

January 6, 2010
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Chairman Michael J. Swavola, presiding. Members present were Commissioners Hampton, Haywood, McKeown, Portner and Sharkey. Also present was Ex-Officio Member Simon. Staff present were Joseph Bagley, Esq., Wisler, Pearlstine, LLP; Bryan T. Havir, Assistant Township Manager; David M. Lynch, Director, 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 Committee reviewed the Zoning Hearing Board Agenda for January 19, 2010 as follows:

APPEAL NO. 3336 (Continued and Amended) – Appeal of Matrix Ashbourne Associates, L.P., owner of premises known as 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 an Age Restricted Community on the premises consisting of the following:

- a. Sixty-eight (68) clusters on which Applicant will construct, depending upon market demand, either two (2) single-family residences with a 19’ side yard setback per cluster or three (3) carriage residences per cluster.
- b. Three (3), 3-story condominium buildings with twenty-four (24) residences per building.

Applicant is willing to limit the total number of Age Restricted Residences in the Age Restricted Community to 246.

The following Zoning Relief is required:

- a. A Variance from the rules and regulations of the “Floodplain Conservation District” as outlined in CCS 295-156. so as to allow construction or development within the 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:
 - a. 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.

- b. From CCS 295-168. for not submitting plans conforming to the stated Lines and Grades Plan(s) requirements.
- c. Variances from the rules and regulations of "Parking and Loading" as outlined in CCS 295-221., as follows:
 - a. From CCS 295-221.C.(2)(c) for a lesser aisle width of 22' instead of the minimum required 24'.
 - ii. From CCS 295-221.F. for a greater amount of parking of 917 parking spaces instead of the maximum permitted 120% of the required parking spaces which equals 504 parking spaces.
 - iii. In the alternative to 3.b.,above, a determination that the 80 off-street guest parking spaces, the 42 clubhouse parking spaces, the 10 public trail parking spaces and the 310 garage parking spaces are not to be included in the calculation of the total number of parking spaces provided in an Age Restricted Community as relates to CCS 295-221.F.
- d. 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:
 - a. A Special Exception in accordance with CCS 295-242.B. for the Age Restricted Development (with clubhouse and associated recreation).
 - b. A Variance from CCS 295-243.B.8.a. to permit sanitary sewer facilities and stormwater management facilities within the floodplain.
 - c. A Variance from CCS 295-243.B.8.c. to permit sanitary sewer facilities crossing the Tookany Creek.
 - d. A Variance from CCS 295-243.B.8.d. to permit development within areas having a slope of 15% or greater.
 - e. A Variance from CCS 295-243.B.8.e. to permit sanitary sewer facilities and stormwater management facilities within Riparian Buffer areas.
 - f. A Variance from CCS 295-244. for a side yard setback of 25' instead of the minimum required 50' for Age Restricted Community Clusters 47 through 54.
 - g. A Variance from CCS 295-244. for a minimum distance between buildings of 18.5' instead of the minimum required 30'.
 - h. A Variance from CCS 295-245.L.4. for the rear and side facades of the proposed residences to be vinyl siding or other materials such that the exterior wall and detail materials of the side and/or rear facades of a residence have less than the required 75% of brick, stone (natural or manmade), stucco, wood or other approved materials.
- e. 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.

- f. In the alternative to 1.e., 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.

Mr. Swavola announced that the Applicant may be asking for a continuance on this appeal. That being the case, Mr. Swavola asked Mr. Epstein, the Developer, if he wanted to make any comments tonight.

Mr. Don Epstein addressed the Committee. He said the first time he viewed Mr. Amey's modification of his plans was at the recent Planning Commission meeting. Mr. Epstein said Stuart Appel, Matrix's land planner, was out of town then but was unable to meet with Mr. Amey, the Township's land planner, until today. As a result, Mr. Peter Friedman, Applicant's Attorney, has requested a continuance of this application until February 16. Mr. Epstein said he wanted to make two points. He will continue to evaluate how he can modify this development for the entire site.

Mr. Swavola asked Mr. Epstein to consider including some neighbors who can work with both land planners. Mr. Epstein replied that he held public meetings where he reached out to the residents for specifics and did make modifications. He said he did not really know what more he could do. Mr. Appel and Mr. Amey will get together and figure out the technical aspects and take what they learned and then meet with him and the neighbors. Mr. Swavola said Staff has put a lot of pressure on Mr. Amey and if it is at all possible it would like to move these meetings along. Mr. Epstein said Mr. Appel should be prepared to get it done soon. Mr. Appel will work with Mr. Amey immediately and come up with a plan for presentation that will be ready in the next two to three weeks.

Mitch Zigmund-Felt, 35 Carter Lane, Elkins Park, addressed the Committee. He told the Committee that the residents' group known as Concerned Citizens For Ashbourne ("CC4A") have retained legal council and also have its own land planner. He said they would be more than

ready to review these plans in the next two to three weeks. Until now, CC4A had only to rely on what Mr. Epstein has told them. Tonight, Mr. Epstein says the plans will be ready soon. His attitude has been more adversarial than cooperative, according to Mr. Zigmund-Felt.

Mr. Haywood asked when this plan would be presented to the Planning Commission. Mr. Swavola said it will not be ready for the January 25th meeting. The extension request will be for thirty days. He wanted to emphasize that there has to be some noticeable progress in this planning process. Mr. Epstein agreed that it was important to keep it on a time frame.

Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends that a continuance be granted. In the event said continuance is not granted, the Committee recommends denial based upon steep slope issues and sanitary sewer concerns.

2. The Committee reviewed the Zoning Hearing Board Agenda for January 11, 2010 as follows:

Appeal No. 3358: Appeal of Kyung Soon Kim, Owner of Premises known as 1001 W. Cheltenham Avenue, Melrose Park, PA (a/k/a the “Elkins Building”), from the decision of the Zoning Officer for the following Zoning Relief in order to operate a School for Acupuncture 3625 ± SF on the first floor of the Premises:

- a. A special exception in accordance with the Rules and Regulations of the Class RO Residence and Office District as outlined in CCS 295-28.C. for the use of portion of the premises on the first floor as a School for Acupuncture.
- b. A determination that there is sufficient off-street parking at the premises.
- c. In the alternative to b., above, a variance from the Rules and Regulations of “Parking and Loading” as outlined in CCS 295-221.D. and H. so as to permit the existing 57 off-street parking spaces to service the building including the proposed School for Acupuncture.
- d. A modification of the Decision for ZHB Appeal No. 3304 so as to substitute a School for Acupuncture in place of a “English as a Second Language” school.

Mr. David Sander, Esq., was present to discuss this Application on behalf of the Applicant, Kyung Soon Kim. Mr. Sander addressed the Committee. He addressed the following issues: 1. The hours of operation - They will be Friday, Saturday and Sunday from 8 to 6 (probably more closely to 9 to 5). There will be no hours on Monday thru Thursday. 2. The class size. The class size will be 30 students - not all at one time, but not more than 30. 3. Number of instructors. Four instructors. This use as a School of Acupuncture would be similar to that of the English as a Second Language School which had already received Zoning Relief in 2008 but never materialized. The school would be housed on the first floor. Ms. Hampton asked Mr. Sander if he knew if the school would have a clinic whereby the students could actually practice on the public. Mr. Sander said this is strictly proposed as a school. If that scenario were to happen, he thought the Applicant would have to come back to the Zoning Board to request approval for that service. There is no current proposal of any clinic that would require extra parking. If there is a clinic, it would have to provide for staff parking. Mr. Haywood asked if the school can get accreditation without having a clinic. Mr. Sander said he did not know. Mr. Lynch said there were questions that arose if a massage service component was anticipated because the Township has very strict regulations for that type of operation. Mr. Sander said neither Mr. Friedman nor the Applicant made any mention of massage services at this school. Mr. Swavola asked Mr. Lynch if he had any concerns about this change of use. Mr. Lynch said he did not think it would have any adverse effect.

Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee takes no action on this appeal.

3. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Planning Commission Meeting Minutes dated December 28, 2009, were received.

4. The Committee reviewed the most recent decisions of the Zoning Hearing Board.

Appeal No. 3352 – Ashbourne4 Properties LLC, c/o Kashkashian Law Associates owner of 7909 High School Road, Elkins Park, PA 19027 on behalf of Our Community Cooperative of Cheltenham Township, Inc., for the determination of the Zoning Officer finding that construction of an addition, measuring 15.33 feet by 23.25 feet, to the southeast corner of the existing nonconforming building which results in less than required yard and Green Area setbacks, installation of non-permitted parallel and projecting wall signs, and less than required parking spaces would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XVII, Section 295-121, regulating yard setbacks, Article XVII, Section 295-123, regulating Green Area, Article XVII, Sections 295-121, 295-124 and 295-125, regulating nonconformities, Article XXV, Section 295-197, regulating signage, and Article XXIX, Section 295-221, regulating parking and loading.

Applicant seeks variances from the rules and regulations of the C3 Commercial and Business District as follows:

- (1) a variance from Section 295-121(A) to allow for the construction of an addition, measuring 15.33 feet by 23.25 feet, to the southeast corner of the existing building, with a front yard setback of zero feet instead of the minimum required 15 feet from the High School Road frontage of the Property;
- (2) a variance from Section 295-124 to allow for the construction of an addition, measuring 15.33 feet by 23.25 feet, to the southeast corner of the existing building and the removal of asphalt to create green space less than required as Green Area;
- (3) a determination that any nonconformities currently existing on the Property from Sections 295-121, 295-124, and 295-125, may remain;
- (4) a variance from Section 295-197(1)(a) to allow for the installation of a parallel wall sign (text: “Creekside;” Sign Area 36.5 square feet) facing Montgomery Avenue;
- (5) a variance from Section 295-197(1)(a) to allow for the installation of a projecting wall sign (text: “Creekside;” Sign Area 100 square feet) facing High School Road;
- (6) a variance from Section 295-197(1)(a) to allow for the installation of a property wall sign extending above the roof line; and
- (7) a variance from Section 295-221(H), to allow for less than the required number of parking spaces.

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. 3354 – SPIN, Inc., owner of 7797 Spring Avenue, Elkins Park, PA 19027. Applicant appeals from the determination of the Zoning Officer finding that installation of a second impervious paved driveway onto Spring Avenue, measuring approximately 775 square, within the required front yard setback would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-220, regulating yard setbacks.

Applicant seeks a variance from Section 295-220(A) of the rules and regulations of the R-7 Residence District to allow for the addition of a second driveway onto Spring Avenue and for the addition of approximately 775 square feet of impervious paving within the required front yard setback area of the Property.

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

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

5. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Report of the Building Inspector for December 2009 was received.

6. Old Business – None

7. Discussion to amend the Age Restricted Overly District Ordinance followed.

Mr. Amey, AICP, who was recently hired by the Township to perform land planning services as it pertains to new developments, addressed the Committee. During the course of preparation and review of the proposed land developments for Ashbourne Country Club and the Hansen Project in Laverock, Mr. Amey said he referred to this Ordinance and found issues that could adversely affect the Township in future land developments. He referred to the current density standards and calculations thereof and he said he intends to research these calculations. Mr. Kraynik told the Committee that Mr. Amey has submitted a proposal of \$1750.00 to examine this Ordinance and offer amendments. Discussion ensued. Mr. Sharkey stated that he is aware of certain situations not clearly covered under the Ordinance and he felt this amount was a small price to pay to help strengthen the Township's position with developers.

Upon motion of Mr. Sharkey, unanimously approved by the Committee, it was recommended that the Board of Commissioners award a Professional Services Contract to Kenneth Amey, AICP, Lower Gwynedd, PA, for his recommendations and services involved in amending the Age Restricted Overlay District Ordinance in the amount of \$1750.00

8. Under Citizens' Forum:

Ms. Diane Williams asked the Committee when the public can see the proposed amendment to the Age Restricted Overlay District Ordinance. Ms. Williams asked if the public had to go along with the changes. Mr. Bagley said the proposed Ordinance would go before the Township Planning Commission and the Montgomery County Planning Commission then it would be advertised and a public meeting scheduled. Ms. Williams asked if the public really had any input in an amendment such as this. Mr. Bagley reminded Ms. Williams that earlier this evening, a resident submitted a petition signed by 150 people and the Committee recommended that the Board of Commissioners take another look at its decision to cancel the Transit Bus Service. Mr. Bagley said yes, the public does have a right to participate and on occasions, it does have an impact. Mr. Bagley explained the Ordinance review process.

Ms. Loretta Leader, 542 W. Glenside Avenue, Glenside, asked the Committee who prepared the original Ordinance and she was told it was prepared by a special committee, including Commissioners, Staff, and the Montgomery County Planning Commission.

David Cohen, 321 Gerard Avenue, Elkins Park, addressed the Committee. He asked the Committee to consider rescinding this Age Restricted Overlay District Ordinance until such time as it is amended. Mr. Sharkey asked Mr. Bagley how long that process would take and Mr. Bagley said he did not think there would be a significant saving of time. Ms. Hampton asked if anyone knew a developer who intended on coming forth tomorrow with a development relating to the Age Restricted Ordinance. Mr. Bagley commented that if it became known that this

Ordinance might be rescinded, it just might trigger developers to come forth sooner than later.

The creation of a new Ordinance and the time frame process was repeated again.

Mr. Cohen also wanted to make sure the Committee was aware that the Chairman of the AdHoc Zoning Code Revision Committee has not lived within the Township for more than one year and should no longer hold that position.

Mr. Cohen also requested that this Committee look at more open space properties within the Township. He wondered how much discussions have been held regarding mixed use properties.

Ms. Leader asked about signs at the Towers at Wyncote. Mr. Lynch said variances were applied for and granted by the Zoning Hearing Board in December 2009. The district site plan showed all existing signage. The Zoning Hearing Board has the right to grant variances. The new signs are not up yet.

Ms. Leader mentioned banners on Easton Road at a Cricket store at Cedarbrook Plaza. Mr. Lynch will investigate.

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 Mary Raab

PUBLIC ATTENDANCE LIST
Public Affairs Committee @ 7:30 PM
Public Safety Committee @ 7:45 PM
Building and Zoning Committee @ 8:00 AM
Wednesday, January 6, 2010
Curtis Hall
Wyncote, PA 19095

NAME (Please Print)	AFFILIATION/COMPANY AND/OR ADDRESS	EMAIL ADDRESS AND/OR TELEPHONE NUMBER
Joan Johnston-Stern Peter Stern	207 Fernbrook Ave Wyncote	
Dennis J. Fisher	310 Cottman Ave CHELTONHAM 19012	
Marcia Brady	7620 Front Street Cheltenham	
Steve Martin	211 W. Waverly Greenside	
Bruce A. Raney	118 Boncove Rd CHELTONHAM PA 19012	
Bill Spruzewski	58309 Edgemoor ELTING PARK	SCHWARTZCHILD
D. Frappi	7315 Syc Ave	
Bette Thompson	7930 Park Ave	
CHARLES LONG	17 LANFAIR RD	
ROB BERNHARD	123 TOOKANY CREEK PKWY	
Allen Lundy	108 Clifton	
Doris & Schultz	15 Waverly, Wyncote	

NAME (Please Print)	AFFILIATION/COMPANY AND/OR ADDRESS	EMAIL ADDRESS AND/OR TELEPHONE NUMBER
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Carol Lorber	7741 Mill Rd E. P. 19027	cjs-41@hotmail.com
Mark Siemon	306 Boyer Cheltenham	
Anita Petito	306 Boyer	
Sara Koval	7961 Oak Hill Dr to	
Maggie Vescovidi	107 Tookany Creek Parkway Chelt, PA 19012	
Eileen Tom Collins	527 Davis Rd 19012	
Joe Vescevic	107 Tookany	
Chris + Jeanne Gynn	1103 Ashburne	
Debra Marberger		
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GREG STRUPCZEWSKI	19012 309 HIGHLAND RD	RE: 3336
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