

September 7, 2011
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Michael J. Swavola, Chairman, presiding. Members present were Commissioners Hampton, Haywood, McKeown, Simon and Sharkey. Also present was Ex-Officio Member Portner. Staff present were Joseph Bagley, Wisler Pearlstine LLC; Bryan T. Havir, Assistant Township Manager; David M. Lynch, Director of Engineering, Zoning and Inspections; and David G. Kraynik, Township Manager. A Public Attendance List is attached.

Mr. Swavola called the meeting to order.

1. The Zoning Hearing Board Agenda for September 12, 2011 was reviewed as follows:

APPEAL NO. 3418: Appeal of Israel and Michelle Rolling, owners of premises known as 7845 Mill Road, Elkins Park, PA 19027, from the Decision of the Zoning Officer for the following Zoning Relief in order to construct a 18.75' x 13.75' (Irr.) addition to the rear of their residence:

- a. Zoning Relief from the Rules and Regulations of the Class R-7 Residence District as outlined in Article X of Chapter 295 of the Cheltenham Code, as follows:
 - i. A Variance from CCS 295-59. for a greater Building Area of 35.9% instead of the maximum permitted 35%.
 - ii. A Special Exception in accordance with CCS 295-60.B.(3) for a lesser Side Yard Setback of 3' from the south property line instead of the minimum required 9' (the southwest front corner of the residence is setback approximately 0.5' from the south property line).

Mr. Rolling was present. Mr. Lynch reviewed the appeal.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it takes no action on this appeal.

APPEAL NO. 3413: Appeal of Montgomery Court Realty Co., L.P., owner of premises known as 7803 Montgomery Avenue, Elkins Park, PA 19027, from the Decision of the Zoning Officer in order to operate a Private Ambulance Service from the premises

- a. A Determination that the storage of Private Ambulance on the premises overnight is not a function of the operation of a Private Ambulance Service and thus permitted as a

legal nonconforming use of the premises per the grant of relief under ZHB Appeal No. 1563.

b. In the alternative to a, above, a Determination, pursuant to “Nonconforming Uses” as outlined in CCS 295-227.F., that the operation of a Private Ambulance Service is of the same class of use as the previously approved nonconforming use(s) and thus permissible.

c. In the alternative to a. and b., above, a Variance from the Rules and Regulations of the Class R-5 Residence District as outlined in CCS 295-43. for the operation of a private Ambulance Service instead of one of the enumerated permitted uses.

Francine Boone, Esq. was present to represent the applicant. Mr. Lynch reviewed the appeal.

Ms. Boone stated that the ambulances are a transport service and would be used for non-emergency use only, i.e. dialysis patients, patients that have to go to a doctor; patients who have no transportation for medical treatment; under state law, they cannot transport emergency cases; they operate only during daytime hours; the ambulances leave between 4-5 a.m. and return between 4-5 p.m.; operate six (6) days a week and follow a roster that keeps them out on calls all day; there would be no sirens; ambulance storage is consistent with Township Code regarding garages; she reviewed the property’s previous uses and variances granted.

Extensive discussion ensued regarding the Planning Commission’s (“PC”) recommendations, uses of public garages, the number of ambulance trips in and out per day, repairs permitted, and Township Code regulating such use. Ms. Boone stated that she disagreed with the PC’s recommendations regarding on site repairs and maintenance and the limit on the number of ambulance trips per day. She reviewed previous variances and non-conforming uses since 1954, which she claimed were held up by a 1970 zoning decision, and in her opinion, the ambulance storage was a permitted and consistent use. Ms. Boone opposed the PC’s recommendation to limit one ambulance run per day. She contended that the population is ageing and needs more such services. If it turns out that there is a need in the community for

more than one (1) run per day, this would still be consistent with the Township Code regulating public garages.

Mr. Simon questioned the types of vehicle repairs. Ms. Boone felt minor repairs are a necessary part of all garages and should be allowed, i.e. changing of tires and the Cheltenham Code allows for minor repairs in garages.

Mr. Swavola did not want vehicles parked on the sidewalk, and he was concerned about possible repercussions if the property changes ownership in the future, and a future owner may want an ambulance service where ambulances would come and go at will, which he did not feel would be appropriate for the neighborhood, and he recommended a trip limit. Ms. Boone agreed there would be no parking on the sidewalk.

Mr. Simon asked the differences between these ambulances and taxicabs. Ms. Boone said they are transport vehicles but look like vans. The actual address of the business is on Cheltenham Avenue, and there will be no business operation from this location. Mr. Simon asked if each vehicle only transports one patient per day. Ms. Boone responded that there is a roster that is followed.

Mr. Swavola felt ambulances going in and out would be difficult to control unless neighbors complain. He felt that a control was needed on the number of trips in and out per day.

There was a public comment:

John Riehman-Murphy, owner of 7811 Montgomery Avenue, stated that he rents said property and opposed the appeal. According to Mr. Montgomery, there are two (2) garages on the property, i.e. 7803 and 7809 Montgomery Avenue. Auto repairs are being done at the garage next door to this property; the ambulance service at 7803 has been operating illegally for a year until he complained; at 7809 Montgomery there is an illegal auto repair shop. The owner has consistently been a bad neighbor; violates the zoning laws and ordinances; creates nuisances; he has had to call the Fire Department several times; there have been numerous property maintenance violations; he has received threatening letters from the owner; this is in a residential area, and the current garage is illegal; constant parking of vehicles on the sidewalk, including junk cars and ambulances. He reviewed the conditions of the 1970 variance, and cited how they are being ignored. The plans for an ambulance service are a means to skirt the Code. He noted that the

neighborhood has a court house, elementary school, limited on-street parking in a heavy residential neighborhood, and poor water drainage. He felt this was a wrong location for an ambulance service. He asked that the appeal be denied, and the current uses of the properties be stopped.

Mr. Lynch reviewed the actions his department has taken regarding these properties including the Notices of Violations at 7803 and 7805 Montgomery Avenue. He reviewed zoning and use of the properties; the history of the property; the split of the property into an auto function and storage garage. Ms. Boone contended that both properties are a legal non-conforming use. The 1954 and 1970 zoning decisions were reviewed. Ms. Boone contended that the 1970 decision upheld the 1954 use and applies to both properties and allows auto storage and garage use.

Mr. Murphy said that he was complaining about the violations on the property and not personally against the owner. He spoke to different individuals and received differing opinions about how a garage can be used. Also, there is a bathroom located there. There is no automatic garage door opener, and the ambulances have to park outside so the drivers can get out and open the door.

Ms. Boone presented exterior photos that show the building looking like a residential home from the outside and interior photos that showed a lack of computer and telephone equipment, files, etc. and other signs of a business but only cinder block walls for storage of vehicles. There is no business being run at the property, and the lease only allows for the storage of vehicles.

In response to a question from Ms. Hampton, Ms. Lynch stated he did not know if there were any hazardous materials such as gasoline stored on the property. He considered the violations from the zoning issue, and the material storage would come under Property Maintenance.

Mr. Simon asked about the identity of the property owner. Ms. Boone stated that it is owned by a limited partnership with the director and principal owner being Philip Pulley.

It was Mr. Simon's opinion that this service as described this evening did not appear to be the typical ambulance service that would have a negative impact in a residential neighborhood. He suggested the installation and maintenance of an automatic garage door opener with each vehicle having the ability to use the opener. He felt that determination of the legality of the usage was the decision of the Zoning Hearing Board but felt that if it was approved, it should be approved with certain conditions.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board of the following recommendations on Appeal No. 3413:

- a. The Committee takes no action on said appeal but if relief is granted, the Committee recommends that it be granted with the following contingencies:
 - The ambulances are to be used for non-emergency transport only
 - Ambulances to be limited to use for the transport of disabled, aged or medical patients only
 - No sirens or flashing lights to be used at any time
 - The garage door to be down at all times except to move vehicles in and out
 - An electric garage door opener to be installed and maintained with all vehicles using the facility to have the ability to operate the opener from the outside of the garage
 - Ambulances can make up to three (3) trips in and three (3) trips out each day
 - No vehicle maintenance or repairs are to be done on the site except for minor maintenance or repair of the ambulance vehicles
 - No parking on sidewalk or street
 - No other functions of private ambulance business to be performed on property
- b. If the applicant does not agree with all of the recommended conditions, the Committee recommends denial of said appeal.

Mr. Swavola asked Ms. Boone that if her client accepts the conditions, the acceptance be in writing.

APPEAL NO. 3414: (Continued) Appeal of Fairfield Wyncote, LLC, owner of premises known as 8460 Limekiln Pike, Wyncote, PA 19095 (a/k/a 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.

Mr. Lynch reviewed the appeal including the Committee’s previous concerns i.e., the neighbors on the opposite side of Route 309 will not hear any noise due to the road noise generated from Route 309; dog waste bags are on the site; there seems there will be little change in the appearance of the area; and there will be a fence with self-locking gate.

Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it takes no action on said appeal.

APPEAL NO. 3415: Appeal of Dr. Rami E. Geffner, equitable Owner of 8031 Old York Road, Elkins Park, PA 19027 (formerly “Rosenbluth Travel”), from the Decision of the Zoning Officer for a Variance from the Rules and Regulations of “Parking and Loading” as outlined in CCS 295-221.H. for providing zero off-street parking spaces on the premises for a Medical Office instead of the required 5 parking spaces.

Dr. Geffner was present. Mr. Lynch reviewed the appeal including the new use as a dermatology practice, parking needed for a medical practice, proximity to the municipal parking lot.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it takes no action on said appeal.

APPEAL NO. 3416: Appeal of Aldi, Inc., Tenant at 8200 Ogontz Avenue, Wyncote, PA 19095 (a/k/a “Ogontz Shopping Center”), from the Decision of the Zoning Officer for the following Zoning Relief in order to renovate and expand its Food Market facility on the premises from approximately 15,568 SF to approximately 18,302 SF:

a. Zoning Relief from the Rules and Regulations of the Class C-2 Commercial and Business District as outlined in Article XVI of Chapter 295 of the Cheltenham Code, as follows:

i. A Variance from CCS 295-111.A.(1) for a lesser Front Yard Setback of 33.3’ for the proposed building expansion from the Limekiln Pike frontage of the premises instead of the minimum required 40’ (the minimum Front Yard Setback from the Limekiln Pike frontage of the existing Aldi’s is 19.9’).

ii. A Determination that the following nonconformities from CCS 295-114. are legal nonconformities:

1. Green Area of 4.3%.
2. No landscaped buffer strip at least 15’ wide abutting entire perimeter of premises.
3. Vehicular parking within 15’ of the street lines.
4. Five (5) driveways in excess of 20’ width.

iii. In the alternative to a. ii, above, Variances from CCS 295-114., as follows:

1. For a Green Area of 4.3% instead of the minimum required 25%.
2. For no landscaped buffer abutting the entire perimeter of the premises instead of the minimum required 15’ wide landscaped buffer.
3. For vehicular parking within 15’ of the street lines instead of no vehicular parking.
4. For five (5) driveways in excess of 20’ wide each instead of the permitted two (2) driveways not greater than 20’ width each.

b. A Determination that the proposed wall signage: on north façade: Aldi logo sign @ 31.2 SF and “Food Market” sign @ 21.3 SF; and on East façade: “Food Market” sign @ 21.3 SF is a continuation of existing non-conforming signage (Zoning Relief for three (3) parallel wall signs was granted under ZHB Appeal No. 3346).

c. In the alternative to b., above, a Variance from CCS 295-197.C.(2) (b) [1] for three (3) parallel wall signs instead of the maximum permitted two (2) signs.

Peter Friedman, Esq. represented the applicant and Project Engineer Ron Klos was also present. Mr. Lynch reviewed the appeal including the PC’s recommendations; demolition of the north wall and building expansion; encroachment into a sewer easement, which Mr. Lynch stated does not seem to be problematic; landscaping is needed to reduce stormwater management

requirements at the east end since impervious area would be reduced; the non-conformities that are being addressed; and wall signs.

Mr. Friedman reviewed the size of the new addition; history of the property; new façade; removal of the paving and landscaping, which will be discussed at land development.

There was extensive discussion regarding landscaping and who is responsible for the landscaping. Mr. Lynch advised that the lessees, i.e. Aldi, Dunkin Donuts, do not want to be responsible. KL Investments owns the property. Mr. Friedman stated that Aldi is making the zoning application but Aldi and KL Investments will be making the Land Development application. His client has discussed the landscaping. Mr. Lynch advised that the zoning decision runs with the land, and KL Investments has to agree to the decision and is therefore, a party to it. The issues specific to zoning and specific to land development were discussed.

Mr. Haywood asked if there were photos of the signs and elevations. Mr. Klos presented photos. The Planning Commission's recommendations were discussed.

Mr. Bagley advised that there are two factors to be considered, i.e. if you ask for a zoning condition that is not fulfilled, you have a right to require the applicant to comply but there is less leverage in land development since violations are based on ordinance compliance. He recommended that important issues be addressed when the applicant applies for zoning as long as the conditions are not unreasonable.

It was Mr. Simon's opinion that without grass, there could be a stormwater management issue, which would be more costly so this could be an incentive for someone to plant grass.

Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it takes no action on said appeal but if relief is granted, it be granted with the following contingencies: the property boundary be corrected and be show on the Land Development Plan; the parking tabulation be

corrected; the paving of the inaccessible parking area north of Dunkin Donuts be removed, and the entire area landscaped in accordance with the recommendations of the Shade Tree Advisory Committee.

APPEAL NO. 3417: Appeal of Peter E. Olsho and Jane J. Wilkie, owners of premises known as 325 High Avenue, Melrose Park, PA 19027 from the Decision of the Zoning Officer for the following Zoning Relief in order to place a 8’X16’ pre-fabricated shed in the rear yard of the premises:

- a. A Variance from the Rules and Regulations of the Class R-4 Residence District as outlined in CCS 295-39.B.(1) for a lesser Side Yard Setback of 5’ for the shed instead of the minimum required 10’.
- b. A Variance from “Yard Regulations” as outlined in CCS 295-220.C. for a lesser Rear Yard Setback of 5’ for the shed instead of the minimum required 15’.

Mr. Lynch reviewed the appeal.

Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it takes no action on said appeal.

APPEAL NO. 3419: Appeal of Edmund P. Dornheim, owner of premises known as 215 Harrison Avenue, Glenside PA 19038 from the Decision of the Zoning Officer for Zoning Relief for the following:

- a. A Variance from the Rules and Regulations of “Fences and Walls” as outlined in CCS 295-223. for a 8’ high, 50% open fence along the rear property line instead of the permitted 6’ high, solid or open fencing.
- b. Variances from the Rules and Regulations of the Class R-5 Residence District as outlined in Article VIII of Chapter 295 of the Cheltenham Code, as follows:
 - i. From CCS 295-46.B.(1) for a 9’ high arched gateway within the side yard setback area along the southwest property line instead of no permitted structure.
 - ii. From CCS 295-46.C. for a 9’ high ached gateway within the rear yard setback area instead of no permitted structure.
- c. Variances from the Rules and Regulations of the “Floodplain Conservation District” as outlined in CCS 295-156., as follows:
 - i. For the 8’ high, 50% open fencing.
 - ii. For the two (2) 9’ high, arched gateways.

Mr. Dornheim was present. Mr. Lynch reviewed the appeal including 8' fencing and 9' arch gateways; location behind Dunkin Donuts on Easton Road; it is a matter of screening for the applicant; there is a drainage way between the applicant and Easton Road properties owned by the Township where there is an existing 6' high cyclone fence; the portion behind the applicants property has a gate in the fence that gives the Township access to the area to maintain it.

Mr. Sharkey wanted an easement for the Township to access the rear of the property. Mr. Bagley agreed. Mr. Dornheim agreed.

Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends approval of said appeal contingent upon an Easement Agreement between the applicant and the Township so that the Township can access the drainage area in the rear of the applicant's property.

2. Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Planning Commission Regular Meeting Minutes dated August 22, 2011, were received.

3. The Committee reviewed recent decisions of the Zoning Hearing Board as follows:

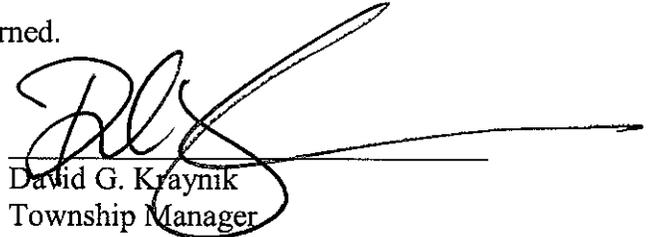
APPEAL NO. 3402: Appeal of Enterprise Leasing Company of Philadelphia owner of the property known as 1627 W. Cheltenham Avenue from the determination of the Zoning Officer finding that operation of the Property for automobile leasing and rental agency with ten off-site parking spaces and the installation of pylon and parallel wall signs would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating nonconforming uses, Article IX, Section 295-50, regulating uses, Article XXIX, Section 295-221, regulating off-street parking, Article XXV, Section 295-199, regulating nonconforming signs, and Article XXV, Section 295-197, regulating signs requiring a permit.

The Zoning Hearing Board granted applicant's request for relief subject to conditions.

Upon motion of Mr. Portner, and unanimously approved by the Committee, no action was taken.

4. Upon motion of Mr. Sharkey and unanimously approved by the Committee, the Report of the Building Inspector for the month of July 2011 was received.

There being no further business, upon motion of Mr. McKeown, and unanimously approved by the Committee, the meeting was adjourned.



David G. Kraynik
Township Manager

as per Anna Marie Felix

PUBLIC AFFAIRS COMMITTEE MEETING, 7:30 p.m.
PUBLIC SAFETY COMMITTEE MEETING, 7:45 p.m.
BUILDING AND ZONING COMMITTEE MEETING, 8:00 p.m.
 Wednesday, September 7, 2011, Curtis Hall

PUBLIC ATTENDANCE LIST

<u>NAME</u> <i>(Please print clearly)</i>	<u>ADDRESS</u>	<u>PHONE or E-MAIL</u>
Kaye Gallagher	2 Waverly Rd Wyncote	kayesbratpack@aol.com
LISA RITTLER	2641 LAUREL RD GLENVIEW	LisaRittler@gmail.com
Francine ThuntenBoer		bookeft@aol.com
Jim COSTA	Wyncote,	Jim.Costa@verizon.net
Lou Mande	7419 CEDAR RD, SINKS PARK	lou.mande@qmail.com
Alex Moretsky	7910 cedar Rd Elkins Park	alexmoretsky@yahoo.com
Melanie Valerio	173 Fernbrook Ave	Mel4thepeople@aol.com
Matti Horro	1113 Orleans Rd Cliffman PA	mh44@verizon.net
Israel/Roloff	7845 M. H Rd	215-635-2171
IRY GREENBERG	168 Fernbrook	215-886-3372
Emily Stine	101 Cliff Ter	2152775733 stine-emily@gmail.com
IGD CEREBI Edith Cerebi	Wyncote	sirbee@comcast.net
Monica Liggins	Wyncote	mLiggins@comcast.net

PUBLIC AFFAIRS COMMITTEE MEETING, 7:30 p.m.
PUBLIC SAFETY COMMITTEE MEETING, 7:45 p.m.
BUILDING AND ZONING COMMITTEE MEETING, 8:00 p.m.
Wednesday, September 7, 2011, Curtis Hall

PUBLIC ATTENDANCE LIST

<u>NAME</u> <i>(Please print clearly)</i>	<u>ADDRESS</u>	<u>PHONE or E-MAIL</u>
Bob Hammerquist	818 GLENDON	hammerj@aol.com
Mary Hammerquist	"	"
ED DORNHEIM	215 HARRISON	eddornheim@aol.com
PETER COSTO / JANE WILKIE	325 HIGHT	215-635-5516
John RIEHMAN MURPHY	200 Walnut street Apt 1 Jankintown NJ 18046	215-756-2772