

February 3, 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 February 9, 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

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 but if relief is granted, it be contingent upon certain conditions as previously stated.

APPEAL NO. 3307 – (Continued) - Appeal of T-Mobile Northeast, LLC, proposed site leaseholder on premises known as 1000 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:
  - i. From CCS 295-21. for the proposed telecommunication complex instead of one of the enumerated permitted uses; and
  - ii. From CCS 295-25. for the 100'± high faux flagpole telecommunication tower instead of the maximum permitted 40' high structure height.

Mr. Lynch reviewed the appeal. The Committee reviewed its previous discussions on this appeal regarding the relocation and diameter of the flagpole. Mr. Kraynik reported that the Township has not been advised of any new discussions between the T-Mobile and the School District regarding the Committee's previous recommendations.

Upon motion of Mr. Swavola, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends that the grant of relief be denied due to a lack of demonstrated hardship and an undesirable location, and if relief is granted, that it be granted contingent upon conditions as previously stated.

APPEAL NO. 3314 – Appeal of Phuong Mgoe 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).

Ms. Trinh was present. Mr. Lynch reviewed the appeal including outbuildings, gazebos, koi pond, and landscaping that includes a lot of bamboo. He noted that none of the structures comply with the Zoning Code. Mr. Swavola was concerned about the encroachment of the property's bamboo onto public right-of-way and possible creation of sight distance issues as well as debris on the property.

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

APPEAL NO. 3315 – Appeal of Cedarbrook Plaza, Inc., owner of premises known as 3001 W. Cheltenham Avenue, Suite 5000, Wyncote, PA (a/k/a “East Cedarbrook Plaza Phase II – Building E), from the decision of the Zoning Officer for the following Zoning Relief (said premises being within the Class C-2 Commercial and Business District):

- a. Variances from the rules and regulations of “Signs” as outlined in CCS 295-197.C.(2)(b)[1] for the following:
  - i. For a 12.25'H x 30'W (367.5 SF) illuminated parallel wall sign on the northwest (front) facade of Building E instead of the maximum permitted 100 S.F. sign.
  - ii. For a 11.25'H x 34'W (382.5 SF), illuminated parallel wall sign on the southeast (rear) facade of Building E instead of no permitted signage on this facade.

Lori Stopyra, Mall Manager, was present. Mr. Lynch reviewed the plan and size of signage. Ms. Stopyra presented photos and reviewed the bump-out issue and square footage.

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

APPEAL NO. 3316 – Appeal of Grace Pentecostal Church, Inc., equitable owner of premises known as 20 E. Church Road, Cheltenham, PA, from the decision of the Zoning Officer for a determination in accordance with the rules and regulations of “Nonconforming Uses” as outlined in CCS 295-227.F. that the proposed change of use from Pilgrim Lutheran Church to Grace Pentecostal Church is of the same class of use and permissible. (Said premises being within the Class R-4 Residence District.)

Mr. Lynch reviewed the plan. He reported that the applicant has not disclosed the size of its congregation. The existing church has seven (7) members but when it originally opened, it had approximately 200 congregants, and there is no membership limitation on the original grant of relief for the Pilgrim Lutheran Church. He noted that there is limited off-street parking.

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 but if relief is granted, the Committee recommends that it be granted contingent upon the church being limited to 200 congregants and a maximum of 70 cars.

APPEAL NO. 3317 – Appeal of Arcadia University, owner of premises known as 318 S. Easton Road, Glenside, PA (a/k/a “Oak Summit Apartments”), from the decision of the Zoning Officer for the following Zoning Relief in order to construct and operate a one (1) storey parking garage (83 parking spaces on second level) for the use of the faculty, staff and students of Arcadia University.

- a. Variances from the rules and regulations of Article XIV, entitled “M-3 Multiple Dwelling and Office Districts,” of Chapter 295 of the Cheltenham Code, as follows:
  - i. From CCS 295-89. for the construction and operation of a parking garage (as a primary use) instead of one of the permitted enumerated uses.
  - ii. From CCS 295-93.A.(1) for a lesser front yard setback of 15' instead of the minimum required 35'.
  - iii. From CCS 295-93.B. for a lesser side yard setback of 8' instead of the minimum required 15'.

- iv. From CCS 295-94. for a lesser Green Space Landscape Buffer Strip Width of 8' instead of the minimum required 10'.
- b. A Variance from the rules and regulations of the "Steep Slope Conservation District" as outlined in CCS 295-167. for any steep slope disturbance caused by the construction of the proposed parking garage.

Present were Harold Lichtman, architect and Michael Coveney, Vice President of Finance for Arcadia University. Mr. Lichtman stated that the proposed garage is in response to neighbors complaints that Arcadia University (AU) students who reside at the Oak Summit Apartment complex that is owned by AU are parking on the residential streets in the neighborhood. He reviewed existing conditions, the current number of parking spaces, increase in student population, the variances that are needed such as front and side yard setbacks, architecture, parapet wall, lighting locations, grading, landscaping, buffers and possible steep slopes that will be created during construction, ingress and egress to the parking lot, suggestions from neighbors as a result of a meeting held in November 2008, number of parking spaces that will be added (ground level 100 spaces from 80 spaces; upper level 79 spaces; and 48 spaces on the grade lot that will be on the site of the current swimming pool; and an addition of 30 ground parking spaces along Limekiln Pike); and restrictions for the parking of large vehicles such as SUV's, vans and trucks only in specific locations. The total ratio of parking spaces will be 2 to 1. For 222 units, there will be 457 spaces.

There was extensive discussion on student occupancy and parking. Mr. Greenwald noted the potential to house 700 students at the complex, which could result in a parking issue with 150-200 additional cars that have no place to park. Mr. Sharkey inquired about the schools enforcement of parking on the main campus, neighbors are concerned about the size, adequate buffers, lighting and air pollution and asked about plans for future expansion of the parking deck. Mr. Lichtman responded that he was not authorized to build the foundations to accept another deck. Mr. Simon mentioned restricting the garage's height.

The following members of the Beaver Court Condominium Board were present: Greg Voci, Bonnie Klein and Louis Dolinka. Mr. Voci opposed the garage as follows: Beaver Court is squeezed between 777 Church Road and the Oak Summit complex; there is no hardship; increased noise; the number of students; students congregating; car fumes; additional vehicles using Beaver Court as a cut-thru from Limekiln Pike to Easton Road, which is currently a problem when Rt. 309 is backed up; and the retaining wall on the northern portion of Beaver Court that does not have a lot of space between the condos and the wall and adding a building will reduce Beaver Court contractors' access to repair the wall; weakening of the wall during construction, which could be costly to the condos; and possible land erosion due to a creek that runs under the condos' property. Mr. Lichtman offered his structural engineer to evaluate the wall and make recommendations, and if it was on the property line, in the future, Beaver Court could use AU's property to repair the wall.

Ms. Klein opposed the parking garage and presented photos. She felt that the quality of life of Beaver Court owners was being sacrificed to satisfy other neighbors. Their decks will face the garage, and she was concerned about noise and fumes. There is no green buffer. In response to a question from Mr. Greenwald, Mr. Lichtman stated that the south wall of the garage be a solid wall rather than an open one.

In response to questions from Mr. Dolinka, setbacks along Limekiln Pike and the reason for the need for the variances was explained.

Mrs. Loretta A. Leader, 542 W. Glenside Avenue, asked about the fee for student parking permits and the future of student parking on Limekiln Pike. Mr. Coveney stated that parking on Limekiln Pike will migrate to the new parking garage. Mrs. Leader inquired about sources of funding for the garage. Mr. Coveney stated that there is partial grant funding. It was Mrs. Leader's opinion that since grant money comes from the taxpayers, then the taxpayers are helping to fund the

garage, and she asked about reimbursing the Township a portion of the parking permit fees. She was informed that Oak Summit is on the tax rolls and the improvements will result in a reassessment of the property.

Mr. Dorlinka asked about visitor parking. Mr. Coveney responded that it would be difficult to regulate.

Mr. Sharkey motioned to recommend to the Zoning Hearing Board that the grant of relief be denied. The motion did not pass.

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 a motion for no action on the grant of relief. If relief is granted, the Committee recommends that a grant of relief be contingent upon the approved plan being in substantial compliance with the plan presented, that there be a height restriction of 16-feet, including lights, that a geotechnical engineer evaluate the wall at the Beaver Court Condominiums at the expense of Arcadia University, that Beaver Court Condominiums be allowed to access Arcadia University's property to its wall, that the south wall of the garage be a solid wall, and parking for large vehicles such as vans, SUV's and trucks be restricted.

APPEAL NO. 3318 – Appeal of Arcadia University, owner of premises known as 450 S. Easton Road, Glenside, PA, from the decision of the Zoning Officer for the following Zoning Relief for a 20,000 SF, two storey expansion (40,000 GSF) of the Kuch Center:

- a. A Variance from the rules and regulations of the Class R-1 Residence District as outlined in CCS 295-7. for the proposed expansion of the educational use of the premises instead of one of the enumerated permitted uses.
- b. In the alternative to a. above, a Special Exception in accordance with the rules and regulations of “Nonconforming Uses” as outlined in CCS 295-227.B. and for the proposed expansion of the existing nonconforming educational use of the premises.
- c. A Variance from the rules and regulations of the “Steep Slope Conservation District” as outlined in CCS 295-167. for any steep slope disturbance caused by the construction of the proposed expansion.

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 the grant of relief on this appeal.

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

3. Upon motion of Mr. Simon, and unanimously approved by the Committee the Ad Hoc Zoning Review Committee Meeting Minutes dated January 26, 2009, were received.

4. Mr. Bagley reviewed a Resolution establishing a Board of Appeals from the decisions of the Code Administrator. It was Mr. Simon's opinion that the Resolution was not sufficiently inclusive and needed to establish the Board of Appeals, the purpose of the Board, the number of members, and names of members. Mr. Bagley responded that the rules and regulations are specified in the Uniform Construction Code, the Pennsylvania Construction Code, and Township Ordinances, all of which are referred to in the Resolution. Mr. Bagley will revisit the Resolution.

5. Upon motion of Mr. Greenwald, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the adoption of a Resolution establishing a Board of Appeals for the purpose of hearing appeals from the decisions of the Code Administrator (see attached).

6. Upon motion of Mr. Greenwald, and unanimously approved by the Committee, the Report of the Building Inspector for January 2009 was received.

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

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David G. Kraynik  
Township Manager

as per Anna Marie Felix