

June 2, 2009
Township Building

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 Agenda for June 8, 2009, as follows:

APPEAL NO. 3335 - Appeal of Wal-Mart, tenant at 1000 S. Easton Road, Wyncote, PA (a/k/a “Cedarbrook Plaza”) from the decision of the Zoning Officer for a variance from the rules and regulations of “signs” as outlined in CCS 295-197.C. (2) (b) [1] for a third parallel wall sign (“Home & Living”: 49 ± S.F.) instead of the maximum permitted two (2) parallel wall signs (said premises being within the Class C2 commercial and business district).

Lori Stopyra, Cedarbrook Plaza Manager, was present. Mr. Lynch reviewed the appeal. Ms. Stopyra distributed schematics and photos and reviewed the new color of the façade, existing signs, proposed new signs, illuminated Wal Mart sign, non-illuminated signs for the pharmacy and home living departments. Ms. Stopyra stated that the new signs are the same size as the existing signs but there will be three (3) signs and there currently exists two (2) signs.

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.

APPEAL NO. 3303: (Continued) – Appeal of York Road Realty Co., L.P. for the following Zoning Relief at the following locations:

- A. Premises owned by York Road Realty Co., L.P. known as 8116 Old York Road, Elkins Park, PA (a/k/a 8116 Church Road, or “The Old York Road Skating Rink” or Cheltenham Township Real Estate Registry Parcel (“CTRERP”) Block 174, Unit 054) (hereinafter referred to as “Rink Lot”);
- B. Premises owned by the Philadelphia Electric Company known as landlocked lot adjoining 8116 Old York Road (a/k/a CTRERP Block 174 Unit 056) (hereinafter referred to as “PECO Lot”); and
- C. Premises owned by the Township of Cheltenham known as “Wall Park” a/k/a CTRERP Block 174, Units 001 and 002 (hereinafter referred to as “Wall Park”) for the following improvements:

AA. On Rink Lot

- 1. A modification of the Decision under ZHB Appeal No. 2968 so as to eliminate the following Conditions (both as to Rink Lot and PECO Lot):

Condition (3)

The access driveway proposed to be installed on the Proposed Parking Area as depicted on Exhibit A-10 shall be limited to the minimum necessary width to allow the dropping-off of handicapped persons from motor vehicles and the associated vehicular turn-around space, all as approved by the Township Engineer in accordance with generally accepted engineering principals; and

Condition (4)

There shall be no parking of vehicles or trailers on the Property and/or the PECO Property including, without limitation, within the Proposed Parking Area. The Proposed Parking Area shall be used only for the purposes set forth in Condition No. 3 above.

- 2. A Variance from the rules and regulations of the Class C-3 Commercial and Business District as outlined in CCS 295-117. for expansion of the non-conforming skating rink facility by construction of a parking field and associated improvements, installation of two (2) storage units and installation of one (1) storage trailer.

3. A Variance from the rules and regulations of the Class C-3 Commercial and Business District as outlined in CCS 295-121.A. for the following front yard setbacks instead of the minimum required 15'.
 - a. For two (2), 8' W x 40' L storage containers with a zero front yard setback.
 - b. For the storage trailer with a 6'± front yard setback.
4. A Special Exception in accordance with the rules and regulations of the “Steep Slope Conservation District” as outlined in CCS 295-168.B. and C. for any storm sewers and/or underground utility lines associated with the construction of the parking field.
5. Variances from the rules and regulations of the “Steep Slope Conservation District” as outlined in CCS 295-169. as follows:
 - a. From CCS 295-169.A.(1) for construction of storage trailer, retaining walls, sidewalk and landscaping.
 - b. From CCS 295-169.A.(2) for construction of the parking field.
 - c. From CCS 295-169.A.(3) for filling or removal of topsoil required for the construction of aforesaid improvements.
 - d. From CCS 295-169.B. to permit areas with slopes of 25% or greater within any of the required yard areas.
6. A determination as to the required amount of on-site parking.
7. A Variance from the rules and regulations of “Fences and Walls” as outlined in CCS 295-223. for 3'± of 6' high, chain link fencing within the required front yard setback area along the SEPTA R/W line instead of the maximum permitted 4' high fencing.

BB. On PECO Lot

1. A Variance from the rules and regulations of the Class C-3 Commercial and Business District as outlined in CCS 295-117. for the use of a parking field for the non-conforming skating rink and installation of the storage trailer instead of any of the enumerated permitted uses.
2. A Variance from the rules and regulations of the Class C-3 Commercial and Business District as outlined in CCS 295-121.A. for a lesser front yard setback of 7'± instead of the minimum required 15' for the storage trailer.
3. Variances from the rules and regulations of the “Steep Slope Conservation District” as outlined in CCS 295-169. as follows:

- a. From CCS 295-169.A.(1) for construction of storage trailer, retaining walls, sidewalk and landscaping.
 - b. From CCS 295-169.A.(2) for construction of the parking area.
 - c. From CCS 295-169.A.(3) for filling or removal of topsoil required for the construction of aforesaid improvements.
 - d. From CCS 295-169.B. to permit areas with slopes of 25% or greater within any of the required yard areas.
4. A Variance from the rules and regulations of “Fences and Walls” as outlined in CCS 295-223. for 15' of 6' high, chain link fencing within the required front yard setback area along the SEPTA R/W instead of the maximum permitted 4' high fencing.

CC. On Wall Park (said premises being within the Class R1 Residence District)

- 1. A Variance from the rules and regulations of “Signs” as outlined in CCS 295-197.A. for 25.5± S.F., 10' high, double sided, free-standing billboard advertising the “Old York Road Ice Rink” instead of one of the enumerated permitted sign types

Mr. Lynch reviewed the appeal.

Upon motion of Mr. Portner, 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 but if relief is granted, it be contingent upon certain conditions as previously stated.

APPEAL NO. 3329 - Appeal of T-Mobile Northeast, LLC, proposed site leaseholder on premises known as 2000 Ashbourne Road, Elkins Park, PA (a/k/a Cheltenham Township School District Administration Building), from the Decision of the Zoning Officer for the following Zoning Relief in order to replace an existing 41' high flagpole with a 100' high faux flagpole telecommunication tower with six (6) internal antennas and to install the associated telecommunication equipment compound (w/space for three (3) future cabinets):

- a. Variances from the rules and regulations of the Class R-3 Residence District as outlined in Article V of Chapter 295 of the Cheltenham Code, as follows:
 - ii. From CCS 295-21. for the proposed telecommunication complex instead of one of the enumerated permitted uses; and
 - iii. From CCS 295-25. for the 100'± high faux flagpole telecommunication tower instead of the maximum permitted 40' high structure height.

Richard Lemanowicz, representing T-Mobile was present. Mr. Lynch reviewed the current application and the previous application for said tower. This application includes the same location for the tower as the previously filed application. The applicant and School District were unsuccessful in finding suitable alternate locations for the tower.

Plans were reviewed, and discussion ensued regarding tower height; paint color; and photo simulations of the visibility of the tower from other areas such as Penrose Avenue, LaMott, and Clements Road; the size and number of equipment cabinets; and diameter of the base. Mr. Lemanowicz stated that the height is the minimum height necessary to meet T-Mobile's requirements and allows for two (2) other carriers to use it. Mr. Lemanowicz advised that T-Mobile has signed a lease agreement with the School District.

In response to questions from Mary Beth Carroll, 123 Rices Mill Road, the following items were addressed:

- There may be lighting on the pole;
- The School District will be approached about properly lowering the raising the flag;
- There have been no objections from neighbors;
- Neighbors within a 500-foot radius in each direction from the property owner's property line were notified. Mr. Bagley stated that notification of the neighbors is in accordance with the Municipalities Planning Code.
- Mr. Lemanowicz did not know about the amount of rent being paid to the School District or how it would benefit the District. Mr. McKeown that such leases can be beneficial to the property owner.

Discussion ensued regarding the relocation of the tower from the front of the School District Administration Building to the left or right of the building. Ms. Carroll suggested relocating the pole and cabinets to the parking lot side of the building. It was the Committee's opinion that if the pole was relocated on the east side of the Administration Building where the elevation is lower, the tower would be less visible. The Committee suggested, and the applicant agreed to request a continuance to allow additional time to evaluate a relocation of the tower in accordance with the Committee's recommendation. Mr. Sharkey asked that when the applicant

returns to the Committee, he present photo simulations of the tower in its new location as it can be seen from various areas.

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 the grant of a continuance to review relocating the tower to an easterly location if possible or at least relocating it away from the front door of the School District Administration Building. If a continuance is not granted, the Committee recommends denial of this appeal.

APPEAL NO. 3331 - Appeal of Clearwire, prospective tenant at 8480 Limekiln Pike, Wyncote, PA (a/k/a Building No. 3, The Towers at Wyncote Apartment Complex) from the decision of the Zoning Officer for the following zoning relief in order to install and operate Telecommunication Antennas and associated Telecommunication Equipment Compound:

- a. Variances from the Rules and Regulations of the Class C-1 Commercial District as outlined in Article XV of Chapter 295 of the Cheltenham Code, as follows:
 - i. From CCS 295-98. for the proposed telecommunication facility instead of one of the enumerated permitted uses.
 - ii. From CCS 295-104. for an antenna height not to exceed 142.33' instead of the maximum permitted 120'.

Mr. Lynch reviewed the appeal. Mr. Greenwood noted that this tower is on an existing building.

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

APPEAL NO. 3332 - Appeal of Blue Haven Pools NE, Agent for Raheem Brock, Owner of premises known as 1017 Serpentine Lane, Wyncote, PA from the decision of the Zoning Officer for a variance from the Rules and Regulations of the "Steep Slope Conservation District" as outlined in CCS 295-167. for a swimming pool instead of one of the enumerated permitted uses.

Mr. Lynch reviewed the appeal especially the rear slope and reported that he is requesting that the applicant provide an engineer's report regarding the stability of the slope before he approves a building permit.

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

APPEAL NO. 3333 - Appeal of Charles and Nota Henderson, owners of premises known as 8210 Old York Road Spur, Elkins Park, PA from the Decision of the Zoning Officer for the following Zoning Relief in order to shift the northeast leg of their semi-circular driveway approximately 12' to the southwest (said premises being within the Class R-4 Residence District):

- a. Variances from the rules and regulations of “Yard Regulations” as outlined in CCS 295-220., as follows:
 - i. For two (2) driveways on the premises street frontage instead of the maximum permitted one (1) driveway per street frontage.
 - ii. For a 40±' width of the shifted northeast driveway leg within the required front yard setback area instead of the maximum permitted 18' driveway width.

Mr. and Mrs. Henderson were present. Mr. Lynch reviewed the appeal, including the existing circular driveway. There was an incident in the past when a fire truck backed out of the Ogontz Fire Company facility into the Henderson’s garage, and for this reason they are requesting a shift of 10-12 feet for their driveway. The appeal is similar to an appeal the applicant’s submitted about one year ago.

Larry Withers, 8203 Westminster Road, a neighbor opposed the appeal. He stated that in the previous application, the Committee felt there was no hardship, and asked for the same recommendation. The accident with the fire truck was a freak accident. He was concerned since his home is down hill, this will increase impervious surface, and he could end up getting a lot of flooding. Mr. Lynch advised that under the MS4 ordinance, the applicants must address stormwater management and install a seepage bed. Mr. Withers presented internet aerial photos of the properties. He felt their argument was fallacious.

It was Mr. Portner’s opinion that the driveway was in a deteriorating condition, and this is an opportunity for the Henderson’s to repair and change it. They meet all criteria and

stormwater management does not appear to be an issue. This is private property, and they are following Township Code.

Mrs. Henderson presented photos of the fire truck accident, which caused \$64,000 in damage. She reviewed the accident and felt her property was in danger.

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

2. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Planning Commission Meeting Minutes dated May 18, 2009, were received.

3. There was discussion of a recommendation by the Ad Hoc Zoning Review Committee for a Township-wide Design Review Board.

Mr. Sharkey asked about the affects of such a committee on the zoning review process. It seems to Mr. Sharkey that this could be an added burden to Township Staff. Mr. Kraynik replied that said committee could lengthen the process since this would be another committee to which an applicant would have to make a presentation; the Township has added six (6) citizens' committees since he has been Manager with no increase in staffing; this would be an additional burden for Staff to administer; and it could be perceived as another level of bureaucracy. Mr. Simon felt there was insufficient information from the Ad Hoc Committee and wished to see an analysis of how other Townships administer similar committees, if at all. It was his opinion that this concept appears to be a long-term undertaking. Mr. Greenwald felt serious discussion was needed since there was a lot of work involved in such a committee. He was concerned about how said committee would operate and who would write the Design Manual as recommended by the Montgomery County Planning Commission.

Mr. Kraynik had reservations about the following: this concept is Township-wide; the necessity for such a committee; the feasibility of writing a Township-wide manual; giving another barrier or process to developers/property owners.

Mr. Simon felt that conceivably there could be a manual that is different for each part of the Township, could streamline the process for developers since it would apply to large projects and identify standards. Mr. McKeown had concerns about how this would be staffed and opposed any concept if it would mean additional work for staff or for the addition of employees. Mr. Swavola has reservations as follows: he was concerned about the complexity; in his opinion, the more complex the Design Code becomes, the more the Township needs to rely on just a few people; he was not comfortable with issuing a Certificate of Appropriateness prior to a project coming before the Board and the Zoning Hearing Board; he did not like architectural design determined before a project goes through the process; he did not want the process to vary from neighborhood to neighborhood. Mr. Sharkey asked if this would delay the progress of re-writing the Zoning Code. Mr. Lynch replied that for design guidelines to be part of the Zoning Code, there would have to be buy-in from the Board. Mr. McKeown stated that he hears complaints about the Township being costly and strict, and he felt such a committee complicates what is already perceived as a costly and strict process.

Hal Lichtman, Chair of the Ad Hoc Zoning Committee, stated that his committee wanted to know if the Commissioners would be receptive to such a board but was not asking for any commitment this evening. Another concept could be a reconstitution of the Planning Commission. In response to a question from Mr. McKeown, Mr. Lichtman did not know if many communities similar in size to Cheltenham had such committees.

Mr. Greenwald felt that conceptually it was a feasible idea but more information and a concept were needed before the Commissioners make an informed decision. Mr. Sharkey wanted an opinion from the Montgomery County Planning Commission. The Committee unanimously agreed.

There were comments from the public:

Loretta Leader, 542 W. Glenside Avenue, hoped that if such a board were formed, it consist of professionals from the Township.

Mary Beth Carroll, 123 Rices Mill Road, felt that this concept would add another layer to the zoning process. Business owners would be told how they should design their buildings. The Township should not take the design concept away from the business owner since building design has a lot to do with making a business successful.

4. Upon motion of Mr. Muldawer, and unanimously approved by the Committee, the Ad Hoc Zoning Review Committee Meeting Minutes dated May 13, 2009, were received.

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

APPEAL No. 3317 – Appeal of Arcadia University, owner of the premises known as 318 S. Easton Road, Glenside, Pennsylvania 19038, from the determination of the Zoning Officer finding that construction of a one-story parking garage (83 parking spaces on second level) instead of one of the permitted enumerated uses, creating less than required front and side yard setbacks and less than required Green Space Landscape Buffer Strip width, and resulting in disturbance in the Steep Slope Conservation District would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XIV, Section 295-89, regulating uses, Article XIV, Section 295-93, regulating yard setbacks, Article XIV, Section 295-94, regulating green area, and Article XXII, Section 295-167, regulating permitted uses within a Steep Slope Conservation District.

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

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

6. Upon motion of Mr. Portner and unanimously approved by the Committee, the report of the Building Inspector for the month of May 2009, was received.

7. Under Citizens' Forum:

a. Vincent Santarelli, 11 Evergreen Avenue, thanked Township Staff, the Police Department and the Commissioners for assistance in eliminating the tractor trailer problem in the vicinity of Ogontz Avenue and Rt. 309 that he previously called to their attention.

b. Loretta Leader, 542 W. Glenside Avenue, had questions as follows:

- She asked for and was given an update on the issue with a fence at the rear of the Melrose Shopping Center along Dewey Road. Mr. Swavola indicated that neighbors will be invited to a meeting with the property owner. It is under negotiation whether or not the Township would incur some of the expense for any changes to the fence that might be agreed upon. There is no special account that allows for such expenses
- Mrs. Leader questioned the appropriateness of Arcadia University holding a recent groundbreaking ceremony for its parking garage at the Oak Summit Apartments before a Zoning Hearing Board decision was rendered on Arcadia's appeal on this matter. She was informed that the Zoning Hearing Board rendered its decision on February 18, 2009. Said decision is on the agenda this evening because the Committee has to take action on the written decision. Mrs. Leader felt that no such ceremony should take place before the Commissioners take action on the written decision.

c. Kathy Hampton, 700 E. Glenside Avenue, was informed that the Township's Zoning Hearing Board attorney is Neil Sklaroff, Esq. of Ballard, Spahr, Andrews & Ingersoll, LLP.

Ms. Hampton inquired about the status of the appeal of the West Oak Lane Church of God. She was informed that said appeal has been in continuance for about one and one-half years. The Township has not been informed when the church will restart the process.

8. Under New Business:

Mr. McKeown asked for an update on the Kerlen Farm property on Ashbourne Road. Mr. Lynch reported that the structure has seriously deteriorated.

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

David G. Kraynik
Township Manager

as per Anna Marie Felix