

November 4, 2009  
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Chairman Morton J. Simon, Jr. presiding. Members present were Commissioners McKeown, Muldawer, Portner, Sharkey and Swavola. Also present was Ex-Officio member Greenwald. 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. Simon called the meeting to order.

1. The Committee reviewed the Zoning Hearing Board Agendas for November 9 and November 17, 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 subdivide the premises into two (2) lots: an Age Restricted Community lot consisting of 76.471± acres and a Preservation Overlay Community lot consisting of 28.004± acres and develop the two lots as follows:

- A. The Age Restricted Community will consist 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.
- B. The Preservation Overlay Community will have a total of ninety-six (96) single-family Residences in thirty-two (32) clusters (3 carriage residences per cluster).

The following Zoning Relief is required:

1. Age Restricted Community lot:
  - 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:
    - 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. 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:
    - i. 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 1.c.ii., 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:
    - i. A Special Exception in accordance with CCS 295-242.B. for the Age Restricted Development (with clubhouse and associated recreation).
    - ii. A Variance from CCS 295-243.B.8.a. to permit sanitary sewer facilities and stormwater management facilities within the floodplain.
    - iii. A Variance from CCS 295-243.B.8.c. to permit sanitary sewer facilities crossing the Tookany Creek.
    - iv. A Variance from CCS 295-243.B.8.d. to permit development within areas having a slope of 15% or greater.
    - v. A Variance from CCS 295-243.B.8.e. to permit sanitary sewer

facilities and stormwater management facilities within Riparian Buffer areas.

- vi. 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.
  - vii. A Variance from CCS 295-244. for a minimum distance between buildings of 18.5' instead of the minimum required 30'.
  - viii. 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 l.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.
2. Preservation Overlay Community:
- 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:
    - 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. 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:
    - i. From CCS 295-221.F. for a greater amount of parking of 352 parking spaces instead of the maximum permitted 120% of the required parking spaces which equals 231 parking spaces.
    - ii. In the alternative to 2.c.i., above, a determination that the 160 garage parking spaces are not to be included in the calculation of the total number of parking spaces provided in a Preservation Overlay District as relates to CCS 295-221.F.

- d. A Variance from the rules and regulations of the Class R-1 Residence District as outlined in CCS 295-9. for a greater building area of 20% instead of the maximum permitted 10%.
- e. Variances from the rules and regulations of the “Preservation Overlay District” as outlined in CCS 295-189., as follows:
  - i. From CCS 295-189.A.(1) for a greater number of dwelling units: 96 instead of maximum number of dwelling units: 20 permitted by a “Yield Map” based upon the R-1 Zoning Requirements in conjunction with the Planned Cluster Development Requirements.
  - ii. From CCS 295-189.B. for a lesser tract property line setback of 20’ instead of the minimum required 75’.
- f. Variances from the rules and regulations of “Planned Cluster Development” as outlined in CCS 295-226., as follows:
  - i. From CCS 295-226.B.(2)(b) for 100 % of the dwelling units being townhouses instead of the maximum permitted 25%.
  - ii. From CCS 295-226.B.(4) for the submission of Concept Plans at the zoning appeal stage of the project instead of detailed Sub-division/Land Development plans conforming with the requirements of Chapter 260 of the Cheltenham Code.
  - iii. From CCS 295-226.B.(5) for not submitting an Environmental Impact Statement at the zoning appeal stage of the project.
  - iv. From CCS 295-226.C.(1)(e)[2] “Table of Minimum Distance Between Buildings”, as follows:
    - (1) For a minimum back to back distance of 40’ instead of the required 60’.
    - (2) For a minimum side to side distance of 20’ instead of the required 30’.
- g. In the alternative to 2.f., above, a determination that the requirements of the “Planned Cluster Development” as outlined in CCS 295-226. do not apply to the Preservation Overlay Development lot.

Peter Friedman, Esq., representing the applicant, stated that his client will be requesting a continuance to the Zoning Hearing Board (ZHB) meeting on December 14. He stated that the applicant wants to give the Township’s newly hired land planning consultant time to review the appeal and hopes that the process can evolve and be fruitful. The applicant will also ask the ZHB for a withdrawal of the portion of the application relating to the 96 market rate homes.

Residents commented as follows:

Mitch Zygmund-Felt, 35 Carter Lane and Co-President of CC4A expressed neighbors' concerns as follows: CC4A represents over 500 households and as many as 1,500 local residents/voters, many of whom (over 400) have submitted ZHB Appearance Forms with their specific concerns related to the Matrix/Ashbourne Development Plan. Previously, they testified to many of those areas of concern so tonight he focused on some additional issues that relate to the development plans.

Age-Restricted/55+ portion of the plan: The major component of the Matrix proposal is the 246 units in the age-restricted 46 acres. Given the state of the economy, that is a risky prospect both to the developer and Township. In July, the state of New Jersey passed Bill S-2577 which provides for existing approved Age-55 housing to be permitted to convert to market rate, unrestricted use. Further, the proposed Baederwood Development in neighboring Abington Township was asked to include age 55 restricted residential units as part of their plan by the Abington Commissioners there. The developer and their legal counsel stated to the Board unequivocally that, there is no market in the area or region for age-restricted housing and that any developer who undertook that would experience problems and economic hardships.

Fiscal Impact Study: The assessment does not factor in cost and capacity usage of the sanitary sewer system (and also to the storm sewer capacity); it does not factor in environmental impacts and cost, including water runoff and erosion and increased need and cost for emergency services for the age restricted section above the basic level of service needs in the community; it appears to show real estate transfer tax payments on an annual basis, while it would largely be a one time payment based on the initial sales of the units. Subsequent sales of the units and their associated real estate transfer tax payments will be at a smaller scale.

The economic multiplier numbers give the impression that much of the direct and indirect revenue associated with construction of the project would remain locally in Cheltenham. In fact, much of the direct and indirect spending would be dispersed throughout and beyond the region.

The assessment does not address the fiscal impact of other potential development options, including what is allowed as "of right" on the property.

The assessment addresses the fact that the project seeks to limit the number of school age children through the use of age restricted housing. Any reversal of the age-restricted portion would result in substantial increases on school district resources. Additionally, school costs are not as heavily dependent upon the number of children as the study would lead you to believe. Rather, key drivers in increased school district expenses, specifically for the Cheltenham School District, are unfunded government mandates, such as No Child Left Behind, and the need for major facility constructions.

The Fiscal Impact Assessment seeks to show that the proposed development would have a positive fiscal impact to the Township and School District in terms of providing excess tax revenue over the expenses attributed to the project. Unfortunately, there are other costs the project as planned would have on the Township, including a diminished quality of life for Township residents. The Assessment fails to address these.

Traffic Study:

The Township wisely delayed the hiring of a traffic consultant until the final plans are submitted by Matrix. As with the Fiscal Impact Study, CC4A takes major exceptions to what has been presented by Matrix when final plans are still pending.

Joseph Vescovich, 107 Tookany Creek Parkway and Co-President of CC4A cited Matrix's Wyngate development on Route 309 in Wyncote. He opposed retention basins and the direction of water into Rock Creek. The Rock Creek overflow could also happen with the Tookany Creek with the Ashbourne development. He doubted the information on Matrix's website whereby Matrix claims that there are deposits on 30 homes and felt the Township should investigate this. The landscaping plan shows an increase of 1,365 plantings. There was too much clear-cutting. He was concerned about the removal of trees.

Maggie Vescovich asked about who would pay for the postage of the notifications to residents. Mr. Lynch stated that the applicant will absorb the costs of postage and advertising.

Mr. Swavola felt it was worthy to note Matrix's cooperation with the Township's land planning consultant and residents.

Upon motion of Mr. McKeown, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it recommends that a continuance be granted. If a continuance is not granted, the Committee recommends that said appeal be denied based on the number of zoning reliefs needed for construction/development in the floodplain, steep slope area, and Preservation Overlay District; the variance for an increased building area; and the lack of lines and grading plans.

APPEAL NO. 3352: Appeal of "Our Community Cooperative of Cheltenham Township, Inc." Equitable owner of the premises known as 7909 High School Road, Elkins Park, PA from the decision of the Zoning Officer for the following Zoning Relief in order to construct a 15.33' x 23.25' addition to the southeast corner of the existing building:

- a. Zoning Relief from the Rules and Regulations of the Class C3 Commercial and Business District as outlined in Article XVII of Chapter 295 of the Cheltenham Code, as follows:
  - i. A variance from CCS 295-121.A. for a lesser front yard setback of zero feet instead of the minimum required 15' from the High School Road frontage of the premises.
  - ii A variance from CCS 295-124. for lesser "Green Area" than required.
  - iii A determination that whatever non-conformities that currently exist from CCS 295-121., CCS 285-124. and CCS 295-125. may remain.

- b. Variances from the Rules and Regulations of “Signs” as outlined in CCS 295-197.C.(1) (a), as follows:
  - i. For the Parallel Wall Sign (text: “Creekside”; Sign Area = 36.5 SF) facing Montgomery Avenue.
  - ii. For the Projecting Wall Sign (text: “Creekside”; Sign Area= 100 SF) facing High School Road.
  - iii. For the Property Wall Sign extending above the roof line.
- c. A variance from the Rules and Regulations of “Parking and Loading” as outlined in CCS 295-221.H. for lesser parking spaces than required.

Harold Lichtman, Architect, represented the applicant. He distributed a revised site plan and photos of the property, surrounding properties and neighborhood and reviewed the following: history of the property; current vacancy; applicant’s Agreement of Sale; plans to renovate it as a food market; side yard; green space increase; proposed signs for the main entrance, left of the main entrance and facing Montgomery Avenue; variances for parking and loading; the addition to the building; a variance as requested by the Design Committee and Economic Development Task Force to increase the overhang of one of the canopies and to square off the corner at Montgomery Avenue and High School Road; the Township Engineer’s request for a steep slope variance; elimination of parking along Montgomery Avenue; proposed elevation of the new market; and facade changes.

In response to a question from Mr. McKeown, Mr. Lynch indicated that the appeal as presented was satisfactory to him.

Upon motion of Mr. Portner, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it recommends approval of said application.

APPEAL NO. 3354: Appeal of Spin, Inc. owner of premises known as 7797 Spring Avenue, Elkins Park, PA, from the decision of the Zoning Officer for a variance from the rules and regulations of “Yard Regulations” as outlined in CCS 295-220.A. for the addition of a second driveway onto Spring Avenue and for the addition of approximately 775 SF of impervious paving within the required front yard setback area.

Mr. Lynch reviewed the appeal. David Lecino, President of SPIN, was present and reviewed SPIN's mission of administering group homes for the mentally and physically disabled. He hoped that this appeal would help address the concerns of the community and eliminate the need of shift changes to walk through the streets at night, and a circular driveway would create off-street parking.

Thom Cross, Architect, reviewed the Planning Commission's recommendation for a land development plan and asked that in lieu of a development plan that conditions be crafted to meet stormwater management and landscaping while satisfying PennDOT requirement regarding sight distance.

Mr. Simon asked about landscaping plans along Spring Avenue. Mr. Cross responded that he is prepared to design a landscape along the front of the property that would be suitable to meeting PennDOT's requirements.

Mr. Greenwald was concerned that waiving a land development plan does not make the plan safer because there would be no regulation of turns in/out unless there was an agreement.

Mr. Swavola suggested that the applicant offer a stormwater management plan, landscape plan and a plan for turning in/out at the Zoning Hearing Board meeting.

Residents commented as follows:

Bill England, 7709 Chapel Road, stated that there has been ongoing parking and shift change issues with the neighbors. The proposed plan appears to help the situation, and the neighbors support it.

Art Haywood, 443 Rices Mill Road, asked about stormwater management. Mr. Lynch explained the necessary requirements including installation of underground absorption beds.

Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it recommends approval of

said appeal contingent upon a Land Development Plan being submitted to the Township for its review and approval unless the Applicant issues a letter stating that it voluntarily agrees to the following conditions being made a part of any grant of Zoning Relief for this Appeal: that the Applicant design Stormwater Management facilities for the proposed site improvements subject to the review and approval of the Cheltenham Township Engineer and construct said stormwater management facilities; that the Applicant prepare a Landscape Plan for the review and approval of the Cheltenham Township Shade Tree Advisory Commission and install the required landscaping; and that the Applicant mark and sign the circular driveway for right turn in only and right turn out only.

2. Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Planning Commission Meeting Minutes dated October 26, 2009, were received.

3. Upon motion of Mr. Muldawer, and unanimously approved by the Committee, the Ad Hoc Zoning Revision Committee Meeting Minutes of October 26, 2009, were received.

4. The Committee reviewed and approved Economic Development Task Force recommendations for issuance of Certificates of Appropriateness for signage within the Commercial Enhancement Districts as follows:

Upon motion of Mr. Portner, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Cricket Telecommunications, 419 Cheltenham Avenue, for a sign.

Upon motion of Mr. Portner, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Tiffin, 8080 Old York Road, for a sign.

Upon motion of Mr. Portner, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Simply Massage, 141 E. Glenside Avenue for a sign.

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

6. Under New Business: Mr. Bagley reviewed a proposed Stipulated Settlement between the Township and Keystone Outdoor Advertising regarding a billboard at Ogontz Avenue and Old Limekiln Pike. This settlement would allow the Township to use the billboard for public service announcements of three (3) announcements per minute and 30 announcements per hour. These amounts are in excess of those allowed under the Zoning Hearing Board's grant of relief to Keystone Outdoor Advertising.

7. Upon motion of Mr. Greenwald, and unanimously approved by the Committee, it is recommended to the Board of Commissioners approval of a Stipulated Settlement Agreement with Keystone Outdoor Advertising for the use of its billboard at the intersection of Ogontz Avenue and Old Limekiln Pike.

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



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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 4, 2009**  
**Curtis Hall**

<b>NAME</b> <b>(Please Print)</b>	<b>ADDRESS</b>	<b>E-MAIL/TELEPHONE</b>
Marilyn & Stu Blegynak	8204 Aspen Way Elkins Park	Bleg2000 @ AOL.com
Anita Petito	306 Boyer rd Cheltenham	
Mark Siemon	306 Boyer rd Cheltenham, PA	
Bill Englad	7709 Chapel EP	
David Reasi	200 Tokany Cheltenham	
Judith Gratz	510 E. Glenside Ave Wyncote	
Jill Pomerantz	7704 Chapel E.P.	
Margot Weiner	7705 Chapel rd EP-	



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NAME (Please Print)	ADDRESS	E-MAIL/TELEPHONE
Denise Finer	4 Pike's Way Cheltenham PA	215-669-0261 denise.finer@a comcast.net
Aline Roy	3 Beryl Rd 19012	
Debra Markberger	131 Tookany 19012	
GREG STUPACZEWSKI	309 HIGHLAND RD.	
Joe Vescevic	107 Fookay Cretz 19012	
Maggie Vescevic	107 Tookany 19012	
Scott Laughlin	1681 E. Willow Grove Av - 19038	LaughlinScott@ aol.com
Heidi Krout	729 Ashbourne Chelt.	



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<b>NAME</b> <b>(Please Print)</b>	<b>ADDRESS</b>	<b>E-MAIL/TELEPHONE</b>
L. A. Anly	805 Ashbourne Rd	
BRAD PRANSKY	E1	BPRANSKY@CTCSO.ORG



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NAME (Please Print)	ADDRESS	E-MAIL/TELEPHONE
Mirek Zygmund-Fels	CCYA	
Fern + Bob Billet	36 Mulberry Ln Elkins Park	fsbillet21@gmail.com
Mary Beth Carroll	123 Ricos Mill Rd Wyncote	MBCarroll@aol.com