

October 5, 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, 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 (“ZHB”) Agenda for October 17, 2011 was reviewed as follows:

APPEAL NO. 3413 (Continued): 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 Ambulances 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.

Mr. Bagley advised that he and Mr. Lynch were notified on the day of the ZHB meeting that the applicant would not agree to all of the conditions recommended by the Committee at its September 7, 2011 meeting. He was informed that the applicant felt that if they agreed to the conditions and got the relief that the vested rights for the two properties as well as the non-conforming uses would disappear. He informed the applicant’s attorney that it was his opinion

that said vested rights and non-conforming uses should be extinguished. However, he agreed that the part of the property (7805) not in this appeal would not be affected but for 7803, any relief would extinguish the vested rights and non-conforming uses, i.e. warehouse, auto repair and public garage but would still have the right to use it for auto storage since there are automobiles being stored there. His recommendation was that the Committee take “no action” as long as its previous conditions were met but clarified that if relief were granted, the Committee would agree that 7805 would be unaffected in terms of vested rights and non-conforming uses and that 7803 would be unaffected with respect to auto storage only. The other vested rights and non-conforming claims regarding to warehouse, auto repair and public garage would be extinguished if relief was granted. This is not just a zoning appeal but also an appeal from a Notice of Violation.

Mr. Simon asked that if it is approved by the ZHB could approval consist of the termination of any prior rights except the storage of autos? Mr. Bagley stated that rather than making it a condition, the stipulation between the Township and the applicant be put on the record. The applicant could come back in the future and make the claim that nothing was extinguished and would have to be litigated. It is best to clarify the record now.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the ZHB that it takes the same action with the same conditions as previously stated but with the added proviso that in whatever manner deemed legally appropriate that all the vested rights and non-conforming uses other than auto storage be extinguished.

APPEAL NO. 3415 (Continued and Amended): 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.

Mr. Lynch reviewed the appeal. The applicant may use the basement for medical offices in the future and has asked for a continuance to develop a new plan and the variance burden for parking. The original request was for zero parking spaces in lieu of non-use of the basement.

David Wollman, Esq. represented the applicant and reviewed the original appeal, number of exam rooms, the new appeal with the same number of exam rooms but in the new appeal the architects incorporated the basement into the building and increased the gross footage but the office includes the same number of exam rooms and patients as if it had been limited to the first floor. He felt there was ample parking.

Mr. Lynch stated that there is an EDU issue to be addressed before there is any occupation. The ZHB felt there was a potential for future expansion and wanted that resolved now.

There was discussion about parking, the number of exam rooms, anticipated number of patients at any given time, and number of staff. It appeared to Mr. Simon that there are only five (5) exam rooms. Mr. Wolman stated that it is the applicant's plan to have six (6) exam rooms, three (3) on each floor. There were plans to reduce the size of the staircase to allow for another exam room.

Mr. Haywood questioned how the Committee could take action on a plan that has not yet been developed and not presented to the Committee.

Mr. Wollman stated that his client is buying the building for a dermatology practice but does not want to buy it if he cannot use it.

Mr. Swavola felt that the use was not intense and there could be alternatives that would be more of an intensive use.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the ZHB that it takes no action as previously stated.

APPEAL NO. 3420: Appeal of Elizabeth Sand Braun, owner of Premises known as 8321 Cadwalader Avenue, Elkins Park, PA 19027 from the Decision of the Zoning Officer for a Variance from the Rules and Regulations of the Class R-4 Residence District as outlined in CCS 295-39.A.(1) for a lesser Front Yard Setback of 6.38' instead of the minimum required 40' for a 9.08' W x 4.75' D x 8.3' H front sidewalk entrance trellis.

Mr. Lynch reviewed the appeal. He described the planned gazebo and presented photographs. In response to a question from Mr. Simon, Mr. Lynch stated that it is a structure and will require a building permit.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the ZHB that it takes no action as previously stated.

APPEAL NO. 3421 – 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 51.74 SF (6.72'H x 7.70'W) and a sign height of 8.39'; 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 51.74 ± 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 51.74 ± SF instead of the maximum permitted 20 SF.
- iii. For aforesaid signs having a sign height of 8.39' instead of the maximum permitted 4'.
- iv. For aforesaid signs being internally illuminated instead of the required external illumination.

Mr. Lynch reviewed the appeal including its previous denial by the ZHB in July 2011 because the ZHB felt that the two (2) signs were parallel to Old York Road and to Township Line Road and felt that this was a safety hazard. The applicant has relocated the signs to make them perpendicular. The signs are the same size but removed some of the detail.

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

APPEAL NO. 3422 – Appeal of Stenton Property LLC, Owner of premises known as 1627 W. Cheltenham Avenue, La Mott, PA 19027, from the Decision of the Zoning Officer for the following Zoning Relief in order to operate an 45' x 40' (1800 SF), 4 Bay Automobile Repair Facility on Tract 2 (rear vacant lot) of the Premises:

- a. A Determination that the proposed use as an Automobile Repair Facility on Tract 2 is a continuation of an existing nonconforming use pursuant to CCS 295-227. A.,B.,C.,E. and F..
- b. In the alternative to a, above, a Variance from the Rules and Regulations of the Class R-6 Residence District as outlined in CCS 295-50. for the operation of an Automobile Repair Facility on Tract 2 instead of one of the permitted enumerated uses.
- c. A Variance from the Rules and Regulations of the Class R-6 Residence District as outlined in CCS 295-53.B.(2) for a lesser Side Yard Setback of 10' along the Southwest Property Line (Common Line with Tract 1) instead of minimum required 16'.
- d. A Determination that the 16 Parking Spaces ("P.S.") provided are sufficient for the proposed use as an Automobile Repair Facility; Applicant proposes 3 P.S. for each

Service Bay (4 Bays @ 3 P.S. each =12 P.S.) and four employee P.S. pursuant to CCS 295-221.H..

e. A Variance from the Rules and Regulations of “Parking and Loading” as outlined in CCS 295-221.H. to permit 6 of the proposed P.S. to be held in reserve for future use.

f. Variances from the Rules and Regulations of “Signs” as outlined in CCS 295-197.A., as follows:

- i. For one (1) 2’x 10’ Parallel Wall Sign facing Cheltenham Avenue.
- ii. For one (1) free-standing sign on front portion of Property, size and location to be determined.

Michael Yanoff, Esq. represented the applicant. Mr. Lynch reviewed the appeal including the uses of Tracts 1 (this contained the original service station); Tract 2 (vacant ground); currently, there is an auto repair, and the applicant wants an Enterprise Car Rental and 6’ high estate fencing; he reviewed the original Land Development Plan that has the tracts as separate parcels.

There was discussion regarding whether or not there was a previously recorded subdivision plan. Mr. Yanoff stated that the Township has record of a recorded plan dated 1968 but the county does not. Even though the plan was signed and stamped by the Township, the county has no record of it. Mr. Yanoff’s research did not uncover any records conveying the property as two (2) separate parcels. It was his opinion that it was one (1) parcel with one (1) use. The property has been taxed as one (1) property. The plan was not recorded, and there is only a lease line. Mr. Lynch advised that the argument of whether the property comprises one (1) or two (2) lots affects the variances.

It was Mr. Portner’s opinion that the Committee could not make any recommendation without the Solicitor’s review and opinion. He recommended that the applicant request a continuance. Mr. Yanoff stated that he does not have the authority to agree to a continuance and due to the late hour, cannot contact his client. Mr. Bagley stated that this was an unusual

situation and needed to be researched with the Recorder of Deeds. Mr. Portner responded that he could not recommend a motion until the status of a recorded plan is determined.

Upon motion of Mr. Portner, and unanimously approved by the Committee, said appeal was tabled to the Public Works Committee meeting on October 12, 2011 to allow for further research on a recorded plan by the applicant's attorney and the Township Solicitor.

There were public comments:

Asteria Vives, 7326 Sycamore Avenue, stated that the property was always used and rented as two (2) properties; the owner should be available for questioning; the applicant's attorney should have done a time search; she asked for a clearer copy than what is attached to the agenda; and she felt one (1) more week was not ample time for research.

Darlene Melton, 1829 Chelsea Road, stated that she is a resident and Vice Chair of the La Mott BHAR; she asked the Commissioners to do a drive-by; she has lived there since 1988, and the back lot has not been used; this appeal should be reviewed by the La Mott BHAR; the site is part of Camp William Penn and the only open space left from that camp.

Joyce Bridgeforth, 7317 Butcher Street, stated that the property has always been used as two (2) separate tracts, and Tract 2 has never been used.

2. The Committee considered a request for a waiver from Our Community Cooperative of Cheltenham Township. Mr. Simon recused himself due to an equity interest and a debtor/creditor interest in the property. Dan Reynolds, 1107 Stratford Avenue, President of the Co-op and Harold Lichtman, architect, represented Cooperative.

Mr. Lichtman reviewed the agreement of sale, the non-profit status of the Cooperative, funding for construction in place, agreement of sale, plans for construction this winter. They are looking to use the money that is available smartly to make sure it is built properly and has the right equipment to be successful. They are asking to waive the building permit fees and the fees for sewer use in an amount of approximately \$34,000. The Township can recoup this amount through wage and mercantile tax within three (3) years, as well as future real estate taxes, according to Mr. Lichtman. Currently, there is a vacant building producing zero to the economy.

Mr. Reynolds reported on the history of the project and its potential value to the community; membership of 1,300 families; projected revenues; and its advantages to sustainability.

Mr. Sharkey asked that the co-op be aggressive in promoting and hiring employees from within the Township. Mr. Reynolds felt that it would be an attractive place for young people in the community to work since they could easily walk/bicycle to it.

In response to a question from Mr. Sharkey, Mr. Lynch stated that there are sufficient EDU's.

Mr. Haywood had several questions, i.e. what distinguishes the co-op's business from other new businesses coming into the Township to justify asking for a waiver of fees; if it is non-profit, how would the Township benefit from real estate taxes for a tax-exempt entity; could the \$34,000 in fee waiver be used as a contingency; if the co-op does not have the money during construction, will it have the money to pay for the fees later. Mr. Reynolds stated that it is member-owned, non-profit, and has a volunteer board. The co-op is not profiting from this but are volunteers bringing it together for the Township's benefit. There are ancillary benefits, not just taxes. The co-op is residents creating business. Mr. Reynolds stated Township real estate and School Taxes will be paid and business mercantile taxes will be paid. It is a Pennsylvania non-profit, not a federal non-profit so it will pay taxes. In the beginning, it may apply for a tax abatement program for the first couple of years. The \$34,000 will be used as construction dollars, not contingencies. They would not be able to pay the \$34,000 later since it is a non-profit, and this money could go directly into the business. This money would buy another piece of equipment.

Mr. Reynolds presented a petition from residents supporting the waiver request. The money is not part of the business plan. Mr. Lichtman felt this would be a good impetus to developing Elkins Park East. Mr. Reynolds stated that the co-op is buying the building.

Mr. Swavola stated that the building had previous business that did not thrive. In response to a question from Mr. Swavola, Mr. Lichtman stated that the water usage would be the same as the former Ashbourne Market, i.e. four (4) EDU's.

Mr. Sharkey supported the co-op and noted that such a request has never before been granted but due to the nature of the business, and possible economic stimulus to Elkins Park, he supported the request for a waiver of fees.

Mr. Haywood supported the project but felt the Building Permit and EDU Fees are fees that should be paid. Only one-third of the Township's total budget is from real estate taxes. The remainder is from fees and any other items that generate income. Since fees are a large part of the Township's revenue, he could not support it. Mr. Reynolds felt there would be a long-term gain for the Township. A member of the co-op stated that there are federal and state contributions and they are asking the Township to contribute. Presently, it has \$190,000 and are raising another \$250,000, all from the community. They only asked the Township for its support.

It was Mr. Haywood's opinion that the Township should not be an investor in the project in terms of financial assistance.

Ms. Hampton felt that if the Township is willing to waive the requested fees, there should be a commitment from the co-op to employ Township residents. Mr. Reynolds stated that he wants to hire Township residents but hiring also depends on experience. Mr. Hampton asked about training possibilities. Mr. Reynolds stated there would be training.

3. Upon motion of Mr. Sharkey, and approved by the Committee, it is recommended to the Board of Commissioners the grant of a waiver of the Permit Fees and Sewer Connection Fees for the Creekside Co-op, 7909 High School Road, Elkins Park, in the amount of \$34,000. (AYES: Hampton, Portner, Sharkey, Swavola; NAYES: Haywood).

[Mr. Simon joined the meeting].

4. Upon motion of Mr. Sharkey and unanimously approved by the Committee, the Planning Commission Regular Meeting Minutes dated September 26, 2011 were received.

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

APPEAL NO. 3401: Appeal of Elizabeth R. Higgins, owner of the premises known as 532 Woodland Avenue, Cheltenham, Pennsylvania 19012, from the determination of the Zoning Officer finding that construction of a deck, measuring 9 feet wide by 45 feet long, and a shed, measuring 9 feet wide by 15 feet long, along the northeast side of the residence which creates a less than required side yard setback on the Property would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XI, Section 295-67, regulating yard setbacks.

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

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

APPEAL NO. 3405: Appeal of Dreck Properties, Ltd., c/o David Mermelstein, owner of the premises known as 7770 Montgomery Avenue, Elkins Park, Pennsylvania, from the determination of the Zoning Officer finding that construction of a duplex on the Property, creating a less than required lot area, a greater than permitted building area, lesser side and rear yard setbacks, providing no landscaping within the first 15 feet from the street line, a less than required buffer area, a less than required off-street parking area and a non-permitted use in the R-5 Zoning District would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XVII, Section 295-119, regulating lot area, Article XVII, Section 295-120, regulating building area, Article XVII, Section 295-121, regulating yard setbacks, Article XVII, Section 295-124, regulating green area, Article XVII, Section 295-125, regulating buffer area, Article VIII, Section 295-43, regulating permitted uses, and Article XXIX, Section 295-221, regulating off-street parking.

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

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

APPEAL NO. 3408: Appeal of Arcadia University, owner of the premises known as 2053 Church Road, Glenside, Pennsylvania, from the determination of the Zoning Officer finding that use of the Property as an educational institution and office and providing less than the required number of on-site parking spaces would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VII, Section 295-36, regulating uses, and Article XXIX, Section 295-221, regulating off-street parking.

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

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

APPEAL NO. 3412: Appeal of Elkins Associates, LLC, c/o Century 21, owner of the premises known as 7870 Spring Avenue, Elkins Park, Pennsylvania, from the determination of the Zoning Officer finding that use of the front portion of the first floor of the building on the Property as a book and music shop is not a permitted use and would require a number off-street parking spaces would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XIII, Section 295-80, regulating permitted uses, and Article XXIX, Section 295-221, regulating off-street parking.

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

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

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

6. Under Old Business:

Mr. Sharkey asked that review and discussion of the recommendations of the Montgomery County Planning Commission regarding the proposed age-restricted ordinance be placed on the October 12, 2011 agenda of the Public Works Committee. The Committee unanimously agreed.

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

A handwritten signature in black ink, appearing to read 'DK', with a long horizontal flourish extending to the right.

David G. Kraynik
Township Manager

as per Anna Marie Felix



PUBLIC ATTENDANCE LIST
Public Affairs Committee, 7:30 p.m.
Public Safety Committee, 7:45 p.m.
Building and Zoning Committee, 8:00 p.m.
Wednesday, October 5, 2011
Curtis Hall

NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
Melanie Vallerio	173 Fernbrook Ave	Melvthepeople@aol.com
Shira Neuberger	116 Waverly Rd.	shiraneu@yahoo.com
David Flaks	7517 Vernon Rd Mulrook Pk, PA 19027	Davidflaks@aol.com
Marsha Moss	220 Locust St. Phila PA 19106	marshamoss@aol.com
Truong Tran	104 Rices mill Rd glenside Pa 19038.	
Ann Rappoport	114 E. Waverly 19095	annrappoport@comcast.net
Anne Friedman	413 E. Waverly 19095	
Michael Di Camillo	1117 Edge Hill Rd 19001	mdicamillo@supta.org



PUBLIC ATTENDANCE LIST
Public Affairs Committee, 7:30 p.m.
Public Safety Committee, 7:45 p.m.
Building and Zoning Committee, 8:00 p.m.
Wednesday, October 5, 2011
Curtis Hall

NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
MAURIZIO SILVA	1239 Maribel Street	msilva@septa.org
Tom Cox	816 E. Glenville Ave Wynne	tcox@netreach.net
Liz Podrazny	107 E. Waverly Rd Wyncoke	
USA Team	120 Waverly	
Kirsten Melby	115 Waverly	
Kaye Gallager	2 Waverly Rd Wyncoke	
DAN Reindel	1107 Ave SRAST	
R. FLOSTEIN	14 NORTH AVE	



PUBLIC ATTENDANCE LIST
Public Affairs Committee, 7:30 p.m.
Public Safety Committee, 7:45 p.m.
Building and Zoning Committee, 8:00 p.m.
Wednesday, October 5, 2011
Curtis Hall

NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
Judith Gratz	510 E Glenside Ave Wyncote	judithgratz@gmail.com
Hannah & Stephen Reimer	508 E Glenside Wyncote	palindromehannah@hotmail.com
Steve Strahs		
Betsy B	8321 Cadwalader EP 19027	
Margot Weiner	7705 Cheryl Rd 19027	
Dan Norris	236 Barclay Cir. Chelt.	
A Vires	Blp Sycamore Lanoll	AKL
Erin Maher	7 Waverly Rd. Wyncote, PA	maher_erin@yahoo.com



PUBLIC ATTENDANCE LIST
Public Affairs Committee, 7:30 p.m.
Public Safety Committee, 7:45 p.m.
Building and Zoning Committee, 8:00 p.m.
Wednesday, October 5, 2011
Curtis Hall

NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
Ted Bahner	801 E Glenside Ave Wyncote PA 19095	ted.bahner@comcast.net
Ed BYRNES	105 WAVELEI RD WYNCOTE 19095	
Deborah Richman Jacob Ketter	512 Glenside Ave Wyncote 19095	deebo7of9@aol. com
J. Werkman	1011 Sargentine Ln Wyncote PA 19095	
DAVID COHEN	321 GERARD E P102 19027	dlcohen1@ ix.netcom.com
Max Minkoff	329 Harrison Ave EP 19027	max@planetminkoff.com
Lude Daniel	Ridgeway Rd Wyncote, PA 19095	
Christine Furtak Michael Ritter	408 Chapel Rd Elkins Park PA 19027	chrisandmichael@comcast.net



PUBLIC ATTENDANCE LIST
Public Affairs Committee, 7:30 p.m.
Public Safety Committee, 7:45 p.m.
Building and Zoning Committee, 8:00 p.m.
Wednesday, October 5, 2011
Curtis Hall

NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
DARLENE MOUTON	1829 Chelton Rd LAMOTT PA	XXXXXXXXXX
Stephen Burns	145 Hewett Road Wyncote, PA 19095	
Joyce m Bridgeforth	7317 Butcher St	
Fredericka Waugh	7315 Keenan St.	
ELSA TARANTAL	7923 PARK AVE E.R.	