

Township Building
September 24, 2007

The regular meeting of the Planning Commission was held tonight in the Township Administration Building. The following members were present: Messrs. Brockington, Cross, Goldfarb, Gordon and Greenberg. Also present was: Mr. Carmen G. Reitano, Assistant to the Director - Engineering, Zoning & Inspections, Ms. Jean Holland, Montco Planning and David I. Harrower, Observer.

Mr. Cross presided over the meeting.

1. Upon motion of Mr. Brockington, seconded by Mr. Gordon, the minutes of the August 27, 2007 meeting were accepted as presented.
2. Mr. Cross stated that the items on the Agenda will be discussed out of sequence.

Zoning Hearing Board Appeal No. 3223 was discussed.

APPEAL NO. 3223 (Continued) – Appeal of Pennsylvania New Vision Youth Services, owner of premises known as 36 Limekiln Pike, Glenside, PA. The subject premises contains three (3) buildings. The one-storey building with frontage on Limekiln Pike was formerly used for retail purposes, namely a food market. The first floor of the two-storey building was used for retail purposes and the second floor is an apartment. There is also an existing garage on the premises.

Applicant proposes to demolish the existing garage and create a new parking area. The one-storey fronting on Limekiln Pike shall continue to be used for retail purposes. The first floor of the two-storey building will be used for offices and the second floor will be used for an apartment. The buildings are non-conforming as to front, rear and side yards.

Zoning Relief is required from the following sections of the Cheltenham Code: CCS 295-117., CCS 295-124., CCS 295-125. and CCS 295-43.

Mr. Reitano stated this Appeal was presented at the September 19, 2007 Zoning Hearing Board meeting and continued to the October 15, 2007 Zoning Hearing Board meeting.

Upon motion of Mr. Gordon, seconded by Mr. Brockington, the Commission reiterates its previous decision and takes no action subject to the following:

- a. That the chain link along Limekiln Pike be removed, and

- b. That the landscaping be upgraded and added along the residential properties (Lots 2 and 16) and the parking field.
3. Cheltenham Township Development Application No. 07-06: Record Plan Cheltenham Square Mall Commercial Renovations – 2007 – 2385 Cheltenham Avenue was discussed.

Mr. David Sander, Attorney, Mr. Adam Benosky, Architect, and various representatives for Thor Equities were present to discuss this Application.

Mr. Reitano read the following Building and Zoning Committee's recommendation of September 4, 2007 pertaining to the requested Zoning Relief on this proposed project:

- a. That the proposed restaurant on the north side of Shoppers Lane (Restaurant No.1) not have a drive-thru lane.
- b. That the access lane for Restaurant No. 1 be relocated back northeasterly along Shoppers Lane as far as practicable to minimize conflicts with the traffic queuing at the traffic signal at Shoppers Lane and Ogontz Avenue.
- c. That the Variance being requested from CCS 295-221.B.2. regarding pedestrian access thru/from the parking fields to the shopping center buildings on both Lot Nos. 1 and 2 be struck.
- d. That the proposed Zoning Relief under D.1.b. be modified as follows:

Variances from CCS 295-221.B.3. for not providing continuous screening consisting of either a 3' high wall/fence or plantings along the street frontage of Lot No. 2 conditioned upon adequate and appropriate landscaping being planted along the street frontages of Lot No. 1.
- e. That the total number of bicycle parking spaces for both Lot Nos. 1 and 2 be at least 62.
- f. That the Variance being requested from CCS 295-221.J. under D.h.ii. on screening of loading areas on Lot No. 2 be struck.
- g. That the proposed free-standing signage ("Signs "ZZ", "BBB" and "CCC") be no higher than 31'; or, in the alternative, additional free-standing signage for the "Target" store be added (not to exceed one (1), 20' high free-standing sign per street frontage).
- h. That the Shoppers Lane horizontal curve to the north of the proposed "Target" store be super elevated.

Mr. Reitano presented a land development plan with the Township Engineer's

recommendations and informed the Commission that these recommendations have been

incorporated into the revised plan as follows:

1. The western side of the property was discussed and it was stated that Restaurant No. 1 will not have a drive-thru lane.
2. The entrance to Restaurant No. 1 will be modified to allow for easier ingress and egress by mounting the exit lane approximately 300' east along Shopper Lane.
3. The walkway will be reconfigured in the vicinity of the proposed Target store in order to provide a pedestrian accessway.
4. The proposed walkway at the rear of the property has been eliminated and will include additional landscaping along Shoppers Lane.
5. An Underground Seepage Bed will provide Stormwater Management and there is the possibility that there may be two Seepage Beds to accommodate the construction of the north parking lot. The Seepage Beds will be constructed with the initial construction.
6. The seepage bed will be sized to accommodate the stormwater runoff from the building roof of the Target store. This roof load will be based on a two year storm.
7. Storm inlets servicing the proposed parking lot will be installed and connected to the main underground seepage bed.
8. The site is serviced by several sanitary sewers and interceptors.
9. The existing automotive shop is served by a sewer connecting to Interceptor B. This sewer runs diagonally across the proposed site of Restaurant No. 1. It was noted that this sewer will require possible relocation if the restaurant is constructed.
10. Interceptor C will handle the sanitary sewer flow from the proposed Target store. The removal of the movie theater will eliminate a greater number of EDUs. This proposed Target store will require less EDUs.
11. Sixty-two bicycle spaces will be provided on Lots 1 and 2.
12. Landscaping will be planted along Washington Lane, Cheltenham Avenue and Ogontz Avenue

It was stated that parking spaces at the reserved parking area is not mandatory at this time but may be required at a later date.

Mr. Adam Benosky gave a brief summary of the project. He indicated that the accessway will be reconfigured in order to provide for a cross walkway throughout the Mall and there will be pedestrian access in front of the Mall at Washington Lane and Cheltenham Avenue.

In response to a question posed by Mr. Cross regarding vehicles exiting/entering Restaurant #1, Mr. Benosky stated the egress/ingress will be limited to right in and right out only.

Mr. Gordon stated his concern regarding safety and inquired if there is a possibility that planting islands, along Shoppers Lane, can be constructed in order to decrease the amount of vehicles cutting through the area.

Mr. Benosky stated there is a comprehensive landscaping plan which shows the location of proposed planting islands and trees.

Mr. Cross requested clarification regarding the curve along Shoppers Lane. Mr. Benosky stated currently Shoppers Lane has a reverse curve and the Township has requested that it be reconfigured to super elevated curve. Regarding the parking, it was stated that there is a certain amount of spaces required for the Target store area, and the remainder of the parking spaces will be for the Mall expansion. The spaces on the upper parking deck are included in the parking spaces count.

Mr. Harrower inquired about the 60 Year Agreement which was discussed at the previous meeting; Mr. Retiano stated one has not been located as of this date.

Mr. Harrower also inquired if plans have been provided for the neighbors to review. Mr. Reitano stated plans are available at the Township Building for review.

Ms. Holland inquired about the sight clearance for proposed Restaurant #2; Mr. Benosky stated there is a good sight triangle.

The pedestrian walkway leading to the Target store was explained.

Signage renderings were presented at this time. There will be a new pylon sign at Ogontz Avenue, the existing signs located at Cheltenham Avenue and Washington Lane and Cheltenham Avenue will have a panel added for the Target store signage, and a panel will be added to the existing sign located at Washington Lane (this sign will be increased to 31' in height). There will also be a building sign on the Target store which will require Zoning Relief.

Upon motion of Mr. Gordon, seconded by Mr. Brockington, the Commission recommends approval of Cheltenham Township Development Application No. 07-06: Record Plan Cheltenham Square Mall Commercial Renovations – 2007 – 2385 Cheltenham Avenue contingent upon the recommendations of Township Engineer, David Lynch, which include the following:

1. That Restaurant No. 1 not have a drive-thru lane.
2. The entrance to Restaurant No. 1 be modified to allow for easier ingress and egress by moving the exit lane approximately 300' east along Shoppers Lane.
3. The walkway be reconfigured in the vicinity of the proposed Target store in order to provide a pedestrian accessway.
4. The proposed walkway at the rear of the property be eliminated and additional landscaping be planted along Shoppers Lane.
5. Stormwater Management be addressed.
6. The seepage bed be sized to accommodate the stormwater runoff from the building roof of the Target store. This roof load will be based on a two

year storm.

7. That the Shoppers Lane horizontal curve to the north of the proposed “Target” store be super elevated.
8. Sixty-two bicycle spaces be provided on Lots 1 and 2.
9. Landscaping be planted along Washington Lane, Cheltenham Avenue and Ogontz Avenue

APPEAL NO. 3239 – Appeal of Robert and Helen Smith, owners of premises known as 147 Carroll Avenue, Glenside, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to add a 1662 S.F., 2-storey addition (3242 G.S.F.) to an existing single family semi-detached dwelling:

- a. Variances from the Rules and Regulations of the Class R-5 Residence District as outlined in Article VIII of Chapter 295 of the Cheltenham Code as follows:
 - i. From CCS 295-43. for expansion of a non-conforming dwelling type (single family semi-detached) instead of one of the permitted enumerated uses.
 - ii. From CCS 295-46.B.(2) as follows:
 1. For a zero width side yard setback for a length of 27.58' along the common line with 149 Carroll Avenue.
 2. For an eight foot (8') side yard setback for a length of 23.5±' along the common line with 149 Carroll Avenue.

Mr. Timothy Smith, Applicant, and Mr. Michael Shapiro, Architect, were present to discuss this Application.

Mr. Reitano stated the Applicant had previously requested and was denied Zoning Relief for an addition under Appeal No. 3056. At this time the Applicant is requesting Zoning Relief to construct a 1662 SF, two storey addition.

Mr. Shapiro presented renderings of the proposed project and advised the Commission that Mr. Smith has an extended family, consisting of his mother, father, uncle, brother, wife and daughter, living at this residence and some require medical needs. It was stated that his father, Mr. Robert Smith, cannot climb the stairs, therefore must reside entirely on the first floor.

Mr. Shapiro stated this is an extremely large property located in an R-5 Zoning District.

The proposed project will consist of expanding the family room, kitchen and dining room and the addition of two bedrooms.

A financial burden will be imposed if Zoning Relief for this addition is denied.

Mr. Cross inquired if the neighbors have been approached regarding this project; Mr. Smith stated they have and have no objections.

Mr. Goldfarb has concerns since this is a large structure and eventually could be converted into a boarding house.

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

Mr. Goldfarb abstained from voting.

APPEAL NO. 3240 – Appeal of Arthur Pellulo on behalf of Estate of Peter Pellulo, owners of premises known as 509 Elkins Avenue, Elkins Park, PA, pursuant to CCS 295-206.A.(1), that the Zoning Officer, in his Notice of Violation letter of August 8, 2007, made an error in his determination that two (2) free-standing walls, Wall-1 and Wall-2, are structures in accordance with CCS 295-2.C. definition for “Structure,” and as such, Wall-1 is in violation of CCS 295-39.B.(1) for encroaching into the required side yard setback area along the 503/509 Elkins Avenue common line and Wall-2 is in violation of CCS 295-39.C. for encroaching into the required rear yard setback area. Said premises being within the Class R-4 Residence District.

No representatives were present to discuss this Application.

Dr. Jeffrey Kohn, 503 Elkins Avenue, was present to express his objection to the walls.

Mr. Reitano stated that Mr. Lynch, Township Engineer, sent a Notice of Violation letter to the trustees of this property regarding two free standing walls, which he described as a structure. At this time the Applicant is requesting a determination on the Township Engineer’s interpretation of these walls as structures and the validity of the Notice of Violation.

Upon request, Mr. Reitano read the definition of a “Structure”. He also stated that the height of one wall is approximately two to three feet.

Dr. Kohn presented photos of the wall and noted his property is approximately four to eight feet higher than the property in question. It was stated that in the year 2002 a cement wall was constructed on top of an existing retaining wall and the materials are not in fitting with the comprehensive plan of Elkins Park. It was also noted that the residence at 509 Elkins Avenue is not occupied at this time.

Dr. Kohn stated that no engineering study was performed for the wall and also noted that there are deed restrictions for the property.

Upon motion of Mr. Gordon, seconded by Mr. Brockington, it is recommended that Appeal No. 3040 be denied as the Commission is in agreement with the Township Engineer's interpretation of the definition of a "Structure".

APPEAL NO. 3241 – Appeal of Brandon and Marybeth Byers, owners of premises known as 516 Georgian Road, Glenside, PA, from the Decision of the Zoning Officer for a variance from the rules and regulations of "Yard Regulations" as outlined in CCS 295-220.C. for a lesser rear yard setback of 5.75' instead of the minimum required 15' for an existing 6' x 8' shed. Said premises being within the Class R-4 Residence District.

Mr. Brandon Byers, owner of 516 Georgian Road, was present to discuss this Application.

Mr. Robert Kotsur and Ms. Elena Casacio, 517 Fox Road, whose property abuts the rear of this residence, were present and expressed their opposition to the location of the shed.

Mr. Byers presented photos of the shed and indicated that he was unaware a Building Permit was required.

Mr. Reitano stated the Township received a complaint that the shed had been constructed and upon review ascertained the proper Building Permit was not obtained and that, at its present location, Zoning Relief was required.

Mr. Byers stated that a shed, which has since been demolished, was located under a tree near the property line. He indicated due to his mother moving in with him, and her

belongings the shed is necessary. The placement of the shed is on the flattest area of the property and if relocated further from the property line would be more elevated.

Ms. Casacio presented photos of the shed and stated, by Code, a 15' setback is required.

She also stated that there are potential stormwater issues and that between the properties were a series of pavers, some of which have been removed by Mr. Byers.

Mr. Byers indicate that the pavers were causing more runoff issues since they are impervious surfaces and the water was not draining properly.

Mr. Reitano indicated stormwater management does not need to be addressed with this size shed.

The natural overall flow of stormwater was discussed and it was stated that slate and flagstone are considered impervious area and would contribute somewhat to diverting water away from the property.

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

Mr. Gordon voted to deny this Appeal as there are alternative areas on the parcel to place the shed.

APPEAL NO. 3243 – Appeal of East Cedarbrook, LLC, owner of premises known as 3001 Cheltenham Avenue, Wyncote, PA, (a/k/a CTRERP Block 146, Unit 029; and as East Cedarbrook Plaza – Phase II), from the Decision of the Zoning Officer for the following Zoning Relief in order to construct a loading dock and dumpster area enclosure (“Enclosure Structure”) on the southwest side of Building “E”:

- a. A variance from the Rules and Regulations of the Class C-2 Commercial and Business District as outlined in CCS 295-111.A.(1) for a lesser front yard setback of 20.5±' instead of the minimum required 40' for the Enclosure Structure.
- b. Variances from the Rules and Regulations of “Fences and Walls” as outlined in CCS 295-223. from the requirement that fences/walls within the required front yard setback area be no higher than 4' and be at least 50% open, as follows:
 1. For 18±' L.F. of 13.6±' high solid Enclosure Structure Closure Structure.
 2. For 106±' L.F. of 13.6±' high Enclosure Structure solid free-standing walls.

3. For the 15.1±' high pilasters.

Ms. Lori Stopyra, Manager of Cedarbrook Mall, was present to discuss this Application.

She presented plans and indicated the location of the proposed loading dock and dumpster area enclosure on the southwest side of Building E.

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

Cheltenham Development Application No. 07-08: Record Plan Overall HVAC Units Plan for Cedarbrook Plaza, East Cedarbrook Plaza – Phase I and East Cedarbrook Plaza – Phase II was discussed at this time.

Mr. Stopyra presented plans of the proposed HVAC Units. Upon review it was noted that the location of the units were not indicated on the plans. Ms. Stopyra stated Mr. Lynch, Township Engineer, only required the amount of units being proposed on the plans. Mr. Reitano stated the noise pollution requirements will be addressed by the language in the recorded drawing.

Upon motion of Mr. Goldfarb, seconded by Mr. Brockington, it is recommended that Cheltenham Township Development Application No. 07-08: Record Plan Overall HVAC Units Plan for Cedarbrook Plaza, East Cedarbrook Plaza – Phase I and East Cedarbrook Plaza - Phase II be approved contingent upon the applicant complying with requirements pertaining to noise pollution.

APPEAL NO. 3244: Appeal of T-Mobile Northeast LLC, prospective tenant at premises known as 25 Washington Lane, Wyncote, PA (a/k/a CTRERP Block 168, Unit 22, and as the “Wyncote House”), from the Decision of the Zoning Officer for the following Zoning Relief for the installation of nine (9) telecommunication antennas, cabinets and associated appurtenances (“Telecommunication Installation”) on the rooftop and penthouse of the premises as follows:

- a. An interpretation that the proposed is permitted under CCS 295-89.D. (which allows “Telephone Central” uses).
- b. In the alternative, a determination that the proposed installation is permitted as an accessory use under CCS 295-89.E. since the proposed use is customarily incidental to tall buildings.

- c. In the alternative, a variance from the rules and regulations of the Class M-3 Multiple Dwelling and Office District as outlined in CCS 295-89. for the Telecommunications Installation instead of one of the permitted enumerated uses.
- d. In the alternative, T-Mobile challenges the validity of the Zoning Ordinance: Chapter 295 of the Cheltenham Code as exclusionary, since it does not provide at all for telecommunications uses.
- e. Variance from CCS 271-114.D. This is a rooftop installation and T-Mobile seeks relief from the requirements of this section.
- f. T-Mobile also challenges the validity of Chapter 271 of the Cheltenham Code as it applies to telecommunications carriers such as T-Mobile, in that the Federal Telecommunications Act of 1996 (“Telecommunications Act”), 47 U.S.C. §332(c)(7)(B), and the regulations under that Act preempts the licensing requirements set forth in Chapter 271. That Chapter is also challenged as violative of §253(a) of the Telecommunications Act because imposing a license or franchise fee upon a grant of a telecommunications license is a prohibited barrier to entry.
- g. T-Mobile challenges the Zoning Ordinance: Chapter 295 of the Cheltenham Code as violative of the Telecommunications Act in that it prohibits or has the effect of prohibiting service because no zoning district makes specific provision for telecommunications uses.
- h. T-Mobile challenges the Zoning Ordinance: Chapter 295 of the Cheltenham Code as violative of the Telecommunications Act because denial of permission for a telecommunications use on the property would unreasonably discriminate against providers of functionally equivalent services.
- i. A variance from the rules and regulations of the Class M-3 Multiple Dwelling and Office District as outlined in CCS 295-95. for the telecommunication antennas height of 111±' AGL instead of the maximum permitted 85' AGL. The existing building mean height of 98' AGL is legal non-conforming per ZHB Appeal No. 2656.
- j. Relief is requested from any parking restrictions to the extent needed. (See CCS 295-221.)

Mr. David Falcon, Attorney, and Mr. Scott Dolley, Zoning Manager, were present to discuss this Application.

Mr. Falcon stated that T-Mobile had previous requested Zoning Relief for the installation of a telecommunication at Calvary Assembly of God Church in Wyncote and at that time it was requested that alternate sites be considered.

At this time T-Mobile is requesting Zoning Relief for the installation of nine (9) telecommunication antennas, cabinets and associated appurtenances on the roof-top of Wyncote House, located at 25 Washington Lane.

It was stated that the antenna will be 10' above the main roof and lower than the penthouse. The equipment will not be visible from the penthouse.

Mr. Dolley informed the Commission that the equipment can be painted to match the building façade.

Upon motion of Mr. Gordon, seconded by Mr. Brockington, the Commission takes no action but recommends that the equipment be painted a neutral color.

APPEAL NO. 3242 – Appeal of Patrick C. Morrin, owner of premises known as 8245 Brookside Road, Elkins Park, PA, 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) and (2) for a lesser front yard setback of 35±' from the Brookside Road frontage of the premises instead of the minimum required 40' in order to construct a 12' x 12' addition to the southwest side of the residence.

No representatives were present to discuss this Application.

The plans were presented by Mr. Reitano and reviewed by the Commission.

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

4. Upon motion of Mr. Goldfarb, seconded by Mr. Brockington, the meeting adjourned.

David. G. Kraynik
Township Manager

Per: Emma Wetzel