

October 7, 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 Muldawer, Sharkey and Swavola. Also present was Ex-Officio member Greenwald. Staff present were Joseph Bagley, Esq., Wisler, Pearlstine, LLP; Bryan T. Havar, 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 Agenda for October 19, 2009, as follows:

APPEAL NO. 3328: (Amended and Continued) Appeal of Fairfield Wyncote LLC, Owner of premises known as 8440, 8460, 8470, and 8480 Limekiln Pike, Wyncote, PA (a/k/a "The Towers at Wyncote" Apartment Complex), from the decision of the Zoning Officer for the following zoning relief for existing and proposed nonconforming signage as noted below (said premises being within the Class C-1 Commercial Zoning District):

A. 8440 Limekiln Pike (Clubhouse/Leasing Office and Fitness Center)

1. Variances from the rules and regulations of "Signs" as outlined in Article XXV of Chapter 295 of the Cheltenham Code, as follows:
  - a. From CCS 295-197.C.(1) (a) for the following free-standing signage on the North side of Limekiln Pike which is in excess of the permitted one (1) free standing sign per single use of property, as follows:
    - i. Proposed Sign A North of Limekiln Pike Entrance at 7.08'W x 18'H (127.50 SF), 20' ± High.
    - ii. Proposed Sign B just North of Limekiln Pike Entrance (no dimensions given) (Replaces Sign 5).
    - iii. Proposed Sign C just South of Limekiln Pike Entrance (no dimensions given)
    - iv. Proposed Sign D 360 ±' Southerly Limekiln Pike Entrance at 5'W x 10'H: (50 SF), 12± ' High (Replaces existing Sign 7).
  - b. From CCS 295-196.A.(3) for Directional Sign 3K at entrance drive to Clubhouse/Leasing Office having a sign area of 15 SF (6'Wx2.5'H) instead of the maximum permitted 4 SF.

B. 8460 Limekiln Pike (Building No. 1)

1. Variances from the rules and regulations of "Signs" as outlined in Article XXV of Chapter 295 of the Cheltenham Code, as follows:
  - a. From CCS 295-196.A.(3) for the following directional signs which sign areas exceed the maximum permitted 4 SF:
    - i. Sign 3F on south side main accessway at 2.5'W x 3'H: 7.5 SF
    - ii. Proposed Sign E on North side main accessway at 4'W x 6'H: (24 SF) (Replaces existing Sign 3G).
    - iii. Sign 3H at main entrance Building No. 1 at 2'W x 2.5'H: 5 SF
    - iv. Sign 3I at main entrance Building No. 1 at 2'W x 2.5'H: 5 SF
    - v. Sign 3L at Limekiln Pike Guard House at 2.75'W x 3.08'H: 8.48 SF
    - vi. Sign 3M at Limekiln Pike Guard House at 2.75'W x 2'H : 5.5 SF

From CCS 295-197.C.(1) (a) for the following parallel wall signage in excess of the permitted one (1) parallel wall sign per signage use of property:

- i. Sign 10 at Limekiln Pike Guard House at 6.17'W x 3' H : 18.5 SF
  - ii. Sign 11 at Building No. 1 main entrance at 16.38' W x 4.33 H: 70.92 SF
- b. From CCS 295-196.A. (12) (h) for Temporary Sign 14 (5'Wx4'H:20 SF) at Building No. 1 main entrance drive-thru attached to balcony above having been in place longer than the permitted 30 days.

C. 8470 Limekiln Pike (Building No. 2)

1. Variances from the rules and regulations of "Signs" as outlined CCS 295-196.A.(3) for the following directional signs which sign areas exceed the maximum permitted 4 SF:
  - a. Sign 3D on south side main accessway at 2.5'W x 3'H: 7.5 SF
  - b. Sign 3E on north side main accessway at 2.67'W x 4.04'H :10.78 SF
  - c. Proposed Sign F on north side main accessway: 2.67'W x 4'H:10.67 SF

D. 8480 Limekiln Pike (Building No. 3)

2. Variances from the Rules and Regulations of "Signs: as outlined in Article XXV of Chapter 295 of the Cheltenham Code, as follows:
  - a. From CCS 295-196.A.(3) for the following directional sign which sign areas exceed the maximum permit of 4 SF:
    - i. Sign 3A on south side of main accessway at 2.5'Wx3'H: 7.5 SF
    - ii. Sign 3B on south side of main accessway at 2.5'Wx3'H: 7.5 SF
    - iii. Proposed Sign G on North side main accessway at 2.67'W x 4' H: 10.67 SF

- c. From CCS 295-197.C.(1) (a) for Freestanding Sign 8 (11.58'W x 4.46'H: 51.65 SF) at Easton Road Entrance having a greater sign area of 51.65 SF instead of the maximum permitted 50 SF.

Michael Yanoff, Esq. represented the applicant. Mr. Lynch reviewed the requests of the Zoning Hearing Board (ZHB) for additional information from the applicant about the location of signs in the vicinity of Ogontz Avenue and Limekiln Pike. Mr. Yanoff explained that his client is engaging an expert to review the signs, which may result in the postponement of the application at the next ZHB meeting. In response to a question from Mr. Swavola, Mr. Lynch reported that the ZHB has concerns about the small size of the sign text.

Upon motion of Mr. Greenwald, 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 as previously stated.

APPEAL NO. 3350:(Continued) Appeal of Bertram W. Korn, Jr., owner of premises known as 521 Spring Avenue, Elkins Park, PA, from the decision of the Zoning Officer for the following zoning relief in order to operate a four (4) bedroom Bed and Breakfast Facility on the premises.

- a. A Variance from the Rules and Regulations of the Class R-4 Residence District as outlined in CCS 295-36. for the operation of the Bed and Breakfast Facility instead of one of the permitted enumerated uses.
- b. A determination that the parking requirement for a Bed and Breakfast Facility falls under CCS 295-221.H. Land Use Type: Group Quarters, that the required number of parking spaces for the Bed and Breakfast Facility is four (4) parking spaces and that the (6) parking spaces being provided is sufficient for the residence use and Bed and Breakfast Facility use of the premises.

Mr. Korn and his attorney Michael Yanoff, Esq. were present. Mr. Yanoff noted that the zoning issue that was a concern to the Committee at its last meeting was researched by himself and the Township Solicitor, and they have determined that the law requires zoning to run with the land.

Mr. Yanoff stated that he and his client have concerns about certain recommendations of the Planning Commission. Mr. Korn presented the following: architectural diagrams of his home's interior and parking spaces; plans relevant to the property being compliant with the Fire Code requirements for which he is seeking bids; letters of endorsement from five (5) area synagogues that receive frequent requests for accommodations that are within walking distance and from local educational institutions and neighbors.

Lengthy discussion ensued regarding length of stays; number of months it would be open as a B&B; owner occupation; exterior signage; hours in which breakfast can be served; use of the property for events; use of the swimming pool and tennis courts; and room occupancy.

Use, length of stays and meals. Mr. Korn described his facility as providing short stay accommodations and did not agree with the Planning Commission's recommendation for limiting stays to seven (7) days and wanted an option to have longer term stays especially during the summer months. Mr. Yanoff stated that the property will be a Kosher B&B, not a boarding house. He disagreed with the Planning Commission's recommendation that meals are limited to breakfast and have to be completed by 12 noon. Mr. Swavola was concerned that this could be a precedent-setting issue as well as an enforcement issue and that Mr. Yanoff's argument was not in keeping with the concept of a B&B. Mr. Simon stated that any zoning relief stays with the property, and there is no guarantee that if the property were sold those future owners would maintain it as a Kosher B&B and market it to the same organizations. Mr. Bagley questioned why the applicant opposes a seven (7) day stay when the facility is only a B&B to be used by visiting students and synagogues. Mr. Korn responded that there is a significant potential demand for a Kosher B&B for tourists to Philadelphia and that other entities could use his facility, not specifically synagogues and schools. His swimming pool and tennis courts are also an attraction. It was Mr. Simon's opinion that Mr. Korn was expanding his property's use and

making it appear as a hotel/resort type of facility. It was Mr. Swavola's opinion that a time limit should be put on stays since zoning relief runs with the property.

Events. Mr. Simon stated that the intention is to restrict guests on the 3<sup>rd</sup> floor from having a huge event on the 1<sup>st</sup> floor and preclude the house from being a catering hall.

According to Mr. Swavola, a typical B&B facility does not hold large events.

Fire Code/Limitation on occupants. Mr. Lynch advised that a sprinkler system would be needed. It was Mr. Simon's opinion that since a determination has not been made on how the property will be classified, it might be appropriate to limit the number of occupants. Mr. Lynch advised that under the Township's Building Code, a limit could be calculated based on the plan presented.

Discussion ensued regarding limiting the number of occupants. Mr. Simon felt it was relevant to limit the number of guests to 12 with no more than four (4) unrelated guests in each room. This would prevent groups from using the facility and provide for as little disturbance to the neighborhood as possible. Mr. Greenwald felt that a limit could affect family stays and that a specific condition that the room occupancy has to be in compliance with the Uniform Construction Code or 12 persons, whichever number is less.

Mary Beth Carroll, 123 Rices Mill Road, felt that the size of the rooms should be known before a limit was set.

Owner occupation. The Committee discussed whether or not the property should be owner-occupied. It was Mr. Simon's opinion that that the Planning Commission's recommendation that the property should be owner-occupied for at least nine (9) months of the

year was reasonable. Mr. Korn stated that he was comfortable with being open nine (9) months of the year since he and his family would like to have a break from intrusion.

Use of swimming pool/tennis court. Mr. Simon felt that allowing guests to use these facilities expands the property's use as a B&B.

Grenville Hayes, 517 Spring Avenue, a next door neighbor, was concerned because there is no definition of a B&B in the Zoning Code. He requested the following: that the property be owner occupied, that guests not be permitted to use the swimming pool and tennis courts; and the number of guests be limited to 12. He supported the recommendations of the Planning Commission and was concerned that student guests could go beyond Mr. Korn's planned usage and guests could include technical school students.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends approval of said appeal contingent upon the following conditions: That the Bed and Breakfast lodging facilities be limited to the four (4) bedrooms on the third floor; the maximum number of Bed and Breakfast guests at any time shall be either 12 guests or the cumulative total of the maximum room occupancies for the Bed and Breakfast lodging facilities as determined under the 2006 International Building Code, whichever is the lesser; the maximum room occupancy for each Bed and Breakfast Lodging Facility's room shall be no greater than that permitted under the 2006 International Building Code; that the property be owner occupied for a minimum of nine (9) months a year; that there be no exterior signage; no meals other than breakfast be prepared and served by no later than 12 noon; no Bed and Breakfast business related events such as weddings, Bar Mitzvahs, etc. be held at the property; the maximum length of stay be limited to fourteen (14) days with the exception that up to five (5) of the Bed and Breakfast guests may stay

up to forty-two (42) days provided that said Bed and Breakfast guests are students/faculty/attendees at nearby educational facilities.

APPEAL NO. 3353: Appeal of Monifa Thelwell, prospective tenant at 110 Yorktown Plaza, Elkins Park, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to operate an "Adult Daycare Center":

- a. Zoning Relief from the rules and regulations of the Class C-3 Commercial and Business District as outlined in Article XVII of Chapter 295 of the Cheltenham Code, as follows:
  - i. A Special Exception in accordance with CCS 295-117.T. for the proposed "Adult Daycare Center."
  - ii. In the alternative, a Variance from CCS 295-117. for the proposed "Adult Daycare Center" instead of one of the enumerated permitted uses.
- b. A determination as to the amount of parking required for the "Adult Daycare Center."

Peter Friedman, Esq. represented the applicant. Mr. Lynch reported that the Zoning Hearing Board denial of previous appeals was based on vehicular access. This new appeal includes access to an underground garage with directional signage. Discussion ensued regarding the Planning Commission's recommendation of denial. Mr. Lynch reviewed the commission's concerns about the safety of the entrance, and it did not approve of this use for a commercial shopping center.

Mr. Friedman reviewed the previous appeals and the new appeal that includes a change in configuration, the front door entrance will be in the underground garage and the relocation of the front door. He felt the new appeal addresses safety concerns.

Mr. Lynch stated that there could be a perception by visitors that the plaza entrance is the front door entrance. Mr. Simon asked if the door from the plaza opens from the outside. Discussion ensued about how to discourage visitors from using the door at the plaza entrance as the front door. Fire Code regulations were discussed.

Upon motion of Mr. Greenwald, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends approval of this appeal contingent upon the door on the Plaza side be marked as "Exit only" and that said door be locked and be opened from the inside only as an emergency door with a Crash Bar.

2. Upon motion of Mr. Greenwald, and unanimously approved by the Committee, the Planning Commission Meeting Minutes dated September 24, 2009, were received.

3. Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Ad Hoc Zoning Revision Committee Meeting Minutes of September 24, 2009, were received.

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

APPEAL NO. 3325 – Appeal of Phuong Mgoe Trinh and Chuong Trinh, owners of the premises known as 1101 Ashbourne Road, Cheltenham, Pennsylvania 19012, from the determination of the Zoning Officer finding that noted improvements in the form of sheds, gazebos, pond/bridge, deck and canopy over the deck, creating less than required front and rear yard setbacks would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-39, regulating yard setbacks.

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

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

APPEAL NO. 3344 – Appeal of Sprint and Moss Rehab-Einstein Elkins Park, owner of the premises known as 60 E. Township Line Road, Elkins Park, Pennsylvania 19027 from the determination of the Zoning Officer finding that installation and operation of One (1) 1'0" Diameter M.W. Dish Antenna on existing Sprint antenna array and One (1) coax line (1/2") to existing equipment ("T-Antenna") on the roof of the main building of Moss Rehab-Einstein Elkins Park would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XII, Section 295-36, regulating uses, and Article XII, Section 295-40, regulating building height.

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

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

APPEAL NO. 3327 – Appeal of Alan Greenberg, owner of the premises known as 8310 High School Road, Elkins Park, Pennsylvania 19027, from the determination of the Zoning Officer finding that the installation of a deck, measuring 14.83 feet by 27 feet, to the rear of the property and creating a 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, regulating yard setbacks.

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.

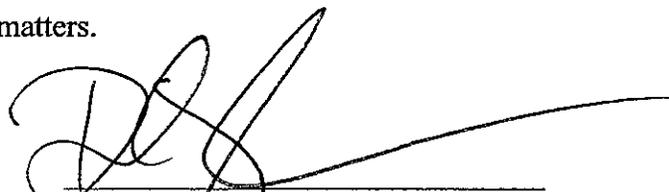
APPEAL NO. 3347 – Appeal of Applicant Chick-Fil-A, Inc., tenant; and Thor Cheltenham Mall L.P., owner of the premises known as Cedarbrook Square Mall a/k/a Cheltenham Mall, 2421 Cheltenham Avenue, Wyncote, PA 19095, from the determination of the Zoning Officer that a freestanding monument sign, three (3) additional parallel wall signs and two (2) menu board signs would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XXV, Section 295-197, regulating signage.

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

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

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

There being no further business, upon motion of Mr. Greenwald, and unanimously approved by the Committee, the meeting was adjourned, and the Commissioners commenced an Executive Session to discuss real estate and personnel matters.



David G. Kraynik  
Township Manager

as per Anna Marie Felix

