

May 2, 2012
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Vice Chairman Harvey Portner presiding. Members present were Commissioners Hampton, McKeown, Norris, and Sharkey. Also present was Ex-Officio member Haywood. Staff present were Joseph Bagley, Wisler Pearlstine LLC; Patrick Duffy, Director of Engineering, Zoning and Inspections; and Bryan T. Havir, Assistant Township Manager. A Public Attendance List is attached.

Mr. Portner called the meeting to order.

1. The Zoning Hearing Board (“ZHB”) Agenda for May 14, 2012, was reviewed as follows:

Appeal No. 3435: Appeal of Walter Gimbel, owner of premises known as 140 Jefferson Ave., Cheltenham, PA 19012, from the Decision of the Zoning Officer for the following Zoning Relief: a variance from the Rules and Regulations of the Class C-3 Commercial District as outlined in CCS 295-121.C. for a lesser side yard setback along the northwest property line of 3’ instead of the minimum required 8’ for a 20’W x 22’L x 19’+/- H Garage.

Upon motion of Mr. McKeown, 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.

2. Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Planning Commission Meeting Minutes of April 30, 2012 were received.

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

Appeal No. 3427: Appeal of Spring Hill Holdings LLC, owner of the premises known as 327 Gerard Avenue, Elkins Park, Pennsylvania, from the determination of the Zoning Officer finding that construction of a deck, measuring 20 feet by 20 feet (irr.) on the northeast side of the existing house, and creating a less than required front yard setback of approximately 19 feet instead of the minimum required 40 feet from the Penn Street frontage of the Property would

violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-46, regulating yard setbacks.

Applicant seeks a variance from Section 295-46(A)(2) of the rules and regulations of the R-5 Residence District to allow the construction of the deck, measuring 20 feet by 20 feet (irr.) on the northeast side of the existing house, and creating a less than required front yard setback of approximately 19 feet instead of the minimum required 40 feet from the Penn Street frontage of the Property.

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. The Committee considered a request for rezoning from residents of the 100 block of Cottman Avenue to rezone said block from R-8 Residential to C-3 Commercial. Present to represent the applicants was Michael Shectman, Esq. Mr. Duffy reviewed the request. The Committee discussed "spot zoning". Mr. Duffy advised of his opinion that this is not considered "spot zoning". Mr. Bagley agreed.

In response to a question from Mr. McKeown, Mr. Duffy stated that all residents on the 100, 200 and 300 blocks of Cottman Avenue as well as residents on Jefferson Avenue received notifications of the request.

In response to a question from Mr. Portner, Mr. Duffy reviewed the various zoning districts along Cottman Avenue. If the 100 block of Cottman Avenue was rezoned to C3, there would be about 1,170 feet of consecutive zoning; and there would be consistency. Mr. Bagley concurred.

There was a public comment:

Nancy Ellis, 127 Jefferson Avenue, did not feel the rezoning was necessary. She was concerned about possible negative impact of commercial properties that abut the residential properties on Jefferson Avenue, and it is unknown what type of commercial business will develop.

Mr. Portner asked if zoning reclassification was an important factor for the property owners. Mr. McKeown stated that the residents on Cottman Avenue are asking relief because they cannot sell their homes due to the traffic. He reviewed the zoning along Cottman Avenue. He felt that the rezoning classification would be a positive asset. Mr. McKeown stated that the 600 and 500 blocks are commercial; 400 and 300 blocks are residential; 200 block is commercial; and the 100 block is mixed use but the traffic is very heavy and rezoning to C3 would be an asset. Mr. McKeown stated that he has not heard any negatives from neighbors.

Mr. Duffy explained the land development process.

Mr. Sheckman presented photos. Mr. Sharkey asked if there are currently any plans for businesses and if Cottman Avenue is included in the re-writing of the Zoning Code.

Mr. Sheckman stated that there are no plans now for any businesses, just for the reclassification.

Mr. Havir reported that in discussions regarding changes to the Zoning Code, this area is being proposed as mixed use. Mr. Sharkey asked about the status of the changes being proposed

to the current Zoning Code. Mr. Havir responded that the 2005 Comprehensive Plan recommends that Cottman Avenue be rezoned mixed use. The Township has been working on a new zoning map, and a proposed new zoning map and Zoning Ordinance could be ready in the near future. Mr. Sharkey indicated that this could be accomplished by the end of the year, and felt that residents might consider waiting.

Michael Zlotnick, 114 Cottman Avenue, reviewed schematics of the area. Mr. Haywood questioned what appeared to be an empty lot on the block. Mr. Zlotnick clarified that there were homes on that site that merged, and the lot that Mr. Haywood sees is a place where there was once a house, and a parking lot was built. Schematics of the area were reviewed.

5. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Township Solicitor was directed to draft an Ordinance amending Chapter 295 of the Township's

Zoning Code for the purpose of reclassifying the 100 block of Cottman Avenue from R5 Residential to C3 Commercial.

6. Upon motion of Mr. McKeown, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the scheduling of a Public Hearing on July 18, 2012, to hear any comments from the public regarding the adoption of a proposed Ordinance amending the Zoning Code, Chapter 295, thereof, entitled Zoning, Article XXIX, relating to a zoning reclassification of the 100 block of Cottman Avenue from R3 to C3.

7. The Committee considered a request for a zoning amendment for the property at 133/135 Cheltenham Avenue, Melrose Park, for the purpose of changing its use from a Synagogue to a Dialysis Center. Present were Jay Ochroch, Esq. and Marcel Groen, Esq. to represent the applicant. Sketches were distributed. Mr. Groen reviewed the agreement of sale; proposed use; current zoning; the request for an amendment of the Zoning Code; notifications sent to residents; meeting with neighbors; and anticipated tax revenue. He stated that there was a lack of opposition to the request.

Mr. Sharkey stated that the Committee was not prepared to make any decision this evening since it has just been presented with plans and needs more time to review them.

In response to a question from Mr. Portner, Mr. Duffy stated that he has only seen the submittal to DEP for the EDU request but not any plans. Mr. Groen asked that the Committee consider only the request for a zoning amendment that would allow this type of medical facility, and in the interim, plans would be presented in the meantime. He asked that the Committee initiate the change of zoning process.

Mr. Ochroch distributed and reviewed a draft Ordinance to amend the Zoning Code to allow for said use. He did not expand the residential areas but added uses for professional/medical office, subject to a special exception being granted by the Zoning Hearing

Board. According to Mr. Ochroch, with a request for a variance, a self-imposed hardship has to be proven. Mr. Ochroch felt that a zoning amendment was easier for said development and gives more flexibility and puts the decision for the special exception with the Zoning Hearing Board.

Mr. Bagley advised that he reviewed the proposed Ordinance, made some linguistic changes, and was concerned about the use of terms such as “specialized professional services”. Mr. Bagley felt this could allow a future use as a methadone clinic. He advised that he amended the proposed Ordinance to allow for a dialysis center and colonoscopy facility but specifically eliminated a methadone clinic.

Mr. Haywood felt that changing the standard from variance to special exception would apply to the entire scope of what was under §295-225 and not just the dialysis center in this application. He was not certain if the special exception standard should be adopted since it is a lower standard than a variance standard. Mr. Ochroch responded that the burden of proving special exception is on the applicant. With this Ordinance, the special exception would only be for the permitted uses with certain criteria. Mr. Ochroch felt that the problem with a variance is that there is the issue of the purchaser proving self-imposed hardship. Special exception is a permitted use imposed by the Zoning Hearing Board. Mr. Groen stated that the special exception being requested only applies to Subsection 7 of §295-225.

Mr. McKeown asked for Mr. Bagley’s opinion. Mr. Bagley stated that the proposed Ordinance should be reworded so that the special exception be allowed only for specialized medical services. There are other uses that the Township may not want to allow in the future by special exception. He felt that the Ordinance could be amended to go forward but still keep in tact some contingencies that the Township wants addressed by variance.

Mr. Norris felt this would be a win-win for the Township, and there was no opposition from neighbors. Mr. McKeown wanted to be sure that the linguistic changes are in keeping with

what the Commissioners want. Mr. Bagley stated part of this application has to be applied for by variance and part of it by special exception, i.e. specialized medical services.

Mr. Haywood felt that the changes to §295-225 are very broad-based and far reaching, and he cautioned that supporting any changes should be related only to the dialysis center and not all the properties throughout the Township. Mr. Groen responded that this would not affect residential properties.

8. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Township Solicitor was directed to draft an Ordinance amending Chapter 295, Section 295, of the Township Code entitled Zoning, to allow for specialized professional services as discussed this evening.

9. Upon motion of Mr. McKeown, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the scheduling of a Public Hearing on July 18, 2012, to hear any comments from the public regarding the adoption of a proposed Ordinance amending the Zoning Code, Chapter 295, §295-225 thereof, entitled Zoning, Article XXIX, relating to 133/135 Cheltenham Avenue, Melrose Park.

10. Mr. Bagley discussed a possible amendment to the Zoning Code creating a Billboard Overlay District. He explained that several billboard companies have successfully challenged the billboard ordinance of several municipalities. This has resulted in municipalities spending a lot of money for legal fees. Many municipalities that have not yet been challenged are changing their ordinances. The ordinance he drafted and sent to Staff for their review has been adopted by several municipalities as a result of said challenges. Many of the legal challenges are a result of municipalities that have a large highway and do not permit billboards along said highway. Currently, Township Ordinance allows billboards in the industrial districts but not along Route 309. However, the one billboard along Route 309 was erected as the result

of a challenge in court, and the Township allowed it to be built. According to the Zoning Code, the Township does not get credit for said billboard.

Mr. Bagley advised that the Township amend the entire Zoning Code and designate one more additional location along Route 309 for a billboard. This would then suffice so that there will be currently one (1) existing billboard along Route 309 and one location allowable for a second billboard in the future.

Mr. Sharkey asked about the ramifications to the Township. Mr. Bagley advised that one additional location along Route 309 be designated for a billboard. The Township's position would be strengthened by having one (1) other designated location.

11. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Township Solicitor was directed to draft an Ordinance amending the Township's Zoning Code allowing for billboards at certain locations in the Township.

12. Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Report of the Building Inspector for the month of April, 2012, was received.

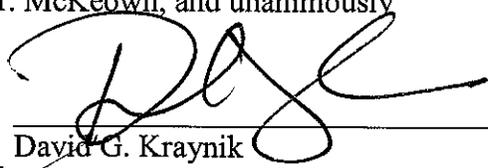
13. Under Old Business:

Mr. Sharkey asked that Staff investigate which current entities in the Township have sewage capacity (EDU's) that can be purchased to provide said EDU's to a new business.

14. Under Citizens' Forum:

David Cohen, a member of the Ad Hoc Zoning Committee, had concerns about a zoning amendment regarding billboards as follows: 1) he opposed digital variable billboards; 2) he did not want a location visible to schools; 3) he asked that any ordinance be in compliance with the Federal Highway Beautification Act.

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, May 2, 2012, Curtis Hall

PUBLIC ATTENDANCE LIST

<u>NAME</u> <i>(Please print clearly)</i>	<u>ADDRESS</u>	<u>PHONE or E-MAIL</u>
Catherine Thompson	1839 Chester Ave.	215657-3421
Pick Grets	455 Strady Lane Huntingdon Valley	215 663-9815
Judith Grodz	510 Glenside Ave Wyncote	
Elisabeth Lord	134 Cottman Ave Cheltenham PA	215 920 2064
Joshua Gordon	404 Twickenham Rd Glenside, PA 19038	215-887-2749
Sue McAlary	109 Ryers Ave Chelt PA	
Michael Zotnick	114 Cottman Ave	215379-0123
Denise Miller	138 Cottman Ave	215-663-5845
Christina	37 Cottman Ave	215 372 1311
Monica Liggins	305 Maple Ave.	mLiggins@comcast.net 215 350-8575
James Wilmore Jr	3 Ryers Avenue	wilmore03@comcast.net
Beverly Abraham Macky	820 Glenside	beverly@bsc-worlwide.com
Robert Hall	46 Cottman Ave	215-390-6289

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DAVID L. COHEN	321 GERALD AVE. E.P.	
Bill Cuyler		
Tom McHugh	127 Hewett Rd Wyncote	
ANNA SKALE	8220 FOREST HILL E.P.	
John Dunphy	305 MAPLE AVE Wyncote, PA.	
TED CERBI	300 Maple Ave Wyncote PA	
J O chival	2000 Market St Phila Pa 19103	
Barton Eisenberg	TEN South Av Wyncote PA 19095	215-572-7712
Michael Stechtman ESQ	128 Greenwood Ave Wyncote, PA 19095	(215) 885-7500
Stephen Thompson	13 Ryers Ave	(215) 379-4599
Carol & Walter Gindal	140 Jefferson	215-379-4009
PETER J. BODOR	105 RYERS AVE	215-501-9554
Henry J Thompson Jr	129 Jefferson Ave	215-379-4599

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<u>NAME</u> <i>(Please print clearly)</i>	<u>ADDRESS</u>	<u>PHONE or E-MAIL</u>
Ariana Burrows	406 Shwenacker Rd @P 19027	215-635-5176
FRUCE COOPER SMITH	104 HEWETT Rd. WYNGOETZ PA 19095	215-886-1740
Sherley L. Cohen	1509 Ashbourne Rd	215-635-1521
Mildred Brooks	7900 Old York Rd 813B	215-635-7120
Edythe E Kaplan	1509 Ashbourne Rd #223	215-548-9165
S Brooks	7900 Old York Rd Apt 813B 19027	215 635 7120