

June 2, 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, McKeown, Portner and Sharkey. Also present was Ex-Officio Member Simon. Staff present were Joseph Bagley, Wisler Pearlstine LLC; Bryan T. Havir, Assistant Township Manager; Kenneth Hellendall, EMS Director; David M. Lynch, Director of Engineering, Zoning & 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 Committee reviewed the Zoning Hearing Board (ZHB) Agendas for June 6 and June 21, 2010, as follows:

Appeal No. 3372: Appeal of John J. McAneney, Owner of Premises known as CTRERP Block 156, Unit 023 ("Flag" Lot to rear of 1101 Greenwood Avenue), from the Decision of the Zoning Officer for the following Zoning Relief (The Premises is within the Class R-3 Residence District.):

a. The Owner applies for a variance from CCS 295-211., which provides that "Unless otherwise specified by the Board, a Special Exception, Variance or Reasonable Accommodation shall expire if the Applicant fails either to obtain a building permit or commence the use specified in the Zoning Hearing Board's decision on the appeal within two years from the date of authorization thereof."

In Appeal No. 3079 on June 13, 2005, the Zoning Hearing Board granted with regard to CTRERP Block 156, Unit 023 ( the "Property") several Variances and Special Exceptions. The Applicants needed the Variances and Special Exceptions to build a single-family dwelling on the Property. The Commonwealth Court affirmed the decision of the ZHB on July 16, 2008. On September 5, 2008, after approval of the relevant Variances and Special Exceptions was final, the Owner purchased the Property from the Applicants.

Without the Variance herein requested, the Variances and Special Exceptions approved on July 16, 2008 would expire on July 16, 2010, even though there has been no change in the conditions affecting the land or the law. The Owner requests that ZHB grant him a Variance from CCS 295-211., and extended the validity of the Variances and Special Exceptions granted for the Property for an additional 2 years, or until July 16, 2012.

b. In the alternative, the Owner requests that the ZHB amend its Decision of June 13, 2005 (“Decision”) so that CCS 295-211. is not applicable to the Variances and Special Exceptions granted to the Property in the Decision. The Code specifically allows for the ZHB to specify a different timeframe for expiration of Variances and Special Exceptions, and it would appear to be appropriate in this case. The Commonwealth Court affirmed the Decision, which supports the appropriateness of the Variances and Special Exceptions. The Variances and Special Exceptions are no less needed today than they were when the Commonwealth Court reviewed the issue. Furthermore, in light of the provision in the Municipalities Planning Code that property owners are entitled to rely upon zoning decisions for five years (Section 508 of the MPC), it seems appropriate for the ZHB to amend its Decision in this case to comply with the Owner’s request.

Mr. Lynch reviewed the appeal, including previous zoning relief. Due to economic conditions, the property owner was not able to complete work, and the zoning decision expires on July 16, 2010. The applicant is requesting an extension of time. Mr. Lynch noted that it has been his experience that the Zoning Hearing Board usually grants such extensions.

Herman Weinrich, Esq. was present representing the applicant. He reviewed the previous variance requested that went to litigation, and the Zoning Hearing Board’s decision was upheld. Due to economic conditions, financing is not available, and his client wants an extension of the previous grant and no other variances. In response to a question from Mr. Simon, Mr. Weinrich stated that the house was being built as the applicant’s personal residence and not as a business venture. Mr. Haywood asked which variance the applicant preferred. Mr. Weinrich stated that the applicant wanted an extension for two (2) years.

Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends no action on said appeal and a two (2) year extension.

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 240 Unit Development consisting of a minimum of forty-five (45) Single-Family Residences and a maximum of one hundred and ninety five (195) Carriage Homes. In addition, an area containing approximately 2 acres has been set aside for a future clubhouse and swimming pool and a separate area containing approximately 1.5 acres has been set aside for a future Commercial Area. 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. Variances from the rules and regulations of the “Steep Slope Conservation District” as outlined in Article XXII of the Cheltenham Code, as follows:
  - i. 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.
  - ii. 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.
  - iii. 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 Variance from CCS 295-242.B.2 so as to permit restaurants, small-scale retail, personal service shops, professional service shops in a separate building or buildings situated in the approximately 1.5 acre area designated on the Concept Plan as “Potential Commercial Area”. Such building(s) shall not have residential units therein.
  - iii. 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.
  - iv. A Special Exception in accordance with CCS 295-242.B.3 for a swimming pool for the residents of the Age Restricted

- Community only.
- v. 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.
  - vi. A Variance from CCS 295-243.B.8.d. to permit development within areas having a slope of 15% or greater.
  - vii. A Variance from CCS 295-243.B.8.e. to permit sanitary sewer facilities (if required) and Stormwater Management Basing #1A, #2C and #2E within the Riparian Buffer Areas.
  - viii. A Variance from CCS 295-244. for a minimum distance between Buildings of 20' instead of the minimum required 30'.
  - 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.

Present for the applicant were Donald Epstein, Executive Vice President of Matrix and Peter Friedman, Esq. Mr. Friedman reviewed the following aspects of the appeal: 240 units under the Age-Restricted Overlay Ordinance, acreage, the conditions that meet the requirements of the Ordinance, various committee meetings, meetings with neighbors and the Township's land planner, and has incorporated suggestions from the Township planner as well as neighbors that include preservation of green space, generous buffers, inclusion of rain gardens, and two means of access. He reviewed the zoning relief of a special exception for the age-restricted ordinance, traffic impact study indicates that this development will be manageable and is supported by the Township's traffic consultant. The project will generate about \$2,000,000 of revenue for both the Township and School District, and as a private development, it will be fully maintained by the homeowners' association. He reviewed density. The previously approved zoning relief was 300 units and only 2/3 were for age-restricted and 1/3 for market value. Conceivably, over 1,000 units could be built on this site. He reviewed steep slope disturbances. Most of the steep slopes are around golf holes and most of them are man-made slopes built in 1920 for the golf course.

Stuart Appel, Planner, reviewed certain changed items, i.e. spacing between the single family homes has been opened up 30-feet apart; some of the homes have been moved further away from Ashbourne Road; elimination of retail area at the Oak Lane Road entrance and left it as open space; steep slope encroachments are in the golf course area and are man-made; retention of riparian buffer; connections to Tookany Creek Park; adherence to environmental standards; improvement of conditions along Tookany Creek; use of recycled products in the homes and building materials; maintenance of natural areas; trails, walking paths, stormwater maintenance are in accordance with the DEP; the bridges will not be removed now but maybe in the future but he supported the ability of Cheltenham residents to connect; homeowners' association will maintain all areas including trails and walking paths; passive recreation.

It was Mr. Epstein's opinion that age-restricted housing will not fail, contrary to neighbors' belief. He reviewed phasing. The development will not be clear-cut, and sections will be completed one at a time. Not all of the infrastructure will be built at once. Accesses and green community aspects were reviewed.

In response to a question from Mr. Simon, Mr. Epstein stated that all buffer areas will be maintained by the homeowners' association. Mr. Simon asked if the property maintenance code would apply to large parcels of undeveloped land such as what this development will have during the phasing stages. Mr. Lynch responded that it would not, but would come under the code that requires the mowing of grass to 25-feet around the perimeter, and the remainder can be left fallow. The undeveloped phases would have to be addressed in land development. Mr. McKeown asked Mr. Epstein to look at the area of the property along Jenkintown Road, which appears to be deteriorating and neglected.

Mr. Swavola asked that a covenant be included that the garages could not be converted to living or work space, which was a part of the Wyngate development. Mr. Epstein agreed.

Mr. Haywood asked for clarification of certain requested relief such as Item (a) Floodplain District – some sort of inflow/outflow will be added for the basins in the floodplain, and a variance is needed; a basin may be built in the flood plain area to open up the creek, which would give less flooding, and therefore, some level of stormwater management would be given to the floodplain area; Mr. Lynch advised that it was too early to determine encroachments and impact, and this will be addressed in land development; Item (b) - is a steep slope variance; Item (c) – the Township’s parking ordinance is unclear how spaces are counted, and each home has two driveways and two garage spaces and guest parking has been factored in; Item (e, iv) – Mr. Epstein stated that Mr. Lynch is unsure if he wants the interceptor replaced and if Matrix did, it would be in the riparian buffer and floodplain. Mr. Lynch explained the location of the interceptor and tie-in. They will not be crossing over Tookany Creek. The 85-year old sewer may have to be replaced at Matrix’s expense. This will be address in land development.

Mr. Epstein stated that there is a concern about the mix of 45 single family detached homes and 95 attached carriage homes. He said that there could potentially be minor changes in density by removing some carriage homes and adding some single family homes, which would reduce the density below 240 units. Most likely some of the carriage homes could be converted to single family homes since they are designed to go either way. He reviewed the location of the single family homes, which are mainly on the perimeter and are non-rain garden homes. There is ability to make changes to homes that are around the perimeter of the site but not inside the site.

In response to a question from Mr. Swavola, Mr. Epstein explained how a single family home would be designed for age-restricted living, including size and a master suite on 1<sup>st</sup> floor. There was discussion of the location of single family homes. In response to a question from Mr. Haywood, Mr. Epstein stated that if there is concern about certain areas being converted from carriage homes to single homes, then the equivalent of two single family homes can replace a carriage home. The count would be a modification of 11 or 14 homes. Mr. Simon felt that the decrease to 240 units was a step in the right direction. Mr. Epstein stated that he has tried to incorporate any reasonable feedback from the Township's consultants and the neighbors.

Kenneth Amey, the Township's Land Planner addressed the Committee. A large number of the changes were the result of comments from himself, the Commissioners and the neighbors. Matrix has listened but not addressed every comment and has come back with a reasonable response. The modified plan is more attractive especially with the removal of some the carriage homes. Matrix's offer to modify the carriage homes to single homes makes the plan less dense and reasonable. Mr. Amey stated that it is not a perfect plan, no plan is, but in his opinion, it represents a reasonable development for the area. Mr. McKeown noted that this plan was a significant reduction from the original plan submitted five years ago.

There were comments from the public:

Nanette Holben, 631 Croyden Road, was concerned about the golf course being built in 1920 when the use of herbicides and pesticides was unregulated. There should be a ban on making the properties market based because she did not think children should live on the property. She suggested that toxicity should be determined since it takes years for chemicals to degrade. It should not go market based in the next 40-60 years. Deep soil testing should be done. This should be written into the covenant.

Joseph Vescovich, 107 Tookany Creek Parkway, and Co-President of CC4A, stated that the neighbors are not and never have been in agreement with the +/- 240 units.

David Onorato, Esq., spoke on behalf of CC4A. Their engineer has marked all the steep slopes and all the properties affected by the steep slopes on the plan. According to the age-restricted ordinance, there should be no development on steep slopes, riparian corridors and buffers. Previous relief was granted based on saving the golf course and building two structures in a limited area. Matrix now wants steep slope relief, not density relief. They want to ignore the requirement about steep slopes to get more density. He reviewed his letter and his engineer's opinion on the plan showing that if the plan complied with the steep slope restrictions, Matrix should have 152 units. Matrix is disregarding the intent of the ordinance. He asked the Committee to consider that if they recommend this plan, it is recommending an impact on land that the Ordinance is trying to save. Stormwater management and retention basins are not permitted in the floodplain, and Matrix needs relief for this.

Mr. Bagley asked if man-made steep slopes are included in the Township's Age-Restricted Overlay District Ordinance. Mr. Onorato stated that Township ordinance does not distinguish between man-made and natural slopes.

In response to a question from Mr. Haywood, Mr. Onorato stated that steep slope preservation preserves erosion and natural areas. Mr. Haywood asked about the implication if steep slopes were not viewed as a problem for this property. Mr. Onorato responded that if steep slopes are not considered a problem, then Mr. Haywood must not be concerned about building on steep slopes. Mr. Haywood asked what the impact would be. Mr. Onorato responded that in this case, Matrix could build as much as it wanted but they need the relief so they can build the 240 units.

Mr. Sharkey asked Mr. Lynch about the CC4A planner's opinion. Mr. Lynch reported that the planner took the current layout and wherever there were steep slopes, crossed out the lots and said that said lots cannot be used. Mr. McKeown felt that after 90-years, the man-made slopes are stable. Mr. Lynch felt they would not be as stable as a natural slope. A man-made slope does not have the same impact.

Mr. Simon felt that CC4A's planner crossed-out all the lots that were touched by any steep slope, regardless of the impact. He felt that there are differences between minor and major impacts. He has no way of knowing the differences in the impact based on what the planner has presented. It seemed to Mr. Simon, that the Zoning Hearing Board finds that the steep slope ordinance is meant to bring attention to the planners and not prohibit a development. He felt that a variance might be granted if the development is consistent with general practice and that there is a difference to the Zoning Hearing Board with lots that have minor or major steep slope impacts.

It was Mr. Onorato's opinion that the impacts were never thoroughly brought to the Township's attention by Matrix. Matrix's latest plan is superimposed over the old original plan. He felt that the Zoning Hearing Board needed to determine how much, if any, variance was needed. He felt the issue for the Zoning Hearing Board is whether Matrix needs a variance for 240 units or if they can get by with fewer units.

Mr. Appel stated that the plan shows all the slopes and there was nothing disguised. According to the CC4A's letter, all slopes are marked but it does not include a recommendation that the plan should be no more dense than 150 units, only that it points out what Matrix has already pointed out, i.e. the encroachments.

John DiFerdinando, 514 Beecher Avenue, asked about the impact on the Township's sewer system. He was told this plan would generate about 200 EDU's. Currently, there are no EDU's available for this development, and the Township is working with the City of Philadelphia and DEP but the Township's sewer problems affect the entire Township and not just this development. DEP has to assign the EDU's before anything can be built.

Mark Garvin, 7816 Haines Road, questioned that if once this is built, what happens if 55+ is not successful. Mr. Swavola explained phasing prevents this. If 55+ is not viable and the developer wants to make changes, then the developer has to come back to zoning and start the process again. Mr. Garvin said that in the 1950's Orleans Corporation was denied plans for row homes.

Alicia Greenberg, 625 Croyden Road, was concerned about traffic volume that would affect the small streets around the development. The streets are narrow, with parking on one side. She asked how the Township would address this. Matrix states that there will be no impact, and she disagreed. She was concerned that roads would be widened and front yards would be taken. She noted the intersection where Martins Mill Road, Ryers Avenue and Central Avenue come together. The traffic is heavy, and she asked about Ashbourne's impact on this. She was concerned this could be a hardship to residents.

Mr. McKeown explained that said intersection is being reconstructed and reconfigured this year and hopefully the traffic issues will be resolved as a result. Mr. Lynch reported that for such a development traffic normally does not short-cut through the local streets. Essentially, Ashbourne Road, Front Street and New Second Street will be used to drive in all directions. Mr. McKeown noted the cars cutting through Cheltenham Village to beat the traffic on Cottman Avenue. Mr. Simon inquired as to the response from the Township's traffic consultant. Mr. Lynch reported that the Township's traffic consultant advises that Matrix is addressing the traffic concerns adequately and he is satisfied that there is nothing unsatisfactory in their traffic study. Mr. Appel noted that no private property will be encroached upon.

Joseph Vescovich noted government documents regarding Special Exceptions (Series 7) conditions, use and variances. The previous approval for 300 units was subject to maintaining a golf course and for clustered high rise towers. This appeal is asking for 36% variances. The developer keeps insisting on the economic feasibility of this plan but he said the same thing five years ago for the previous plan. The community does not feel this will work. He did not see how the revenue Matrix quotes can be generated when the development will be phased in.

Mr. Portner asked if 153 units would be satisfactory to the neighbors. Mr. Vescovich said it would. Mr. Portner stated that 330 units was reduced to 240 units after discussions. This was a considerable reduction. He felt residents should not look to the past, but forward to what should be. Mr. Portner acknowledged that he liked the project of five years ago, but in the years since, circumstances and times have changed. He understood the neighbors' concern but the Commissioners needed to look forward to what is good for the community as a whole.

Mr. Vescovich stated that the neighbors' benchmark is 'responsible development'. The neighbors do not oppose development but oppose the density and want what is reasonable.

Mr. Swavola recommended that Mr. Lynch present to the Zoning Hearing Board a plan that marks each building plot and property regarding steep slope disturbance and to indicated the extent and encroachment of the disturbance. The Committee unanimously agreed. Mr. Swavola stated that the Zoning Hearing Board will have to apply its own standards.

In response to a question from Ms. Hampton, Mr. Epstein stated that whether or not the development is age-restricted or market based, it will require DEP approval.

Douglas Karan, 21 Pikes Way, was concerned how many entrances were required for fire safety. He was told this would be addressed in land development. He asked if the development reverted to R1 zoning if Phase 1 is unsuccessful. Mr. Bagley explained that the developer can go forward or submit an amended plan. If the homes are not selling, it is usually the bank that regulates further development. Mr. Karan felt that Matrix is using the age-restricted Ordinance to create more density. He was told that if the homes do not sell, and he wants to revert to market-based, the developer would have to reapply for zoning. It was Mr. Karan's opinion that the revenue this development would bring to the community is based on it being totally built out and occupied and age-restricted, and if it becomes market rate based, it is questionable as to what the revenue would be. Single family homes surround the development, and the community wants single family homes that would have to sell for about \$600K-700K for which there is no market. The community wants less density, detached single family homes, and single family homes that fit better into the neighborhood. He asked that the Committee vote to deny this appeal and request a continuance because the neighbors are close to getting what they want.

Sabina Graebner, 8264 Thompson Road, stated that the neighbors are close to an agreement and do not want to be combative. They want less density.

Deborah Marberger, 131 Tookany Creek Parkway, was concerned about the environment and the development's affect on Tookany Creek. The Township is restoring the Tookany Creek, and she did not want any disturbance to it. This development sits in the middle of a community and has a stream going through it. She did not like taking a risk that cannot be undone. She opposed more lights and the negative impact on wildlife. She asked for more time to negotiate with the developer and preserve the eco system. She did not oppose change and recognized the right to exist as a business. She reviewed aspects of the Township's Open Space Plan.

Mr. McKeown hoped that single family homes can be developed and asked the developer to consider this.

Mark Garvin was concerned about the access to the development by construction vehicles. He was told that this is addressed in land development.

Mr. Friedman stated that this development has less density than the homes around it, none of the surrounding neighborhoods were planned and none of them have open space acreage. He noted that there are environmental hoops to go through and numerous concessions have been made by the developer.

Mr. Epstein stated that the neighbors have good intentions but are misinformed. He felt that he has shown how the steep slopes will be impacted and lessened. He has been working with the community and wants to move forward with this development.

Chris Gaynor, 1103 Ashbbourne Road, opposed the density and felt the measurement of density by the developer was incorrect.

Natalie Hursky, 17 Lawnside Road, stated that this development has been ongoing for a long time because it is not a good proposal.

Public comments concluded.

Mr. Simon stated that it was time that this development move to the next level and it appeared to him that there are indications that the Zoning Hearing Board will not grant any more continuances.

Upon motion of Mr. Simon, the Committee directed the Township Engineer to advise the Zoning Hearing Board that the Committee takes no action on this appeal contingent upon the following: the developer finds some way to reduce the development to 226 units; the conditions of any relief are to include that the garages not be converted to living spaces; phasing of the project be done in the smallest reasonable practical manner; the land in front of the clubhouse be kept as open space until any other use is requested and granted by the Zoning Hearing Board; and that steep slope issues be considered in accordance with the information provided by the Township Engineer on the plan as to the level of impact (AYES: Haywood, Portner, Sharkey, Simon, Swavola; NAYES: Hampton, McKeown).

Mr. Karan asked for an explanation of the motion. Mr. Simon told him that the motion does not mean that the Committee is agreeing with 226 units and that the decision lies with the Zoning Hearing Board. Mr. McKeown clarified that the Committee has not acted on this, and the appeal is for the Zoning Hearing Board's determination. Mr. Bagley advised if the applicant does not want to comply with the Committee's recommended conditions, it runs the risk of having the appeal denied. Mr. Simon noted that the Zoning Hearing Board is independent of the

Commissioners and makes its own decisions. By this motion, the Committee is taking ‘no action’ on 226 units and is asking the Zoning Hearing Board to consider the variance requests in more detail.

The public commented:

Mr. Karan wanted an “Aye” or a “Nay” from the Committee.

Mr. Vescovich stated that the Zoning Hearing Board does not know where the 226 number came from.

Mr. Swavola explained the motion and stated that it proposes a low number and points out the variances. The Committee is giving the Zoning Hearing Board as much information as possible, and it is asking the Zoning Hearing Board to consider the steep slope issues. The neighbors cannot have all single family homes due to the provisions of the Age-Restricted Overlay District Ordinance. The neighbors need to argue their points with the Zoning Hearing Board.

2. Mr. Haywood was concerned that the Planning Commission voted to table CTDA No. 10-0540, SEPTA Cheltenham and Ogontz Avenues Bus Loop, 2501 Cheltenham Avenue. He felt this was an important issue and asked that it be discussed at the Public Works Committee meeting on June 9, 2010.

3. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Planning Commission Meeting Minutes of May 24, 2010 were received.

4. A draft Ordinance prohibiting outdoor storage of certain items in commercial districts was reviewed (see attached). Mr. Bagley advised that this Ordinance is modeled after a similar one adopted by Collegeville Borough.

Mr. Haywood noted that there was no clause imposing a penalty for violation of the Ordinance. Mr. Bagley responded that he would amend the Ordinance to include a \$600 fine.

It was Mr. Simon’s opinion that the reference to “equipment” should be more defined or deleted.

Mr. Sharkey asked if this Ordinance would apply to a non-profit thrift shop and to storage that is not necessarily for sale but just stored. Mr. Bagley stated that it would.

There was a comment from the public.

Elizabeth Cataldi, 46 Limekiln Pike, stated that a business has sandwich board signs in the sidewalk next to her property. She objected to them blocking public right-of-way. She was concerned about businesses putting equipment out during the day and it is allowable on a lawn or sidewalk. Mr. Bagley stated that such equipment can be placed from the building to the edge of the curb but must be taken in at night. However, it can be placed on a porch.

Mr. Sharkey reported neighbors' concerns about a certain thrift shop on Limekiln Pike that has a porch facing the street and he wanted to make it clear that this Ordinance is for a property in a commercial district where the primary use of the building is for retail/office space.

Mr. Kraynik advised that said Ordinance will require a Public Hearing.

Mr. Simon asked for certain changes, i.e. page 2, "...unless removed daily". He felt the word "daily" was vague. In paragraphs (f) and (g), he questioned that the Ordinance did not apply to a "registered" automobile dealer and "a fuel service station".

Upon motion of Mr. Simon, the Committee unanimously agreed to table any action on said Ordinance and directed the Township Solicitor to make suggested amendments and present it to the Committee at its July 7, 2010, meeting.

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

APPEAL NO. 3363: Appeal of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility and Aqua Pennsylvania, Inc., owner, of the property known as Butcher Street Water Tank Site, 7309 Butcher Street, Elkins Park, Pennsylvania, from the decision of the Zoning Officer for the Zoning Relief in order to attach twelve (12) panel antennas to the existing water tank and to place a 11.5'W x 20'L x 10.08'H equipment cabinet at the base of the Water Tank.

The Zoning Hearing Board granted applicants' request for relief, subject to conditions.

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

APPEAL NO. 3366: Appeal of Martin L. Faigus, owner of the premises known as 504 E. Glenside Avenue, Wyncote, Pennsylvania 19095, from the determination of the Zoning Officer finding that the construction of a carport, measuring 16 feet by 20 feet, located on the southeast side of the residence on the Property, which creates lesser side yard setbacks would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VII, Section 295-39(B)(1) regulating yard setbacks.

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

Upon motion of Ms. Hampton, and unanimously approved by the Committee, no action was taken.

APPEAL NO. 3367: Appeal of Yoon Kyung Shim, owner of the premises known as Unit 203A 8033 Old York Road, Elkins Park, Pennsylvania 19027, from the determination of the Zoning Officer finding that use of the Property to practice and administer acupuncture would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XVIII, Section 295-127, regulating use.

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.

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

7. Under Old Business: Mr. Lynch updated the Committee on the status of the green buffer area along the perimeter of the Brookview Apartment Complex at New Second Street and Ashbourne Road, which was removed by said complex. He reported that there are no notes on the Record Plan regarding this but there is a Restricted Covenant. He issued a letter today to the complex that to submit an amended development plan to address the issue. The original landscape plan should be amended because it does not provide the buffer and fence that the neighbors want. A change will provide the Township with some control going forward.

Mr. Kraynik indicated that if the complex is not agreeable, the Township may have to take legal proceedings. Mr. Swavola asked if there are any alternative means. Mr. Lynch stated that the complex can agree to take some action but the Township would have no control over it.

8. Under New Business:

a. Upon motion of Mr. Haywood, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the scheduling of a Public Hearing on July 21, 2010, to amend the Zoning Code, repealing Chapter 295, thereof, entitled Zoning, Article XXXIII, Creating an Age Restricted Overlay District.

b. Mr. McKeown noted that representatives of Cheltenham Methodist Church were present to discuss the sale of their property. John Lutz, 330 Cottman Avenue, was a spokesperson for the group. He informed the Committee that the church has been steadily losing congregants and is merging with another church and has a buyer who wants to operate a school on the site and has 98 students. The EDU's will only accommodate 90 students. If the building cannot be sold to use as a school, it would be worthless.

Mr. Lynch advised that the purchaser is a church with a congregation averaging 50 people. DEP is concerned that the new school exceeds the number of students allocated to the EDU's. DEP will not approved EDU's for 98 students.

Mr. McKeown recommended that the school enroll 90 students only and then apply for additional EDU's for the other eight (8) students since it is not even certain that all 98 students will enroll.

Mr. Bagley advised that the Township has no authority to release EDU's without DEP's approval.

One congregant asked if it is possible to use the EDU's of St. James School on Brookside Road, Elkins Park, since the school is closing. She was told that EDU's are not transferable, and St. James could potentially use them for something else.

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

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, June 2, 2010**  
**Curtis Hall**

| NAME<br>(Please Print) | ADDRESS                                  | E-MAIL and/or TELEPHONE |
|------------------------|--|-------------------------|
| Lynn Heilmann          | 720 Brighton St<br>Phila PA 19111        |                         |
| Katie Smith            | 53 Stonebrook Rd.<br>Mantville, NJ 07045 |                         |
| Nancy Kelley           | 6023 Walker St<br>Phila PA 19135         |                         |
| Mario Berrios          | 720 Brighton St<br>Phila. PA 19111       |                         |
| EDWARD SHUTE           | 8031 HAMMOND RD<br>CHELTENHAM PA 19012   |                         |
| Elizabeth Jutz         | 131 Beecher Ave<br>Chelt PA 19012        |                         |
| Holly Jutz             | " "                                      |                         |
| Pat Smith              | 355 Church Rd<br>Elvis Park              |                         |



**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, June 2, 2010**  
**Curtis Hall**

| NAME<br>(Please Print)     | ADDRESS                                  | E-MAIL and/or TELEPHONE       |
|----------------------------|--|-------------------------------|
| TERESA K. SPARACINO        | Delta -                                  |                               |
| JOHN & JOANNE DIFERDINANDO | 514 BEECHER AVE<br>CHELTENHAM, PA. 19012 | jdiferd@comcast.net           |
| Mr. & Mrs. Washington      | 4802 N. Palathorp St.                    |                               |
| Jess Bixby                 | Philly, PA 19116<br>10616 St. Thomas Dr. |                               |
| Joshua Washington          | 4802 N Palathorp St                      |                               |
| James Prather              | 4802 N Palathorp St.                     | Washington-Family@comcast.net |
| Kevin Boyle                | 6034 Walker St                           |                               |
| Jacelyn Ramsey             | 3823 I St.                               |                               |

Joe Vesecvic 107 Troutman Crk



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**Building and Zoning Committee, 8:00 p.m.**  
**Wednesday, June 2, 2010**  
**Curtis Hall**

| NAME<br>(Please Print) | ADDRESS                           | E-MAIL and/or TELEPHONE |
|------------------------|-----------------------------------|-------------------------|
| Ali Roy                | Beryl Rd.                         |                         |
| Lee E Schaible         | Phila Pa 19120<br>5136 Bingham St | 215-520-3069            |
| Christina Marth        | 6022 Edmund St                    | 267-736-6825            |
| Karen (Kaws)           | 7951 Algon Ave<br>2nd             | 215-518-5851            |
| Kevin R                | E D T P                           |                         |
| Jaclyn Bixby           | 10616<br>St. Thomas<br>dr.        | 215-510-5459            |
| John Kelly             | Phila PA 19135<br>6023 Walker St  | (215) 370-5499          |
| Eddie Morrison         | 1035 Kelper St                    | (267)-586-2326          |

D Finer



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**Public Safety Committee, 7:45 p.m.**  
**Building and Zoning Committee, 8:00 p.m.**  
**Wednesday, June 2, 2010**  
**Curtis Hall**

| NAME<br>(Please Print)               | ADDRESS  | E-MAIL and/or TELEPHONE                  |
|--------------------------------------|--|--|
| KEVIN E. THOMAS                      | 8256 THOMSON RD<br>ELKINS PARK PA 19027                            | dmthom@comcast.net<br>215-635-2335       |
| James Prather                        | 4882 N. Ketchum  | 215 740 6256                             |
| Herman J. WEINNICHT<br>Appeal # 3372 | 400 Maryland Dr<br>P.O. Box 7544<br>Fort Washington, Pa 19034-7544 | hweinnic@timoneyknox.com<br>215-646-6000 |
| Chris + Jeanne<br>GAYNOR             | 1103 Ashbourne Rd<br>Cheltenham PA                                 | 215-782-1517                             |
| P & B KNIZER                         | 613 Davis Dr<br>Cheltenham PA                                      |  |
| JOHN LUTZ                            | 330 COTTMAN<br>CHELT PA 19012                                      |  |
| Kaye Gallagher                       | 2 Waverly rd<br>Wyncote pa 19095                                   | kayeb@bratpack@aol.com                   |
| Maggie Vescovich                     | 107 Tookany<br>Chelt, PA 19012                                     |  |

Eileen Rudnick 27 Carter Ln  
Elkins Park 19027



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**Wednesday, June 2, 2010**  
**Curtis Hall**

| NAME<br>(Please Print) | ADDRESS  | E-MAIL and/or TELEPHONE  |
|------------------------|--|--------------------------|
| Jesse M Civello        | 147 Mount Carmel<br>Ave<br>6 Linside, PA 19037 | jcivello@verizon.<br>net |
| Natalie Hurstky        | 17 Lansdowne Rd<br>Cheltenham, PA 19012        | nhurstky@yahoo.com       |
| Mark Garvin            | 7816 Haines Rd.<br>Cheltenham                  |                          |
|                        |  |                          |
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|                        |  |                          |
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**Curtis Hall**

| NAME<br>(Please Print)            | ADDRESS                           | E-MAIL and/or TELEPHONE |
|-----------------------------------|-----------------------------------|-------------------------|
| ROB BERNHARD                      | 123 Tookany CR PKWY               | rbernhard@hotmail.com   |
| ROB & KATHY SHAW                  | 913 ASHBURN ME ROAD               | ROBERTSHAW@COMCAST.NET  |
| Theresa Cameron                   | 1117 Church Rd<br>Wyncote (9095)  |                         |
| SABINA Graebner                   | ep PA<br>8264 Thomson Rd.         |                         |
| ROBERT Graebner                   | ep PA<br>8264 Thomson Rd          |                         |
| Doug Karan                        | 21 Pike's Way<br>Cheltenham 19012 |                         |
| Sherry Hanley                     | 34 Carter Lane<br>Elkins Park PA  |                         |
| PAUL APPENZOLLER<br>TIMO BOROWSKY | 8210 JERKINTOWN RD.<br>ELKINS Pk. |                         |

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE TOWNSHIP OF CHELTENHAM,  
MONTGOMERY COUNTY, PENNSYLVANIA AMENDING THE  
CODIFIED ORDINANCES OF THE TOWNSHIP OF CHELTENHAM BY ADDING  
PROVISIONS TO CHAPTER 295, ARTICLE XXIX RELATING TO A PROHIBITION  
AGAINST CERTAIN OUTDOOR STORAGE AND/OR DISPLAY OF APPLIANCES,  
EQUIPMENT, HOUSEHOLD FURNISHINGS AND STOCK IN COMMERCIAL  
ZONING DISTRICTS.**

**BE IT ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS  
OF THE TOWNSHIP OF CHELTENHAM, MONTGOMERY COUNTY,  
PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY THE  
AUTHORITY OF THE SAME, AS FOLLOWS:**

**SECTION I AMENDMENT TO THE CODIFIED ORDINANCES**

Chapter 295, Article XXIX of the Codified Ordinances of the Township of Cheltenham is hereby amended to add the following Sections:

**Section 295-233.4. Outdoor Storage in Commercial Districts.**

A. Legislative Intent. The outdoor storage of appliances, equipment, household furnishings or office furnishings and any and all stock for sale or resale or business-related use, in any Commercial Zoning District of the Township, at a time the business, office or other seller is closed for business, is detrimental to the health and safety and welfare of the citizens of the Township by obscuring vision and line-of-sight, obstructing passage of sidewalks and/or roadways, and/or by creating an unsightly and disorderly appearance.

B. It shall be unlawful for any property owner or occupant in any Commercial Zoning District of the Township to place, store, leave or maintain any appliance, equipment, household furnishings or office furnishings, or stock for sale or resale or business related use, outdoors between the curb or the edge of the cartway and the street face of the

principal building on the lot, at a time when the business or office, whichever is applicable, is closed for business, or in the case of a seller without hours of operation, between 6 p.m. and 7 a.m. If a lot in a Commercial Zoning District is unimproved, then no appliance, equipment, household furnishings or office furnishings or stock for sale or resale or business related use may be placed, stored, left or maintained outside on the lot unless removed daily.

C. For the purposes of this Ordinance, the term “appliance” shall mean a stove, refrigerator, television set, furnace, water heater, water softener, washer, dryer or any household article used to perform any of the necessary work in a household.

D. For the purposes of this Ordinance, the term “household furnishings” shall mean any and all items ordinarily found and used as furniture or as a furnishing inside a residential dwelling.

E. For the purposes of this Ordinance, the term “office furnishings” shall mean any and all items ordinarily found and used as furniture or as furnishings or for storage purposes inside a business organization or home office setting.

F. The prohibition in this Section shall not apply to store inventory moved outdoors daily in order to display inventory only during the hours of operation of the business or other seller, provided that the business or other seller is open, operating and attended by the owner or an employee while such inventory is displayed. The prohibition in this Section shall also not apply to a registered automobile retailer.

G. The prohibition in this Section shall not apply to a fuel service station which stores oil or other lubricants or liquids for retail sale in a display(s) between the curb or the edge of the cartway and the street face of the principal building on the lot at a time when the business or seller is closed for business.

**SECTION II SEVERABILITY**

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION III EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after its approval as required by law.

**SECTION IV. REPEALER**

All other ordinances and resolutions or parts thereof, insofar as they are inconsistent with this Ordinance are hereby repealed.

**ORDAINED and ENACTED** by the Board of Commissioners of the Township of Cheltenham, Montgomery County, Pennsylvania held this \_\_\_\_ day of \_\_\_\_\_, 2010.

**TOWNSHIP OF CHELTENHAM**

By: \_\_\_\_\_  
**Morton J. Simon, Jr.**, President,  
Board of Commissioners

Attest: \_\_\_\_\_  
**David G. Kraynik**, Township Manager/Secretary