

January 8, 2014
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Chairman Art Haywood presiding. Members present were Commissioners McKeown, Norris, Portner, Rappoport, Sharkey, and Norris.

Staff present were David Jones, Interim Planner/Zoning Officer and Bryan T. Havir, Township Manager. Also present was Joseph Bagley, Esq., Solicitor. A Public Attendance List is attached.

Mr. Haywood called the meeting to order at 8 p.m.

1. The Committee reviewed the Zoning Hearing Board (“ZHB”) Agenda for January 13 and January 21, 2014 as follows:

APPEAL NO. 3478: Appeal of Annie Nguyen, owner of premises known as 621 Boyer Rd., Cheltenham, PA, from the Decision of the Zoning Officer for a variance in accordance with the rules and regulations of the Class R-5 Residence District as outlined in CCS 295-46.C for a lesser rear yard setback of 3' instead of the minimum required 15' and CCS 295-46.B.(1) for a lesser side yard of 7' instead of the required 8' in order to install a 8' x 16' shed.

Mr. Jones reviewed rear and side yard requirements, size of the new shed vs. previous shed, location of new shed, and the Planning Commission’s comments.

Upon motion of Mr. McKeown, the Committee unanimously directed the Township Planner/Zoning Officer to advise the Zoning Hearing Board (ZHB) that it recommends approval of said appeal.

APPEAL NO. 3479 – Appeal of Hopkins Center, owner of premises known as 8100 Washington Lane, Wyncote, PA, from the Decision of the Zoning Officer in order to expand the existing parking field by 15 spaces and shift the location of the recyclable/trash enclosure.

The following Zoning Relief is required for the proposed project within the R-3 Residential District:

1. A variance from CCS 295-221.B(5).(a) (Location of surface parking) to allow surface parking between the existing building and Washington Lane.
2. A variance from CCS 295-220B. (Side yard projections) to allow recyclables/trash and landscape wall to project within the side yard.
3. A variance from CSS 295-163 (Steep Slope Conservation District) to allow disturbance of slopes 15% or greater.
4. A variance from CCS 295-24A. (2) (Front Yard Setback) to allow construction of a landscape wall with railing 18' from the Right of Way instead of the allowed 50'.

Mark Baldwin, Maintenance Director and Glenn Weaver, Engineer were present. They reviewed the need for additional parking due to limited parking that result in parking in the fire lane; current location and proposed new location of the dumpster. Mr. Baldwin stated that they will comply with all of the Planning Commission's recommendations.

Ms. Rappoport was concerned that the details/reports/plans requested by the Planning Commission were not being presented to the Committee this evening. She felt this could make it difficult for the Committee to review the application and make a recommendation without that information. Mr. Jones responded that these items were matters for land development review.

Regarding a question from Ms. Rappoport about location of the dumpster from the abutting property, Mr. Weaver responded that the dumpster would be located five (5) feet from the side yard property line. Ms. Rappoport asked Mr. Jones to review the allowable setback for this zoning district for dumpsters. She asked if there were environmental issues as they relate to parking and if the Environmental Advisory Council (EAC) gave input on this.

Mr. Haywood responded that it is not the responsibility of the EAC to review zoning applications. Mr. Bagley reviewed the zoning process.

Mr. Simon stated that stormwater management is a part of the land development process, and under MS4 regulations, applicants must show proof that the stormwater run-off after development will not be more than it was before the development. Mr. Bagley stated that the ZHB can require certain documentation in this respect if it chooses to do so.

There was extensive discussion of the location of the new parking area, stormwater management and the Township's Planning Commission recommendations. Mr. Weaver presented plans. He stated that the facility currently has very limited parking, and there are no plans to purchase neighboring properties. Mr. Sharkey suggested that since the adjacent property is a residential one, that dumpster collection hours be limited to between 10 a.m. to 2 p.m. Mr. Baldwin agreed. Ms. Rappoport suggested obtaining input from experts regarding the impact of stormwater management. Mr. Bagley responded that it could be problematic since the ZHB does not require detailed information that suffices for the Township Engineer to render an opinion. Mr. Haywood expressed concern about making land development issues part of the zoning process. Discussion ensued. Mr. Simon stated that the Planning Commission's recommendations are part of the land development process, not the zoning process.

The applicant was asked and agreed to a Continuance so that further information could be furnished regarding stormwater management and steep slope issues.

Upon motion of Ms. Rappoport, the Committee unanimously directed the Township's Planner/Zoning Officer to advise the Zoning Hearing Board that the Committee recommends that a Continuance be granted, and if a Continuance is granted, the Committee unanimously recommends that information be required from the applicant regarding the impact of stormwater management as it relates to steep slopes; that the dumpsters collection hours be limited to between 10 a.m. and 2 p.m.; and that the applicant agrees to the Planning Commission's recommendations. If a Continuance is not granted, the Committee recommends denial of said application based on a lack of sufficient information regarding stormwater management.

APPEAL NO. 3468: (Continuation) Applicant is the equitable owner of a 3.65+ acre parcel of ground with frontage on Ogontz Avenue, Limekiln Pike, MacDonald Avenue and Clubhouse Lane. The property is located in a C1 Zoning District and is currently vacant.

Applicant proposes to develop the property for a WaWa Convenience Store containing 5,585 square feet with fueling stations. In this regard, Applicant requests the following zoning relief:

1. A variance under Section 295-98 of The Cheltenham Zoning Ordinance of 1929, as amended (the "Ordinance") so as to permit the property to be used as a WaWa convenience store containing 5,585 square feet with fueling stations;
2. A variance under Section 295-102 of the Ordinance for a reduction in the width of the 15 foot wide buffer along a public highway. The area between the proposed driveway and the Limekiln Pike right-of-way is 11.1 feet;
3. A variance under Section 295-101.A of the Ordinance to permit a canopy along Limekiln Pike to be located less than 60 feet from Limekiln Pike;
4. An interpretation under Section 295-221.B.(5)(a) of the Ordinance or, in the alternative, a variance under Section 295-221.B.(5)(a) of the Ordinance, to permit parking to be located between the building and the street;
5. A variance under Section 295-221.F of the Ordinance so as to increase the allowable parking area. The convenience store and the fueling stations use requires 31 parking spaces. Applicant is proposing 66 parking spaces, which is in excess of the maximum parking standard;
6. A variance under Section 295-221.K.(1) of the Ordinance so as to permit service and loading behind the building. Applicant proposes to have the loading on the side of the building (along Clubhouse Lane);
7. A variance under Section 295-196.A.(3) of the Ordinance so as to permit five (5) directional signs, each exceeding 4 square feet; and
8. Variances under Section 295-197.C.(1)(a) of the Ordinance, so as to permit: (a) two (2) free-standing, internally illuminated, double sided signs with LED price changer, one (1) containing 189.04 square feet with a height of 40 feet (located on Ogontz Avenue), and one (1) containing 99.94 square feet with a height of 25 feet (located on Limekiln Pike); (b) three (3) parallel wall signs with logo, one (1) containing 66.69 square feet (facing Limekiln Pike), one (1) containing 37.47 square feet on the rear of the building (facing the Clubhouse Lane/MacDonald Avenue intersection); and (c) an additional 3.92 square feet of parallel wall signage (pump signage), as per the attached signage plan, all of which parallel wall

signs total 108.08 square feet, which total exceeds the maximum square footage permitted;

9. A variance under Section 295-221.B.(5)(b) of the Ordinance so as to permit off-street parking on the corner lots;
10. A variance under Section 225-221.C.(2)(c) of the Ordinance so as to permit the width of driveway entrance along Limekiln Pike to exceed 24 feet in width. The proposed driveway width is 30 feet;
11. A variance under Section 225-223 of the Ordinance so as to permit the trash enclosure to be located approximately 20 feet from the rear yard setback area. The rear setback requirement is 50 feet;
12. To the extent that it is determined that the right-of-way line is located on the conservation easement boundary, Applicant requests additional relief under paragraphs 2 and 3 above as the setbacks may change; and
13. Applicant seeks such other variances, special exceptions and interpretations as may be required in order to develop the property in accordance with the plans submitted by Applicant

Upon motion of Mr. Haywood, the Committee unanimously directed the Township's Planner/Zoning Officer to advise the Zoning Hearing Board that the Committee takes no further action on said appeal, and if relief is granted, it be granted contingent upon the Committee's recommendations as previously stated.

2. Upon motion of Mr. Sharkey, the Committee unanimously accepted the Planning Commission Regular Meeting Minutes dated December 23, 2013.

3. The Committee reviewed recommendations for Certificates of Appropriateness for signage as recommended by the Economic Development Task Force ("EDTF"):

a. Upon motion of Mr. Sharkey, the Committee unanimously issued a Certificate of Appropriateness to 15 Limekiln Pike, Glenside, for new façade signage.

b. Upon motion of Mr. Sharkey the Committee unanimously issued a Certificate of Appropriateness to 54 Limekiln Pike, Glenside, for new façade signage.

c. Upon motion of Mr. Sharkey, the Committee unanimously issued a Certificate of Appropriateness to 258 S. Easton Road, Glenside, for modifications free-standing signage.

4. The Committee reviewed recent Decision(s) of the Zoning Hearing Board as follows:

APPEAL NO. 3475 – Appeal of Ethel and David Dobson, owner of the premises known as 425 Greenwood Avenue, Wyncote, PA 19005, from the determination of the Zoning Officer finding that subdivision of the subject property with less that required side yard and rear year would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article V, Sections 295-24(a) and 24(b), regulating front and rear yard setbacks.

The Zoning Hearing Board denied applicant’s request for relief.

Upon motion of Ms. Rappoport, the Committee unanimously decided to take no action.

5. Upon motion of Mr. Portner, the Committee unanimously received the Report of the Building Inspector for the month of December, 2013.

6. **Under Old Business:** Ms. Rappoport suggested that the agendas for the Building and Zoning Committee be reformatted to indicate that appeals will be reviewed and action taken by the Committee and that a flow chart might help clarify the zoning process. Said chart could be included in the proposed Zoning Code Ordinance. The Committee referred the requests to Staff.

7. **Under New Business:**

The Committee discussed a Conditional Use Application filed by Swift and Choi Development, LLC, owner of 1900 Ashbourne Road, Elkins Park.

Mr. Bagley advised that the applicant has agreed to have a Public Hearing on Wednesday, February 19, 2014. He reviewed the procedural requirements and state statute requirements for such applications.

In response to a question from Mr. Norris, Mr. Bagley reviewed the application, which is a request to construct a multiple dwelling facility under the Township’s current ordinance and not the Preservation Overlay District Ordinance. Ms. Rappoport asked if the Township could enlist experts on such matters and hire experts independent of the applicant.

Mr. Bagley advised that the Commissioners will be acting as a quasi-judicial body, and not in their legislative capacity, and they need to keep an open mind and be a neutral fact-finder, similar to a judge sitting at a trial listening to evidence. He instructed the Commissioners not to do preparation work with anyone in advance of the hearing. The Commissioners could also hire a special counsel who can question the applicant.

Public Comment:

David Cohen suggested that the Commissioners seek the opinion of the Township's Planning Commission. Mr. Portner this is not the first time Mr. Cohen has made such requests, and he noted that members of the Planning Commission never approach the Commissioners with such requests. Mr. Cohen stated that he is not speaking for the Planning Commission but only suggesting that it be used for an opinion.

Bart Pasternak stated he is a lawyer and the judicial process usually has two (2) parties presenting facts. Like many residents, he has a private on-lot septic system and wants residents to be given the first priority to connect to the sewer system. The proposed development is next to him, and he felt that he should be given a priority for tap-in. He has been unable to do so and resents that a developer could do.

Mr. Havir responded that several residents have raised this issue. The Township Engineer is planning to do a future study on the matter in this particular area of the Township. He noted that there will be costs to the property owner associated with any connection. In response to a question from Mr. Norris, Mr. Havir stated that the planned study will encompass all properties with private septic systems in this neighborhood, similar to a study that was performed in the past for a section of Elkins Park. There are about 200 homes in the Township that still have private septic systems, and the costs are different for each section of the Township.

Mr. Pasternak did not mind the expenditure, which was less expensive than improving his current septic system. In response to a question by Ms. Rappoport, Mr. Bagley advised that before the Township Engineer will first need the Board of Commissioners' authorization to perform any study, a plan will have to be developed, and said plan will have to be presented to and approved by the Penna. Department of Environment Protection. Mr. Pasternak asked about a timeline for the study. Mr. Havir responded that Staff has just started discussion on it, and Mr. Pasternak would be contacted when a definitive decision has been reached.

Mr. Simon stated that some homeowners do not want to connect to the sanitary sewer system and the Township cannot make it mandatory.

Carol Siegel stated that neighbors spent a lot of time and money on studies and will make them available. Mr. Bagley advised her that she can be a party to the hearing and introduce her documents.

Thomas McHugh felt that the members of the Township's Environmental Advisory Council (EAC) should be used as informational resources.

Karin Helstrom preferred that notifications be mailed.

Steven Johns stated that many residents are interested in the matter even though they do not live within the immediate area. He asked that any mailing include a wider range of residents.

Mr. Haywood stated that said hearing is a first-time circumstance for the Commissioners (in recent memory) who will be taking on a new role to learn, and this is a learning process.

Recommendation to the Board of Commissioners: Upon motion of Mr. Haywood, the Committee unanimously recommended to the Board of Commissioners the scheduling of a Public Hearing on Wednesday, February 19, 2014, at 8:30 p.m., at Curtis Hall, for the purpose of hearing the application of Swift and Choi Development, LLC, owner of the premises known as 1900 Ashbourne Road, for the purpose of developing said property under the provisions of the underlying M2 (Multiple Dwelling) District rather than the provisions of the Preservation Overlay District to construct 146 multiple dwellings in a mid-rise building.

8. Under Citizens' Forum

Earl Stamm asked for an explanation of the Public Works Committee's (PWC) role as it relates to the Environmental Advisory Council (EAC). Messrs. Haywood and Portner responded with answers. It was Mr. Stamm's stated that at a recent Zoning Hearing Board meeting (ZHB) on the proposed WaWa Superstore, EAC members were denied the opportunity to speak and present their documentation because they did not have permission from the Commissioners, and the ZHB asked them first speak to the Public Works Committee.

Discussion ensued. Mr. Haywood stated that he was extremely cautious about considering Mr. Stamm's position on the proposed WaWa Superstore since Mr. Stamm was not a voting member of the EAC. Mr. Haywood wanted to hear from the voting members of the EAC before making any decision on Mr. Stamm's position. Ms. Rappoport felt Mr. Stamm should be allowed to speak to the ZHB. Mr. Simon responded that if Mr. Stamm was speaking in the capacity of the EAC, then it would indicate to the ZHB that he was speaking on behalf of the Commissioners. Mr. Simon believed that the Commissioners could advise the ZHB that EAC members are testifying on their own, not on behalf of the Commissioners, and therefore, should be allowed to speak. Mr. Sharkey felt that the EAC members should have approached the Building and Zoning Committee in July 2013, when the WaWa application was first heard.

Thomas McHugh was concerned about: trash from WaWa going into Rock Creek tributary; EAC members were embarrassed by not being allowed by the ZHB to testify; he felt that EAC members get put off and do not have the opportunity to speak.

Mr. Haywood disagreed and stated that once a matter goes to the Zoning Hearing Board, the Commissioners' involvement ceases. The Commissioners' role is an advisory one, and the ZHB is not bound to accept Commissioners' recommendations. Mr. Haywood believed that residents' ability to be heard is more open in Cheltenham than in most Townships in the Commonwealth. He also noted that the role of the Commissioners is guided by the Pennsylvania State Municipalities' Code.

Upon motion of Mr. Haywood, the Committee unanimously agreed that the Chair/voting members of the EAC would present its position at the Public Works Committee meeting on Wednesday, January 15, 2014.

Public Comments

Donna Powell did not understand why the Building and Zoning Committee could not make a decision regarding the EAC's position. Mr. Haywood responded that he wanted to hear the EAC's position from its Chair/voting members.

There being no further business, upon motion of Mr. Haywood, and unanimously approved by the Committee, the meeting was adjourned at 10:09 p.m.



Bryan T. Havar
Township Manager

as per Anna Marie Felix



PUBLIC ATTENDANCE LIST
Public Safety Committee, 7:30 p.m.
Public Affairs Committee, 7:45 p.m.
Building and Zoning Committee, 8:00 p.m.
Wednesday, January 8, 2014
Curtis Hall

NAME (Please Print Clearly)	ADDRESS	E-MAIL and/or TELEPHONE
RODINE KRISCHINE	608 SPRING	
DAVID L. COHEN	321 GERARD EP.	
CAROL SIEGEL C.A.N.	7905 RONARLE EP	
Karin Helstrom	7904 Anselm Rd EP	
Tom McHugh	127 Hewett Rd Wyncote, PA	
STEPHEN JOHNS	2809 CLYDE STONE DR. EP	
Earl Stamm	209 Gribbel Rd Wyncote PA	
BART PASKEWITZ	1980 HADDEN AVE EP	