the exterior materials will match those of the existing structure.

12. Mr. Vukovic testified that the proposed addition would measure approximately 2,200 square feet.

13. Mr. Vukovic testified that the first floor dining area measures 19 feet by 12 feet or 200 square feet; the first floor great room area to be used as office space measures 21 feet by 21 feet or 400 square feet; the second floor master bedroom measures approximately 17.10 feet by 15.9 feet; the two additional bedrooms on the second floor measure 10.9 feet by 14 feet.

14. Mr. Vukovic testified that the church sanctuary must have 7 square feet of space per person inside the church. The church pews can accommodate five to six people per pew bench.

15. The proposed use of the rectory and walkway is a religious use.

16. The application meets the requirements of the Zoning Code for the grant of a special exception.

17. A grant of relief to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

18. A grant of relief to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

19. A grant of relief to allow for not submitting a Lines and Grades Plan conforming to the stated requirements of a Steep Slope Conservation District in connection with the construction of a two story rectory addition within the current building footprint and for a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition will not be contrary to the public interest.

20. A grant of relief to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

21. A grant of relief to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

22. A grant of relief to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition instead of one of the enumerated permitted uses will not be contrary to the public interest.

### **DISCUSSION**

Applicant St. Nicholas Serbian Orthodox Church (the “Church”) seeks zoning relief to construct an addition to an existing church building located at 506 Stahr Road, including corners made by intersections of Park Road, Stahr Road and Church Road. The use proposed for the addition is church-related offices and rectory.

The addition would be 2,036 square feet one two floors to the building. Construction would not result in an increase in building footprint as the addition would be constructed directly over the roof or top of an existing basement. The plans (Exhibit A-2) illustrates a first floor layout with office and great room, dining room, powder room, kitchen and entrance. The second floor is proposed to have three bedrooms and two baths.

The addition is designed to provide a rectory for the Church. That use could extend to the permanent residence of the priest serving the Church or could be used to provide temporary lodgings for Church officials or other church-related visitors. The current priest assigned to the Church informs the Zoning Board that he does not intend to use these facilities

and has his own home in the immediate area.<sup>1</sup> In any event, when the addition is not in use as lodgings for officials or guests, the first floor will be used for church offices. With regard to each instance of possible use, the Zoning Board concludes that each reasonably fits within the scope of religious uses as permitted by special exception in Cheltenham Township.

The plans demonstrate that the exterior is proposed to replicate the architecture and exterior finishes of the existing building. The addition will not exceed the height of the existing building as the gable ridge line will be lower than the existing ridge line of the main portion of the existing church building. The Zoning Board concludes that an addition constructed with materials matching the existing structure will not, due to its architecture and aesthetics, result in any adverse effect to the public interest. To insure that result, the Zoning Board hereafter conditions its approval upon the use of natural materials. The Zoning Board also hereafter conditions approval upon the Church conducting a structural analysis of the addition's foundational and geotechnical study of the Church Road retaining wall. In view of those conditions, the Zoning Board concludes that the building will result in no adverse effect to the public interest.

In order to access the addition, the Church proposes a modest walkway from an entrance to the driveway. The walkway would, however, encroach and disturb areas designated as having steep slopes. The Zoning Board concludes that the walkway is an inherent part of the church building and is, indeed, part of the religious use. The walkway will not be contrary to the public interest.

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<sup>1</sup> Indeed, Fr. Milorad Orlic wrote to express his opposition to the Application to Zoning Hearing Board for Zoning Relief. Fr. Orlic questioned safety interests. Those concerns, however, are protected by Cheltenham Township's building codes.

The application for these religious uses meets the specific and general requirements of the zoning ordinances and the applicant is entitled to a special exception to permit the construction of the rectory addition and walkway.

The walkway is located,, in addition, in areas designated as having steep slopes. The Church seeks a variance to allow the sidewalk to be constructed in these steep slope areas instead of uses otherwise permitted. In order to qualify to ask for such zoning relief, the Zoning Code requires an applicant to submit a Lines and Grades Plan. Here, the area of disturbance is minor and disturbances of steep slopes for construction of the walkway cannot begin until the Church obtains land development approval. By the terms of the Subdivision and land Development Ordinance, the Church will need to submit a Lines and Grades Plan acceptable to the Board of Commissioners and the Township Engineer. The Zoning Board notes that the customary time for investing the resources and time in preparing a Lines and Grade Plan is at the land development approval stage and not at zoning approval. The Zoning Board concludes, therefore that, given the project's modest size and the protections provided by the conditions to the grant of zoning relief, the submission of the Lines and Grades Plan would not have advanced or hindered the Church's application before the Zoning Board. Accordingly, the Zoning Board grants a variance from the requirement for a Line and Grades Plan.

Finally, the walkway is a reasonable amenity to the rectory addition, without which the rectory could not be used in a customarily acceptable fashion. The facts of record demonstrate that failure to include the walkway would result in an unnecessary hardship to the property. The Church has demonstrated hardship resulting from the physical circumstance of the property and that the hardship is not a product of the Church's own actions. Accordingly, the

Church is entitled to a variance to allow construction of the walkway in areas designated as having steep slopes.

### CONCLUSIONS OF LAW

1. Construction and use of a two story rectory addition within the current building footprint of a church and construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the proposed rectory addition is not permitted without a special exception or other zoning relief 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. Similarly, the Zoning Hearing Board is empowered to grant special exceptions where the application meets the criteria of the zoning ordinances.

2. Support by the proofs of record, applicant has met its burden to establish that the proposed addition and walkway are religious uses that will result in no adverse effect to the public interest. Accordingly, the application meets the requirements of the zoning ordinances, and the applicant is entitled to a special exception to permit the construction of the addition and walkway.

3. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow relief from the requirement for a Lines and Grades Plan would result in an unnecessary hardship.

4. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow construction of the proposed walkway in areas designated as having steep slopes would result in an unnecessary hardship.

5. The special exceptions and variances as hereafter granted are the minimum variances that will afford Applicant relief and represent the least departure from the governing regulations.

6. The variances will not be contrary to the public interest.

### DECISION

**WHEREFORE**, this 9<sup>th</sup> day of May, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant the following variances:

- (1) a special exception to the rules and regulations of Article VIII, Section 295-43(C), permitting the construction and use of a two story rectory addition within the current building footprint and for a 5 foot wide

sidewalk and stair from the existing driveway to the main entrance of the rectory addition as a permitted use on the Property;

- (2) a variance from the rules and regulations of Article XXII, Section 295-168(B), to allow for a request for variance relief from Article XXII, Section 295-167 without submission a Lines and Grades Plan in connection with the construction 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition; and
- (3) a variance from the rules and regulations of Article XXII, Section 295-167, to allow the construction of a 5 foot wide sidewalk and stair from the existing driveway to the main entrance of the rectory addition as a permitted use of the Property.

This grant of relief is subject, however, to the following conditions:

- (1) the uses in the rectory shall be accessory to church uses;
- (2) the exterior materials shall be genuine and not simulated or cultured;
- (3) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its May 9, 2011 meeting;
- (4) Applicant shall submit a structural analysis of any foundation for the rectory to the Zoning Officer; and
- (5) Applicant shall submit a geotechnical analysis of the walls on Church and Stahr Roads to the Zoning Officer.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

**CHELtenham TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

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**AMEE FARRELL, Member**

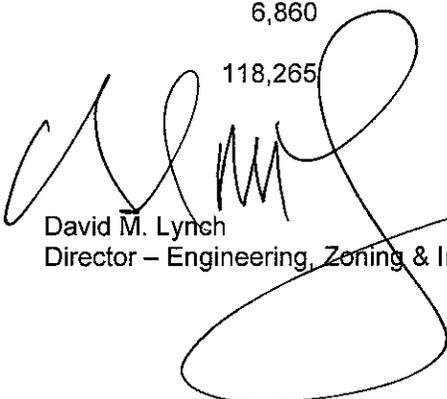
**THIS DECISION IS OFFICIALLY ISSUED ON JUNE 24, 2011**

JuLY 26, 2011

COMMISSIONERS OF CHELTENHAM TOWNSHIP  
ELKINS PARK, PA 19027

REPORT OF THE BUILDING INSPECTOR FOR JULY, 2011

	#	COST OF PERMIT	VALUE
<b>RESIDENTIAL</b>			
Renovations/Alterations	27	6,684	310,000
<b>MULTI-FAMILY</b>			
Renovations/Alterations	0	0	0
<b>COMMERCIAL</b>			
Renovations/Alterations	1	499	24,000
<b>INSTITUTIONAL</b>			
Renovations/Alterations	1	779	38,000
<b>FENCE</b>	6	361.8	361.8
<b>JULY 2011</b>	35	8,323.8	372,361.8
<b>JULY 2010</b>	47	8,209.5	350,502.5
<b>TOTAL TO DATE 2011</b>	234	50,165.2	2,044,307.2
<b>TOTAL 2010</b>	424	272,993	13,868,965
<b>HEATING &amp; AIR CONDITIONING</b>			
<b>JULY 2011</b>	8	1,792	82,000
<b>JULY 2010</b>	4	551	24,000
<b>YEAR TO DATE 2011</b>	36	5,104	220,200
<b>TOTAL 2010</b>	56	33,578	1,613,000
<b>ELECTRICAL</b>			
<b>JULY 2011</b>	7	353	11,000
<b>JULY 2010</b>	9	671	25,000
<b>TOTAL TO DATE 2011</b>	71	6,860	263,000
<b>TOTAL 2010</b>	128	118,265	4,225,950

  
David M. Lynch  
Director – Engineering, Zoning & Inspections