

January 6, 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 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, 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 January 12, 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. He stated that the applicant has not submitted an agreement with either SEPTA or PECO to use their lots for a fence or with PennDOT to use its property for a sign, as was recommended by the Committee at a previous meeting. The Committee discussed parking, location of signs, and suggested location of directional signage.

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. 3307 – 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. Discussion ensued regarding the location and diameter of the flagpole. At its last meeting, the Committee discussed possible relocation of the pole away from Ashbourne Road due to its size and suggested that the southeast corner of the parking lot might be more suitable. Mr. Kraynik reported that he spoke with the Superintendent about this, and was told that the School District was not aware of the scope and size of the tower, and he was receptive to relocating it and that the School District had already signed a lease.

Mr. Simon suggested that T-Mobile could be asked to withdraw its application due to the location of the tower.

Upon motion of Mr. Swavola, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee requests that the applicant request a continuance in order to change the location of the tower but if a continuance is not requested by the applicant or the continuance is denied, the Committee recommends that the grant of relief be denied. If relief is not denied, the Committee requests that relief be granted contingent upon conditions as previously stated.

**2.** The Committee discussed the continuation of work on the LaMott Town Center planning process and reviewed the recent notification from the Montgomery County Planning Commission that it no longer has the staff and time to provide work for both the LaMott Town Center Master Plan and the Comprehensive Zoning Update. The Committee discussed prioritizing. It was Mr. Kraynik's opinion that the LaMott Town Center concept has not been

overwhelmingly received by the residents. Over 600 letters were mailed inviting residents to the December meeting and about 25 residents participated.

Mr. Lynch stated that the Town Center plan defines “mixed use”. Mr. Greenwald suggested that the focus be on zoning and the definition of mixed use for this area of LaMott. Defining mixed use will help not only LaMott but also other areas of the Township.

Mr. Swavola was concerned about the Ad Hoc Committee being too specific, writing a zoning code that developers could not use, and tailoring mixed use to different areas. Mr. Lynch stated that specific items would be defined such as setbacks, uses, collapsing of some commercial and residential districts, permitted uses, green space, impervious cover. A clear plan for mixed use is the committee’s goal. Mr. Lichtman, committee chair, stated that this is an opportunity to provide specific guidelines to developers who always have the option to ask for zoning relief. It was Mr. Greenwald’s opinion that the Township has to define what it wants mixed use to be.

Mr. Simon recommended, and the committee unanimously concurred, that the committee change its name to the Ad Hoc Zoning Committee, that the County Planner be asked to attend one (1) meeting per month, that the Township focus on the mixed use concept for LaMott, while still continuing to rewrite the zoning code.

**3.** Upon motion of Mr. Portner, and unanimously approved by the Committee, the Ad Hoc Zoning Review Committee Meeting Minutes dated December 1, 2008, were received.

**4.** Upon motion of Mr. Greenwald, and unanimously approved by the Committee, the report of the Building Inspector for the month of December, 2008, was received.

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

follows:

APPEAL NO. 3296 – Appeal of Marshall H. Frick, owner of the property 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.

Applicant seeks a variance from Section 495-46(A)(2) of the rules and regulations of the R-5 Residence District to allow 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), which creates a lesser front yard setback of approximately 27.67 feet on the Radcliffe Road frontage of the Property instead of the minimum required 40 feet. The existing front yard setback of the residence on the Radcliffe Road frontage of the Property is approximately 29 feet.

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 property 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.

6. Upon motion of Mr. Greenwald, and unanimously approved by the Committee, the Report of the Property Inspector for the month of December 2008, was accepted.

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