

April 7, 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 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, Township Engineer; 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 April 13, 2009 as follows:

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 and reported that the Zoning Hearing Board asked for additional information from the applicant. Mr. Portner asked about the status of Township citations against the applicant. Mr. Lynch replied that said citations have been continued at District Court. It was Mr. Portner's suggestion that this appeal be continued until the issues with the Township's citations have been resolved. Mr. Bagley advised that there is no connection between this appeal and the citations. They are unrelated matters. Mr. Lynch reviewed the citations.

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. 3319 (Continued) - Appeal of CJK Development LLC, owner of premises known as the Melrose Shopping Center (a\k\la CTRERP Block 87D, Unit 048 and Block 087E, Unit 001) from the following actions of the Township:

- A. From the Notice of Violation, dated August 20, 2008, issued by the Zoning Officer stating that the 6' high, white plastic fencing along both the western (Block 87D, Unit 048) and eastern (Block 87E, Unit 001) parcels Dewey Road frontages is in violation of Cheltenham Code Section 295-223. which limits fencing within the required front yard setback area to 4' in height with said fencing being 50% open.
- B. From the revocation of the CJK's building permit No. 08-3307 for 6' high, white plastic fencing along both the western and eastern parcels of the Dewey Road frontages as set forth in the letter of David M. Lynch, P.E., P.L.S., Director-Engineering, Zoning and Inspections, dated December 24, 2008.

Said premises being within the Class C-3 Commercial and Business Zoning District.

Mr. Lynch reviewed the appeal. Mr. Swavola reported that he met with the applicant and a cost estimate for fencing was received today. Mr. Kraynik suggested that since the fence estimate was received late today, there was insufficient time to discuss it with the property owner. Mr. Swavola recommended that the applicant request a continuance so that the Township and property owner could discuss the fence and new cost estimate. The applicant was present and agreed to request a continuance. In response to a recommendation from Mr. Bagley, the Committee unanimously directed the Township Solicitor to request a continuance on recent court action that the Township has taken against the applicant.

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

APPEAL NO. 3325 – (Continued; former Appeal No. 3314) - Appeal of Phuong Mgod Trinh and Chuong Trinh, owners of premises known at 1101 Ashbourne Road, Cheltenham, PA, from the decision of the Zoning Officer for the following Zoning Relief for the noted improvements of the premises:

- a. Variances from the rules and regulations Article VII, entitled “R-4 Residence Districts,” of Chapter 295 of the Cheltenham Code, as follows:
 - i. From CCS 295-39.(1) and (2) for a lesser front yard setback than the minimum required 40' for the following:
 1. For a 8' x 10' aluminum shed (Item 16 on Site Plan)
 2. For a 3' x 5' plywood shed (Item 15)
 3. For a 8' x 8' octagon gazebo (Item 14)
 4. For a 4' x 4' tween plywood shed (Item 13)
 5. For a 9.5' x 10.5' treehouse w/gazebo (Item 12)
 6. For a 7' x 10' swing gazebo (Item 11)
 7. For a 2.5' x 4.5' vinyl shed (Item 10)
 8. For a 8' x 10" vinyl shed (Item 9)
 9. For a 11' x 18' pond/bridge area (Item 8)
 10. For a 2.5' x 4.5' vinyl shed (Item 7)
 - ii. From CCS 295-39.B.(1) for a lesser rear yard setback than the minimum required 10' for the following:
 1. For the back yard deck (Irregular shape) (Item 4 and 6)
 2. For the canopy over backyard deck (Irregular shape) (Item 5)
 3. For a 3' x 5' plywood shed (Item 3).

Mr. Lynch reviewed the appeal. Said appeal is being continued at the request of the applicant.

He reviewed a letter submitted by Mr. and Mrs. Trinh that they agree to remove all structures if the property is ever sold outside of the Trinh family.

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 the grant of a continuance. If a continuance is not granted, the Committee takes no action as previously stated.

2. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Planning Commission Meeting Minutes dated March 23, 2009, were received.

3. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Ad Hoc Zoning Review Committee Meeting Minutes dated March 11 and March 23, 2009, were received.

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

APPEAL NO. 3296 – Appeal of Marshall H. Frick, owner of the premises known as 150 Berkley Road, Glenside, from the determination of the Zoning Officer finding that construction of a two-story addition to the front of the residence on the Property, measuring 12 feet by 17.5 feet irregular (225 square feet), creating a less than required front yard setback on the Radcliffe Road frontage of the Property would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-49, regulating yard setbacks.

The Zoning Hearing Board granted applicant's request for relief, subject to a condition.

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

APPEAL NO. 3297 – Appeal of Jeremiah Couey and Anastasia Bannikova Couey owners of the premises known as 8011 Cooke Road, Elkins Park, from the determination of the Zoning Officer finding that the expansion of a nonconforming structure by the construction of a balcony deck, measuring 10 feet by 10 feet, to the rear of the residence which creates a less than required side yard setback, and the construction of a passive solar greenhouse, measuring 7 feet in length by 6.4 feet in width by 10 feet in height, in the rear yard of the Property which creates a less than required side yard setback would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating nonconforming uses, and Article VIII, Section 295-46, regulating yard setbacks.

The Zoning Hearing Board granted applicants' request for relief.

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

APPEAL NO. 3305 – Appeal of Mark R. Williamson and Philynn M. Hepschmidt, owners of the premises known as 424 N. Sterling Road, Elkins, Park, from the determination of the Zoning Officer finding that construction of a 369 square foot, "L" shaped addition to the rear of the residence, measuring 19 feet by 26 feet, creating a nonconforming structure, a greater than permitted building area, and a less than permitted side yard setback would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating nonconforming uses, Article VII, Section 295-38, regulating Building Area, and Article VII, Section 295-39, regulating yard setbacks.

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. 3308 – Appeal of Albert Einstein Healthcare Network, owner of the premises known as 60 Township Line Road, Elkins Park, from the determination of the Zoning Officer finding that the construction and operation of a Chiller Plant building, measuring 32 feet in width, 46 feet in length, and 16 feet in height, as a nonconforming use would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating nonconforming uses, and Article VII, Section 295-36, regulating uses.

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. 3309 – Appeal of Grayling Corporation and Thor Cheltenham Mall LP owner of the premises known as 2451 Cheltenham Avenue, from the determination of the Zoning Officer finding that installation of 3-dimensional, illuminated, and logo signs for Chili's restaurant would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XXV, Section 295-197, regulating signs.

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.

APPEAL NO. 3313 – Appeal of Beth Shalom Congregation, owner of the premises known as 8231 Old York Road, Elkins Park, from the determination of the Zoning Officer finding that erection of a monument sign, measuring 4 feet 1.5 inches by 9 feet 4 inches with a sign area of approximately 29 square feet, with a CMU retaining wall, measuring 9 feet 2 inches, on the Old York Road frontage of the Property and requiring the erection of the sign and construction of a retaining wall as well as the filling or removal of topsoil within a Steep Slope Conservation District would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XXV, Section 295-197, regulating signs requiring permit, and Article XXII, Section 295-169, regulation prohibited uses.

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.

5. The Committee reviewed a proposed Ordinance amending the Subdivision Code.

Mr. Kraynik reviewed the Ordinance that contains modified language to make the current Subdivision Code more enforceable. Mr. Bagley reported that the proposed Ordinance's language will help clarify

the current Subdivision Code, which is currently directed more towards vacant ground, and this amendment would clarify provisions for someone who goes through the subdivision/land development process and then makes changes to an approved plan or starts work without an approved plan.

Mr. Simon questioned whether or not the requirement of a formal letter of approval to an applicant that a land development/subdivision was approved was sufficient. There was discussion about whether or not said process should be changed. Mr. Bagley advised that many municipalities adopt a Resolution instead of a letter of approval to the applicant. It was Bagley's opinion that said amendment addresses the issue immediately, and if the Township desires to change its process, it can be addressed in the future.

6. Upon motion of Mr. Portner, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the scheduling of a Public Hearing on May 26, 2009 to hear any and all comments from the public regarding the adoption of a proposed Ordinance to add certain clarifying provisions regarding enforcement of the Subdivision Code (see attached).

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

8. Upon motion of Mr. Portner, and unanimously approved by the Committee, the report of the Building Inspector for the Year 2008, was received.

9. Under Citizens Forum:

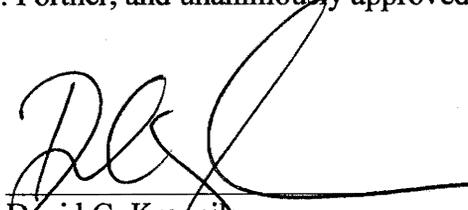
a. Loretta Leader, 542 W. Glenside Avenue, inquired about the following:

- She asked if there was a Township Ordinance regarding barbed wire fencing. She was informed there may be a provision in the Township Code only as said fencing relates to quarries. Mr. Sharkey stated that Glasgow, Inc. has barbed wire fencing along Willow Grove Avenue. He asked that Township Staff investigate.
- Status of illegal signage at the Towers of Wyncote. Mr. Greenwald stated that a Notice of Violation was issued to the property owner who has 30-days to respond. Mr. Lynch reported that when he investigated the property, he found numerous internal directional

signs that are a violation and the property is making application for zoning relief for said signs; the two banners have been removed; the portable sign on Easton Road is still there; he is issuing a Notice of Violation for storage containers; the large vertical banners will require a crane for their removal. The property owner will be applying for zoning relief to erect a larger sign on Ogontz Avenue to advertise activities inside the property.

- Legality of flashing signs. She was informed that such signs require a variance.
- b. Mary Beth Carroll, 124 Rices Mill Road, asked about the process for investigating complaints. Mr. Lynch reported that when a violation is reported, the entire property is investigated. Ms. Carroll opposed such policy and felt that the Township was being overbearing to businesses when investigating a particular complaint. She is a business owner and felt that such policy is business unfriendly. Mr. Bagley responded that when he goes to court, Mr. Lynch's investigation is considered evidence, and it is crucial that the entire property is documented.

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



PUBLIC ATTENDANCE LIST
Public Affairs Committee, 7 p.m.
Public Safety Committee, 7:30 p.m.
Building and Zoning Committee, 8 p.m.
Tuesday, April 7, 2009
Township Building

NAME (Please Print)	ADDRESS	E-MAIL/TELEPHONE
Jesse N. CIVELLO	148 MOUNT CARMEL AVENUE, GLENIDE PA, 19038	jcivello@verizon.net
T. T. Dunn	135 Webster Ave	dunntraeri@ yahoo.com
A. Hayward	443 Rice Mill	wocker@aol.com
Mary Beth Carroll	123 Rice Mill Rd.	MBCarroll@aol.com

**BOARD OF COMMISSIONERS OF
CHELTENHAM TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. ____-09

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
TOWNSHIP OF CHELTENHAM TO ADD CERTAIN CLARIFYING
PROVISIONS WITH REGARD TO THE ENFORCEMENT OF THE
SUBDIVISION CODE**

The Board of Commissioners of Cheltenham Township does hereby ENACT and ORDAIN as follows:

SECTION I – Amendment of the Code

Chapter 260 of the Code of the Township of Cheltenham, also known as the Cheltenham Township Subdivision Code of 1974 ("Subdivision Code"), is amended to add the following provisions:

SECTION 260.50. Requirement of Approval and Recording

No construction, demolition or installation of improvements for a land development or a subdivision shall be undertaken on a property prior to approval and recording of a subdivision or land development plan(s) unless expressly provided for in a letter of approval or contingent approval from the Township regarding such plan(s).

SECTION 260.51. Compliance

Except as otherwise set forth in Section 260.52, all construction, demolition and other work on a property that is the subject of a final, approved subdivision or land development plan(s), shall fully comply with all approved and recorded subdivision or land development plan(s).

SECTION 260.52. Compliance with Approved Plans Prior to Recording

If the time for recording of an approved plan(s) is extended in writing by the Township in accordance with the Subdivision Code, all construction, demolition and other work on the property that is the subject of the approved subdivision or land development plan(s), shall fully comply with the approved, final plan(s).

SECTION II – Severability

The provisions of this Ordinance are 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 – Failure to Enforce not a Waiver

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION IV – Effective Date

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

SECTION V– 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 Cheltenham Township, Montgomery County, Pennsylvania, this _____ day of _____, 2009.

CHELTENHAM TOWNSHIP

Attest: _____
David G. Kraynik, Secretary

By: _____
Paul R. Greenwald, President
Board of Commissioners