

November 3, 2010
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, Portner and Sharkey. Also present was Ex-Officio Member Simon. Staff present were Joseph Bagley, Wisler Pearlstine LLC; Bryan T. Havir, Assistant Township Manager; David M. Lynch, Director of Engineering, Zoning and Inspections; Ruth Littner Shaw, Main Street Manager; and David G. Kraynik, Township Manager. A Public Attendance List is attached.

Mr. Swavola called the meeting to order.

1. The Zoning Hearing Board Agendas for November 8, November 23 and November 30, 2010, were reviewed as follows:

Appeal No. 3388: Appeal of Young H. Kang, Tenant 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 a Truck Rental Service from the Premises:

- a. A Variance from the Rules and Regulations of the Class R-6 Residence District as outlined in CCS 295-50 required for the expansion of the Commercial use of the Premises by Operating a Truck Rental Service instead of one of the permitted enumerated uses.
- b. In the alternative to a., above, a Special Exception in accordance with the Rules and Regulations of "Nonconforming Uses" as outlined in CCS 295-227.C. for the expansion of the commercial use of the premises by Operating a Truck Rental Service.

Mr. Kang was present. Mr. Lynch reviewed the appeal, including the existing use as an auto repair shop, which is a legal non-conforming use; the request to use the property for a Penske Truck Rental; R6 zoning of the property; the property's previous use as a gas station; and parking of the trucks on the property's two tracts, i.e. Tract 1 and Tract 2.

Extensive discussion ensued regarding the location for parking of the trucks, the recommendations of the Township's Planning Commission and Montgomery County Planning

Commission were reviewed, and buffers, current retaining wall, fencing, permitted uses of Tracts 1 and 2 and setbacks were discussed.

Mr. Haywood asked if Tract 2 is historic. Mr. Lynch stated that Tract 2 has been a gas station since the 1930's. Mr. Swavola noted that the applicant's request is for a change in the use for Tract 1, and he wanted a more realistic number of trucks instead of the proposed parking for 15 trucks. Mr. Kang stated that he anticipated only seven (7) trucks.

There were public comments as follows:

Brenda Hudson, 1683 Cheltenham Avenue, showed photos of her property that abuts this business; according to her, the owner parks his truck inches away from her property; about 7-8 trucks are parked during the night; there is a safety issue for her since the vehicles come and go in a careless way; she doubted that six (6) trucks could be parked without using the adjacent tract; trucks come in and out all night; her property value will decrease; and the trucks would add to the traffic from Cheltenham Avenue. The Planning Commission did not recommend parking on Sycamore nor on Cheltenham Avenues. According to Ms. Hudson, trucks are currently being parked on Tract 2. Mr. Swavola asked that this be investigated.

Mr. Kant replied that he cannot control where the trucks are dropped off. It was Mr. Swavola's opinion that a specific drop-off and parking area with appropriate signage should be designated.

Diane Williams, 1812 Beech Avenue, read a letter from resident Dorothy Bryant, 1809 W. Cheltenham Avenue, who opposed the truck rental business in the community.

Pearl Raz, 1444 Willow Avenue, opposed the appeal and stated it would have an overall bothersome affect on the integrity of the community. Residents do not want a commercial truck rental in the community. She questioned if an application for zoning relief has to be made by the property owner and not the tenant, as in Mr. Kang's case.

Ms. Williams questioned if the applicant's lease with Penske had conditions that the Township is not aware of. Mr. Simon responded that the applicant would be at risk if he is not asking for zoning that is in keeping with his lease with Penske. She opposed the appeal and felt it could bring down the integrity of the community, and the applicant is increasing his profits at the cost of the community.

Mr. Bagley advised that a tenant can make a zoning application and will be required to present a lease at the Zoning Hearing Board. If the applicant agrees to something that is not in accordance with his Penske lease, then the burden is on the applicant.

Joyce Werkman, a representative of Citizens for Restoration of Historic La Mott (CROHL) opposed the appeal. She stated that the automotive business was there before

the historic district was established, serves the community, and she did not oppose it, but opposed the truck rental use, which expands into the historic district. She recited all the historic facts of the community, including the location of Camp William Penn Gate. Mr. Haywood stated that he is trying to connect Camp William Penn to this property. Ms. Werkman stated that CROHL wants to preserve the historic district and the properties that came after the camp.

In response to a question from Mr. Portner, Mr. Lynch advised that said property is not within the boundaries of the La Mott BHAR. Ms. Werkman stated that the La Mott BHAR does not mandate businesses in the community, and is struggling to keep its history.

Darlene Melton, 1829 Chelsea Road, Vice Chair of the La Mott BHAR, stated that this appeal did not come before the BHAR; La Mott is a federal and state historic district; this appeal would affect the aesthetics of the community; the trucks will park all over the neighborhood; and Tract 2 has always been chained off to prevent access to it; appeals should include a joint application by the property owner and renter; there is no room for trucks on the business's original parcel; and the character of the historic district will be changed.

Mr. Kang stated that he was told that there is no restriction to vehicles being parked on Tract 2. He permits residents to park there. Trucks have been parked next to Ms. Hudson's property line but there is a stone wall and it is about 4-feet away from her property line. There is also a fence between his property and Ms. Hudson's. He stated that he does his best to keep trucks out of the rear of the property.

Taylor Benjamin, Sycamore Avenue, stated that he lives next to the Camp William Penn Gate; the community should get what it wants; history should be preserved; and he was concerned about the community being changed.

Discussion concluded.

Upon motion of Mr. Portner, 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 but if relief is granted, that it be granted with the following contingencies: a limit of six (6) trucks be parked at any one time; appropriate signage be erected to designate the parking places between the garage and Sycamore Avenue; no parking in the driveway; and the driveway is to be kept chained at all times.

Appeal No. 3385: Appeal of Clearwire, Prospective Tenant at 8480 Limekiln Pike, Wyncote, PA 19095, (a/k/a Building No. 3, Towers at Wyncote Apartment Complex), from the Decision of the Zoning Officer for the following zoning relief in order to install one (1) Microwave Dish Antenna on the existing Penthouse wall with associated appurtenances:

- a. Variances from the Rules and Regulations of the Class C-1 Commercial District as outlined in Article XV of Chapter 295 of the Cheltenham Code, as follows:
 - i. From CCS 295-98. for the telecommunication use (the one (1) Microwave Dish Antenna) of the Premises instead of one of the permitted enumerated uses.
 - ii. From CCS 295-104. for a structure height of 134.5' AGL instead of the maximum permitted 120' AGL.

Mr. Lynch reviewed the appeal.

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 this appeal.

Appeal No. 3386: Appeal of Penrose Medical Investment, LLC, Equitable Owner and Tenant of 1831 W. Cheltenham Avenue, La Mott; PA 19027, from the Decision of the Zoning Officer for the following Zoning Relief in order to "normalize" the use of the second floor as an office accessory to the existing first floor medical office and to use the third floor as either one (1) Residential Apartment or as office/storage accessory to the first floor medical office.

- a. A Variance from the Rules and Regulations of the Class R-5 Residence District as outlined in CCS 295-43. for the aforementioned uses of the premises instead of one of the permitted enumerated uses.
- b. In the alternative, a modification to the Decision in ZHB Appeal No. 925 to permit the aforementioned uses.
- c. A Determination as to the number of required parking spaces.

Mr. Lynch reviewed the plan; previous zoning relief; previous occupation by the owner; second floor storage; the request to use third floor for storage or an apartment.

Upon motion of Mr. Portner, 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. 3387: Appeal of Douglas Horner, Owner of Premises known as 50 Rices Mill Road, Glenside, PA 19038, from the Decision of the Zoning Officer for the following Zoning Relief for installation of a "Vegawatt" electrical generation unit on the Premises:

- 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 295-57. for the expansion of the Commercial Use of the Premises instead of one of the enumerated permitted uses.
 - ii. A Special Exception in accordance with CCS 295-060. A.(1) and A. (2) for a lesser side yard setback of 7' for the "Vegawatt" electrical generating unit.
- b. In the alternative to a.i. above, a Special Exception in accordance with the Rules and Regulations of "Nonconforming Uses" as outlined in CCS 295-227.C. for expansion of the Commercial Use of the Premises.

Mr. Lynch reviewed the plan. The unit involved is a demonstration unit that the owner sells. Mr. Hal Lichtman, architect, represented the applicant. He reviewed the following: past use of the property; low impact usage; type of equipment; he likened it to a condenser of an air conditioning unit; how it recycles and cleans out restaurant drain lines; its generation of bio-fuel; frontage on Paxson Avenue and Rices Mill Road; close proximity to railroad tracks; the variance for the front yard; lack of objection by the neighbors; the sound testing to be done that will adhere to any land development rules regarding sound; and how the oil is delivered and stored. In response to questions from the Committee, Mr. Lichtman explained how this equipment operates.

There was a comment from the public:

Thomas McHugh, 127 Hewett Road, stated that this is a combustion-like engine; it uses vegetable oil; there is an odor and noise; and it is not a sealed system.

Mr. Lichtman refuted Mr. McHugh's claims. He claimed that the Chinese restaurant across the street generates more odor than this unit.

Upon motion of Mr. Sharkey, 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. If relief is granted, the Committee recommends the following contingencies: the unit be subject to sound testing and all standard land development rules should be applicable; if

the odor is objectionable as determined by the Township's zoning officer, usage should cease and appropriate action as determined by the zoning officer should be taken.

APPEAL NO. 3336 (Continued and amended) – Appeal of Matrix Ashbourne Associates, L.P., owner of premises known at 1100 Ashbourne Road, Cheltenham, PA (a/k/a “Ashbourne Country Club”), from the Decision of the Zoning Officer for Zoning Relief in order to develop the Premises into a 226 Unit Development consisting of a minimum of seventy (70) Single-Family Residences and a maximum of one hundred and fifty six (156) Carriage Homes. In addition, an area containing approximately 1.25 acres has been set aside for a future clubhouse and swimming pool. The premises is within the Class R-1 Residence District.

The following Zoning Relief is required:

- a. A Variance from the rules and regulations of the “Floodplain District” as outlined in CCS 295-156. so as to allow construction of portions of Stormwater Management Basins # 2C, # 2D and # 2E and replacement of the existing 8” T.C. Sanitary Sewer Line (if required) within the 100 Year Floodplain Area.
- b. Zoning Relief from the rules and regulations of the “Steep Slope Conservation District” as outlined in Article XXII of the Cheltenham Code, as follows:
 - i. An Appeal from the determination of the Zoning Officer and/or Township Engineer pursuant to CCS 295-164.B.2. regarding man-made steep slopes.
 - ii. From CCS 295-167. for the construction of free-standing structures, building and retaining walls, internal accessways, driveways, parking areas, swimming pools, sanitary sewers, stormwater management facilities, other underground utilities and landscaping.
 - iii. A Determination that the Lines and Grades Plans submitted with the Application substantially conforms with the Lines and Grade Plan(s) requirements set forth in CCS 295-168.
 - iv. In the alternative to, b.ii, above, a Variance from CCS 295-168. for not submitting plans conforming to the stated Lines and Grades Plan(s) requirements.
- c. A Determination that the number of parking spaces shown on the Applicant's plans are not in excess of the maximum permitted under CCS 295-221.F.
- d. In the alternative to c., above, a Variance from the rules and regulations of “Parking and Loading” as outlined in CCS 295-221.F., for a greater amount of parking of 631 parking spaces instead of the maximum permitted 120% of the required parking spaces which equals 491 parking spaces.
- e. Zoning Relief from the rules and regulations of the “Age Restricted Overlay District” as outlined in Article XXXIII of Chapter 295 of the Cheltenham Code, as follows:

- i. A Special Exception in accordance with CCS 295-242.B.1 for the Age Restricted Development.
- ii. A Special Exception in accordance with CCS 295-242.B.3 for a Clubhouse with common areas and meeting rooms, indoor and outdoor recreational facilities and maintenance and security facilities.
- iii. A Special Exception in accordance with CCS 295-242.B.3 for a swimming pool for the residents of the Age Restricted Community only.
- iv. A Variance from CCS 243.B.8.a. to permit sanitary sewer facilities (if required) and Stormwater Management Basins #2C, #2D and #2E within the floodplain.
- v. A Variance from CCS 295-243.B.8.d. to permit development within areas having a slope of 15% or greater.
- vi. A Variance from CCS 295-243.B.8.e. to permit sanitary sewer Facilities (if required) and Stormwater Management Basins #1A, #2C and #2E within the Riparian Buffer Areas.
- f. A Variance from the entirety of the rules and regulations of the "Preservation Overlay District" as outlined in Article XXIV of Chapter 295 of the Cheltenham Code.
- g. In the alternative to f., above, an interpretation that the rules and regulations of the "Preservation Overlay District, as outlined in Article XXIV of Chapter 295 of the Cheltenham Code are not applicable due to the provisions of the last sentence of CCS 295-241.

This appeal is currently being heard by the Zoning Hearing Board, and no new action was necessary by the Committee.

2. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Planning Commission Regular Meeting Minutes dated October 25, 2010, were received.

3. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Ad-Hoc Zoning Committee Regular Meeting Minutes dated October 25, 2010, were received.

4. The Committee considered a Montgomery County Planning Assistance Contract. Cost and pricing was discussed. Mr. Kraynik advised that the Township is at the end of its three (3) year contract. There is a 10% increase, and this is a fixed price contract. Mr. Havir reported that this is the county's standard format, and the county doubles the amount and underwrites 50% of the value.

Mr. Haywood was concerned about state government budget cuts. He questioned a three (3) year commitment. Mr. Kraynik responded that the Township needs to give its Planning Commission professional assistance, and is well-served in this respect by the county. A private consultant would be more costly. Mr. Simon noted that the contract contains a cancellation notice.

There was a comment from the public:

Thomas McHugh, 127 Hewett Road, had a problem with the county helping the Township in this respect. The Township is at the extreme southeast corner of the county. One can go as far as Conshohocken to see the planning that results from the county's assistance. There are issues with auto access and lack of pedestrian access. Mr. Sharkey informed him that the county planner lives in Cheltenham and has the community's best interest at heart.

Brad Pransky, 612 Webb Road, stated that there is a lot of local community involvement such as the members on the Township's Ad-Hoc Zoning Committee. There is a joint effort between residents and the county that has been ongoing for several years.

Upon motion of Mr. Sharkey, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the award of a Planning Assistance Contract with Montgomery County for the years 2011-2013 in the amounts of \$10,494 for 2011; \$10,674 for 2012; and \$10,554 for 2013.

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

APPEAL NO. 3384: Appeal of Case Investments Inc., owner of the premises known as 7901 High School Road, Elkins Park, Pennsylvania, from the determination of the Zoning Officer finding that providing six (6) off-street parking spaces instead of the required twenty-five (25) parking spaces for a proposed convenience store would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, 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.

APPEAL NO. 3380: Appeal of Ronald Dasent, owner of the premises known as 7823 Cheltenham Avenue, Laverock, Pennsylvania, from the determination of the Zoning Officer finding that the installation of a shed, measuring 8 feet by 10 feet, in the rear yard of the Property with less than required side and rear yard setbacks would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VII, Section 295-39 and Article XXIX, Section 295-220, regulating yard setbacks.

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

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

APPEAL NO. 3382: Appeal of Stephen and Deborah McCarter, owners of the premises known as 211 W. Waverly Road, Glenside, Pennsylvania, from the determination of the Zoning Officer finding that the construction of an addition, measuring 24 feet by 25 feet, on the east side of the existing residence with less than required yard setbacks would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-46, 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.

6. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Report of the Building Inspector for October, 2010 was received.

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



David G. Kraynk
Township Manager

as per Anna Marie Felix



PUBLIC ATTENDANCE LIST
President's Budget Message, 7:30 p.m.
Public Affairs Committee, 7:45 p.m.
Public Safety Committee, 8:00 p.m.
Building and Zoning Committee, 8:15 p.m.
Wednesday, November 3, 2010
Curtis Hall

NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
Joan Johnston - Stern		
Peter Stern		
DARLENE MELTON	1829 Chelton Rd LIMMOTT PA 19027	
BRAD PRADSKY		
Tom McHugh	127 Hewett Rd Wyncote	
J Werkman	1011 Serpentine Lane Wyncote PA	
MRS. Savage	8324 Fenton Road	