

January 8, 2008  
Township Building

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Chairman Paul R. Greenwald presiding. Members present were Commissioners Portner, Sharkey, Simon and Swavola. Also present was Ex-Officio member Muldawer. Staff present were Pierce Anderson, Esq., Wisler, Pearlstine, Talone, Craig, Garrity & Potash; Bryan T. Havir, Assistant Township Manager; Carmen Reitano, Assistant to the Township Engineer; Ruth Littner Shaw, Main Street Manager; and David G. Kraynik, Township Manager. A Public Attendance List is attached.

Mr. Greenwald called the meeting to order.

1. The Committee reviewed the Zoning Hearing Board Agenda for January 14, 2008, as follows:

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'.

Peter Friedman, Esq., was present to represent the applicant. He advised that the appeal is being withdrawn. No action by the Committee was necessary.

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.

Mr. Reitano advised that the applicant is waiting for the Zoning Hearing Board's decision. No action was necessary by the Committee.

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.

Richard Berlinger, Esq. was present to represent the applicant. He advised that he prepared a Restricted Covenant for the Township Solicitor to review. Said document would include a restriction that the property would be converted back to a single family home when the Bests no longer own it. Mr. Anderson stated that he is unsure how such a document would be enforced, and it did not indicate that a hardship exists. Mr. Berlinger stated that the document contains a stipulation that the second kitchen would be removed after the property changes ownership. It was Mr. Swavola's opinion that said document should be prepared in full, not a proposal or conceptual document, be

presented to the Zoning Hearing Board. Mr. Swavola changed his previously stated recommendation of “approval “of said appeal at the December 4, 2007 meeting of the Building and Zoning Committee to one of “no action”. He felt that the Zoning Hearing Board should decide based on the facts presented and concerns of the neighbors. Mr. Greenwald felt that any motion should include the recommendation that if relief is granted, the Restricted Covenant be incorporated into the decision or incorporated into the decision by reference. This would make the terms and conditions enforceable by the Township. Mr. Simon stated that he was uncomfortable with a motion of “no action”. He questioned how the property would be returned to its original state once the Bests no longer own it. He felt that the Zoning Hearing Board needed to make the decision on whether the Restricted Covenant would be enforceable.

Residents presented a petition opposing the appeal (see attachment). They expressed opinions as follows:

Carl Rotenberg, 266 Ashbourne Road, objected to the condition of Mrs. Best’s ownership since she is young and could conceivably live there for many years.

Irene Campbell, 7743 Albright Avenue, is the next door neighbor. She felt the Restricted Covenant was not helpful to the neighbors. The neighbors have been considerate to Mrs. Best’s health issues but this conversion will change the character of the street.

Patricia Heenan, 7744 Albright Avenue, felt the additional parking area was overwhelming on a little street and is inconsiderate to the neighbors.

Linda Riley, 266 Ashbourne Road, lives next door. She distributed photos of the property and the area. She was concerned about degradation of the property values, safety, traffic, lack of sidewalks on a 13’ wide street with lots of small children. Such a conversion could be precedent-setting.

Charles D. Gray, Jr., 241 Harrison Avenue, Glenside, stated that he is the Township’s former Director of Public Health. He confirmed Mrs. Best’s health condition and that she is pesticide hypersensitive and is on the state’s list. She has a unique medical problem that is life-threatening.

Richard Campbell, 7743 Albright Avenue, felt that Mrs. Best’s health was not the issue and had nothing to do with the variance.

Amy Asta, 7740 Albright Avenue, felt that converting the property back to a single family dwelling could be problematic.

Mrs. Rubin, 259 Ashbourne Road, did not oppose the appeal. According to her, the Bests' have been good neighbors, Mrs. Best's health is of grave concern, she has been on Mrs. Best's speed dial for emergencies, she trusted the Bests, there was a lot of fear talk among the neighbors, Brookview Apartments did not diminish the value of properties, this was not a moneymaking opportunity for the Bests. She felt there were neighbors who felt pressured to sign the petition.

Nick Scortino, 1267 Ashbourne Road, felt that people were more concerned about the trees being removed, most of which were diseased. The Bests would refurbish the area. Neighbors seemed more concerned about trees than someone's health. He felt some of the neighbors should look at the condition of their own properties before criticizing anyone else. He suggested that those neighbors who support the Bests' should draw up their own petition. He asked about the feasibility of such a petition. Mr. Simon responded that a counter-petition demonstrates another point of view. Also, a petition presented to the Zoning Hearing Board becomes part of the record.

Bill Martin, 7746 Albright Avenue, questioned the basis of the Bests' appeal. Mr. Berlinger stated that if the Bests' own the property, then they can control who lives there and also control the use of chemicals and pesticides. The property is in a neglected condition. There were items that they did not anticipate because the building inspector did not notice them. He stated that the Bests have the right to remove trees on their property, there is no limit to the number of cars that are allowed on the property, the renovations are in excess of \$100,000, and the Bests need to raise the money by renting the property.

Christine Ager, 104 Surrey Road, asked if the Zoning Hearing Board's decision would be precedent-setting. Mr. Anderson advised that the Zoning Hearing Board makes decisions on a case-by-case basis. The appeal does not change the zoning for the property but is a variance for the property. Mr. Simon stated that every Zoning Hearing Board decision is different and applies only to a particular property and not the neighborhood.

Discussions concluded.

Upon motion of Mr. Swavola, and approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee takes no action on said appeal. However, if relief is granted, it be granted with the condition that a Restricted Covenant be a condition of the grant of relief (AYES: Muldawer, Portner, Sharkey, Simon, Swavola; NAYES: Greenwald).

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 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.

The Committee reviewed Appeal No. 3258 and Appeal No. 3260 were reviewed at the same time jointly since the applicant was the same and the lots were adjacent to each other. Peter

Friedman, Esq. and Jack Leapson, Engineer were present to represent the applicant. Mr. Friedman reviewed the plan. Mr. Leapson reviewed the location of the houses on the lots, steep slope issues, retaining wall, grading, removal of trees and drainage. In response to a question from Mr. Greenwald, Mr. Leapson stated that current plans are for the removal of 20 trees and an arborist will be examining all trees.

Residents reviewed the plan and had comments.

Chuck Steinberg, 7704 Lafayette Avenue, opposed the appeal. He stated that there are no sewers, water runs off down Lafayette Avenue from Surrey Road, he had to install storm drains the entire width of his driveway, the area is an animal preserve, trash would have to be taken 250' up hill.

Sam Firestone, 101 Surrey Road, reviewed the history of the area. He stated that Surrey Road is not a dedicated street.

John Mellor, 7707 Mill Road, was concerned about water in the stream, run-off and drainage.

Walter Plotnick, 260 Glenwood Road, was concerned about run-off into his backyard, there would have to be constant monitoring of the run-off, and damage that could be done to his property.

Nathan Freedman, 252 Glenwood Road, was concerned about run-off from Woodlawn Avenue, lack of drainage, increase of impervious surfaces that would create run-off and drainage problems.

It was Mr. Swavola's opinion that egress and ingress were not clear, and the run-off issues and slopes do make these lots developable. Mr. Friedman advised that his client will ask for a continuance. It was Mr. Portner's opinion that the applicant should have had a meeting with the neighbors, and there was a lack of communication on the applicant's part.

Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that if the applicant requests a continuance, that said continuance be denied. If a continuance is granted, the Committee recommends denial of said appeal.

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.

Mr. Reitano reviewed the appeal. Mr. Bukevoc had a letter of support from neighbors.

Joseph Seltzer, 7813 Park Avenue, stated that there was previously a garage on the site that was larger than the proposed shed. He did not oppose the appeal.

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

2. Upon motion of Mr. Muldawer, and unanimously approved by the Committee, the Planning Commission Meeting Minutes dated December 17, 22007, were accepted.

3. The Committee reviewed a draft ordinance creating an Age-Restricted Overlay District (see attachment).

Mr. Kraynik gave an update on the status of the ordinance, including recent changes. A Public Hearing on the adoption of said ordinance was advertised for January 22, 2008. However, in light of recent changes, the ordinance and Public Hearing may have to be readvertised for a future date. It was Mr. Anderson’s opinion that the changes were substantial enough to warrant readvertising. Mr. Muldawer recommended that when the ordinance is next advertised, it be done so when all changes are finalized.

Peter Friedman, Esq. and Stuart Appel, architect, reviewed their suggested changes as referenced in a recent letter to the Township. Mr. Friedman reviewed his suggested changes for landscaped buffers along fire lanes, minimum distance between buildings, and prohibition of flat roofs. Mr. Kraynik stated that some of Mr. Friedman's suggested changes are not in the best interest of the Township, in the opinion of the Ad Hoc Committee. Mr. Swavola stated that the ordinance is not being written to meet the needs of Mr. Friedman's client but for the Township as a whole. Additionally, Mr. Swavola stated that the Township wants a common owner. Mr. Portner hoped that the ordinance would be close to finalization since the community is ageing, and there is a need for senior living facilities.

Members of the public had comments as follows:

Elizabeth Vazquez, stated that she represents the Fair Housing Authority of Southeastern Pennsylvania. She offered the services of her organization.

Carl Freedman, 7708 West Avenue, questioned the term "architectural break"; elimination of sloped roofs under "Building Façade"; Net Developable Site Acreage; FEMA maps; lack of definition of environmentally-sensitive areas; and adequacy of the Maximum Density map.

Sam Goldstein, President of Federation Housing, asked that a meeting be held so that all parties, including the public, could discuss the ordinance together.

Chris Kytzidis, 7708 Chapel Road, asked if the rules of the Zoning Code will apply to this ordinance and questioned why all of the photos show the Federation House project at 509 Ashbourne Road. He was informed that the Zoning Code will apply to the ordinance and that the photos were used simply as exhibits. Mr. Kytzidis questioned the Maximum Aggregate Building Face Projection Length being in conformance with the exhibit.

Discussions having concluded, upon motion of Mr. Swavola, the Committee unanimously agreed that the next meeting of the sub-committee for said ordinance be scheduled as an evening meeting and to be open to the public.

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

APPEAL NO. 3244 – Appeal of T-Mobile Northeast LLC and Mid-Island Properties, Inc. and Sylvan M. Cohen, owners of the property known as the Wyncote House, 25 Washington Lane,

Wyncote, from the determination of the Zoning Officer finding that the installation of nine telecommunication antennas, cabinets and associates appurtenances (“Telecommunication Installation”) on the rooftop and penthouse of the premises would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XIV, Section 295-89, regulating uses, Article XVI, Section 271-114, regulating [permitted rooftop uses], Article XIV, Section 295-95, regulating building height, and Article XXIX, Section 295-221, regulating off-street parking..

The Zoning Hearing granted the applicants’ request for relief, subject to conditions.

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

5. Upon motion of Mr. Muldawer, and unanimously approved by the Committee, the Report of the Building Inspector for the month of December 2007 was accepted.

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

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David G. Kraynik  
Township Manager

as per Anna Marie Felix