

August 3, 2011  
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Michael J. Swavola, Chairman, presiding. Members present were Commissioners Hampton, Haywood, McKeown, Simon and Sharkey. Staff present were Joseph Bagley, Wisler Pearlstine LLC; Bryan T. Havir, Assistant Township Manager; David M. Lynch, Director of Engineering, Zoning and Inspections; and David G. Kraynik, Township Manager. A Public Attendance List is attached.

Mr. Swavola called the meeting to order.

1. The Zoning Hearing Board Agenda for August 8, 2011 was reviewed as follows:

**APPEAL NO. 3406** (Continued) – Appeal of Salus University (formerly “Pennsylvania College of Optometry” (“PCO”), owner of premises known as 8340, 8360 and 8380 Old York Road and 50 Breyer Drive, Elkins Park, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to erect two (2) free-standing signs: one on the Township Line Road frontage of premises and one on the Old York Road frontage of the premises; said free-standing signs having a sign area of 53.83 SF (7.68’H x 7.01’W) and a sign height of 8.68’; said premises being within the Class C-1 Commercial District:

- a. Applicant requests a Determination from the Zoning Hearing Board that the Premises is subject to the signage requirements in CCS 295-197.C.(1) which includes properties located within the C-1 Commercial District where there is an individual or single use of property.
- b. If the ZHB rules in the affirmative on Item a., above, Applicant requests the following variances from CCS 295-197.C.(1)(a):
  - i. For aforesaid signs being the fourth and fifth free-standing signs on the premises instead of the maximum permitted one (1) free-standing sign.
  - ii. For aforesaid signs having a sign area of 53.83 ± SF instead of the maximum permitted 50 S.F.
- c. In the alternative to Items a. and b., above, Applicant requests a Determination from the ZHB that the premises is subject to the signage requirements of CCS 295-197.A. which includes “Institutional Uses” in residential and multiple dwelling Zoning Districts.

- d. If the ZHB rules in the affirmative on Item c., above, Applicant requests the following variances from CCS 295-197.A.(4):
  - i. For aforesaid signs being the fourth and fifth free-standing signs on the premises instead of the maximum permitted three (3) free-standing signs (one per street frontage).
  - ii. For aforesaid signs having a sign area of 53.83 ± SF instead of the maximum permitted 20 SF.
  - iii. For aforesaid signs having a sign height of 8.68' instead of the maximum permitted 4'.
  - iv. For aforesaid signs being internally illuminated instead of the required external illumination.

Mr. Lynch reviewed the appeal and the Planning Commission's recommendations.

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

**APPEAL NO. 3409**: Appeal of Kyung-Yun Shumaker, owner of premises known as 7437 Coventry Avenue, Melrose Park, PA 19027, from the Decision of the Zoning Officer for the following Zoning Relief in order to use two (2) rooms as an acupuncture clinic:

- a. A Variance from the Rules and Regulations of the Class R-4 Residence District as outlined in CCS 295-36. in order to operate an acupuncture clinic instead of one of the enumerated permitted uses.
- b. A Determination as to the amount of required off street parking.

Mr. Lynch reviewed the appeal. He reported that the applicant does not have an acupuncture certification as required by the state.

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 denial of said appeal based on the applicant's lack of acupuncture certification.

Upon motion of Mr. Simon, the Committee unanimously approved that the applicant be refunded the application fee if she withdraws her application.

**APPEAL NO. 3410:** Appeal of New Cingular Wireless PCS, Prospective tenant at premises known as 7900 Old York Road Elkins Park, PA 19027(A/K/A “Elkins Park House”) from the Decision of the Zoning Officer for the following Zoning Relief in order to upgrade an existing wireless communications facility by adding three (3) new antennas and by placing additional equipment with the existing equipment room:

- a. A Variance from the Rules and Regulations of the Class M-3 Multiple Dwelling and Office District as outlined in Article XIV of Chapter 295 of the Cheltenham Code, as follows:
  - i. From CCS 295-89. for the proposed wireless communications facility upgrade instead of one of the enumerated permitted uses.
  - ii. From CCS 295-95. for a structure height of 108' ± above grade level (“AGL”) instead of the maximum permitted 85' AGL.

Mr. Lynch reviewed the appeal. Steve Boell and Paul Storck, representatives from Cingular Wireless, were present. Mr. Boell reviewed the height of the antennas. At the recommendation of the Committee, Mr. Storck agreed to painting the antennas in “city lights” color.

Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it recommends approval of said appeal contingent upon the antennas being painted in “city lights”.

**APPEAL NO. 3411:** Appeal of Scott Goss, owner of premises known as 111 Waverly Road, Wyncote, PA 19095, from the Decision of the Zoning Officer in order to construct a one and two storey addition (434 ± SF) to the rear of the residence:

- a. From the Rules and Regulations of the Class R-4 Residence District as outlined in Article VII of Chapter 295 of the Cheltenham Code, as follows:
  - i. A Variance from CCS 295-38. for a Greater Building Area of 29.64% instead of the maximum permitted 20% (the existing Building Area is 23.47%).
  - ii. Special Exceptions in accordance with CCS 295-39.B.(1), as follows:
    1. For a lesser side setback of 6' ± from the northeast corner of the addition to the easterly property line instead of the minimum required 10'.
    2. For a lesser aggregate side yard setback of 15.5' ± instead of the minimum required 30'.

Mr. Lynch reviewed the appeal including the non-conforming lot, adjacent lots, and setbacks. Mr. Goss and Mr. Jones, architect, were present. Mr. Goss gave a letter of support from neighbors. Mr. Jones reviewed elevations and presented elevation plans, which Mr. Lynch reviewed.

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

**APPEAL NO. 3412:** Appeal of Elkins Associates, LLC, owner of premises known as 7870 Spring Avenue, Elkins Park, PA 19027 from the Decision of the Zoning Relief in order to use the front portion of the first floor as a book and music shop:

- a. A Variance from the Rules and Regulations of the Class M-2 Multiple Dwelling District as outlined in CCS 295-80. for the Proposed Retail Use instead of one of the enumerated permitted uses.
- b. A Determination as to the number of required off-street parking spaces.

Mr. Lynch reviewed the appeal. Michael Schectman, Esq. represented the applicant and reviewed the property's previous retail uses. Mr. Simon noted that said premises has been operating as a retail business for several years.

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

**APPEAL NO. 3414:** Appeal of Fairfield Wyncote, LLC, owner of premises known as 8460 Limekiln Pike, Wyncote, PA 19095 (a/k/a Building No. 1 at the "Towers at Wyncote" apartment complex), from the Decision of the Zoning Relief in order to construct and operate a 75' x 132' (9,900 SF) Dog Park for the use of the residents of the Apartment Complex only:

- a. A Determination that a Dog Park is a "customary" accessory use for a Multiple Dwelling and thus permitted per CCS 295-98.D.
- b. In the alternative to a, above, a Special Exception in accordance with the Rules and Regulations of CCS 295-98.E. as the proposed Dog Park is of the same general character as any of the enumerated permitted uses.
- c. In the alternative to a. and b., above, a variance from the Rules and Regulations of the Class C-1 Commercial District as outlined in CCS 295-98. for the proposed Dog Park instead of one of the enumerated permitted uses.

Mr. Lynch reviewed the appeal. Michael Yanoff, Esq. and Benjamin Barnes represented the applicant. Mr. Yanoff stated that said park is an essential amenity for the tenants; at the request of Mr. Haywood, rules and regulations were instituted; the dog park will not be near residential neighbors; the Planning Commission's recommendations are being included; tenants are permitted to have a limit of two (2) dogs at no more than 35-pounds each.

Mr. Haywood was concerned about the park's visibility from Limekiln Pike/Route 309, the removal of trees, screening, and landscaping.

Extensive discussion ensued regarding the following: removal of trees, new landscaping, the park's location, what would be visible to the neighbors, and appropriate screening along Route 309 and Limekiln Pike. The plot plan was reviewed. Mr. Bagley recommended a vegetative buffer as screening.

Mr. Lynch advised that the Planning Commission recommended an escrow of \$5,000. Mr. Yanoff disputed this and stated that he was present for the entire Planning Commission meeting and no recommendation was made regarding an escrow. Mr. Yanoff advised that his client will ask for a continuance.

Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it recommends approval of a request for a continuance. If a continuance if not granted, the Committee recommends denial of said appeal based on a lack of adequate information regarding screening.

2. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Planning Commission Regular Meeting Minutes dated July 25, 2011, were received.

3. The Committee reviewed and approved the recommendations of the Economic Development Task Force for issuance of Certificates of Appropriateness for signage within the Commercial Enhancement Districts as follows:

Upon motion of Mr. McKeown, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Vikki's Nail Spa, 580 Township Line Road, for signage.

Upon motion of Mr. Sharkey, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Salon Two, 2 Limekiln Pike, for signage.

Upon motion of Mr. McKeown, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Springleaf Financial, Melrose Shopping Center, 61 W. Cheltenham Avenue, for signage.

4. The Committee reviewed the draft Age-Restricted Overlay District Ordinance ("AR").

There were public comments:

Mitch Zigmund-Felt, 35 Carter Lane, felt that "hardship" lacked a definition and under Section C – Purpose, he asked that said section include woodlands, streams, steep slopes and riparian buffers.

Regarding "hardship", Mr. Bagley advised that a variance hardship is defined in the Municipalities Planning Code, and there is case law on it. It was Mr. Zigmund-Felt's opinion that the Township should guide and clarify it for the Zoning Hearing Board to minimize the risk of litigation. In response to a question from Mr. Haywood, Mr. Zigmund-Felt believed that hardship takes on a specific set of issues in an AR development.

Mr. Bagley advised that state law regulates hardship, and the Township cannot supersede state law. If the variance is for economic reasons, it can be opposed since an economic hardship does not entitle anyone to a variance.

Regarding riparian buffers, Mr. Bagley questioned if these are natural features.

Mr. Sharkey asked if a feasibility study might be advisable since there is national research that questions the marketability of AR developments. It was Mr. Haywood's opinion that the purpose of the AR Ordinance is to create an incentive for developers.

Mr. Swavola felt that it was possible for a developer to get approval for an AR development and later want to change it if the market changes.

There was a public comment:

Joseph Vescovich, 107 Tookany Creek Parkway, felt that the Township should consult with the Montgomery County Planning Commission, which has studied this issue.

Mr. Simon supported contacting the County but did not want to spend a lot of money to do so. It was Mr. Haywood's opinion that that the County Planning Commission will have to review the Ordinance, and the Township will get its opinion at that time. Mr. Simon felt that the County's opinion might be technical rather than philosophical.

5. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the scheduling of a **Public Hearing** on October 19, 2011, to adopt an Ordinance amending the Township Code, Chapter 295 entitled "Zoning" by creating an Age Restricted Overlay District (see attached)

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

**APPEAL NO. 3399:** Appeal of Teresa Minetti, owner of the premises known as 510 East Avenue, Glenside, Pennsylvania, from the determination of the Zoning Officer finding that construction of an addition expanding a nonconforming structure, measuring 8 feet by 29.75 feet, to the east side of the residence located on the Property and creating a less than required front yard setback would violate the Cheltenham Zoning 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 applicant's request for relief subject to conditions.

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

**APPEAL NO. 3398:** Appeal of Cheltenham Hook and Ladder Company No. 1, 413 Ryers Avenue, Cheltenham, Pennsylvania, from the determination of the Zoning Officer finding that construction of a two-story addition containing a bay on the first floor and offices and bunk room on the second floor with additional parking in the rear of the Property which is a nonconforming structure and use of the Property, disturbs a Steep Slope Conservation District, includes parking space changes, and the installation of a continuous wall/fence or plantings along the Ryers Avenue frontage, the northeast side and the southeast side of the Premises would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating nonconforming uses; Article XI, Section 295-64, regulating uses; Article

XXII, Section 295-168, regulating uses within a Steep Slope Conservation District; Article XXII, Section 295-167, regulating permitted conservation uses with a Steep Slope Conservation District; and Article XXIX, Section 295-221, regulating off-street parking.

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

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

**APPEAL NO. 3400:** Appeal of St. Nicholas Serbian Orthodox Church, owner of the premises known as 506 Stahr Road, Elkins Park, Pennsylvania, from the determination of the Zoning Officer finding that construction of a two story rectory addition within the current building footprint with 5 foot wide sidewalk and stairway from the existing driveway to the main entrance of the rectory addition, which is a nonconforming use, would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VIII, Section 295-43, regulating uses, Article XXIX, Section 295-227, regulating nonconforming uses, Article XXII, Section 295-168, regulating uses permitted in a Steep Slope Conservation District, and Article XXII, Section 295-167, regulating permitted conservation uses within a Steep Slope Conservation District.

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.

7. Upon motion of Mr. Sharkey, and unanimously approved by the Committee, the Report of the Building Inspector for the month of July, 2011 was received.

8. Under Citizens' Forum: Robert DeMaria, 65 Limekiln Pike, asked about the status of a Business Privilege License to operate a farm stand in front of his house. He said he has certification for a lavender farm. Mr. Swavola responded that Mr. DeMaria has been told several times that said certification does not supersede the Township's Zoning Code, and his property is not zoned for a farm stand, and he needs to apply for zoning relief.

Mr. DeMaria stated that he would see the Township in court. In response to said statement, Mr. Bagley instructed the Board of Commissioners and Township Staff not to have any communications with Mr. DeMaria on these matters and all communication is to be channeled through himself.

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



David G. Kraynik,  
Township Manager  
per Anna Marie Felix



**PUBLIC ATTENDANCE LIST**  
**Public Affairs Committee, 7:30 p.m.**  
**Public Safety Committee, 7:45 p.m.**  
**Building and Zoning Committee, 8:00 p.m.**  
**Wednesday, August 3, 2011**  
**Curtis Hall**

NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
Steven Boell	4001 Schoolhouse Ln Center Valley, PA	spoell@flblaw.com
Maureen Hoff	224 Berkeley Rd Aberdeen	sweetmaggleside @gmail.com
Ray R. N.	65 LIMEKILN PKWY	DEMARI4@VERIZON.NET
LISA RITTER	2641 CHURCH RD Glenview, PA	lisaritter@ gmail.com
Heidi Morein	618 Boyer Rd Cheltenham	waterofleith @aol.com
Bob + Iris Hammarjost	812 Glenside Ave Wynote PA 19095	hammarjr@ aol.com
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Michael A. Shechtman Esq	128 Greenwood Ave Wynote, PA 19095	mas@shechtman netlls.com



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NAME (Please Print)	ADDRESS	E-MAIL and/or TELEPHONE
Scott Mary Ann Boss	111 Waverly Rd Wyncote	modgila@verizon.net 2158654288
MITCH ZYGmund-Felt	35 CARTER LN. 19077-2706	
Joe Vescovic	107 Troutway	
Steve Straks	Malrose Ave.	

**CHELTENHAM TOWNSHIP  
ORDINANCE NO. \_\_\_\_ - \_\_**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF CHELTENHAM, CHAPTER 295, THEREOF, ENTITLED “ZONING”, BY ADDING DEFINITIONS FOR BUFFER, BUILDING, COMMON OPEN SPACE, DEVELOPABLE ACREAGE, BUILDING COVERAGE, HISTORIC RESOURCE, IMPERVIOUS COVERAGE, INTERNAL ACCESSWAY, FLOODPLAIN, STEEP SLOPES, WETLANDS, RIPARIAN BUFFER, RIPARIAN CORRIDOR, AND STREET TO ARTICLE I; AND BY ADDING A NEW ARTICLE XXXIII, ENTITLED “AGE RESTRICTED OVERLAY DISTRICT”**

**SECTION 1.** The Board of Commissioners hereby amends the Code of the Township of Cheltenham, Chapter 295, entitled “Zoning”, by inserting the following definitions in Article I, Section 295-2.C, in alphabetical order:

**BUFFER** – An area designed to separate the land uses which it abuts and to ease the transition between them. A buffer shall be comprised of vegetation arranged to soften and screen the view from one side to another during all seasons of the year. Unless otherwise specified, buffers may be included as part of the required setbacks and yard areas.

**BUILDING** – Any structure having a roof supported by columns, piers, pipes, studs, walls or other building materials located upon the land. A parking structure shall also constitute a building.

**BUILDING COVERAGE** – The ratio of the building area on a lot to the developable acreage of the lot.

**COMMON OPEN SPACE** – An outdoor portion of a development or tract of land that is designed or functions as a recreational area and/or for the preservation of sensitive natural features. Private yards directly adjacent to a residence shall not be considered common open space.

**DEVELOPABLE ACREAGE OR AREA** – The area within the lot lines, except those portions located within the ultimate right-of-way of existing public or private roads, wetlands, floodplains, land continuously covered by water, watercourses, riparian buffers, or slopes 15% or greater.

**FLOODPLAIN** – That area defined in Article XXI of this Chapter as the Floodplain Conservation District(s). The floodplain definition contained therein shall be considered the definition for floodplain for all purposes and uses of this Chapter.

**HISTORIC RESOURCE** – A structure listed in the National Register of Historic Places, the Pennsylvania Historic Resources Survey, the Montgomery County Inventory of Historic and Cultural Resources, the Montgomery County Comprehensive Plan, the Cheltenham Township Comprehensive Plan, the Cheltenham Township Inventory of Cultural Resources, a listing of historic and cultural resources compiled by the Board of Commissioners or Planning Commission, or other appropriate documentation, or a structure seeking listing as a historic resource from any of the above listings. The term historic resource shall also include historic accessory uses.

**IMPERVIOUS COVERAGE** – The ratio of the area of all portions of a lot covered in any way so as not to allow the ground beneath to absorb water at a natural rate, to the developable acreage of the lot.

**INTERNAL ACCESSWAY** – A private roadway or driveway providing access to a property from a public or private street.

**RIPARIAN BUFFER** – An area with a width defined by this Chapter, designed to protect the riparian corridor.

**RIPARIAN CORRIDOR** – Lands adjacent to streams, wetlands, and water bodies.

**STEEP SLOPES and STEEP SLOPE AREA** – An area with slopes of 15% or greater as further defined in Article XXII of this chapter as the Steep Slope Conservation District(s). The steep slope definition contained therein shall be considered the definition for steep slopes and steep slope area for a purposes and uses of this chapter.

**STREET** – A right-of-way, whether municipally or privately owned, serving as a means of vehicular travel, furnishing access to abutting properties and space for sewers and public utilities.

**WETLANDS** – Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances to support, a prevalence of vegetation typically adapter for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

**SECTION 2.** The Board of Commissioners hereby adopts the following as Chapter 295, entitled "Zoning", Article XXXIII, "Age Restricted Overlay District".

**§295-240. PURPOSE.**

The purpose of this district is to provide accommodation for age restricted housing developments by establishing regulations to permit development by special exception, tailored to the needs of residents 55 years of age and older, recognizing their different housing needs and relatively reduced impacts on surrounding land uses; and to require protection and preservation of historic resources in the development of land for age restricted housing, as follows:

- A. By providing a greater variety of housing to serve the needs of older persons who prefer an active and independent residential environment.
- B. By encouraging the preservation of the character of neighborhoods adjacent to the district.
- C. By encouraging the preservation of natural features, such as woodlands, streams and open space by allowing compact development.
- D. By promoting a pedestrian environment and providing a pedestrian orientation of buildings and streets.
- E. To address Sections 603, 604, and 605 of the Pennsylvania Municipalities Planning Code by requiring the protection and preservation of historic resources.

**§295-241. OVERLAY.**

The Age Restricted Overlay District shall be permitted by special exception on all parcels meeting the following criteria:

- A. The tract of land to be developed shall be a minimum of 5 acres in gross area and shall have been held in single and separate ownership before and since the date of adoption of this overlay district. No tract proposed for development under this ordinance shall be subdivided, either during or after the development process.
- B. The tract must be located within a Residential or Institutional Zoning District, or the C-1 Commercial District. The C-2, C-3, and C-4 Commercial and Business Districts; and the G Manufacturing and Industrial Districts are specifically excluded from this overlay district.
- C. The tract must have frontage on a state highway and must take access from that highway. Minimum frontage on a state highway shall be as follows:

1. For parcels between 5 and 8 acres: 450 feet
  2. For parcels greater than 8 and not more than 12 acres: 750 feet
  3. For parcels greater than 12 and not more than 30 acres: 850 feet
  4. For parcels greater than 30 and not more than 60 acres: 900 feet
  5. For parcels greater than 60 acres: 2500 feet
- D. All development under the Age Restricted Overlay District shall comply with the provisions of this Article. If conflict exists between the requirements of this Article and another provision of the Cheltenham Township Zoning Ordinance, the requirements of this Article shall apply.

#### **§295-242. USE REGULATIONS.**

The following uses are permitted in the Age Restricted Overlay District:

- A. Any use permitted in the underlying zoning district, subject to compliance with all provisions of that district.
- B. The following uses are permitted by special exception, subject to the provisions of this Article:
  1. Age restricted housing in accordance with the Federal Fair Housing Act and the standards set forth in this Chapter including, but not limited to, §295-244 K.3.b. An applicant for such a special exception shall demonstrate compliance with Sections 295-243. and 295-244. of this Article as well as the criteria for granting special exceptions provided in Article XXVII.
  2. Retail shops, personal service shops, and professional offices may be permitted as accessory uses within one or more of the principal residential buildings. These uses shall be limited to the first floor only. In addition, such a use(s) may be located in a separate free-standing building(s); however, in that case the total area occupied by such a use(s), including building and parking areas, shall not exceed 5% of the developable acreage of the tract.
  3. Accessory uses customarily incidental to age restricted housing including clubhouse, dining facilities, indoor and outdoor recreational facilities, and maintenance and security facilities.

#### **§295-243. PERFORMANCE STANDARDS.**

- A. Perimeter Setback. (In addition, see setback modifications contained in subsection F.2.)
  1. The minimum building or parking setback from an exterior or perimeter street right-of-way, or a municipal boundary, shall be 100 feet.

2. The minimum building setback from an adjacent property zoned for single family detached or attached use shall be 75 feet. The minimum building setback from property zoned for any other use shall be 50 feet.
3. The minimum parking setback from an adjacent property zoned for single family detached or attached use shall be 50 feet. The minimum parking setback from property zoned for any other use shall be 25 feet. In all cases, driveways shall conform to the parking setback requirement except that portion of the driveway required to make a transverse crossing from the right-of-way to the setback line.

B. Housing Types. The following housing types shall be permitted in the age restricted overlay district:

1. Single family detached dwellings.
2. Single family semi-detached dwellings.
3. Two family detached dwellings.
4. Two family semi-detached dwellings.
5. Townhouses. Within the Age-Restricted Overlay District a row of townhouses shall contain no more than 5 attached units.
6. Midrise Multi-family dwellings. For the purposes of this Article, Midrise Multi-family dwellings shall be defined as multiple dwelling buildings at least 4 stories in height, and no greater than 8 stories or 96 feet in height.

C. Density.

1. The overall density shall not exceed 8 dwelling units per developable acre for single family detached dwellings, single family semi-detached dwellings, two family detached dwellings, two family semi-detached dwellings, or townhouses.
2. The overall density for Midrise Multi-family dwellings shall be as follows:
  - a. 4 or 5 story buildings – 12 units per developable acre
  - b. 6 or 7 story buildings – 15 units per developable acre
  - c. 8 story buildings – 20 units per developable acre
3. In all cases, a single qualifying tract developed under this overlay shall not contain more than 300 total dwelling units.

D. Building coverage.

1. Building coverage shall not exceed 20% of the developable area of the tract.

E. Impervious coverage.

1. Impervious coverage shall not exceed 45% of the developable area of the tract.

F. Maximum building height.

1. Except as provided in subsection F.2., the maximum building height shall be 45 feet, not to exceed three stories.
2. In the case of Midrise Multi-family dwellings, the maximum building height shall be 96 feet, not to exceed 8 stories; however, for every foot or fraction thereof in excess of 45 feet in height, each and every setback requirement shall be increased by 3 feet; and for every story in excess of 3 stories in height, the building coverage limitation shall be reduced by 2% and the impervious coverage limitation by 3%.

G. Building arrangement.

1. The minimum distance between buildings shall be the greater of 30 feet or half the height of the taller building.
2. The maximum building length shall be 160 feet, including angles.
3. Buildings shall be set back a minimum of 25 feet from the cartway of internal accessways. In the case of any internal streets required to be designed with a right-of-way, the 25 foot setback shall be measured from the right-of-way line.

H. Common open space.

1. All development under this Article shall provide not less than 50% of the total area of the tract as common open space. In all instances, all nondevelopable area shall be preserved as common open space, and at least 20% of the developable area shall be included as common open space.
2. Provision shall be made to provide continued protection and maintenance of the common open space so as to insure its preservation. This shall be accomplished in one of the following manners:
  - a. The Township may, but shall not be required to, accept any portion of the common open space by fee simple dedication, provided that:

- 1) There is no cost to the Township; and
  - 2) The Township agrees to and has adequate access to maintain such facilities.
- b. With permission of the Township, and with appropriate deed restrictions in favor of the Township and in language acceptable to the Township Solicitor, the owner may transfer the fee simple title in the common open space or a portion thereof to a private, nonprofit organization among whose purposes is the conservation of open space land and/or natural resources; provided that:
- 1) The organization is acceptable to the Township and is a bona fide conservation organization with a perpetual existence.
  - 2) The conveyance contains appropriate provision for proper retransfer or reverter in the event that the organization becomes unable or unwilling to continue to carry out its functions.
  - 3) A maintenance agreement acceptable to the Township Solicitor is entered into by the developer, organization and Township.
  - 4) A deed restriction is recorded with the office of recorder of deeds for the applicable open space restricting its use as open space only.
- c. The developer may provide for and establish an organization for the ownership and maintenance of the common open space consistent with the requirements for unit owners associations found in the Pennsylvania Uniform Condominium Act, 68 Pa.C.S.A. §3101 et seq. If such an organization is created, the deeds and agreements of sale for the common open space and for all individual lots within the tract shall contain the following requirements in language acceptable to the Township Solicitor:
- 1) Such organization shall not dispose of the common open space by sale or otherwise except to the Township or other governmental body unless the Township has given prior, written approval. Such transfer shall be made only to another organization which shall maintain the common open space in accordance with the provisions of this article.
  - 2) The organization and all lot owners within the development shall agree to be bound by the provisions of §705(f)(2) and (3) of the Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended, 53 P.S. §10705(f)(2) and (3), relating to Township maintenance of deteriorating open space and providing

for the ability of the Township to access and lien the properties within the development.

3) All lot owners within the development shall be required to become members of the organization and pay assessments for the maintenance of the common open space which may be increased for inflation and which may provide for professional management; and the organization may lien the lots for nonpayment of maintenance assessments in the same manner as other assessments.

4) The Township may require the formation of a reserve fund to cover capital improvements and maintenance to the common open space.

5) A deed restriction is recorded with the Office of the Recorder of Deeds for the applicable open space restricting its use as open space only.

I. Riparian buffer.

1. A riparian buffer with a minimum width of 100', or as required by the Riparian Corridor Conservation District, shall be provided along all riparian corridors.

**§295-244. DEVELOPMENT REQUIREMENTS.**

A. Master Plan.

1. The project shall be developed and constructed in accordance with an overall master plan for the site. The master plan shall be submitted as part of any application for approval in this district.
2. The development shall be carried out in phases, with each phase so planned that the requirements and intent of this article for any phase shall be fully complied with at the completion of that phase. For housing types other than midrise multi-family dwellings, the initial phase of development shall contain no more than 10 dwelling units, or 15% of the total number of dwelling units proposed under the master plan, whichever is greater. For midrise multi-family dwellings, the initial phase shall be one building.
3. Prior to the start of construction of the initial phase, financial guarantees shall be posted to ensure the completion of all amenities, including, but not limited to: swimming pools, tennis courts, recreational areas and buildings, community centers, fitness centers, and walking trails, as shown on the master plan.

- B. Off-Street Parking and Loading.
1. Parking Spaces – 1.5 spaces per unit, plus one guest space for every 5 units and one space for each employee on the largest shift.
  2. Parking and loading for accessory uses shall be in addition to the above requirements and shall be provided as required by §295-221. of this chapter.
- C. All utility lines shall be located underground. Any required above-ground structures shall be screened from adjoining properties and road rights of way. Screening shall consist of a fully landscaped buffer.
- D. All development in this district shall be served by public water and sewer.
- E. Pedestrian Design Standards.
1. Sidewalks are required along all exterior or perimeter road frontages, and along all interior streets and accessways.
  2. Pedestrian connections shall be provided to all front building areas, parking areas, and other pedestrian destination points.
  3. Whenever possible, sidewalks shall connect to existing sidewalks on abutting properties and other nearby pedestrian destination points and transit stops.
  4. Walking trails shall be incorporated into the common open space area and shall be available for use by the general public.
- F. Landscaping. Any application for development in this district shall be accompanied by a landscape plan prepared by a registered landscape architect. In addition to all requirements of the Subdivision and Land Development Ordinance, the plan shall include a landscaped buffer with a minimum width of 25' along the entire perimeter of the tract. All existing trees greater than 6" in caliper shall be identified and preserved to the maximum practicable extent.
- G. Lighting. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways shall be clearly marked and well lit. Lighting shall be sufficient for security and identification purposes, and shall be shielded so the source of light is not visible. Illumination onto existing residentially used areas shall at no time exceed 0.5 footcandle at the property line. The height of fixtures shall be a maximum of 20 feet for parking lots and 16 feet for pedestrian walkways.
- H. Refuse, Service, and Loading Areas. Areas provided for refuse storage, service, and loading must be located to the side or rear of buildings and be visually screened from

streets and pedestrian ways with landscaped buffers, privacy fencing and/or walls, sufficient to provide year-round separation.

I. Architectural Guidelines.

1. All buildings shall be designed with a single unifying architectural theme which shall reflect and enhance the visual and historic character of the area.
2. The use of dormers, cupolas, bay windows, offsets, chimneys, balconies, and other architectural details is encouraged and shall be included where appropriate.
3. Exterior wall and detail materials are to be brick, stone (natural or manmade), stucco, wood or other approved materials on at least 75% of all building facades. Blank or windowless walls are not permitted. Building facades which face residentially zoned properties or properties with a predominately residential character shall be designed to complement those uses.
4. As part of the special exception application, the applicant shall provide architectural renderings of all proposed buildings along with samples of the actual materials to be used. The applicant shall also provide graphic representations showing the relationship between the proposed development and structures in the surrounding area.

J. Preservation of Historic Resources.

1. Historic resources within the Township shall be identified and preserved as a part of the development plan, in a manner acceptable to the Board of Commissioners.
2. When a historic resource is preserved as required by this Article, the area of the historic resource may be counted toward a maximum of 25% of the required open space, and it shall not be counted toward the maximum building or impervious coverage limits.
3. The setting of the historic resource shall be protected by creating a buffer from new construction. At a minimum, the historic resource shall be separated from new development by 50 feet.
4. A historic structure may be used as part of a development under the Age Restricted Overlay District for any permitted use in this district or the underlying zoning district, provided a special exception for such a use is granted by the Zoning Hearing Board and subject to such conditions as are approved by the Zoning Hearing Board. In deciding an application for such a special exception, the Zoning Hearing Board shall duly consider the suitability of the proposed use for the structure, whether the applicant has minimized the impact of the use upon adjoining properties and whether a majority of the purposes of the District, set forth in Section 295-240, will be accomplished.

5. Provisions shall be made to provide continued protection and maintenance of the historic resource, in a form acceptable to the Board of Commissioners and the Township Solicitor.

K. Additional Requirements.

1. A property approved for development in accordance with the provisions of this article shall not be changed from age restricted use unless all requirements of the underlying zoning district are met.
2. An applicant for an age restricted community in this district shall provide at the time of final plan approval proof of deed restrictions or other documentation satisfactory to the Township Solicitor that limits the residential use of the property to those residents who meet the requirements of this Article.
3. All documentation pertaining to the establishment of a homeowners association, condominium association, management or maintenance group, or other similar community association shall be subject to review and approval by the Township Solicitor. Such documentation shall include, in addition to those provisions required by the Township Solicitor, the following items:
  - a. Rules implementing age verification, in accordance with regulations of the United States Department of Housing and Urban Development (the "Department"), as amended, that the units in the housing facility or community are intended and are operated for occupancy by at least one person who is 55 years of age or older.
  - b. Rules implementing verification, in accordance with regulations of the Department, as amended, if any, that at least 90% of the occupied units are occupied by at least one person who is 55 years of age or older.
  - c. A requirement that the housing facility or community publish and adhere to policies and procedures which demonstrate the intent for the facility or community to qualify for the statutory exemption from claims of familial status discrimination.
  - d. Such procedures and policies as are required by the Secretary of the Department for periodic verification of occupancy, as amended, including verification by reliable surveys and affidavits and policies and procedures relevant to a determination of compliance.
  - e. A definition of "occupied unit" identical to the definition in the Departments' regulations, as amended.

**SECTION 3.** Nothing in this Ordinance or in the Code of the Township of Cheltenham shall be construed to affect any suit or proceeding in any Court, and rights acquired or liability incurred, any permit issued or any cause of causes of action existing under the said Code prior to the adoption of this amendment.

**SECTION 4.** The provisions of the Ordinance are severable, and if any section, sentence, clause, part or provision thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of this 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 if such illegal, invalid or unconstitutional section, sentence, clause, part or provisions had not been included herein.

**SECTION 5.** This Ordinance shall take effect and be in force from and after its approval as required by law.

ENACTED into an **ORDINANCE** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**TOWNSHIP OF CHELTENHAM  
BOARD OF COMMISSIONERS**

BY: \_\_\_\_\_  
Harvey Portner  
President

ATTEST: \_\_\_\_\_  
David G. Kraynik  
Secretary and Township Manager