

December 17, 2007  
Township Building

The regular meeting of the Planning Commission was held tonight in the Township Administration Building. The following members were present: Messrs. Cross, Gordon, Gordon, Greenberg and Winneberger. Also present were: David M. Lynch, P.E., P.L.S., Director - Engineering, Zoning & Inspections and Ms. Jean Holland, Montco Planning.

1. Upon motion of Mr. Cross, seconded by Mr. Gordon, the minutes of the November 26, 2007 meeting were accepted as presented.
2. At this time the following Appeals to be heard at the January 14, 2008 Zoning Hearing Board meeting were discussed:

APPEAL NO. 3245 (Continued) – Appeal of Brad S. Rude, owner of premises known as 8107 High School Road, Elkins Park, PA, from the Decision of the Zoning Officer for the following Zoning Relief (said premises being within the R-4 Residence District):

- a. A variance from the rules and regulations of “Fences and Walls” as outlined in CCS 295-223. for the erection of 40± LF of 6' high, solid fencing (perpendicular to High School Road) within the required front yard setback area instead of the permitted 4' high, 50% open fencing.
- b. A variance from the rules and regulations of “Yard Regulations” as outlined in CCS 295-220.A. for a recently constructed 21.25±' wide driveway (widened from 10.42±') within the required front yard setback area instead of the maximum permitted driveway width of 18'.

Mr. Peter Friedman, Attorney for the Applicant, was present to discuss this Application.

Mr. and Mrs. John Washington, 371 Church Road, and Mr. Michael Shechtman, Attorney representing Mr. & Mrs. Washington, were present to express their opposition to this proposal.

Mr. Friedman stated that this Application was presented at the November 19, 2007 ZHB, at which time a continuance was requested. Conversations between the parties involved, in order to resolve the issues, have proven fruitless and the matter has been forwarded to the insurance company.

Upon motion of Mr. Cross, seconded by Mr. Gordon, the Commission reiterates its previous recommendation of denial.

APPEAL NO. 3253 (Continued) – Appeal of Ruth E. Heidmann, as Co-Trustee of the Estate of George B. Heidmann, Jr., owner of premises located at the southeast corner of the intersection of Rices Mill Road and E. Glenside Avenue and further identified as CTRERP Block 149, Unit 086, from the Decision of the Zoning Officer for the following Zoning Relief in order to continue to use the premises for the parking of school buses:

- a. A finding that the Zoning Officer, in his Notice of Violation letter of September 24, 2007 made an error in his determination that the parking of school buses on the premises is a commercial activity and not permitted within the R-4 Zoning District per CCS 295-36.
- b. A finding that the Zoning Officer in his Notice of Violation letter of September 24, 2007 made an error in not making a determination that the parking of school buses on the premises is an educational use of the premises that could be permitted as a Special Exception under CCS 295-36.C.
- c. A finding that the Zoning Officer in his Notice of Violation letter of September 24, 2007, made an error in his determination that the parking of school buses is not permitted by the Grant of Zoning Relief under ZHB Appeal No. 725, dated December 27, 1955.
- d. In the alternative, a Special Exception in accordance with the rules and regulations of the Class R-4 Residence District as outlined in CCS 295-36.C. for educational use of the premises for the parking of school buses.
- e. In the alternative, a variance to the rules and regulations of the Class R-4 Residence District as outlined in CCS 295-36. for the parking of school buses on the premises instead of one of the enumerated permitted uses.
- f. In the alternative, a finding that the parking of school buses on the premises is permitted pursuant to the Grant of Zoning Relief under ZHB Appeal No. 725.
- g. In the alternative, a modification of the Grant of Zoning Relief under ZHB Appeal No. 725 so as to permit the parking of school buses on the premises.

No representatives on behalf of the Applicants were present to discuss this Application.

Mr. Lynch stated that this Application was presented at the November 28, 2007 and December 10, 2007 Zoning Hearing Board meetings.

At the December 10, 2007 ZHB meeting the hearing was closed and the attorneys were directed to submit Finding of Facts and Conclusions of Law.

Mr. Lynch stated this is a two part Application and at the December 10, 2007 ZHB meeting the ZHB affirmed the determinations made by the Zoning Officer that the use of

the property located at the intersection to Rices Mill Road and E. Glenside Avenue is in violation of the Cheltenham Code. It is anticipated that the ZHB's decision regarding the variances being requested will be rendered at the January 14, 2008 meeting.

Mr. Lynch stated the Township Solicitor, Joseph Bagley, was present at the ZHB meetings to present the Board of Commissioners' position of opposition to the proposed usage.

Upon motion of Mr. Cross, seconded by Mr. Gordon, the Commission reiterates its previous recommendation of denial.

APPEAL NO. 3254 (Continued) – Appeal of James and Valene Best, owners of residence known as 264 Ashbourne Road, Elkins Park, PA, from the Decision of the Zoning Officer for a Variance from the rules and regulations of the Class R-5 Residence District as outlined in CCS 295-43. in order to use the premises as a Two-Family Semi-Detached Dwelling (a “Duplex”) instead of one of the permitted enumerated uses.

Mr. James Best, Applicant, and Mr. Richard Berlinger, Attorney, were present to discuss this Application.

Mr. Berlinger stated that a continuance to the January 14, 2008 meeting was requested and granted at the December 10, 2007 ZHB meeting and is requesting that the Planning Commission reconsider its previous recommendation.

Mr. Berlinger stated he is in the process of drafting a Deed Restriction agreement.

Mr. Lynch stated the Building and Zoning Committee recommended approval of this Appeal subject to the following conditions:

- a. That the use of 264 Ashbourne Road as a duplex cease and the use of the premises be returned to a single family detached dwelling at the demise of Ms. Best or the sale of either 262 or 264 Ashbourne Road, whichever occurs first.
- b. That the Applicants agree to a Deed Restriction on 264 Ashbourne Road that incorporates the above condition. (Said Deed Restriction to be

prepared by Applicants' Attorney (with any amendments and/or modifications of the Deed Restriction being subject to the review and approval of Cheltenham Township), and reviewed and approved by the Township Solicitor; no Certificate of Occupancy for 264 Ashbourne Road to be issued unless and until said Deed Restriction is recorded and proof of same furnished to the Zoning Officer.)

Mr. Lynch stated the neighbors are concerned because of their awareness that any zoning relief runs with the land regardless of the first condition recommended by the Building and Zoning Committee. He stated a deed restriction should survive any zoning challenge.

Ms. Rubin, 259 Ashbourne Road, stated the conversion of this property into a duplex comes with trust. She stated Mr. and Mrs. Best have always maintained their property and have made many improvements to the property in question. The conversion of this property into a duplex is necessary because of Mrs. Best's health. She stated people are afraid of change.

Ms. Irene Campbell, 7743 Albright Avenue, read a letter composed by Ms. Linda Riley, 266 Ashbourne Road, expressing her concerns with the conversion (see attached). Some areas of concern raised in this letter are as follows:

- a. Property devaluation
- b. Setting a precedent
- c. Spot zoning
- d. Health, safety and welfare issues
- e. Additional parking spaces
- f. Tree removal
- g. Traffic issues

h. Increase of impervious area.

Ms. Amy Enrique, 7740 Albright Avenue, presented a petition with thirty-seven names opposed to the conversion (see attached). She stated she has no issues with the property being rented as a single unit, but is concerned that the conversion into two units will start a precedent.

Mr. Nick Sciortino, 267 Ashbourne Road, noted that the statement made in Ms. Riley's letter that he is involved with the project is erroneous. Regarding the increase in parking, he stated the previous owners had four cars parked on the street and there is a large apartment complex down the street.

Mr. Sciortino stated that the reason for the conversion is not for financial purposes, as stated by the residents, but is necessary because of Mrs. Best's severe sensitivity to pesticides, as he witnessed an attack where she was hospitalized. He is requesting that the Planning Commission reconsider its previous recommendation.

Mr. Michael Wyngaard, 258 Ashbourne Road, next door neighbor to the Bests stated he has lived at this location for a year and has been very cooperative with Mrs. Best's needs. He is opposed to the conversion.

Upon motion of Mr. Cross, seconded by Mr. Goldfarb, the Commission reiterates its previous recommendation of denial.

APPEAL NO. 3258 – Appeal of the Jewish Federation of Greater Philadelphia, owner of premises known as 103 Lafayette Avenue, Elkins Park, PA (a/k/a CTRERP Block 35, Unit 28) from the Decision of Zoning Officer for the following Zoning Relief in order to construct a Single Family Residence thereon (said premises being within the Class R-4 Residence District):

- a. Zoning Relief from the rules and regulations of the Steep Slope Conservation District as outlined in Article XXII of the Cheltenham Code, as follows:
  - i. Special Exceptions in accordance with CCS 295-168., as follows:
    1. Pursuant to CCS 295-168.B. for Sanitary Sewers and Stormwater Management Facilities.
    2. Pursuant to CCS 295-168.C. for underground utility transmission lines.

- ii. Variances from CCS 295-169., as follows:
  - 1. From CCS 295-169.A.(1) for the residence, retaining walls and landscaping.
  - 2. From CCS 295-169 A.(2) for the driveway.
  - 3. From CCS 295-169 A.(3) for the filling or removal of topsoil associated with the foregoing.
  - 4. From CCS 295-169.B. for the inclusion of areas with a terrain gradient of 25% or more within any of the required yard areas.

APPEAL NO. 3260 – Appeal of the Jewish Federation of Greater Philadelphia, owner of premises known as 105 Lafayette Avenue, Elkins Park, PA (a/k/a CTRERP Block 35, Unit 8) from the Decision of Zoning Officer for the following Zoning Relief in order to construct a Single Family Residence thereon (said premises being with the Class R-4 Residence District):

- a. Zoning Relief from the rules and regulations of the Steep Slope Slope Conservation District as outlined in Article XXII of the Cheltenham Code, as follows:
  - i. Special Exceptions in accordance with CCS 295-168., as follows:
    - 1. Pursuant to CCS 295-168.B. for Sanitary Sewers and Stormwater Management Facilities.
    - 2. Pursuant to CCS 295-168.C. for underground utility transmission lines.
  - ii. Variances from CCS 295-169., as follows:
    - 1. From CCS 295-169.A.(1) for the residence, retaining walls and landscaping.
    - 2. From CCS 295-169 A.(2) for the driveway.
    - 3. From CCS 295-169 A.(3) for the filling or removal of topsoil associated with the foregoing.
    - 4. From CCS 295-169.B. for the inclusion of areas with a terrain gradient of 25% or more within any of the required yard areas.

Appeals Numbers 3258 and 3260 were discussed at this time as they are part of the same proposed development of two single family dwellings.

Mr. Peter Friedman, Attorney, and Mr. Jack Leapson, Engineer, were present to discuss these Applications.

Mr. Lynch stated in 1978 two vacant lots and one landlocked lot, were created. In 2003 the two vacant parcels were donated to the Jewish Federation of Greater Philadelphia.

There are steep slope issues relating to the property.

Mr. Leapson, presented renderings of the proposed project and stated Lafayette Avenue is a paper street and that the proposed dwellings will share a common drive. He informed

the neighbors that this is not a dedicated street, is 50' wide and has sewers. The proposed houses will conform to the Township Zoning regulations. The parcels were surveyed in 2006 and trees and steep slopes identified. Stormwater management will be achieved via drywells. There is an existing driveway on the corner lot. Mr. Lynch stated trash will need to be brought to the Surrey Road frontage for pick-up.

Mr. Lynch stated if this Zoning Relief is approved the Applicant will not need to apply for Land Development Approval unless it is made a condition of the Grant of Zoning Relief.

Mr. Chuck Steinberg, 7704 Lafayette Avenue, stated he lived at this location for 30 years and Lafayette Avenue dead-ends into his driveway. The location of the proposed driveway will abut up to his house. He stated in order to transport the trash to Surrey Avenue one will need to walk up a slope of at least 15%. He is also aware of a stormwater runoff problem and has inserted grates. There are no sewers on his side of the street. The area is also a natural habitat for wild life, including a bird sanctuary. He stated the house on Glenwood Road would need to be removed in order to construct a street.

Mr. Frank Schmidt, 105 Surrey Road, stated at one time this site was once used as a dump and children would uncover items. He recommends a core sampling be performed.

Mr. Eric Greenberg, 103 Surrey Road, stated this proposed construction violates all concerns addressed in the Steep Slope Conservation District Ordinance. He stated this ordinance was adopted to preserve open space and existing ground cover. The Steep Slope Conservation District Ordinance should protect adjacent properties from erosion. The Ordinance does not permit interference with the ecological development in the area. He stated the proposed development will create problems as flooding will occur.

Mr. Walter Plotnick, 260 Glenwood Road, stated there is an area on his property where stormwater runoff collects. He stated the area is very steep and does not feel the drywells are in line with the water runoff.

Mr. Plotnick stated there is one power line which services six or seven houses on Glenwood Road, and approximately five to six outages a year occur from fallen tree limbs. He questioned if the drywells are constructed is the Commission willing to pay for damages related to possible flooding. He also recommends that the Commission walk the land.

Mr. Greenberg stated this area should be a permitted use for wild life.

Mr. Steinberg stated there is a creek in the area and inquired if it is part of the floodplain;

Mr. Lynch stated it is not identified as part of the FEMA floodplain.

Upon motion of Mr. Cross, seconded by Mr. Gordon, the Commission recommends denial of Appeals Nos. 3258 and 3260 because this development would be detrimental to the quality of life for the neighbors and community.

APPEAL NO. 3259 – Appeal of Paul Bukovec, owner of premises known as 7809 Park Avenue, Elkins Park, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to construct a 14' x 8' shed at the northeast rear corner of the premises:

- a. Variances from the rules and regulations of the Class R-4 Residence District as outlined in Article VII of the Cheltenham Code, as follows:
  - i. From CCS 295-38. for a greater Building Area of 24.19% instead of the maximum permitted 20% (the existing Building Area is 22.86%).
  - ii. From CCS 295-39.B.(1) for a lesser side yard setback of six (6) inches instead of the minimum required 10' for the Shed.
- b. A variance from the rules and regulations of “Yard Regulations” as outlined in CCS 295-220.C. for a lesser rear yard setback of one (1) foot instead of the minimum required 15' for the Shed.

No representatives were present to discuss this Application.

Mr. Lynch presented plans of the proposed shed and informed the Commission that the Applicant is proposing to remove an existing 8' x 10' shed and replace it with an 8' x 14' shed.

Upon motion of Mr. Goldfarb, seconded by Mr. Gordon, the Commission takes no action.

3. Cheltenham Township Development Application No. 05-14C: Record Plan JC Melrose Country Club – Pedestrian Bridge – 7600 Tookany Creek Parkway was discussed at this time.

No representatives were present to discuss this Application.

Mr. Lynch stated plans for this project were presented in the year 2005, at which time major improvements to the main campus, replacement of the pedestrian tunnel under the Tookany Creek Parkway and replacement of the pedestrian bridge over the Tookany Creek were also proposed. The main campus improvements and the pedestrian tunnel replacement are complete, but due to the required DEP approval for the pedestrian bridge it has not been constructed.

Mr. Cross stated his concerns with the proposal as IBC and ADA requirements have not been met, including the lack of a guardrail and handrail.

Mr. Lynch stated this bridge is a Continental Bridge, similar to that installed along the Tookany Parkway across from the Fred Griffin Field. He stated that that bridge does have a handrail.

Upon motion of Mr. Cross, seconded by Mr. Gordon, it is recommended that Cheltenham Township Development Application No. 05-14C: Record Plan JC Melrose Country Club – Pedestrian Bridge – 7600 Tookany Creek Parkway be tabled and the requirements for ADA and IBC be met.

4. Review Cheltenham Township Development Application No. 07-16: Record Plan Stone/Gaul/Dunn Subdivision – 221 Maple Avenue and 174 Fernbrook Avenue was discussed.

Ms. Stone, Applicant, was present to discuss this Application.

Mr. Lynch stated the necessary Zoning Relief pertinent to this Application has been granted. He stated in 1940 the two deeds for the twin dwelling were combined into one deed. In 2006 the Wyncote Church Home tried to sell the main house and convert it into apartments.

Ms. Stone stated she has been residing at the property for approximately 15 years and has recently purchased the property from the Church.

Upon motion of Mr. Cross, seconded by Mr. Gordon, it is recommended that Cheltenham Township Development Application No. 07-16: Record Plan Stone/Gaul/Dunn Subdivision – 221 Maple Avenue and 174 Fernbrook Avenue be approved as presented.

5. At this time the draft Age Restricted Overly District Ordinance was discussed.

Mr. Lynch stated Commissioner Simon has concerns with the “Dis-Aggregation” of parcels and also recommended that the “Gross Acreage” of a development be clarified.

Regarding §294-242 Use Regulations it was recommended that this be combined with §295-243 Performance Standards. Minimum frontage on state roads was discussed and

Mr. Lynch stated that Ms. Holland recommended that there be a larger setback requirement for frontages of parcels that are located on roads more heavily traveled.

Mr. Lynch stated that the JC Melrose Country Club does not meet the requirements of the proposed Ordinance as the Country Club does not have frontage on a state road.

Mr. Lynch also stated that “Dis-Aggregation” is not a trivial matter.

§295-244 Landscaping – this category needs to be defined in order to provide more effective landscaping.

Regarding the Architectural Guidelines category, Mr. Cross stated he expressed his concern with this category at the last Planning Commission meeting. Mr. Lynch stated he also has issues with this category, one example being the requirements for balconies. Fenestration was discussed and it was noted that this terminology pertains to the design of the windows or other exterior openings. Mr. Lynch recommended that the size of the openings be addressed, but not the style.

Mr. Cross stated the Applicants should be responsible for presenting an attractive plan but not locked into architectural requirements. It is his opinion that the Architectural Guidelines category should be struck.

Mr. Lynch stated concerns with the developer presenting a less than acceptable project. Mr. Cross stated certain criteria should be followed or the proposed building plans will not be accepted. He stated there should controls on the quality of the development and its appearance.

In the proposed overlay district the size of the building and coverage could be controlled. Mr. Cross questioned why this proposal is being presented; Mr. Lynch stated that, in the first half of 2007, the Township considered a proposed text amendment that would have permitted Age-Restricted Housing (by Special Exception) at 7827 Old York Road (“Shelter Project”) and at 509 Ashbourne Road (“Federation Project”); due to concerns raised at the Public Hearing on that text amendment the Board of Commissioners did not act on the text amendment and set up an Ad Hoc Committee to draft a revised text amendment on Age-Restricted Housing that covered the entire Township and addressed the concerns raised at the Public Hearing.

Mr. Lynch noted that the Board of Commissioners at its November meeting made a determination that there is a need for Age-Restricted Housing in the Township.

Ms. Holland stated open space preservation was considered when drafting the ordinance.

Peter Friedman, Attorney, stated that at the May 22, 2007 Board of Commissioners

meeting there was also a public hearing to discuss this proposed ordinance and it was decided to form an Ad Hoc Committee, including a representative from the County.

After six months of meetings, plus various presentations, it was determined that there is a need for this type of housing and it would be a low impact use with minimal impact on the community and positive fiscal impact. He stated the architectural requirements may present legal issues in the future.

Mr. Christos Kytziois, 7708 Chapel Road, was present and stated he attended many meetings which addressed two proposed developments along Ashbourne Road and the proposed text amendment. He stated the property at 509 Ashbourne Road requested many zoning variances as it is zoned R-4. Many neighbors attended the meetings and voiced their opposition for various reasons, including the height of the proposed buildings.

Mr. Kytziois stated that at another meeting Federation stated they were in receipt of a report indicating that there is a need for age restricted housing in Cheltenham Township. The lack of requirements was discussed pertaining to the proposed ordinance.

Architectural guidelines was again discussed and Mr. Gordon recommended that this category remain, but be modified. Mr. Cross recommended that materials be addressed more so than restricting the applicants architectural design.

During discussion it was stated that it appears the number of parcels eligible for this type of development is capable of expanding if property owners were to sell their parcels to a developers trying to meet the conditions specified in the ordinance.

Mr. Lynch stated that the Commissioners will conduct a Public Hearing on January 22, 2008 regarding this proposed ordinance.

Mr. Friedman stated one developer has been working on a project for over a year.

Mr. Winneberger stated most of the ordinance is acceptable to him, but feels the architectural guidelines are too detailed. Mr. Cross stated he is concerned with the quality of the work and how the size, character, location and materials of the development fit into the surrounding area.

Mr. Lynch stated Federation Housing has issues with a 50' side and rear setback for parcels 5 to 7.50 acres and is requesting this requirement modified to 35'.

An email from Mr. Friedman requesting that the following be added to Section 295-241 as a new second sentence was discussed:

“Age restricted housing development which contains multiple tax parcels shall be permitted to aggregate the acreage of all parcels provided that at least one (1) parcel contains at least (5) five acres, the parcels are adjacent to one another, and that there is common management and common facilities for the multi-parcel age restricted housing development.”

Mr. Friedman stated it is not the intention to profit from this requested ordinance change, but if there is a change in management at these facilities, zoning is lost.

A map of the proposed project at 509 Elkins Avenue was produced and the measuring of the proposed 200 feet of flat wall was discussed. It was stated that the central area and three wings consists of 200 feet. Mr. Lynch stated building face offsets should be encouraged. Federation Housing is requesting that the measuring begin at the center of the lobby. Mr. Lynch recommended that the Max Aggregate Building Face Projection be divided per street frontage.

Mr. Winneberger does not approve of 200 feet of flat wall.

Mr. Lynch stated he wants to know how long of a building face is being proposed.

Ms. Holland stated impervious coverage is to be considered.

A discussion ensued regarding the amount of impervious area permitted and it was stated the proposed Ordinance allows for 55% of impervious area for the gross tract area. Mr. Cross stated this amount is too large and the amount of impervious area should be determined by the size of the building.

It was stated that many residents present at the various meetings had issues with the amount of permitted impervious area.

Mr. Cross stated the amount of impervious area permitted should be determined by the density of the surrounding properties.

Mr. Appel, Landscape Architect, stated the proposed permitted 55% of impervious area is in line with the actual amount of impervious area on the typical residential lot.

Mr. Cross asked if Age-Restricted Ordinances from other municipalities were reviewed and if the "Overlay" concept was typical for this use; Ms. Holland stated that she and the Ad Hoc Committee had reviewed numerous Age-Restricted Housing Ordinances and that the "Overlay" concept for Age-Restricted Housing being proposed is somewhat unique to the County.

Mr. Kytziois stated that he attended a meeting where it was stated that a telephone survey was to be conducted in order to ascertain if there is a need for this type of development, but as of this date no information has become available.

Mr. Goldfarb stated other municipalities have a need for this type of development and if built here, they will be occupied.

Mr. Lynch stated copies of the proposed ordinance were sent to all attorneys whose names appear on the ZHB list and developers for their review, and that the current draft was not written for either the Shelter Project or the Federation Project.

A letter from Mr. Appel, to Mr. Friedman, dated December 5, 2007 about the minimum distance between buildings was discussed. The Ordinance text reads that 30 feet or half

the height of the taller building or whichever is greater should be the minimum distance between buildings, Mr. Appel recommends that the distance be 15 feet and also states that the text is not specific enough as it should state that the building should not be blocked from the street.

The letter also addresses the landscape buffer and Mr. Appel recommends that the required landscape of 25 feet wide be reduced in order to allow for emergency vehicular access.

Mr. Cross inquired as to why this ordinance had not come before the Planning Commission for discussion. Mr. Lynch stated there were six AdHoc Committee meetings. Mr. Cross stated the Ordinance is too generic and that each project should be handled as a separate entity.

Mr. Lynch stated zoning would be required for each application to address a change in usage.

Mr. Cross stated an overlay district could be a double edge sword and would not eliminate public unrest.

Mr. Greenberg stated the Township has a serious economic development issue and that this project will not impose any financial hardship, and if the proposed Ordinances does not move forward the project(s) may be lost.

Mr. Lynch stated that much thought was given to the issues and is requesting comments regarding the draft ordinance.

Mr. Goldfarb stated there should have been representation from the Planning Commission during the drafting of this ordinance.

Mr. Friedman stated representatives of Federation Housing has been in discussions with the Township regarding this project for over a year and has addressed many issues.

Messrs. Greenberg, Goldfarb and Winneberger agree with the concept of the Age

Restricted Overlay District Ordinance and the recommendations of Mr. Friedman as discussed this night. They also recommend that the architectural guidelines category be modified.

Messrs. Cross and Gordon recommend that the architectural guideline category be struck.

5. Upon motion of Mr. Goldfarb, seconded by Mr. Gordon, the meeting adjourned.

David G. Kraynik  
Township Manager

Per: Emma Wetzel