

## **BUILDING AND ZONING COMMITTEE**

### **AGENDA**

**WEDNESDAY, OCTOBER 5, 2011  
8:00 P.M.  
CURTIS HALL IN CURTIS ARBORETUM  
CHURCH ROAD AND GREENWOOD AVENUE**

**MICHAEL J. SWAVOLA – CHAIRMAN  
ART HAYWOOD – VICE CHAIRMAN  
KATHY A. HAMPTON - MEMBER  
CHARLES D. MC KEOWN – MEMBER  
J. ANDREW SHARKEY – MEMBER  
MORTON J. SIMON, JR. – MEMBER  
HARVEY PORTNER – EX-OFFICIO MEMBER**

1. Review of the Zoning Hearing Board Agenda for October 17, 2011; see attached.
2. Review of waiver request for a building permit fee and sewer connection fee from Our Community Cooperative of Cheltenham Township, Inc. (Creekside Co-op). (See attached).
3. Review of the Planning Commission meeting minutes of September 26, 2011; see attached.
4. Review of Recent Decisions of the Zoning Hearing Board (see attached).
5. Report of the Building Inspector for August 2011 (see attached).
6. Old Business
7. New Business
8. Citizens' Forum
9. Adjournment

  
\_\_\_\_\_  
David G. Kravnik  
Township Manager

**NOTICE**

**NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 7803 Montgomery Avenue, Elkins Park, PA 19027 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:**

- a. **Cheltenham Township Planning Commission on Monday, September 26, 2011 at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095**
- b. **Cheltenham Township Building and Zoning Committee on Wednesday, October 5, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, October 17, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

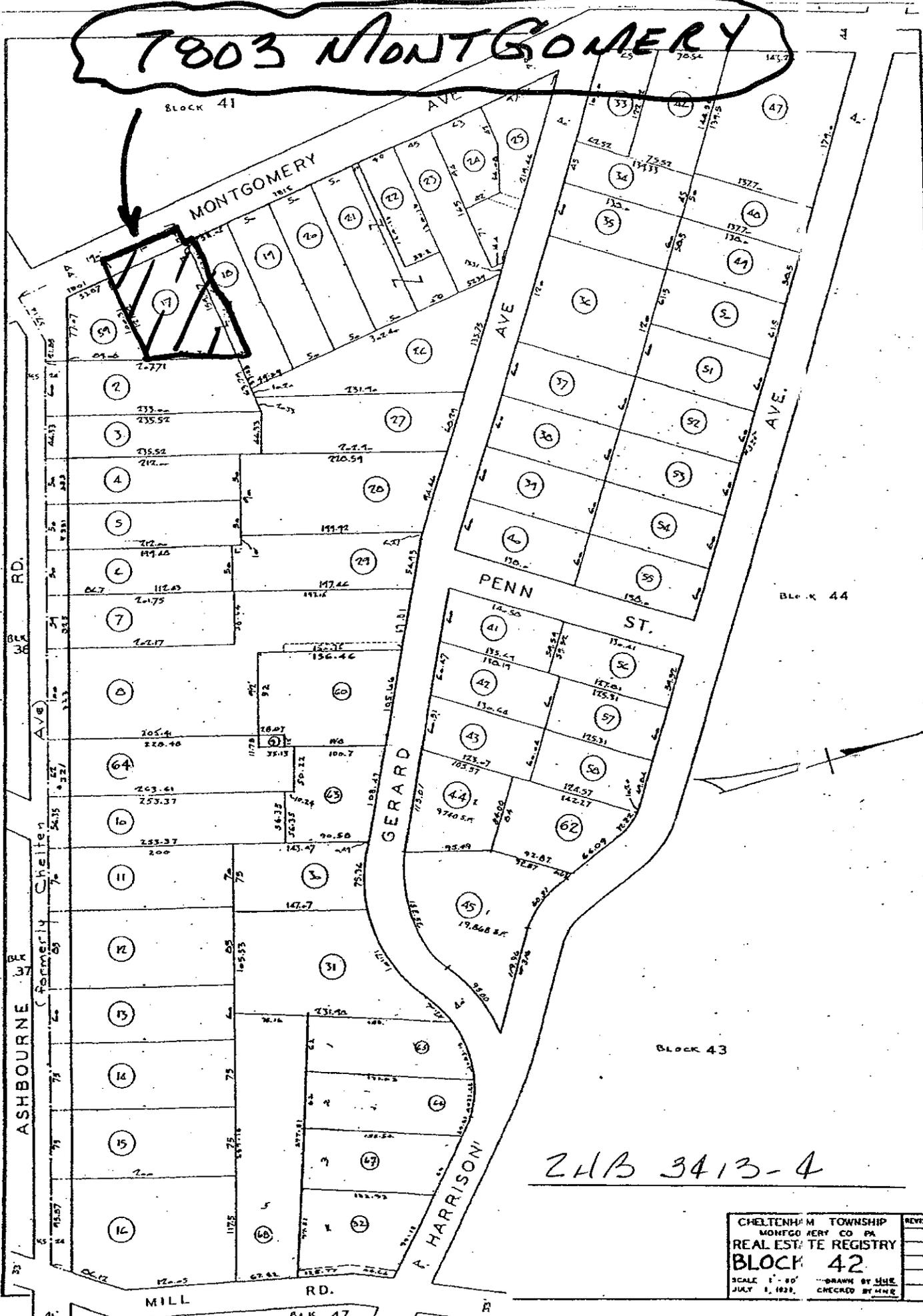
**APPEAL NO. 3413:** (Continued) Appeal of Montgomery Court Realty Co., L.P., owner of premises known as 7803 Montgomery Avenue, Elkins Park, PA 19027, from the Decision of the Zoning Officer in order to operate a Private Ambulance Service from the premises

- a. A Determination that the storage of Private Ambulance on the premises overnight is not a function of the operation of a Private Ambulance Service and thus permitted as a legal nonconforming use of the premises per the grant of relief under ZHB Appeal No. 1563.
- b. In the alternative to a, above, a Determination, pursuant to "Nonconforming Uses" as outlined in CCS 295-227.F., that the operation of a Private Ambulance Service is of the same class of use as the previously approved nonconforming use(s) and thus permissible.
- c. In the alternative to a. and b., above, a Variance from the Rules and Regulations of the Class R-5 Residence District as outlined in CCS 295-43. for the operation of a Private Ambulance Service instead of one of the enumerated permitted uses.

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

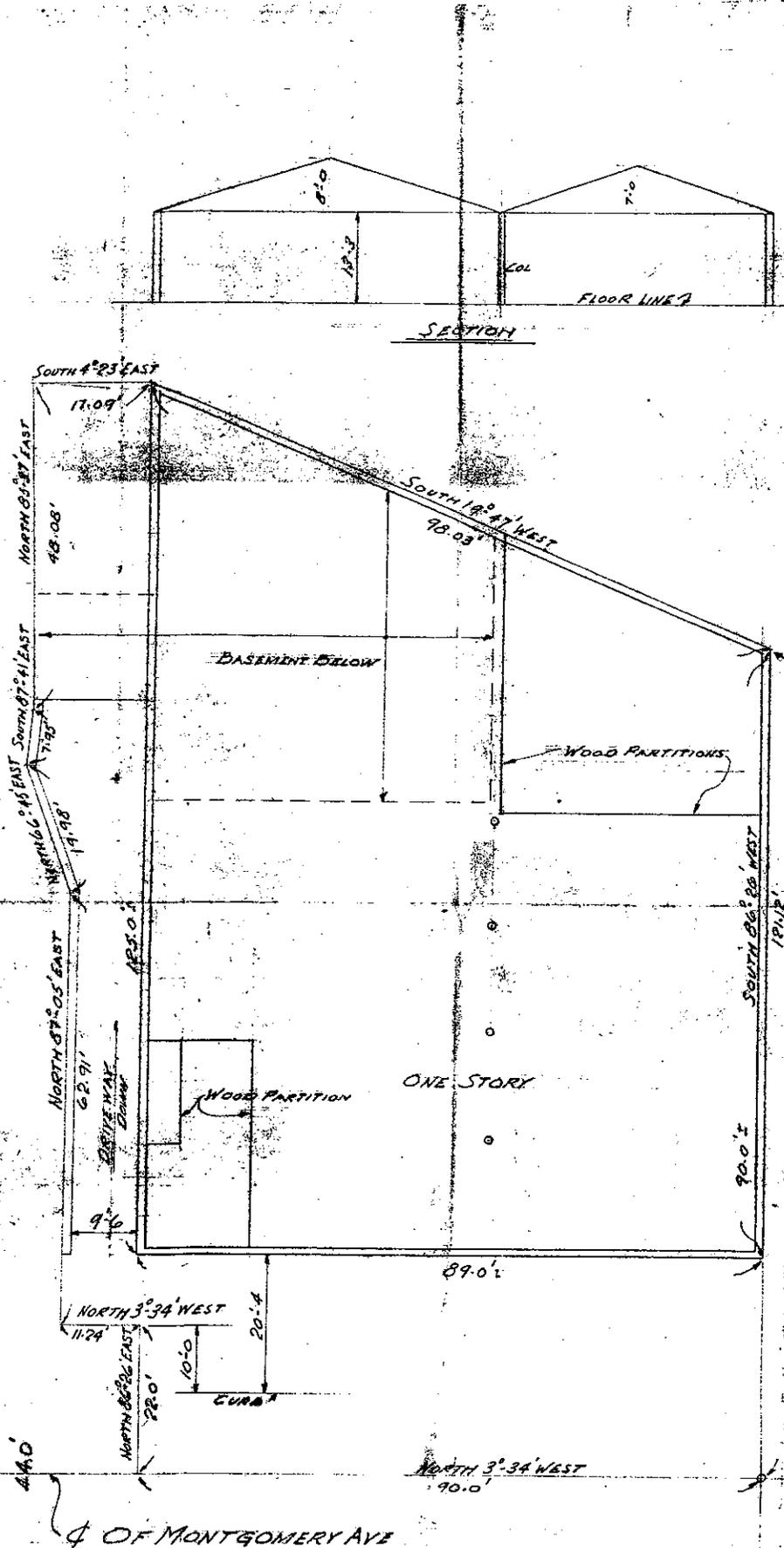
**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**

7803 MONTGOMERY



21B 3413-4

CHELTENHAM TOWNSHIP		REVISED
MONTGOMERY CO PA		
REAL ESTATE REGISTRY		
<b>BLOCK 42</b>		
SCALE 1" = 50'	DRAWN BY MHE	
JULY 1, 1923	CHECKED BY MHE	



NOTES:  
 FIRST FLOOR AREA 10000 SQ. FT. AT  
 FIRST FLOOR CURB & 24" HIGH CURB  
 ROOF 2" 0" ABOVE GROUND FLOOR  
 OUTSIDE WALLS - BRICK  
 ROOF - WOOD CONSTRUCTION  
 FLOOR - CEMENT

Q OF MONTGOMERY AVE

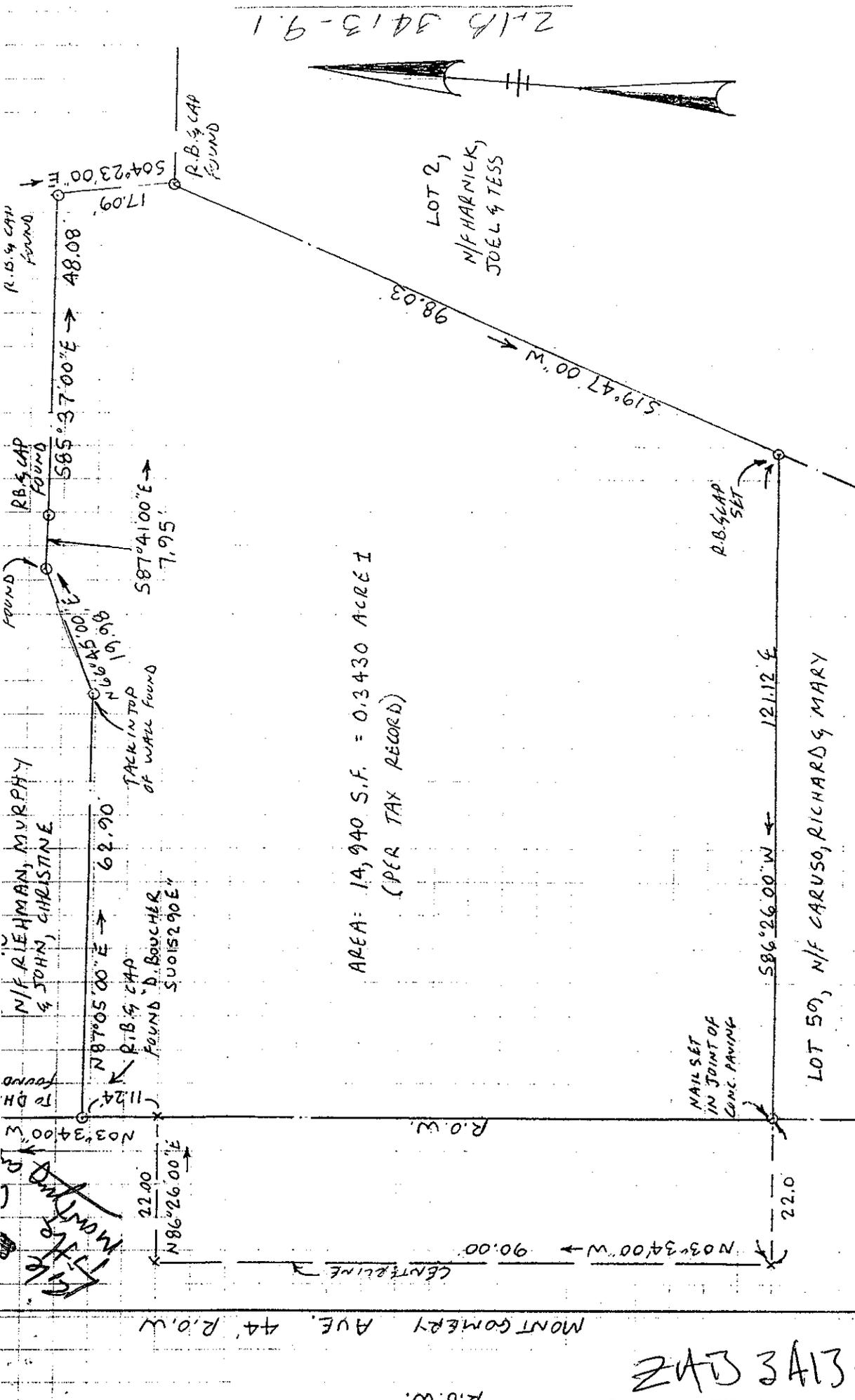
Q OF ASHBOURNE RD

100'-0'  
 (NOT TO SCALE)

PLOT PLAN  
 7803-09 MONTGOMERY AVE.  
 ELKINS PARK, PA.  
 SCALE 1/8" = 1'-0"  
 JAN. 25, 1954

ZAP 34.3-8

ROSENGARTEN & KRAEMER  
 ARCHITECTURAL ENGINEERS  
 10 SOUTH HART ST. PHILADELPHIA, PA.



AREA: 14,940 S.F. = 0.3430 ACRES  
(PER TAX RECORD)

### Bear Gully Survey Company

FREE PRICE QUOTE - Mon.-Sat. 7 AM - 9 PM  
CALL 215-280-3520 or 215-776-4168

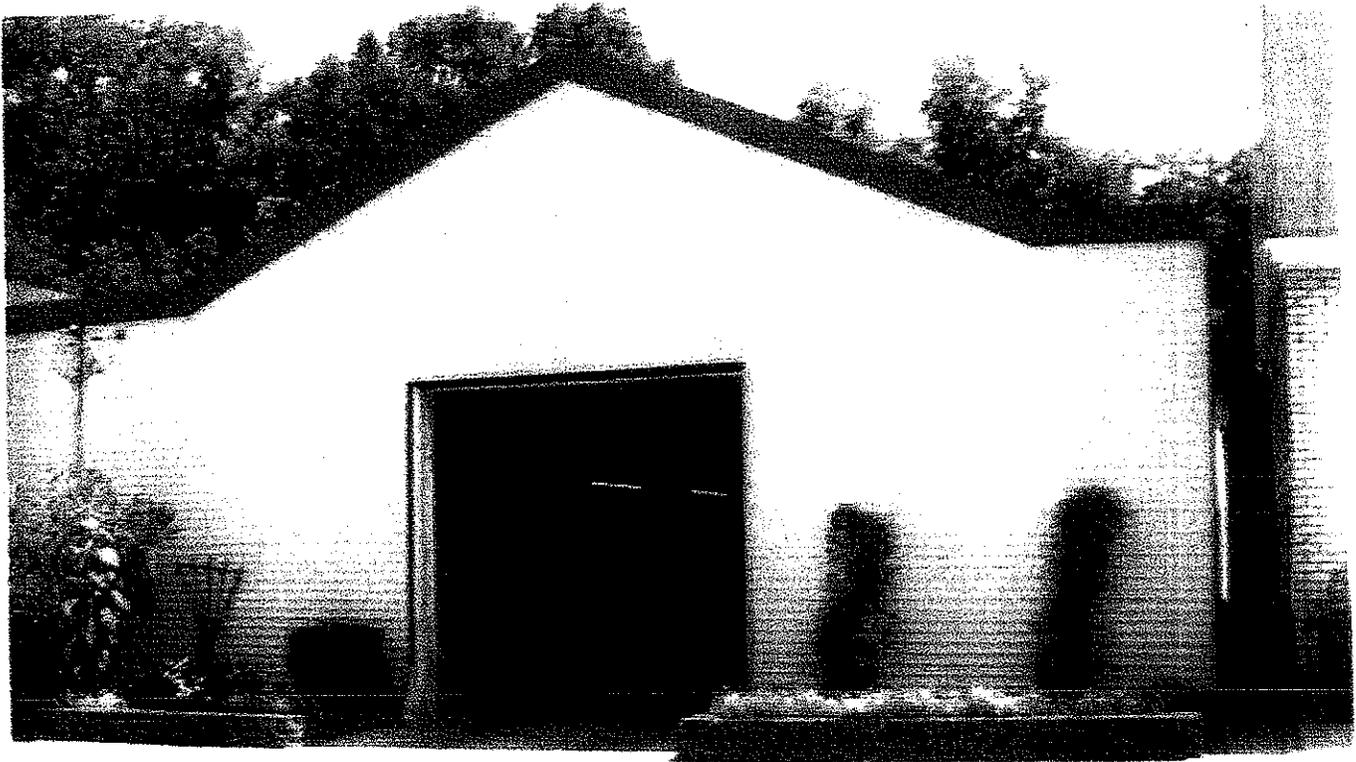
- Owner Stephen P. Bryant, P.L.S.
- Serving Bucks, Montgomery, Delaware, and Chester Counties
- Land Boundary & Plan \$395 & Up
- Flood Certificates
- Pennsylvania Licensed

4323 Marple Street • Philadelphia, PA 19136-3630

PLAN OF LAND SURVEY FOR
MONTGOMERY COURT REALTY CO. L.P.
BLOCK 42, LOT 17
CHELTENHAM TWP.
MONTGOMERY CO.
PENNSYLVANIA
SCALE 1" = 20'
DATE 4-8-2008

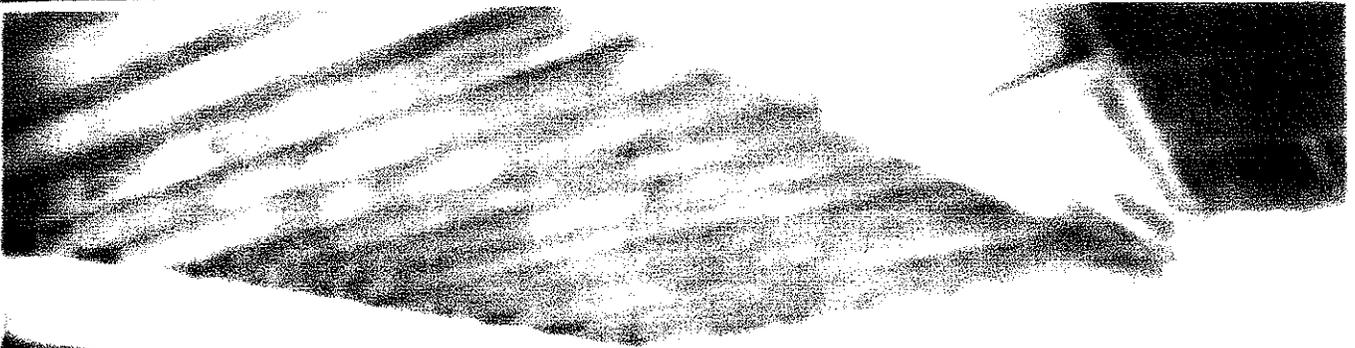
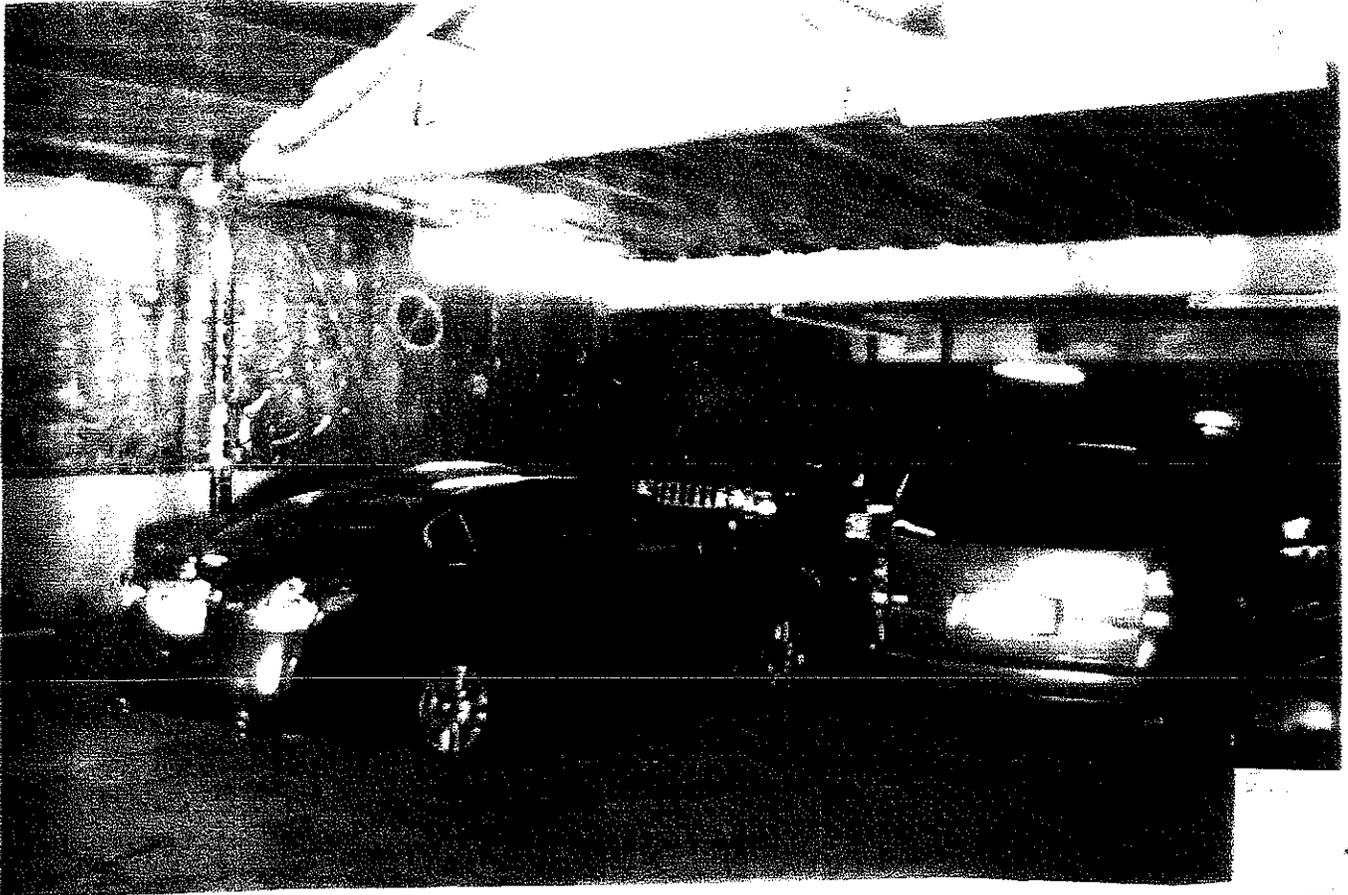
*Handwritten signature and notes:*  
D.L. EST # 50052067-4  
1-9-2112-91

1-9-2112-91



R. A. [unclear] 11-20-04

2113 3413-10.1



\* Approx. 11:00 a.m.



2.13 3413-104

## NOTICE

**NOTICE IS HEREBY GIVEN** that an application for Zoning Relief for 8031 Old York Road, Elkins Park, PA 19027 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:

- a. **Cheltenham Township Planning Commission on Monday, September 26, 2011 at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095**
- b. **Cheltenham Township Building and Zoning Committee on Wednesday, October 5, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, October 17, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**APPEAL NO. 3415:** (Continued and Amended) Appeal of Dr. Rami E. Geffner, equitable Owner of 8031 Old York Road, Elkins Park, PA 19027 (formerly "Rosenbluth Travel"), from the Decision of the Zoning Officer for a Variance from the Rules and Regulations of "Parking and Loading" as outlined in CCS 295-221.H. for providing zero off-street parking spaces on the premises for a Medical Office instead of the required 8 parking spaces.

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**

8301 OLD YORK RD.

BLOCK 7

OLD YORK ROAD

STARR

Forest Ave.

BLOCK 8

CHURCH ROAD

AVE.

STARR RD.

ROAD

BLOCK 15

MONTGOMERY

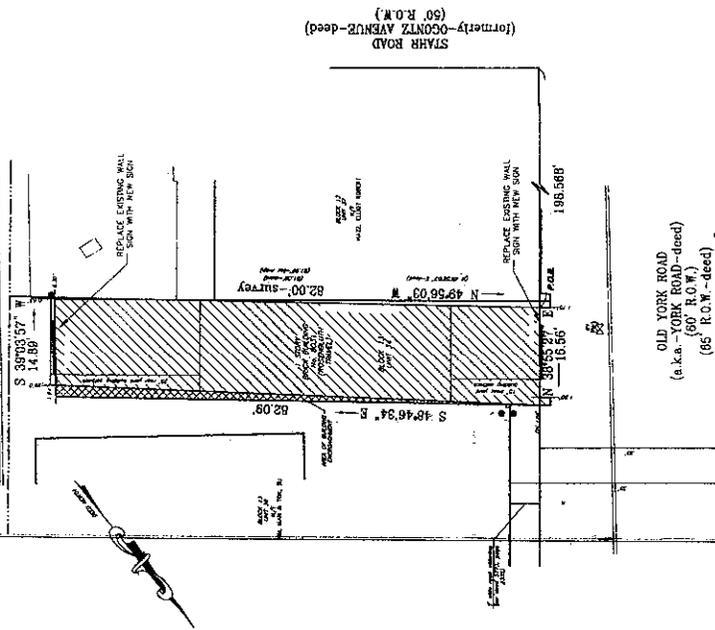
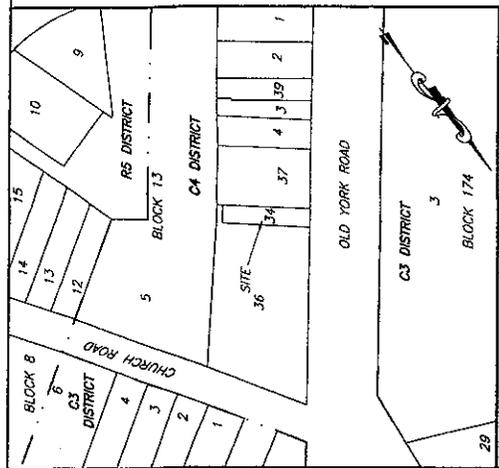
BLOCK 14

PARK

174/30

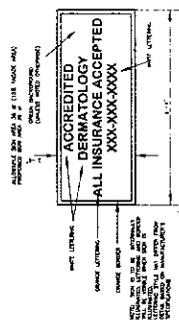
2HB 3415-4

CHELTENAM TOWNSHIP	
MONTGOMERY CO. PA.	
REAL ESTATE REGISTRY	
<b>BLOCK 13</b>	
SCALE 1"=30'	DRAWN BY HNE
JULY 1, 1938.	CHECKED BY HNE



**ZONING REQUIREMENTS FOR C4 COMMERCIAL & BUSINESS DISTRICT**

ITEM	REQUIRED	PROPOSED
LOT AREA (sq. ft.)	1,289 sq. ft.	1,289 sq. ft.
MINIMUM LOT AREA (sq. ft.)	1,289 sq. ft.	1,289 sq. ft.
MINIMUM LOT WIDTH (ft.)	25 ft.	25 ft.
MINIMUM LOT DEPTH (ft.)	50 ft.	50 ft.
MINIMUM FRONT SETBACK (ft.)	5 ft.	5 ft.
MINIMUM SIDE SETBACK (ft.)	5 ft.	5 ft.
MINIMUM REAR SETBACK (ft.)	5 ft.	5 ft.
MINIMUM HEIGHT (ft.)	12 ft.	12 ft.
MINIMUM NUMBER OF STORIES	1	1
MINIMUM NUMBER OF UNITS	1	1
MINIMUM NUMBER OF PARKING SPACES	1	1
MINIMUM NUMBER OF BICYCLE SPACES	1	1
MINIMUM NUMBER OF BIKE RACKS	1	1
MINIMUM NUMBER OF BIKE REPAIR STATIONS	1	1
MINIMUM NUMBER OF BIKE STORAGE SPACES	1	1
MINIMUM NUMBER OF BIKE REPAIR STATIONS	1	1
MINIMUM NUMBER OF BIKE STORAGE SPACES	1	1

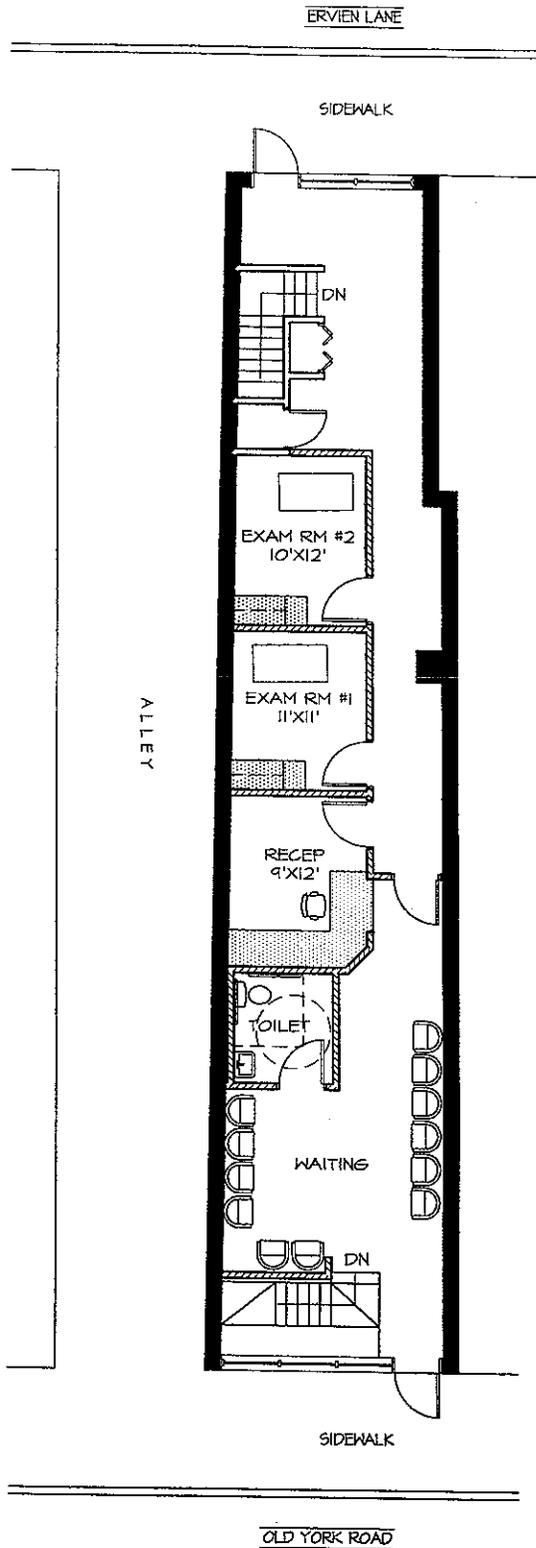
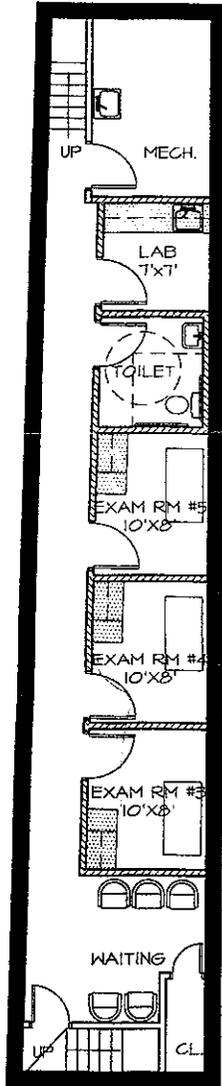


**GENERAL NOTES**

1. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
2. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
3. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
4. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
5. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
6. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
7. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
8. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
9. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.
10. THE SIGN SHALL BE 48" HIGH BY 48" WIDE AND SHALL BE MOUNTED ON THE EXTERIOR WALL OF THE BUILDING.

ZAB 3415-1

<p>NOTICE: THIS PLAN IS A PRELIMINARY PLAN. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.</p>	<p>DATE: 11-01-11          DRAWN BY: J. WICZAK III          CHECKED BY: J. WICZAK III          PROJECT NO.: 11-01-11</p>
<p>990 CEDAR BRIDGE AVENUE          BRICK, NJ 08723          TEL (908) 601-5080          FAX (732) 551-5083</p>	<p>ACCREDITED DERMATOLOGY          BLOCK 13 - UNIT 34          MONTGOMERY COURT          CHELSEA TOWNSHIP          PENNSYLVANIA</p>
<p>CHARLES J. WICZAK III          PROFESSIONAL LAND SURVEYOR, No. LC. No. 51-04542-E</p>	<p>WALL SIGN DETAIL</p>



**1 BASEMENT PLAN**  
scale: 1/8"=1'-0"

**2 GROUND FLOOR PLAN**  
scale: 1/8"=1'-0"



PRINCIPALS		ASSOCIATES	
MATTHEW B. JARMEL, AIA, AIA, PE NJ LIC 48159 CD LIC NYC-01483 DE LIC 52007736 FL LIC AR9434 GA LIC 6031184 IL LIC 2237 IN LIC 05102009 IA LIC M10236 MD LIC 18565 MI LIC 120165189	NU LIC 40-12787 NH LIC 7494 NC LIC 11120 NY LIC 7501 OH LIC 034873 OR LIC 14911944 PA LIC 64-014811-B TX LIC 22892 VA LIC 0101-01489 VT LIC 2435	RONALD A. BROOKSHIRE, PE NJ LIC 0645311 JOSEPH MELI, PE, PLS NY LIC 102304 DAVID GAHYAL, PE NJ LIC 24620475000 PA LIC 10036	
IRWIN H. KIZEL, AIA, PE CT LIC 08592	NU LIC 21400794700 NY LIC 33100243100		
RICHARD A. JARMEL, PE CT LIC R00027735 FL LIC 70134 ME LIC 405102339	RI LIC 37491 NH LIC 21489 NY LIC 023896.1 PA LIC 78270000		

Project: <b>ACCREDITED DERMATOLOGY 8031 OLD YORK RD ELKINS PARK, PA</b>		Drawing Name: <b>SPACE PLAN</b>	
Project Number: <b>LAKE-S-11-114</b>	Scale: <b>1/8"=1'-0"</b>	Drawing Number: <b>SA-1</b>	
Drawn By: <b>CM</b>	Approved By: <b>IHK</b>		

24B 345-12.1



2AB 3415-8.1

**NOTICE**

**NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 8321 Cadwalader Avenue, Elkins Park, PA 19027 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:**

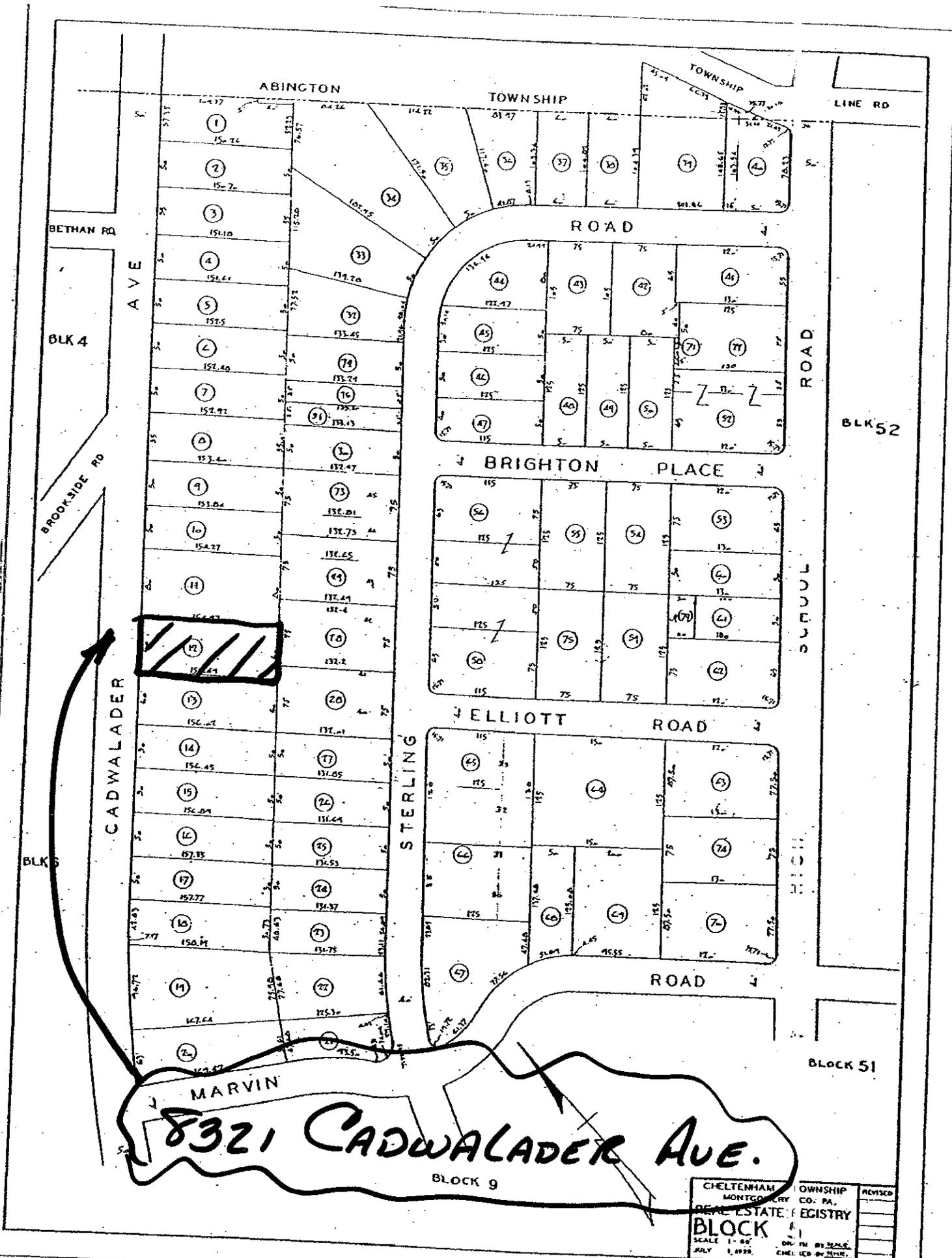
- a. Cheltenham Township Planning Commission on Monday, September 26, 2011 at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095**
- b. Cheltenham Township Building and Zoning Committee on Wednesday, October 5, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, October 17, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**APPEAL NO. 3420: Appeal of Elizabeth Sand Braun, owner of Premises known as 8321 Cadwalader Avenue, Elkins Park, PA 19027 from the Decision of the Zoning Officer for a Variance from the Rules and Regulations of the Class R-4 Residence District as outlined in CCS 295-39.A.(1) for a lesser Front Yard Setback of 6.38' instead of the minimum required 40' for a 9.08' W x 4.75' D x 8.3' H front sidewalk entrance trellis.**

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

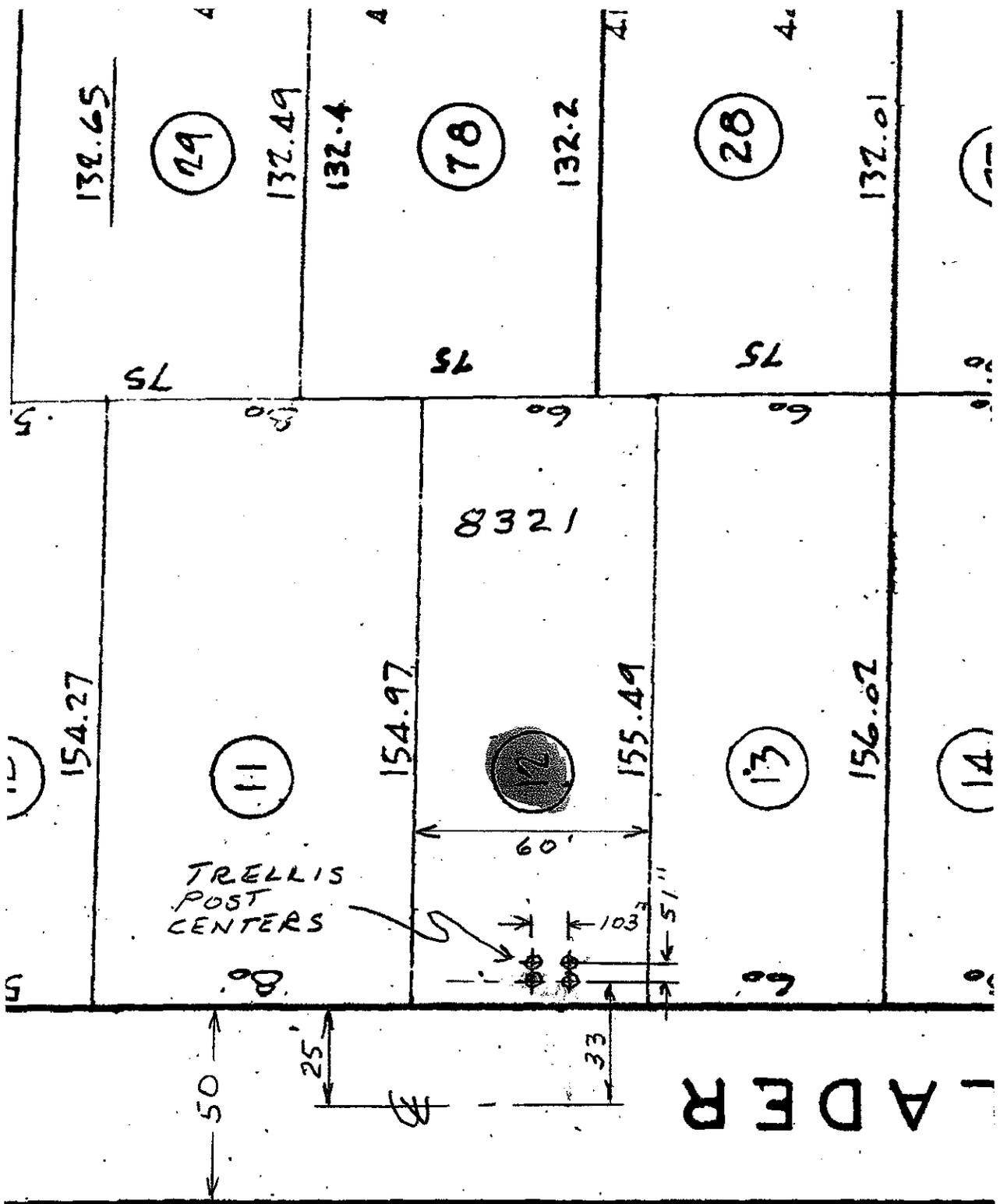
**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**



**8321 CADWALADER AVE.**

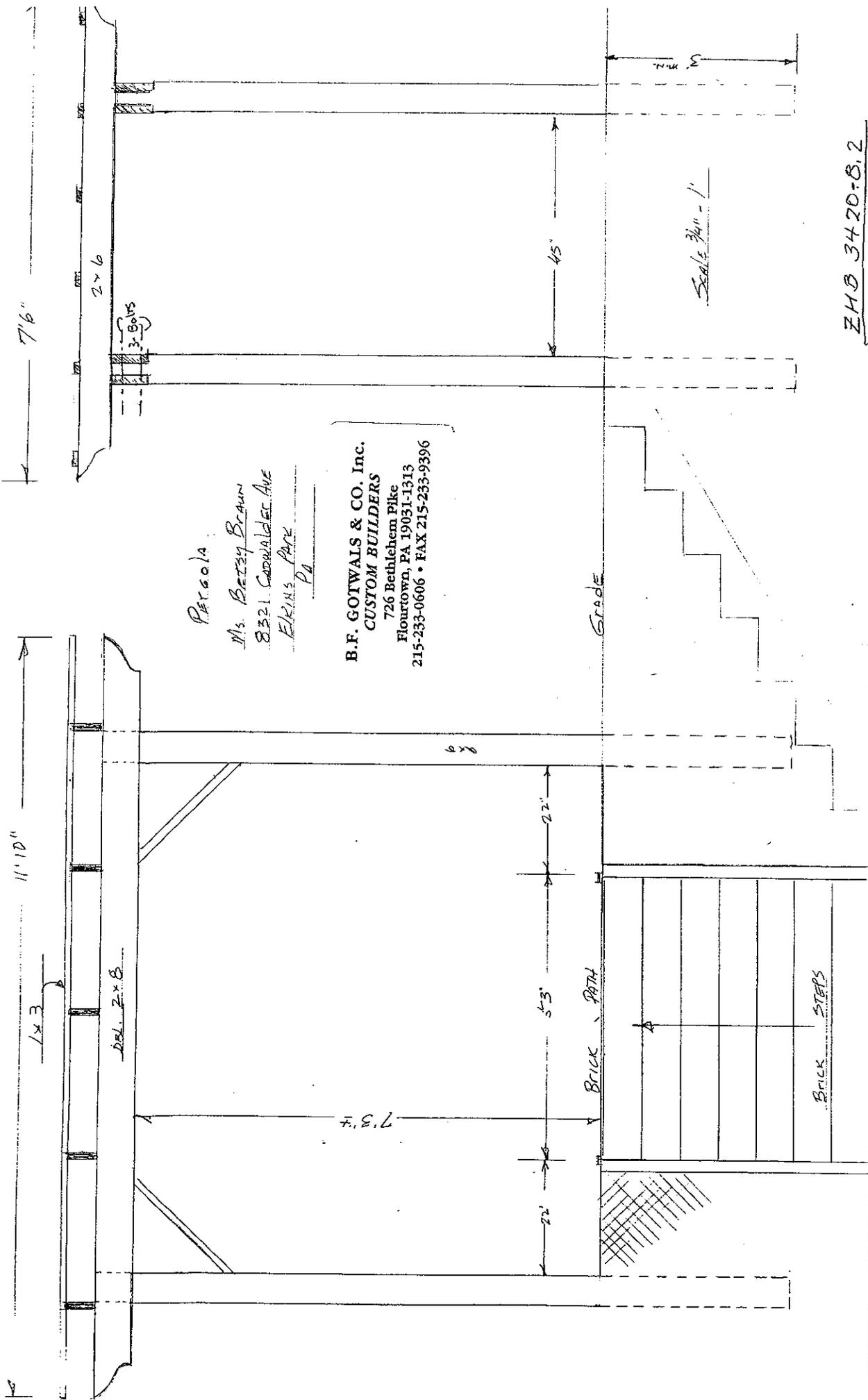
CHELLENHAM TOWNSHIP  
 MONTGOMERY CO. PA.  
 REAL ESTATE REGISTRY  
**BLOCK**  
 SCALE 1" = 60'  
 JULY 1, 1928  
 DRAWN BY SCALE  
 CHECKED BY [ ]

ZHB 3420-4



ELIZABETH BRAUN  
 8321 CADWALADER AVE  
 ELKINS PARK, PA  
 19027

ZHB 3420-7



11'10"

1x3

2x8

2x6

36"

76"

Pergola

Ms. Betsy Braun  
8321 CARWALEY AVE  
ELKINS PARK  
PA

B.F. GOTWALS & CO. Inc.  
CUSTOM BUILDERS  
726 Bethlehem Pike  
Flourtown, PA 19031-1313  
215-233-0606 • FAX 215-233-9396

BRICK PATH

BRICK STEPS

Grade

22'

53'

22'

45'

Scale 3/4" = 1'

ZHB 3420-B.2

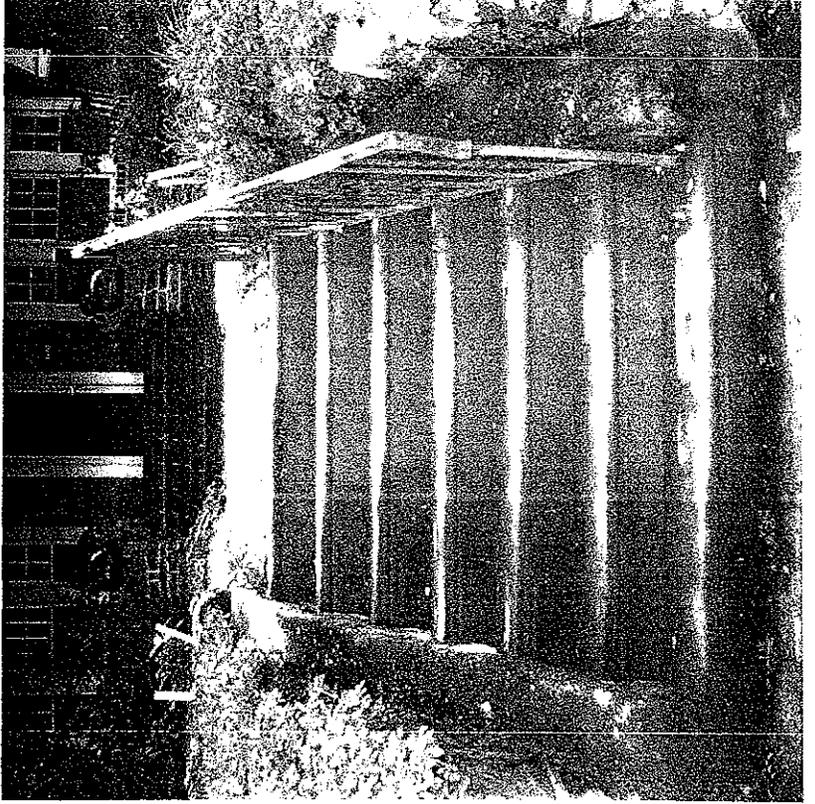
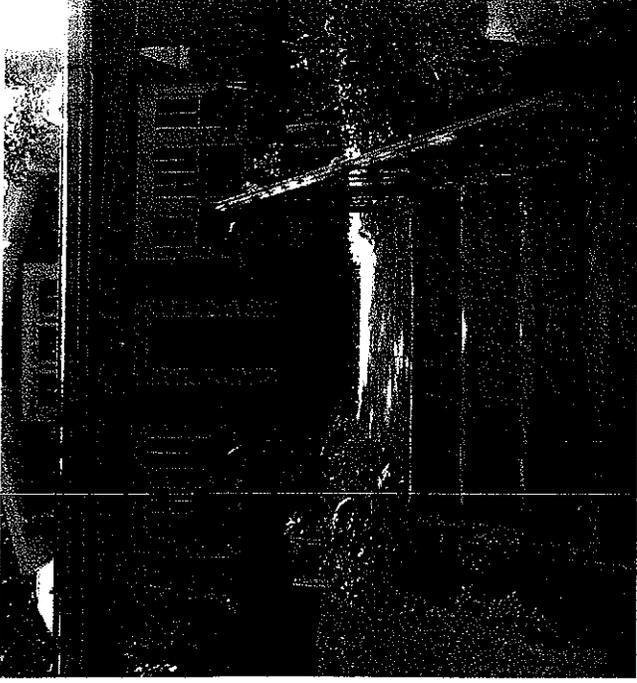
Elizabeth Braun

8321 Cadwalader Ave

Elkins Park, PA 19027

215-635-1877

ZHB-3420-9



## NOTICE

**NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 8340, 8360 and 8380 Old York Road and 50 Breyer Drive, Elkins Park, PA 19027 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:**

- a. **Cheltenham Township Planning Commission on Monday, September 26, 2011 at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095**
- b. **Cheltenham Township Building and Zoning Committee on Wednesday, October 5, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, October 17, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**APPEAL NO. 3421** – 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 51.74 SF (6.72’H x 7.70’W) and a sign height of 8.39’; 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 51.74 ± 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 51.74 ± SF instead of the maximum permitted 20 SF.
  - iii. For aforesaid signs having a sign height of 8.39’ instead of the maximum permitted 4’.
  - iv. For aforesaid signs being internally illuminated instead of the required external illumination.

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**





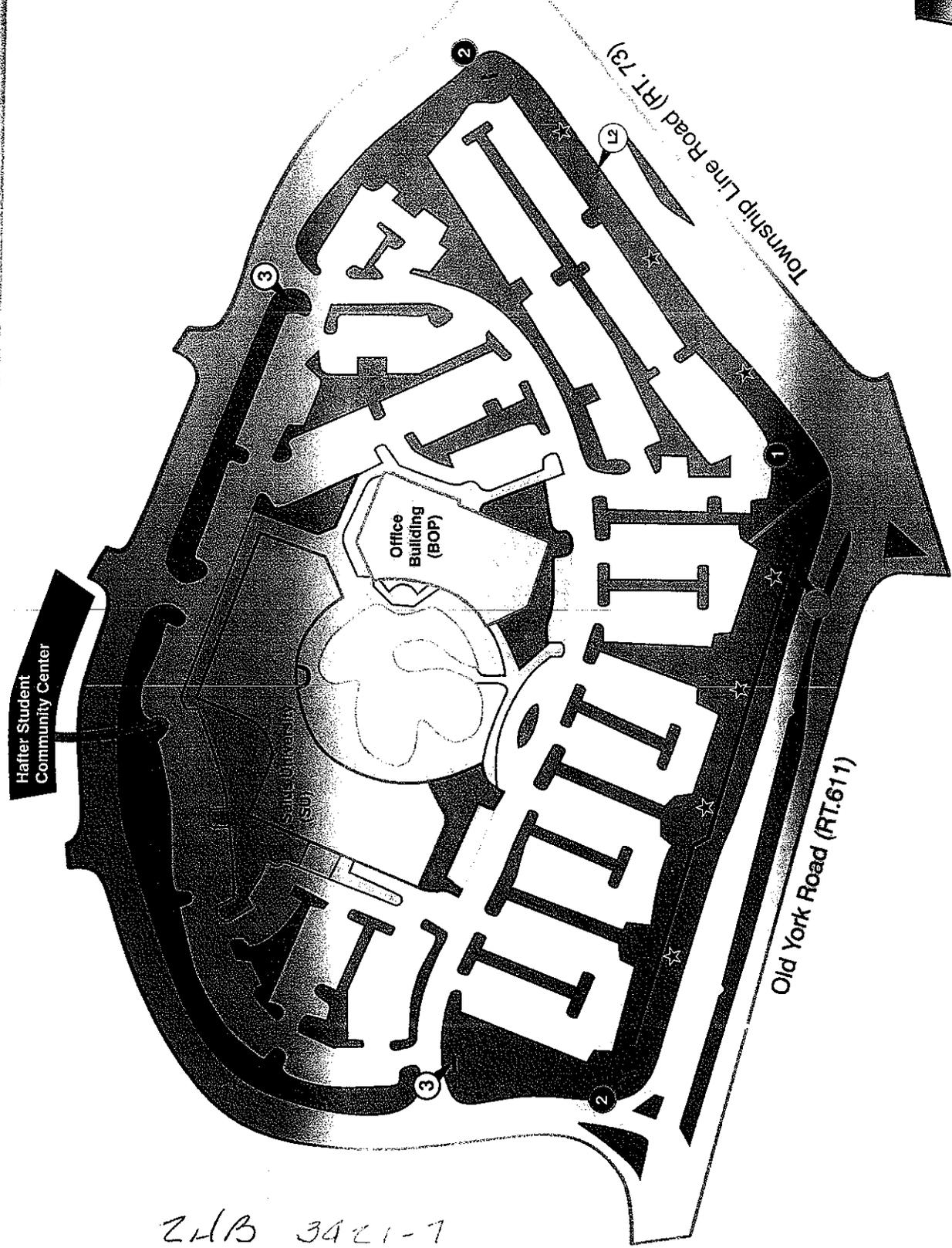
SALISBURY UNIVERSITY

Signage Location Key

- Main Identification (Existing Signage)
- Directional/Tenant (Existing Signage)
- Identifier (New)

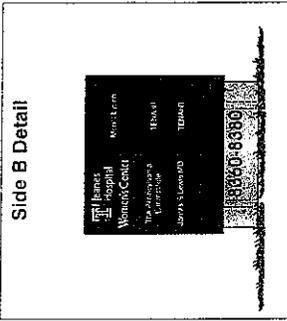
- ▬ Existing Sidewalk
- ▬ Existing
- ▬ New

IMPROVE SIGN PROGRAM



ZLB 3421-7

Double Face, Double Internal Post, Custom Painted Finish, Illuminated  
 \*Utilizes Vertical Lamping\*, See Drawing #22778-JH-4B for Night View



**US SALUS UNIVERSITY**

DRAWING # 22778-JH-4A  
 DATE 09.02.11  
 REVZ  
 SYSTEM HED I-10  
 SCALE 3/8" = 1"

NOTES

All sign components made of extruded aluminum and to be painted with Gray (PMS #445C), Burgundy (PMS #7427C) or Silver

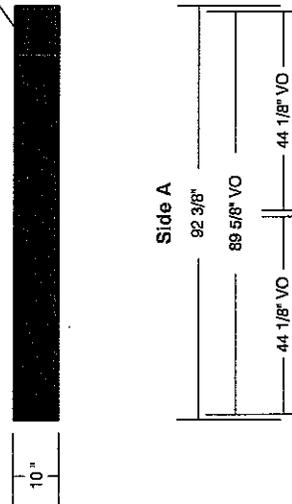
Electrical Required:  
 120 Volt / 8 Amps



Quantity of 2

Top View

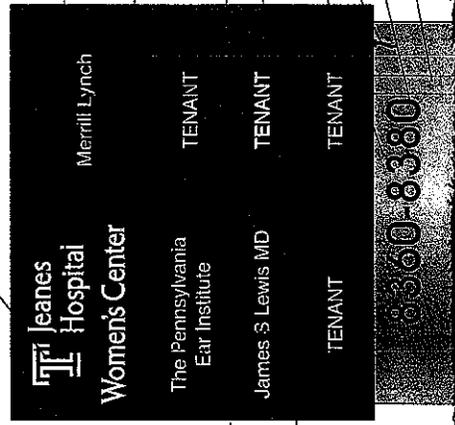
- HED I-10 illuminated sign system with frame painted Burgundy,
- (4) 31 3/4" x 45 3/4" x .125" routed top panels painted Gray,
- (6) 15 3/16" x 45 3/4" x .125" routed middle changeable panels,
- (4) 16 3/16" x 45 3/4" x .125" routed bottom changeable panels,
- all removable panels painted Gray
- \*\*Utilizes Vertical Lamping\*\*



Side A



- Approx. 12 1/2" x 11" routed logo backed with White polycarbonate and Red (PMS #200C). Translucent stencil cut vinyl logo; to illuminate White and Red
- Approx. 5 1/8" routed logo copy backed with White polycarbonate; to illuminate White
- Approx. 5/8" x 40 1/2" routed rule lines backed with White polycarbonate and Red (PMS #200C). Translucent vinyl; to illuminate Red
- (12) 1 3/8" x 44 1/8" two part h-bar dividers painted Burgundy
- (2) 77 7/8" x 1 3/8" two part vertical h-bar divider painted Burgundy
- (1) 20" x 85" x 7" skirted base painted Silver
- Electrical hook up concealed in skirted base
- Approx. 7 3/8" Black vinyl copy
- (2) 4" dia. internal mounting posts painted White
- Concrete footer



ZHB 3421-8

## NOTICE

**NOTICE IS HEREBY GIVEN that an application for Zoning Relief for 1627 W. Cheltenham Avenue, La Mott PA 19027 will be reviewed by the following Township Bodies which will offer recommendations to the Zoning Hearing Board:**

- a. **Cheltenham Township Planning Commission on Monday, September 26, 2011 at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095**
- b. **Cheltenham Township Building and Zoning Committee on Wednesday, October 5, 2011 at 8:00 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**This application will be heard by the Zoning Hearing Board on Monday, October 17, 2011 at 7:30 P.M. at Curtis Hall, at Curtis Arboretum, Greenwood Avenue and Church Road, Wyncote, PA 19095.**

**APPEAL NO. 3422** – Appeal of Stenton Property LLC, Owner of premises known as 1627 W. Cheltenham Avenue, La Mott, PA 19027, from the Decision of the Zoning Officer for the following Zoning Relief in order to operate an 45' x 40' (1800 SF), 4 Bay Automobile Repair Facility on Tract 2 (rear vacant lot) of the Premises:

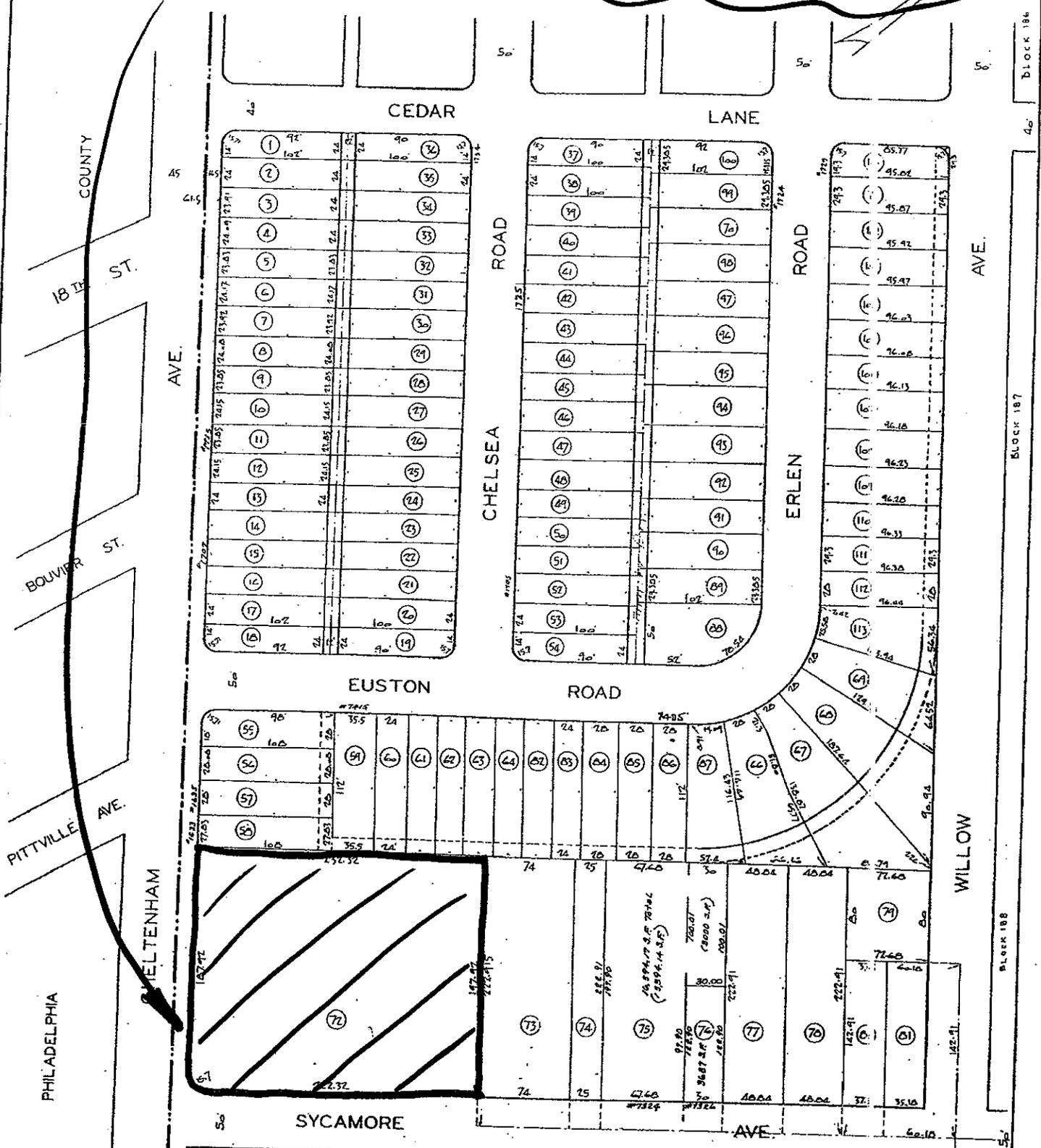
- a. A Determination that the proposed use as an Automobile Repair Facility on Tract 2 is a continuation of an existing nonconforming use pursuant to CCS 295-227. A.,B.,C.,E. and F..
- b. In the alternative to a, above, a Variance from the Rules and Regulations of the Class R-6 Residence District as outlined in CCS 295-50. for the operation of an Automobile Repair Facility on Tract 2 instead of one of the permitted enumerated uses.
- c. A Variance from the Rules and Regulations of the Class R-6 Residence District as outlined in CCS 295-53.B.(2) for a lesser Side Yard Setback of 10' along the Southwest Property Line (Common Line with Tract 1) instead of minimum required 16'.
- d. A Determination that the 16 Parking Spaces ("P.S.") provided are sufficient for the proposed use as an Automobile Repair Facility; Applicant proposes 3 P.S. for each Service Bay (4 Bays @ 3 P.S. each =12 P.S.) and four employee P.S. pursuant to CCS 295-221.H..
- e. A Variance from the Rules and Regulations of "Parking and Loading" as outlined in CCS 295-221.H. to permit 6 of the proposed P.S. to be held in reserve for future use.
- f. Variances from the Rules and Regulations of "Signs" as outlined in CCS 295-197.A., as follows:
  - i. For one (1) 2'x 10' Parallel Wall Sign facing Cheltenham Avenue.
  - ii. For one (1) free-standing sign on front portion of Property, size and location to be determined.

**The above application, including site plans, is on file in the Township Administration Building, Building and Zoning Department, Room 204, 8230 Old York Road, Elkins Park, PA, 19027 and are open for review, Monday thru Friday, 8:00 AM to 4:30 PM.**

**Any person or persons with a disability requiring a special accommodation to participate in the meeting should notify Nancy K. Gibson at 215-887-1000 at least 5 work days prior to the meeting.**

# 1627 W. CHELTENHAM AVE.

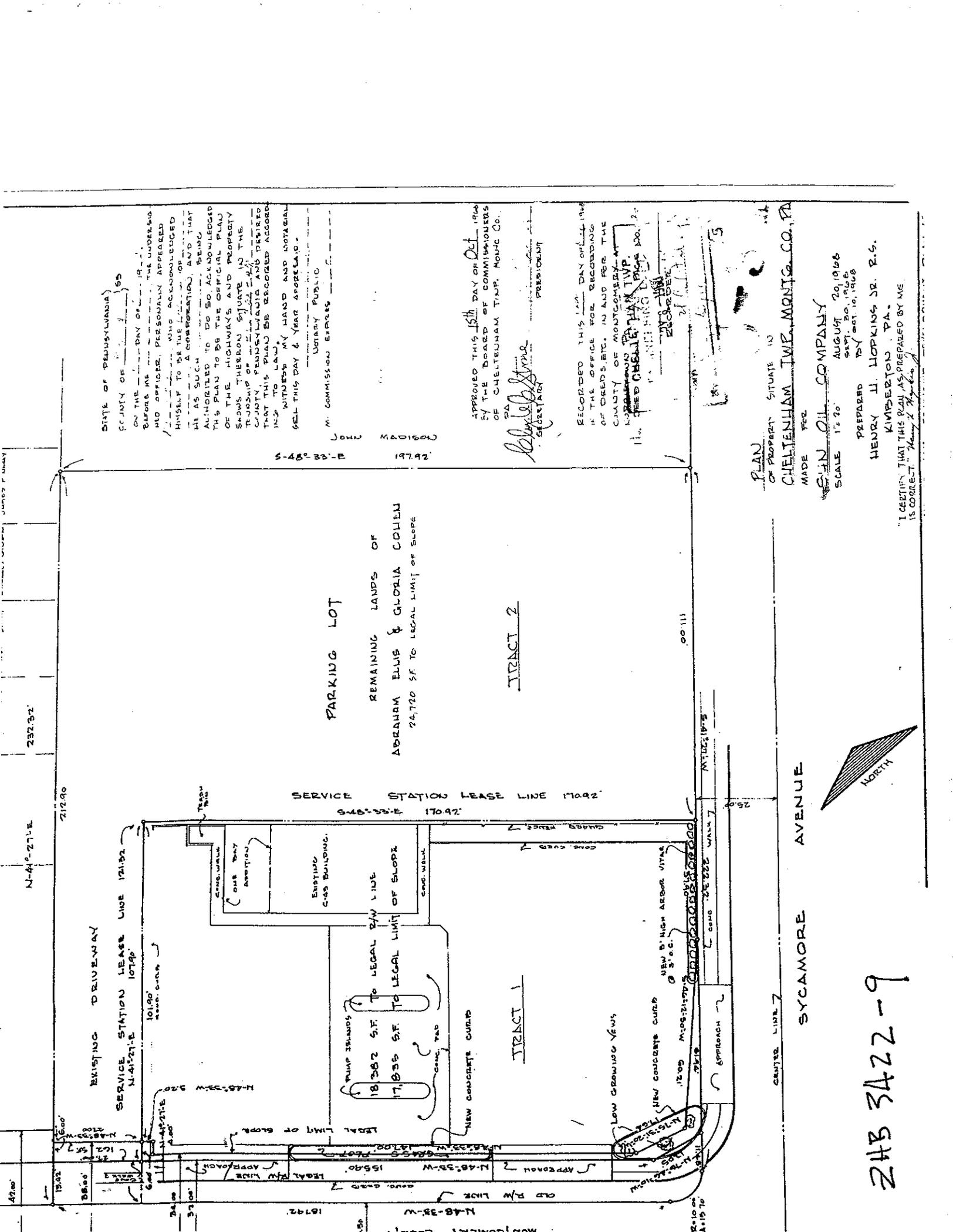
Block 190



ZHB 3422-4

CHELTENHAM TOWNSHIP  
 MONTGOMERY CO. PA.  
**REAL ESTATE REGISTRY**  
**BLOCK 191**  
 SCALE 1" = 50'  
 AUG. 30, 1936. DRAWN BY: [unclear] CHECKED BY: [unclear]





STATE OF PENNSYLVANIA)  
 COUNTY OF MONTGOMERY) SS  
 ON THE 15th DAY OF OCTOBER 1968, the undersigned  
 and officer, personally appeared  
 himself to be the legal owner of the above  
 described premises, and that  
 he as such owner, being  
 authorized to do so, acknowledged  
 the plan to be the official plan  
 of the highways and property  
 shown thereon situate in the  
 Township of Cheltenham, County of  
 Montgomery, Pennsylvania and desired  
 that this plan be recorded accord-  
 ing to law.  
 WITNESS MY HAND AND NOTARIAL  
 SEAL THIS DAY & YEAR ABOVE SAID.

JOHN MADISON  
 Notary Public  
 M. Commission Expires \_\_\_\_\_

APPROVED THIS 15th DAY OF OCTOBER 1968  
 BY THE BOARD OF COMMISSIONERS  
 OF CHELTENHAM TWP. HENRY CO.  
 Secretary  
 President

RECORDED THIS 15th DAY OF OCTOBER 1968  
 IN THE OFFICE FOR RECORDING  
 OF DEEDS, ETC. IN AND FOR THE  
 COUNTY OF MONTGOMERY, PENNSYLVANIA  
 BY DEED CHIEF CLERK HENRY CO.  
 RECORDER

PLAN OF PROPERTY SITUATE IN  
 CHELTENHAM TWP. MONTGOMERY CO., PA.  
 MADE PER  
 SUN OIL COMPANY  
 SCALE 1" = 20'  
 AUGUST 20, 1968  
 PREPARED BY OCT. 10, 1968  
 HENRY H. HOPKINS JR. P.E.  
 KIMBERTON, PA.  
 I CERTIFY THAT THIS PLAN AS PREPARED BY ME  
 IS CORRECT.

PARKING LOT  
 REMAINING LANDS OF  
 ABRAHAM ELLIS & GLORIA COHEN  
 24,720 SF TO LEGAL LIMIT OF SLOPE

TRACT 2

SERVICE STATION LEASE LINE 170.92'

SYCAMORE AVENUE

24B 3422-9



# Architects, PC

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ARCHITECTS & PLANNERS

Harold Lichtman, AIA  
(NJ 7694, PA 7971, FL 8288)

September 14, 2011

David G. Kraynik, Township Manager  
Township of Cheltenham  
8230 Old York Road  
Elkins Park, Pennsylvania 19027

Re: Creekside Co-op  
7909 High School Road  
Elkins Park, PA

Dear Mr. Kraynik:

On behalf of the members of Our Community Cooperative of Cheltenham Township, Inc. (Creekside Co-op), please accept his letter as their request for a waiver of Building Permit and Sewer EDU purchase fees associated with the renovation to their property at 7909 High School Road.

The Creekside Co-op is a community based, Pennsylvania Not-For-Profit Corporation that will be commencing its renovation project this winter and expects to be open for business in the fall of 2012. The Co-op is currently operated by a volunteer Board of Directors and while it is anticipated that the Market will have a few part-time paid employees, it will continue to be operated primarily by volunteers from the Cheltenham Community.

The property has been vacant for over two years and has become a detriment to the vitality of the Elkins Park East area. The improvements proposed by the Creekside Co-op, which have received Cheltenham Township Planning Commission, Zoning Hearing Board and Board of Commissioners support in the past, will greatly enhance not only their building, but also the entire Elkins Park East area. Additionally, its improvements will provide additional income to the Township through the payment of employee wage taxes and it is expected that the substantial physical improvements will enhance the value of the property and therefore enhance the real estate taxes to be paid to the Township and to the Cheltenham School District.

New Jersey  
927 Larkspur Place South  
Mt. Laurel, NJ 08054  
Phone: 856.234.2389  
Facsimile: 215-885-7966

E-Mail :GLP@GLPArch.com

Pennsylvania  
400 Greenwood Avenue  
Wyncote, PA 19095  
Phone: 215.885.1500  
Facsimile: 215.885.7966



# Architects, PC

ARCHITECTS & PLANNERS

Harold Lichtman, AIA  
(NJ 7694, PA 7971, FL 8288)

In today's economic environment it is essential, especially for Not-For-Profits, the first costs of start-up be directed to the physical improvements required to ensure the success of the venture. The costs associated with the Building Permits and purchase of Sewer EDU's is approximately \$34,000.00. This money invested in the Co-op will reap many times that amount for the Township directly through new taxes and indirectly by increasing commerce within Cheltenham Township and enhancing the value of the adjoining properties and the neighborhood in general.

We would appreciate the timely placing of this request on an upcoming agenda for the Board of Commissioners. The project is now moving at a quickened pace with final acquisition due before the end of the year. With this schedule the Co-op needs to understand its support from the Board of Commissioners. This meeting will also permit the community to have an opportunity to voice its support for this request.

Sincerely,

Harold Lichtman, AIA

New Jersey  
927 Larkspur Place South  
Mt. Laurel, NJ 08054  
Phone: 856.234.2389  
Facsimile: 215-885-7966

E-Mail :GLP@GLPArch.com

Pennsylvania  
400 Greenwood Avenue  
Wyncote, PA 19095  
Phone: 215.885.1500  
Facsimile: 215.885.7966

The Planning Commission ("PC") meeting was held tonight at Curtis Hall at Curtis Arboretum. The following Planning Commission members were present: Messrs. Cross, Gordon, Winneberger, and also present was ex-officio member Scott Laughlin. Also present was Carmen G. Reitano, Assistant Director of Engineering, Zoning & Inspections.

**1. Acceptance of the minutes of the August 22, 2011 Meeting.**

Mr. Cross made a Motion for acceptance of the August 22, 2011 Planning Commission Meeting Minutes; Mr. Winneberger seconded the Motion; the Motion passed.

**2. Review of Zoning Hearing Board Agenda for October 17, 2011.**

**APPEAL NO. 3422** – Appeal of Stenton Property LLC, Owner of premises known as 1627 W. Cheltenham Avenue, La Mott, PA 19027 (rear vacant lot), from the Decision of the Zoning Officer for the following Zoning Relief in order to operate an 45' x 40' (1800 SF), 4 Bay Automobile Repair Facility on Tract 2 of the Premises:

- a. A Determination that the proposed use as an Automobile Repair Facility on Tract 2 is a continuation of an existing nonconforming use pursuant to CCS 295-227. A.,B.,C.,E. and F..
- b. In the alternative to a; above, a Variance from the Rules and Regulations of the Class R-6 Residence District as outlined in CCS 295-50. for the operation of an Automobile Repair Facility on Tract 2 instead of one of the permitted enumerated uses.
- c. A Variance from the Rules and Regulations of the Class R-6 Residence District as outlined in CCS 295-053.B.(2) for a lesser Side Yard Setback of 10' along the Southwest Property Line (Common Line with Tract 1) instead of minimum required 16'.
- d. A Determination that the 16 Parking Spaces ("P.S.") provided are sufficient for the proposed use as an Automobile Repair Facility; Applicant proposes 3 P.S. for each Service Bay (4 Bays @ 3 P.S. each =12 P.S.) and for employee P.S. pursuant to CCS 295-221.H..
- e. A Variance from the Rules and Regulations of "Parking and Loading" as outlined in CCS 295-221.H. to permit 6 of the proposed P.S. to be held in reserve for future use.
- f. Variances from the Rules and Regulations of "Signs" as outlined in CCS 295-197.A., as follows:
  - i. for one (1) 2'x 10' Parallel Wall Sign facing Cheltenham Avenue.
  - ii. For one (1) free-standing sign on front portion of Property, size and location to be determined.

Michael Yanoff, Esq. and Harold Lichtman, AIA were present for this application.

Mr. Yanoff stated that this property was in front of this committee once before, however, it was for the first tract of land not the second. The current appeal applies to the rear tract of land where his client proposes to place an automobile repair facility. Mr. Yanoff further stated that a determination is required because Mr. Lynch the Township Engineer believes that these lots were once subdivided and that the zoning relief acquired by the first tract doesn't run to the second tract.

Mr. Yanoff stated that the property has always been one tract of land since Sun Oil occupied the space years ago. Sun Oil shows a lease agreement line on their deed but no subdivision line.

Mr. Yanoff stated that according to Montgomery County there is no special deed showing two lots of land but rather just one. Mr. Yanoff stated that he believes the proposed Automobile Repair Shop should be a continuation of a previous non-conforming use.

Ms. Darlene Melton was present to express her concerns. Ms. Melton stated that she has lived in the area since 1988 and agrees that the property has always been one lot and has no recollection of it being subdivided. Ms. Melton stated that she's worried about the amount of traffic being generated and is requesting that this application go in front of the La Mott BHAR prior to the Planning Commission making a Motion.

Mr. Lichtman stated that the application is not Land Development but rather a zoning issue.

Mr. Reitano stated that this application will be in front of the La Mott BHAR in November; but the La Mott BHAR does not preempt zoning.

Mr. Laughlin asked about the emergency entry that's shown on plan. Mr. Lichtman stated that the emergency entry is actually a curb cut that has had a chain across the entry for years. Mr. Lichtman stated that there is no proposed use for that area and there is grass behind it.

Mr. Gordon asked why the access on Cheltenham wasn't be used. Mr. Gordon asked if would be possible to use the Cheltenham Avenue instead of the access on Sycamore to spare the residents. Mr. Lichtman stated that the Cheltenham Avenue area was concerned about excess traffic in an already congested area.

Mr. Winneberger made a Motion of No Action; Mr. Gordon seconded the Motion; the Motion passed.

**APPEAL NO. 3421** – 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 51.74 SF (6.72'H x 7.70'W) and a sign height of 8.39'; 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 51.74 ± 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 51.74 ± SF instead of the maximum permitted 20 SF.
- iii. For aforesaid signs having a sign height of 8.39' instead of the maximum permitted 4'.
- iv. For aforesaid signs being internally illuminated instead of the required external illumination.

Mr. Donald Kates was present for this application.

Mr. Kates stated that the biggest complaint the Zoning Hearing Board had was the orientation of signs. Salus originally had the signs parallel but the ZHB suggested making the signs perpendicular for better visibility.

The ZHB also suggested that since Salus University already has two signs of its own perhaps taking off the name of Salus University at the top of the tenant signs off and just leave the tenants names listed.

Mr. Winneberger made a Motion of No Action; Mr. Gordon seconded the Motion; the Motion passed.

**APPEAL NO. 3420:** Appeal of Elizabeth Sand Braun, owner of Premises known as 8321 Cadwalader Avenue, Elkins Park, PA 19027 from the Decision of the Zoning Officer for a Variance from the Rules and Regulations of the Class R-4 Residence District as outlined in CCS 295-39.A.(1) for a lesser Front Yard Setback of 6.38' instead of the minimum required 40' for a 9.08' W x 4.75' D x 8.3' H front sidewalk entrance trellis.

Ms. Braun was present for this application.

Ms. Braun stated that all she is looking for is to add a wooden trellis to her front yard. Mr. Cross asked what kinds of materials are being used. Ms. Braun stated that it would be made out of Cedar.

Mr. Reitano stated that Mr. Lynch is ok with the wooden trellis but requires any structure to go through zoning.

Mr. Winneberger made a Motion of No Action; Mr. Gordon seconded the Motion; the Motion passed.

**APPEAL NO. 3415:** (Continued and Amended) Appeal of Dr. Rami E. Geffner, equitable Owner of 8031 Old York Road, Elkins Park, PA 19027 (formerly "Rosenbluth Travel"), from the Decision of the Zoning Officer for a Variance from the Rules and Regulations of "Parking and Loading" as outlined in CCS 295-221.H. for providing zero off-street parking spaces on the premises for a Medical Office instead of the required 8 parking spaces.

No one was present for this application.

Mr. Robert Haaz, the owner of Sousan's Pharmacy, is concerned about the walk-in traffic from Irving Lane. Mr. Haaz is also concerned about the lack of parking and is concerned that the medical office has proposed seating for 15 waiting patients and that doesn't include workers. Mr. Haaz stated that the overflow from the Municipal Lot will attempt to park in his private parking spaces in front of the pharmacy.

A discussion ensued concerning the existing structure and possible code violations.

Mr. Reitano stated that upon being made aware of a possible unsafe structure that he would have to make arrangements to inspect this building.

Mr. Cross stated that the applicant didn't previously mention making use of the basement area.

Mr. Cross stated that this plan isn't working. Mr. Cross stated that he has issues with parking and the use of the building along with the methods of egress because of safety concerns.

Mr. Cross further stated that there are too many questions about the occupancy of this building.

Mr. Winneberger stated that he doesn't want to see parking being the focus of this application.

Mr. Winneberger made a Motion of Denial; Mr. Gordon seconded the Motion; the Motion passed.

**APPEAL NO. 3413:** (Continued) Appeal of Montgomery Court Realty Co., L.P., owner of premises known as 7803 Montgomery Avenue, Elkins Park, PA 19027, from the Decision of the Zoning Officer in order to operate a Private Ambulance Service from the premises

a. A Determination that the storage of Private Ambulance on the premises overnight is not a function of the operation of a Private Ambulance Service and thus permitted as a legal nonconforming use of the premises per the grant of relief under ZHB Appeal No. 1563.

b. In the alternative to a, above, a Determination, pursuant to "Nonconforming Uses" as outlined in CCS 295-227.F., that the operation of a Private Ambulance Service is of the same class of use as the previously approved nonconforming use(s) and thus permissible.

c. In the alternative to a. and b., above, a Variance from the Rules and Regulations of the Class R-5 Residence District as outlined in CCS 295-43. for the operation of a Private Ambulance Service instead of one of the enumerated permitted uses.

No one was present for this application.

Mr. Winneberger made a motion to reaffirm the previous Motion of No Action with the following conditions:

- Non emergency transport only.
- No sirens at any time.
- Garage door down at all times except to move vehicles in and out.
- Ambulances can make one trip in and one trip out each day.
- No maintenance or repair to be done on site.
- No parking on sidewalk or the street.
- No other functions of private ambulance business to be performed on property.

Mr. Gordon seconded the Motion; the Motion passed.

**3. Review of Cheltenham Development Application No. 11-0550: Record Plan School District of Cheltenham- Cheltenham Elementary School Reconstruction-7853 Front Street.**

Mr. Glenn Harris from Renew Design Group was present for this application.

Mr. Harris explained the differences of the current site plan and proposed site plan to committee members. Mr. Harris stated that the Cheltenham Elementary school is a little smaller than Glenside Elementary School. Discussion ensued regarding various elevations shown on the plan.

Discussion ensued regarding the locations of classrooms, auditoriums, cafeterias etc.

Mr. Winneberger asked if there was going to be a court yard as there is at Glenside Elementary. Mr. Harris stated that there are no plans for a court yard.

Mr. Harris stated that this plan is in the process of being designed and that the school board hasn't approved the site plan to date.

Discussion ensued regarding grades of land around the playground spaces. Mr. Harris stated that the Police Department requested a designated space for officers to park.

Ms. Mazzaccaro stated that Cheltenham Township has seen a dramatic decline of school age children in the past 10 years.

Discussion ensued regarding storm water management and infiltration basins on the plan.

Mr. Harris stated that the stormwater basin will be reviewed and revised to clarify details.

Mr. Reitano reviewed Mr. Lynch's review comments and Mr. Harris concurred that the drawings will be revised accordingly specifically concerning the lighting plans.

The Planning Commission has no problems with the presented plan.

**4. Old Business**

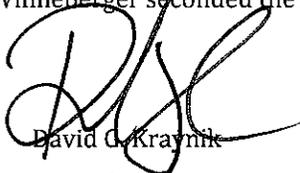
None

**5. New Business**

None

**6. Adjournment**

Mr. Cross made a motion for adjournment; Mr. Winneberger seconded the Motion, the Motion passed. The meeting adjourned at 9:04 P.M.



David G. Kraynik  
Township Manager

Per Holly A. Nagy

**ZONING HEARING BOARD  
OF CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**APPEAL NO. 3401**

Applicant: Elizabeth R. Higgins  
532 Woodland Avenue  
Cheltenham, Pennsylvania 19012

Subject Premises : 532 Woodland Avenue  
Cheltenham, Pennsylvania

Owner of Premises: Elizabeth R. Higgins

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of a deck, measuring 9 feet wide by 45 feet long, and a shed, measuring 9 feet wide by 15 feet long, along the northeast side of the residence which creates a less than required side yard setback on the Property would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XI, Section 295-67, regulating yard setbacks.

Applicant seeks variances from the rules and regulations of the R-8 Residence District as follows:

- (1) a variance from Section 295-67 (B)(2) to allow a zero foot side yard setback from the northeast property line instead of the minimum required 9 feet for the construction of the following:
  - (i) a deck, measuring 9 feet by 45 feet;
  - (ii) a shed, measuring 9 feet by 15 feet.

Time and Place of Hearing: Monday, July 11, 2011 -- 7:50 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

## FINDINGS OF FACT

1. Applicant Elizabeth R. Higgins (“Applicant”) is the owner of the premises known as 532 Woodland Avenue, Pennsylvania (the “Property”).

2. Prior to the holding of the hearing in this matter, an advertisement, noting the time and place of the hearing and the contents of the appeal, was placed in a newspaper of general circulation.

3. The property is located in an R-8 Residence District and is improved by a twin home residence.

4. The following documents were made a part of the record:

ZHB-1. a listing of exhibits;

ZHB-2. a copy of the legal notice with regard to the holding of hearing;

ZHB-3. an Application to the Zoning Hearing Board, referenced as Appeal No. 3401;

ZHB-4. a location map marked as Real Estate Registry Block 71, showing the location of the property;

ZHB-5. MEA Land Record Parcel Information on Property dated April 19, 2011;

ZHB-6. Building and Zoning Committee recommendation letter dated July 11, 2011;

ZHB-7. site plan of the Property lot with calculations;

ZHB-8. additional site plan illustrating the current existence and the proposed layout of the Property and structures;

ZHB-9. letter of neighbor Thomas Ryan of 528 Woodland Avenue;

ZHB-10. revised site plan of the Property;

ZHB-11. layout of the Property along with elevations;

A-1. letter of neighbor Loretta Steuer of 534 Woodland Avenue;

A-2. letter of neighbor John Toscano of 525 Woodland Avenue; and

A-3. letter of Michael Hoch.

5. Applicant proposes to construction of a deck, measuring 9 feet wide by 45 feet long, and a shed, measuring 9 feet wide by 15 feet long, along the northeast side of the residence.

6. The proposed construction creates a zero foot side yard setback on the northeast property line of the Property.

7. There is approximately 7 to 8 feet between the northeast property line and the residence on the neighboring property.

8. Applicant has withdrawn her request for a variance in connection with the construction of the proposed shed.

9. Construction of an elevated deck will provide access from the main living area of the residence.

10. The Property is approximately 25 feet long and from the rear of the house, the deck will extend 19 feet into the rear yard.

11. Applicant's neighbors are in favor of the proposed project.

12. A grant of relief to allow construction of a deck, measuring 9 feet wide by 45 feet long, along the northeast side of the residence with a zero foot side yard setback from the northeast property line instead of the minimum required 9 feet will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

13. A grant of relief to allow construction of a deck, measuring 9 feet wide by 45 feet long, along the northeast side of the residence with a zero foot side yard setback from the northeast property line instead of the minimum required 9 feet will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

14. A grant of relief to allow construction of a deck, measuring 9 feet wide by 45 feet long, along the northeast side of the residence with a zero foot side yard setback from the northeast property line instead of the minimum required 9 feet will not be contrary to the public interest.

### **CONCLUSIONS OF LAW**

1. Construction of a deck, measuring 9 feet wide by 45 feet long, with a zero foot side yard setback a property line is not permitted by the Cheltenham Township Zoning Ordinance. However, in accordance with the Pennsylvania Municipalities Planning Code and the Cheltenham Zoning Ordinance, the Cheltenham Township Zoning Hearing Board is empowered to hear and decide requests for variances where it is alleged that strict conformance with the governing ordinances would result in unnecessary hardship

2. Under the circumstances of this matter, Applicant has met her burden in establishing that, due to the unique physical circumstances of the Property and those imposed by

surrounding properties, a failure to grant relief to allow construction of a deck, measuring 9 feet wide by 45 feet long, along the northeast side of the residence with a zero foot side yard setback from the northeast property would result in an unnecessary hardship.

3. The variance as hereafter granted is the minimum variance that will afford Applicant relief and represent the least departure from the governing regulations.

4. The variance will not be contrary to the public interest.

### **DECISION**

**WHEREFORE**, this 11<sup>th</sup> day of July, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant a variance from the rules and regulations of Article XI, Section 295-67(B)(2), to allow the construction of a deck, measuring 9 feet wide by 45 feet long, along the northeast side of the residence with a zero foot side yard setback from the northeast property line

This grant of relief is subject, however, to the following conditions:

- (1) a complete copy of the recorded deed of the subject Property shall be submitted to the Zoning Officer within four (4) weeks of the date of Hearing.
- (2) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its July 11, 2011 meeting.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

### **CHELTENHAM TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

---

**AMEE FARRELL, Member**

**THIS DECISION IS OFFICIALLY ISSUED ON SEPTEMBER 9, 2011.**

**ZONING HEARING BOARD  
OF CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**APPEAL NO. 3405**

Applicant: Dreck Properties, Ltd.  
c/o David Mermelstein  
1751 Easton Road  
Willow Grove, Pennsylvania 19090

Subject Premises : 7770 Montgomery Avenue  
Elkins Park, Pennsylvania

Owner of Premises: David Mermelstein

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of a duplex on the Property, creating a less than required lot area, a greater than permitted building area, lesser side and rear yard setbacks, providing no landscaping within the first 15 feet from the street line, a less than required buffer area, a less than required off-street parking area and a non-permitted use in the R-5 Zoning District would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XVII, Section 295-119, regulating lot area, Article XVII, Section 295-120, regulating building area, Article XVII, Section 295-121, regulating yard setbacks, Article XVII, Section 295-124, regulating green area, Article XVII, Section 295-125, regulating buffer area, Article VIII, Section 295-43, regulating permitted uses, and Article XXIX, Section 295-221, regulating off-street parking.

Applicant seeks variances from the rules and regulations of the C-3 Commercial and Business District (in connection with the northerly 40.67 feet

of the Property along Montgomery Avenue) and the R-5 Residence District (in connection with the southerly 4.33 feet of the Property along Montgomery Avenue) as follows:

- (1) a variance from Section 295-119 to allow the construction of a duplex on the Property, with a lesser lot area of 1,220 square feet per family in the C-3 Zoning District instead of the minimum required 2,500 square feet per family (the overall area per family is 1,350 square feet (C-3 and R-5 Zoning Districts));
- (2) a variance from Section 295-120 to allow the construction of a duplex on the Property with a greater building area of 75.82% in the C-3 Zoning District instead of the maximum permitted 60% (the overall building area is 68.52%);
- (3) a variance from Section 295-121(A) to allow the construction of a duplex on the Property with a zero width front yard setback instead of the minimum required 15 feet;
- (4) a variance from Section 295-121(C) to allow the construction of a duplex on the Property with a zero width side yard setback from the north side Property line instead of the minimum required 8 feet;
- (5) a variance from Section 295-121(C) to allow the construction of a duplex on the Property with a 3.67 foot side yard setback from the C-3/R-5 Zoning District boundary line instead of the minimum required 8 feet (the overall side yard setback from the south side property line is 8 feet);
- (6) a variance from Section 295-121(D) to allow the construction of a duplex on the Property with a lesser rear yard setback of 10 feet instead of the minimum required 25 feet;
- (7) a variance from Section 295-124 to allow the construction of a duplex on the Property,

with no required landscaping in the first 15 feet from the street line;

- (8) a variance from Section 295-125 to allow the construction of a duplex on the Property providing a 3.67 foot wide buffer area along the C-3/R-5 Zoning District boundary line instead of the minimum required 5 foot wide buffer area;
- (9) a variance from Section 295-43 to allow the use of the southerly 4.33 feet by 60 foot section of the Property that is within the R-5 Zoning District for the duplex use instead of one of the enumerated permitted uses; and
- (10) a variance from Section 295-221(H) to allow for a lesser amount of off-street parking of two parking spaces instead of the minimum required four parking spaces in connection with the construction of a duplex on the Property.

Time and Place of Hearing: Monday, July 11, 2011 – 8:00 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

### **FINDINGS OF FACT**

1. Applicant David Mermelstein d/b/a Dreck Properties Ltd. (“Applicant”) is the owner of the premises known as 7770 Montgomery Avenue, Elkins Park, Pennsylvania (the “Property”).
2. Prior to the holding of the hearing in this matter, an advertisement, noting the time and place of the hearing and the contents of the appeal, was placed in a newspaper of general circulation.
3. The property is a vacant lot located in a C-3 Commercial and Business District (in connection with the northerly 40.67 feet of the Property along Montgomery Avenue) and the R-5 Residence District (in connection with the southerly 4.33 feet of the Property along Montgomery Avenue).
4. The following documents were made a part of the record:  
  
ZHB-1. a listing of exhibits;

- ZHB-2. a copy of the legal notice with regard to the holding of hearing;
- ZHB-3. an Application to the Zoning Hearing Board, referenced as Appeal No. 3405;
- ZHB-4. a location map marked as Real Estate Registry Block 39, showing the location of the property;
- ZHB-5. MEA Land Record Parcel Information on Property dated June 10, 2011;
- ZHB-6. Building and Zoning Committee recommendation letter dated July 11, 2011;
- ZHB-7. copy of Zoning Plans and Elevation, page Z-1, prepared by Olaya Studio Arquitecturs;
- ZHB-8. drawing of the site plan with notations and showing a reference point of Montgomery Avenue;
- ZHB-9. a reprint of a portion of the tax map from Atlas of the Reading Main Line, Volume 1, 1927, with handwritten notations;
- ZHB-10. additional map illustrating the location of the Property;
- ZHB-11. a photograph showing an aerial view of the Property;
- ZHB-12. a photograph showing an aerial view of the Property;
- ZHB-14. an exhibit of a three-story plan from Zoning Hearing Board at Appeal 3397; and
- ZHB-15. decision of the Zoning Hearing Board at Appeal 3397.
5. Applicant proposes to construct a two-story duplex on the Property.
  6. The Property measures 45 feet by 60 feet. The proposed duplex will measure 37 feet in width, leaving 8 feet on the side yard and 10 feet in the back yard.
  7. The proposed duplex will include an unfinished basement for storage, the living space at the ground level, and the bedrooms on the second floor.
  8. Applicant had previously appeared before the Zoning Hearing Board with a proposal to construct a three-story duplex on the Property, which appeal was denied.
  9. Previously, a store front with upstairs apartment was located on the Property, which were destroyed by fire.

10. The block consists of stores on the first floor with apartments on the second floor. The Property is currently a vacant lot on the block.

11. Applicant proposes to include space for two off-street parking spaces, one for each dwelling. No other off-street parking is available on Montgomery Avenue.

12. Applicant stated that both neighbors on either side of the Property approve of the proposed construction of the duplex.

13. A grant of relief to allow the construction of a duplex on the Property, with a lesser lot area of 1,220 square feet per family in the C-3 Zoning District instead of the minimum required 2,500 square feet per family (the overall area per family is 1,350 square feet (C-3 and R-5 Zoning Districts) will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

14. A grant of relief to allow the construction of a duplex on the Property, with a lesser lot area of 1,220 square feet per family in the C-3 Zoning District instead of the minimum required 2,500 square feet per family (the overall area per family is 1,350 square feet (C-3 and R-5 Zoning Districts) will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

15. A grant of relief to allow the construction of a duplex on the Property, with a lesser lot area of 1,220 square feet per family in the C-3 Zoning District instead of the minimum required 2,500 square feet per family (the overall area per family is 1,350 square feet (C-3 and R-5 Zoning Districts) will not be contrary to the public interest.

16. A grant of relief to allow the construction of a duplex on the Property with a greater building area of 75.82% in the C-3 Zoning District instead of the maximum permitted 60% (the overall building area is 68.52%) will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

17. A grant of relief to allow the construction of a duplex on the Property with a greater building area of 75.82% in the C-3 Zoning District instead of the maximum permitted 60% (the overall building area is 68.52%) will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

18. A grant of relief to allow the construction of a duplex on the Property with a greater building area of 75.82% in the C-3 Zoning District instead of the maximum permitted 60% (the overall building area is 68.52%) will not be contrary to the public interest.

19. A grant of relief to allow the construction of a duplex on the Property with a zero width front yard setback instead of the minimum required 15 feet will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

20. A grant of relief to allow the construction of a duplex on the Property with a zero width front yard setback instead of the minimum required 15 feet will result in premises

consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

21. A grant of relief to allow the construction of a duplex on the Property with a zero width front yard setback instead of the minimum required 15 feet will not be contrary to the public interest.

22. A grant of relief to allow the construction of a duplex on the Property with a zero width side yard setback from the north side Property line instead of the minimum required 8 feet will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

23. A grant of relief to allow the construction of a duplex on the Property with a zero width side yard setback from the north side Property line instead of the minimum required 8 feet will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

24. A grant of relief to allow the construction of a duplex on the Property with a zero width side yard setback from the north side Property line instead of the minimum required 8 feet will not be contrary to the public interest.

25. A grant of relief to allow the construction of a duplex on the Property with a 3.67 foot side yard setback from the C-3/R-5 Zoning District boundary line instead of the minimum required 8 feet (the overall side yard setback from the south side property line is 8 feet) will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

26. A grant of relief to allow the construction of a duplex on the Property with a 3.67 foot side yard setback from the C-3/R-5 Zoning District boundary line instead of the minimum required 8 feet (the overall side yard setback from the south side property line is 8 feet) will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

27. A grant of relief to allow the construction of a duplex on the Property with a 3.67 foot side yard setback from the C-3/R-5 Zoning District boundary line instead of the minimum required 8 feet (the overall side yard setback from the south side property line is 8 feet) will not be contrary to the public interest.

28. A grant of relief to allow the construction of a duplex on the Property with a lesser rear yard setback of 10 feet instead of the minimum required 25 feet will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

29. A grant of relief to allow the construction of a duplex on the Property with a lesser rear yard setback of 10 feet instead of the minimum required 25 feet will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

30. A grant of relief to allow the construction of a duplex on the Property with a lesser rear yard setback of 10 feet instead of the minimum required 25 feet will not be contrary to the public interest.

31. A grant of relief to allow the construction of a duplex on the Property, with no required landscaping in the first 15 feet from the street line will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

32. A grant of relief to allow the construction of a duplex on the Property, with no required landscaping in the first 15 feet from the street line will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

33. A grant of relief to allow the construction of a duplex on the Property, with no required landscaping in the first 15 feet from the street line will not be contrary to the public interest.

34. A grant of relief to allow the construction of a duplex on the Property providing a 3.67 foot wide buffer area along the C-3/R-5 Zoning District boundary line instead of the minimum required 5 foot wide buffer area will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

35. A grant of relief to allow the construction of a duplex on the Property providing a 3.67 foot wide buffer area along the C-3/R-5 Zoning District boundary line instead of the minimum required 5 foot wide buffer area will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

36. A grant of relief to allow the construction of a duplex on the Property providing a 3.67 foot wide buffer area along the C-3/R-5 Zoning District boundary line instead of the minimum required 5 foot wide buffer area will not be contrary to the public interest.

37. A grant of relief to allow the use of the southerly 4.33 feet by 60 foot section of the Property that is within the R-5 Zoning District for the duplex use instead of one of the enumerated permitted uses will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

38. A grant of relief to allow the use of the southerly 4.33 feet by 60 foot section of the Property that is within the R-5 Zoning District for the duplex use instead of one of the enumerated permitted uses will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

39. A grant of relief to allow the use of the southerly 4.33 feet by 60 foot section of the Property that is within the R-5 Zoning District for the duplex use instead of one of the enumerated permitted uses will not be contrary to the public interest.

40. A grant of relief to allow for a lesser amount of off-street parking of two parking spaces instead of the minimum required four parking spaces in connection with the construction of a duplex on the Property will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

41. A grant of relief to allow for a lesser amount of off-street parking of two parking spaces instead of the minimum required four parking spaces in connection with the construction of a duplex on the Property will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

42. A grant of relief to allow for a lesser amount of off-street parking of two parking spaces instead of the minimum required four parking spaces in connection with the construction of a duplex on the Property will not be contrary to the public interest.

### **CONCLUSIONS OF LAW**

1. Construction of a duplex on a property with a lesser lot area of 1,220 square feet per family in the C-3 Zoning District instead of the minimum required 2,500 square feet per family is not permitted by the Cheltenham Township Zoning Ordinance.

2. Construction of a duplex on a property with a greater building area of 75.82% in the C-3 Zoning District instead of the maximum permitted 60% is not permitted by the Cheltenham Township Zoning Ordinance.

3. Construction of a duplex on a property with a zero width front yard setback instead of the minimum required 15 feet is not permitted by the Cheltenham Township Zoning Ordinance.

4. Construction of a duplex on a property with a zero width side yard setback instead of the minimum required 8 feet is not permitted by the Cheltenham Township Zoning Ordinance.

5. Construction of a duplex on a property with a 3.67 foot side yard setback from the C-3/R-5 Zoning District boundary line instead of the minimum required 8 feet is not permitted by the Cheltenham Township Zoning Ordinance.

6. Construction of a duplex on a property with a lesser rear yard setback of 10 feet instead of the minimum required 25 feet is not permitted by the Cheltenham Township Zoning Ordinance.

7. Construction of a duplex on a property with no required landscaping in the first 15 feet from the street line is not permitted by the Cheltenham Township Zoning Ordinance.

8. Construction of a duplex on a Property providing a 3.67 foot wide buffer area along the C-3/R-5 Zoning District boundary line instead of the minimum required 5 foot wide buffer area is not permitted by the Cheltenham Township Zoning Ordinance.

9. Use of a portion of a property that is within the R-5 Zoning District for a duplex use instead of one of the enumerated permitted uses is not permitted by the Cheltenham Township Zoning Ordinance.

10. Construction of a duplex on a property having a lesser amount of off-street parking of two parking spaces instead of the minimum required four parking spaces is not permitted by the Cheltenham Township Zoning Ordinance.

11. However, in accordance with the Pennsylvania Municipalities Planning Code and the Cheltenham Zoning Ordinance, the Cheltenham Township Zoning Hearing Board is empowered to hear and decide requests for variances where it is alleged that strict conformance with the governing ordinances would result in unnecessary hardship.

12. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow the construction of a duplex on the Property would result in an unnecessary hardship.

13. The variances as hereafter granted are the minimum variances that will afford Applicant relief and represent the least departure from the governing regulations.

14. The variances will not be contrary to the public interest.

### **DECISION**

**WHEREFORE**, this 11<sup>th</sup> day of July, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant the following variances:

- (1) a variance from the rules and regulations of Article XVII, Section 295-119, to allow the construction of a duplex on the Property, with a lesser lot area of 1,220 square feet per family in the C-3 Zoning District with an overall area per family of 1,350 square feet (C-3 and R-5 Zoning Districts);
- (2) a variance from the rules and regulations of Article XVII, Section 295-120, to allow the construction of a duplex on the Property with a greater building area of 75.82% in the C-3 Zoning District;
- (3) a variance from the rules and regulations of Article XVII, Section 295-121(A), to allow the construction of a duplex on the Property with a zero width front yard setback;
- (4) a variance from the rules and regulations of Article XVII, Section 295-121(C), to allow the construction of a duplex on the Property with a zero width side yard setback from the north side Property line;
- (5) a variance from the rules and regulations of Article XVII, Section 295-121(C), to allow the construction of a duplex on the Property with a 3.67

foot side yard setback from the C-3/R-5 Zoning District boundary line with the overall side yard setback from the south side property line at 8 feet;

- (6) a variance from the rules and regulations of Article XVII, Section 295-121(D), to allow the construction of a duplex on the Property with a lesser rear yard setback of 10 feet;
- (7) a variance from the rules and regulations of Article XVII, Section 295-124, to allow the construction of a duplex on the Property, with no required landscaping in the first 15 feet from the street line;
- (8) a variance from the rules and regulations of Article XVII, Section 295-125, to allow the construction of a duplex on the Property providing a 3.67 foot wide buffer area along the C-3/R-5 Zoning District boundary line;
- (9) a variance from the rules and regulations of Article VIII, Section 295-43, to allow the use of the southerly 4.33 feet by 60 foot section of the Property that is within the R-5 Zoning District for a duplex; and
- (10) a variance from the rules and regulations of Article XXIX, Section 295-221(H), to allow for a lesser amount of off-street parking of two parking spaces in connection with the construction of a duplex on the Property.

This grant of relief is subject, however, to the following conditions:

- (1) a complete copy of the recorded deed of the subject Property shall be submitted to the Zoning Officer within four (4) weeks of the date of Hearing;
- (2) that a Land Development plan, conforming to the requirements of Chapter 260 of the Cheltenham Code, shall be submitted to the Township for its review and approval;
- (3) that a brick facing shall be applied to the exterior wall of the first floor; and
- (4) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its July 11, 2011 meeting.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

**CHELtenham TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

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**AMEE FARRELL, Member**

**THIS DECISION IS OFFICIALLY ISSUED ON SEPTEMBER 9, 2011.**

**ZONING HEARING BOARD  
OF CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**APPEAL NO. 3408**

Applicant: Arcadia University  
450 South Easton Road  
Glenside, Pennsylvania 19038

Subject Premises : 2053 Church Road  
Glenside, Pennsylvania

Owner of Premises: Arcadia University

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that use of the Property as an educational institution and office and providing less than the required number of on-site parking spaces would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article VII, Section 295-36, regulating uses, and Article XXIX, Section 295-221, regulating off-street parking.

Applicant seeks a special exception and a variance from the rules and regulations of the R-4 Residence District as follows:

- (1) a special exception to Section 295-36(C) permitting the existing building on the Property to be used as an educational institution and office; and
- (2) a variance from Section 295-221(H) to allow for three off-street parking spaces instead of the required ten parking spaces in connection with the use of the Property as an educational institution and office.

Time and Place of Hearing: Monday, July 11, 2011 – 8:45 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

### FINDINGS OF FACT

1. Applicant Arcadia University (“Applicant”) is the owners of the premises known as 2053 Church Road, Glenside, Pennsylvania (the “Property”).
2. Prior to the holding of the hearing in this matter, an advertisement, noting the time and place of the hearing and the contents of the appeal, was placed in a newspaper of general circulation.
3. The property is located in an R-4 Residence District and is improved by a single-family residence.
4. The following documents were made a part of the record:
  - ZHB-1. a listing of exhibits;
  - ZHB-2. a copy of the legal notice with regard to the holding of hearing;
  - ZHB-3. an Application to the Zoning Hearing Board, referenced as Appeal No. 3408;
  - ZHB-4. a location map marked as Real Estate Registry Block 137-A, showing the location of the property;
  - ZHB-5. MEA Land Record Parcel Information on Property dated June 20, 2011;
  - ZHB-6. Building and Zoning Committee recommendation letter dated July 11, 2011;
  - ZHB-7. site plan of the Property;
  - ZHB-8. floor plan of the proposed use of the existing building on the Property;
  - A-1. copy of the recorded deed to the Property; and
  - A-2. site plan, floor plan, and aerial photograph of the Property.
5. Applicant purchased the Property on November 17, 2006. Since that time it has been used as a guest house for Applicant.

6. Applicant now proposes to use the existing residential building on the Property as an educational institution and office.

7. The proposed use as an educational institution and office requires no more than three parking spaces at the Property.

8. Harold Lichtman of GLP Architects, PC, was sworn and accepted as an expert in architecture on behalf of Applicant. The Board relied upon Mr. Lichtman's testimony.

9. Mr. Lichtman testified that the property immediately to the north of the Property, 2059 Church Road, is also owned by Applicant and is used as an educational institution and office. He further testified that the property at 2063 Church Road is also owned by Applicant and currently is used as a substation for emergency response vehicles for the Cheltenham Township Emergency Services Unit.

10. Mr. Lichtman testified that there will be no changes to the exterior of the existing residence.

11. Mr. Lichtman testified that adequate off-street parking is available across Church Road in Applicant's parking lots.

12. Mr. Lichtman testified that the building will be used for administrative purposes and that students would not need to visit the Property for any reason.

13. A grant of relief to permit the existing building on the Property to be used as an educational institution and office will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

14. A grant of relief to permit the existing building on the Property to be used as an educational institution and office will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

15. A grant of relief to permit the existing building on the Property to be used as an educational institution and office will not be contrary to the public interest.

16. A grant of relief to allow for three off-street parking spaces instead of the required ten parking spaces in connection with the use of the Property as an educational institution and office will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

17. A grant of relief to allow for three off-street parking spaces instead of the required ten parking spaces in connection with the use of the Property as an educational institution and office will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

18. A grant of relief to allow for three off-street parking spaces instead of the required ten parking spaces in connection with the use of the Property as an educational institution and office will not be contrary to the public interest.

### **CONCLUSIONS OF LAW**

1. Use of an existing residential building as an educational institution and office is permitted only with a grant of special exception in accordance with the Cheltenham Township Zoning Ordinance. Providing only three off-street parking spaces instead of the required ten parking spaces in connection with the use of a property as an educational institution and office is not permitted by the Cheltenham Township Zoning Ordinance. However, in accordance with the Pennsylvania Municipalities Planning Code and the Cheltenham Zoning Ordinance, the Cheltenham Township Zoning Hearing Board is empowered to hear and decide requests for variances where it is alleged that strict conformance with the governing ordinances would result in unnecessary hardship. Similarly, the Zoning Hearing Board is empowered to grant special exceptions where the application meets the criteria of the zoning ordinances.

2. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow the use of the existing building as an educational institution use with three parking spaces would result in an unnecessary hardship.

3. Under the circumstances of this matter, Applicant has met its burden in establishing that the application meets the criteria of the ordinance and Applicant is entitled to special exception.

4. The variances as hereafter granted are the minimum variances that will afford Applicant relief and represent the least departure from the governing regulations.

5. The variances will not be contrary to the public interest.

### **DECISION**

**WHEREFORE**, this 11<sup>th</sup> day of July, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant the following variances:

- (1) a special exception to the rules and regulations of Article VII, Section 295-36(C), permitting the existing residential building on the Property to be used as an educational institution and office; and
- (2) a variance from the rules and regulations of Article XXIX, Section 295-221(H) to allow for three off-street parking spaces in connection with the use of the Property as an educational institution and office.

This grant of relief is subject, however, to the following conditions:

- (1) that designated parking shall be located within 250 feet of the sidewalk of the intersection of Church Road and Easton Road;

- (2) that a maximum of three (3) vehicles shall be parked at the Property at any one time and no vehicles shall be parked on the lawn; and
- (3) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its July 11, 2011 meeting.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

**CHELtenham TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

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**AMEE FARRELL, Member**

**THIS DECISION IS OFFICIALLY ISSUED ON SEPTEMBER 9, 2011.**

**ZONING HEARING BOARD  
OF CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**APPEAL NO. 3412**

Applicant: Elkins Associates, LLC  
c/o Century 21  
720 Second Street Pike  
Southampton, Pennsylvania 18966

Subject Premises : 7870 Spring Avenue  
Elkins Park, Pennsylvania

Owner of Premises: Elkins Associates, LLC

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that use of the front portion of the first floor of the building on the Property as a book and music shop is not a permitted use and would require a number off-street parking spaces would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article XIII, Section 295-80, regulating permitted uses, and Article XXIX, Section 295-221, regulating off-street parking.

Applicant seeks variances from the rules and regulations of the M-2 Multiple Dwelling District as follows:

- (1) a variance from Section 295-80 to allow the front portion of the first floor of the building on the Property to be used as a book and music shop instead of one of the enumerated permitted uses; and
- (2) a determination in connection with Section 295-221 as to the number of required off-street parking spaces.

Time and Place of Hearing: Monday, August 8, 2011 – 8:45 p.m.  
Curtis Hall  
Church Road and Greenwood Avenue  
Wyncote, Pennsylvania

### FINDINGS OF FACT

1. Applicant Elkins Associates, LLC (“Applicant”) is the owner of the premises known as 7870 Spring Avenue, Elkins Park, Pennsylvania (the “Property”).

2. Prior to the holding of the hearing in this matter, an advertisement, noting the time and place of the hearing and the contents of the appeal, was placed in a newspaper of general circulation.

3. The property is located in an M-2 Multiple Dwelling District and is improved by a store and two apartments.

4. The following documents were made a part of the record:

ZHB-1. a listing of exhibits;

ZHB-2. a copy of the legal notice with regard to the holding of hearing;

ZHB-3. an Application to the Zoning Hearing Board, referenced as Appeal No. 3412;

ZHB-4. a location map marked as Real Estate Registry Block 40, showing the location of the property;

ZHB-5. MEA Land Record Parcel Information on Property dated July 18, 2011;

ZHB-6. Building and Zoning Committee recommendation letter dated August 5, 2011;

ZHB-7. two aerial photographs of the Property;

A-1. copy of the recorded deed to the Property; and

A-2. letter of authorization for Tom Montague of Century 21 Montague to act on behalf of Applicant.

5. Applicant proposes to use of the front portion of the first floor of the building on the Property as a book and music shop.

6. The proposed use as a book and music shop is not a permitted use of the Property.

7. Historically, the Property has been operated for a number of retail uses: as a pharmacy in the 1970s; a dress shop in the 1980s; and a photography studio from 1990s until recently..

8. The first floor of the existing building is fitted out for retail uses and consists of non-operating plate glass storefront windows, ceiling fans, commercial lighting. Other than a powder room, there no improvements consistent with residential use.

9. The first floor include separate entrance to second floor area available for residential use.

10. A driveway provides access to a rear parking area which has sufficient room for six to eight parking spaces, none of which are designated for any particular use in the building.

11. On-street, metered parking is available at the street frontage of the Property.

12. While the Applicant failed to provide sufficient information upon which the Zoning Hearing Board could determine the required number of parking spaces pursuant to the governing regulations, the rear parking field and the availability of on-street parking provide sufficient parking opportunities for patrons for patrons of the proposed retail store use.

13. A grant of relief to allow the front portion of the first floor of the building on the Property to be used as a book and music shop instead of one of the enumerated permitted uses will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

14. A grant of relief to allow the front portion of the first floor of the building on the Property to be used as a book and music shop instead of one of the enumerated permitted uses will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

15. A grant of relief to allow the front portion of the first floor of the building on the Property to be used as a book and music shop instead of one of the enumerated permitted uses will not be contrary to the public interest.

16. The parking spaces available in the rear parking lot together with the metered, on-street parking equal the number of spaces required for the proposed use.

17. Operation of the nonconforming book and music shop with the off-street and on-street parking will not result in an adverse effect to the neighboring properties or nearby community. Accordingly, the proposed use will not be contrary to the public interest.

### **CONCLUSIONS OF LAW**

1. Use of the front portion of the first floor of an existing building on a property as a book and music shop with off-street and on-street available parking, instead of one

of the enumerated permitted uses is not permitted by the Cheltenham Township Zoning Ordinance. However, in accordance with the Pennsylvania Municipalities Planning Code and the Cheltenham Zoning Ordinance, the Cheltenham Township Zoning Hearing Board is empowered to hear and decide requests for variances where it is alleged that strict conformance with the governing ordinances would result in unnecessary hardship.

2. Under the circumstances of this matter, Applicant has met its burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow the front portion of the first floor of the building on the Property to be used as a book and music shop with six to eight off-street parking spaces in the rear yard of the Property would result in an unnecessary hardship.

3. The variance as hereafter granted is the minimum variances that will afford Applicant relief and represent the least departure from the governing regulations.

4. The variance will not be contrary to the public interest.

5. The number of required parking spaces equals the number available in the rear parking field and the on-street, metered parking spaces.

### **DECISION**

**WHEREFORE**, this 8<sup>th</sup> day of August, 2011, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant the following variance and determination:

- (1) a variance from the rules and regulations of Article XIII, Section 295-80, to allow the front portion of the first floor of the building on the Property to be used as a book and music shop; and
- (2) the proposed book and music shop use requires the parking available in the rear parking field and the on-street, metered parking spaces.

This grant of relief is subject, however, to the following conditions:

- (1) a complete copy of the recorded deed of the subject Property shall be submitted to the Zoning Officer within four (4) weeks of the date of Hearing;
- (2) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its August 8, 2011 meeting;
- (3) there shall be no sale of pornographic materials at the store;
- (4) there shall be no sale of drug paraphernalia at the store; and
- (5) there shall be no exterior sound amplification emanating from the store.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

**CHELtenham TOWNSHIP ZONING HEARING BOARD**

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**PETER LABIAK, Chairman**

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**ALAN S. GOLD, Vice Chairman and Secretary**

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**AMEE FARRELL, Member**

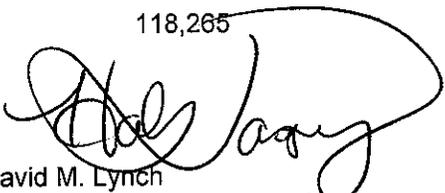
**THIS DECISION IS OFFICIALLY ISSUED ON SEPTEMBER 9, 2011.**

September 28, 2011

COMMISSIONERS OF CHELTENHAM TOWNSHIP  
ELKINS PARK, PA 19027

REPORT OF THE BUILDING INSPECTOR FOR SEPTEMBER, 2011

	#	COST OF PERMIT	VALUE
<b>RESIDENTIAL</b>			
Renovations/Alterations	24	9,715	486,000
<b>MULTI-FAMILY</b>			
Renovations/Alterations	0	0	0
<b>COMMERCIAL</b>	0	0	0
Renovations/Alterations			
<b>INSTITUTIONAL</b>			
Renovations/Alterations	0	0	0
<b>FENCE</b>	3	261	261
<b>SEPTEMBER 2011</b>	27	9,976	486,261
<b>SEPTEMBER 2010</b>	31	8,966	415,120
<b>TOTAL TO DATE 2011</b>	279	64,410	2,646,722
<b>TOTAL 2010</b>	424	272,993	13,868,965
<b>HEATING &amp; AIR CONDITIONING</b>			
<b>SEPTEMBER 2011</b>	6	1,747	88,000
<b>SEPTEMBER 2010</b>	5	1,075	49,000
<b>YEAR TO DATE 2011</b>	43	7,370	333,200
<b>TOTAL 2010</b>	56	33,578	1,613,000
<b>ELECTRICAL</b>			
<b>SEPTEMBER 2011</b>	6	795	40,000
<b>SEPTEMBER 2010</b>	14	1,406	57,000
<b>TOTAL TO DATE 2011</b>	80	7,912	313,000
<b>TOTAL 2010</b>	128	118,265	4,225,950

  
for David M. Lynch  
Director - Engineering, Zoning & Inspections