

November 7, 2007  
Township Building

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Chairman Paul R. Greenwald presiding. Members present were Commissioners Gerhard, McKeown, Muldawer, Portner and Simon. Also present was Ex-Officio member Swavola. Staff present were Joseph Bagley, Esq., Wisler, Pearlstine, Talone, Craig, Garrity & Potash; Bryan T. Havir, Assistant Township Manager; David M. Lynch, Director, Engineering, Zoning and Inspections; 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 Agendas for November 19 and November 28, 2007, as follows:

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.

Peter Friedman, Esq. was present and represented the applicant. He advised that the protestant's attorney requested to file a brief.

Upon motion of Mr. Gerhard, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it recommends denial of said appeal as previously stated.

APPEAL NO. 3240 (Continued) – 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.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that its recommendation is the same as previously stated and directed that the Township Solicitor attend the Zoning Hearing Board meeting in support of Mr. Lynch’s determination.

APPEAL NO. 3245 – 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. and Harold Lichtman, Architect, were present. Mr. Lynch reviewed the appeal. Mr. Friedman reviewed the repaving of the driveway, a proposed asphalt curb along the side of the driveway to alleviate water runoff onto the neighboring property, the width, height, length and style of proposed fencing.

Stormwater management was discussed. Mr. Lichtman stated that water runoff is occurring where the original dirt area got repaved. Mr. Lynch recommended that a seepage bed be required that would be located at the end of the asphalt area. In response to a question from

Mr. Simon, Mr. Lynch stated that it has been determined that the original driveway was 7 ½-feet wide, and the width is now double.

Philip Washington, son of neighbors John L. Washington, Sr. and Mary Washington, 371 E. Church Road, submitted documents and drawings of the property. His parents oppose the extra 3-4-feet that the driveway has been enlarged. The water runoff is draining onto his parent's property. According to Mr. Washington, he received a stone mason's opinion that the wall is collapsing due to hydro-static pressure, and in his opinion, stormwater management has to be addressed prior to the wall being rebuilt. Additionally, a hedge was removed that the neighbor wants to replace with a fence. He resented the ordinance violations. In response to a question from Mr. Portner, Mr. Washington stated that the wall is over 100-years old and became out of plumb when the driveway was done. Mr. Lynch advised that the curb also has to be restored to its original height.

Mr. Rude stated that he wants to rectify the situation and that Township Staff concurred that it was contractor error. Jack Washington stated that water is running off into his carriage house as well as water from the roof spouts, and he supported the need for a seepage bed. It was his opinion that this situation is caused by contractor error. He opposed the appeal until the property owner complies with Township ordinance regarding the driveway.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it recommends approval of said appeal, contingent upon the curb along the side of the driveway being of sufficient length, a seepage bed of sufficient capacity be installed to the satisfaction of the Township Engineer to protect the downhill property from the storm water issue and that the curb along High School Road be restored. If said conditions are not acceptable, then there is no hardship, and the

Committee recommends that the appeal be denied. Regarding the fence, the Committee takes no action.

Ms. Gail Middleton, 123 Waverly Road, addressed the Committee. In her opinion, this was a situation that was indicative of many individuals who choose to ignore Township ordinances, and then apply for a variance if they get caught.

APPEAL NO. 3246 – Appeal of Scott and Amy Robey, owners of premises known as 7909 Heather Road, Elkins Park, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to construct a 200± S.F., 1½ storey garage addition to the northeast side of the residence:

- a. Variances from the rules and regulations of the Class R-3 Residence District as outlined in CCS 295-24. as follows:
  - i. From CCS 295-24.B.(1) for a lesser aggregate side yard setback width of 21±' instead of the minimum required 40'.
  - ii. From CCS 295-24.B.(1) for a lesser side yard setback of 4±' instead of the minimum required 15'.

Mr. Lynch reviewed the appeal.

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

APPEAL NO. 3247 – Appeal of Ancillae Assumpta Academy, owner of premises known as 2025 Church Road, Wyncote, PA, from the Decision of the Zoning Officer for a Special Exception in accordance with the rules and regulations of “Non-conforming Uses” as outlined in CCS 295-227.B. and C. for the expansion of the non-conforming religious use by the construction of a 424± SF, 1½ storey addition to the southwest side of the library; said addition enclosing a stairway and adding a minor storage area. (Said premises being within the Class R-3 Residence District.)

Mr. Greenwald recused himself from the meeting, stating that he is an affected party.

Mr. Lynch reviewed the appeal. John DiBenedetto, Architect, reviewed the location of the stairway, removal of the existing steel stairs, addition of a small classroom to the library, removal of existing and addition of new impervious surfaces.

Mr. Greenwald stated that he supported the appeal, and there has been no opposition from the neighbors.

Upon motion of Mr. Portner, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends that the request for relief be granted.

APPEAL NO. 3248 – Appeal of Namsoo M. Dunbar, owner of premises known as 1210 Stratford Avenue, Melrose Park, PA, from the Decision of the Zoning Officer for the Zoning Relief in order to install a 12' x 16' shed by the south corner of the premises:

- a. A variance from the rules and regulations of the Class R-4 Residence District as outlined in CCS 295-39.B.(1) for a lesser side yard set back of 3±' instead of the minimum required 10'.
- 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 8.5±' instead of the minimum required 15'.

Mr. Lynch reviewed the appeal. Ms. Dunbar stated that there is no opposition from neighbors.

Upon motion of Mr. Swavola, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends that the request for relief be granted.

APPEAL NO. 3249 – Appeal of Jeremey and Nancy Wolfson, owners of premises known as 643 Mulford Road, Wyncote, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to construct a 317± S.F., one storey addition to the southeast corner of the residence:

- a. A variance from the rules and regulations of the Class R-3 Residence District as outlined in CCS 295-24.B.(1) for a lesser side yard setback of 11±' instead of the minimum required 15'.
- b. A variance from the rules and regulations of “Non-conforming Uses” as outlined in CCS 295-227.K. for expansion of a non-conforming structure.

Mr. Lynch reviewed the appeal. Mr. Wolfson stated that the neighbors have concerns about run-off, drainage and placement of windows that could invade their privacy. Neighbors

also support having a fence rather than a green buffer. Replacement of an old existing shed and stormwater management were discussed.

Upon motion of Mr. Greenwald, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends the grant of relief, contingent upon the requirement of a fence to provide privacy to the neighbors and that the neighbors be satisfied with the privacy issue regarding the windows.

APPEAL NO. 3250 – Appeal of Kevin and Gina Kaufman, owners of premises known as 543 Bethan Road, Elkins Park, PA, from the Decision of the Zoning Officer for the following Zoning Relief for recently constructed picket fencing along the Bethan Road and Forest Avenue frontages of the premises (said premises being within the Class R-4 Residence District):

- a. Variances from the rules and regulations of “Fences and Walls” as outlined in CCS 295-223. as follows:
  - i. For the fence posts being 4.75' in height instead of the maximum permitted 4' height for fences within the required front yard setback area.
  - ii. For the picket spacing being 2.5" which is less than the 3.25" picket width which is in violation of the “50% Open” requirement for fences within the required front yard setback area.

Mr. Lynch reviewed the appeal, which is the result of a neighbor’s complaint. The fence posts are ¾” higher than allowed under Township ordinance. The pickets are spaced 2.5” apart, which is less than the 3.25” allowed under Township ordinance. It was Mr. Simon’s opinion that the Township should consider amending its ordinance regarding the height of fence posts.

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

APPEAL NO. 3251 – Appeal of Glenside Fire Company No. 1, owner of premises known as 210 W. Glenside Avenue, Glenside, PA, from the Decision of the Zoning Officer for the following Zoning Relief in order to install a 8' L x 4' W x 7.5' H, 100 KW @ 60 Hz. back-up electric generator along the northwest property line of the premises (said premises being within the Class R-5 Residence District):

- a. Variances from the rules and regulations of the Class R-5 Residence District as outlined in CCS 295-46. as follows:
  - i. From CCS 295-46.B.(2) for a lesser side yard setback of 1' instead of the minimum required 20'.
  - ii. From CCS 295-46.C. for a lesser rear yard setback of 7.5' instead of the minimum required 25'.
- b. A Special Exception in accordance with the rules and regulations of “Non-conforming Uses” as outlined in CCS 295-227.C. for expansion of the non-conforming use of the premises.

Mr. Lynch reviewed the application. David Willard, President of the Glenside Fire Company was present. Mr. Gerhard was concerned with the decimal levels, size and noise of the equipment. The current generator is in the basement of the firehouse and cannot be heard by the neighbors. Mr. Gerhard acknowledged the contribution of the fire company to the community but felt that the generator was too large and too loud to be placed outside and in such close proximity to the neighbors. A neighbor complained that it was too close to his house. Michael Ambrose, 214 W. Glenside Avenue, stated that it was aesthetically unappealing and was concerned about diesel fuel.

Upon motion of Mr. Gerhard, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that if the applicant requests a continuance, the continuance should be granted. However, if a continuance is denied, the Committee recommends denial of this appeal due to sound and location being too close to the neighbors.

APPEAL NO. 3252 – Appeal of Jonathan DeHart, owner of premises known as 324 Limekiln Pike, Glenside, PA, from the Decision of the Zoning Officer for a variance from the rules and regulations of “Fences and Walls” as outlined in CCS 295-223. to construct 62±' of 2.5' high, dry-laid stone wall within the required front yard setback area instead of the requirement that a fence/wall within the required front yard setback area be 50% open (said premises being within the Class R-5 Residence District.).

Mr. Lynch reviewed the application.

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

APPEAL NO. 3253 – 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 his determination that the parking of school buses is not permitted by the Grant of Zoning Relief under ZHB Appeal No. 725.
- c. 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.
- d. 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.
- e. 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.
- f. 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.

The Committee discussed the appeal. Mr. Lynch requested that the Township Solicitor be present at the Zoning Hearing Board meeting.

Upon motion of Mr. Gerhard, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that the Committee recommends denial of this appeal.

Ms. Gail Middleton, 123 Waverly Road, stated that the school buses that are currently parked this location are in violation of the current zoning, they are noisy, they speed on Waverly Road, and the bus drivers dump trash at the bird sanctuary.

Mr. Greenwald asked that the matter of school buses speeding along Waverly Road be placed on the agenda for the next Liaison Committee meeting.

2. Upon motion of Mr. Gerhard, and unanimously approved by the Committee, the Planning Commission Meeting Minutes dated October 22, 2007, were accepted.

3. Ms. Jean Holland, Community Planner, Montgomery County Planning Commission, presented a PowerPoint presentation that outlined the zoning requirements for a draft ordinance creating an age-restricted overlay district (see attachment).

Her presentation included the reasons age-restricted housing is needed, options for the ageing, and considerations in developing such communities. Maps of appropriate parcels within the Township suitable for age-restricted housing development and the Overlay Standards were presented. These parcels were broken down into three (3) parcel sizes, i.e. 12+ acres, 7.51-12.0 acres, and 5-7.51 acres, i.e. the Faith Theological property on Spring Avenue was presented as an example of a property that is 12+ acres. The Kerlen Farms property on Ashbourne Road was presented as an example of a suitable property of 7.51-12 acres. The former Wordsworth Academy on Ashbourne Road site was presented as an example of a property of 5-7.51 acres. The Crestview Nursing Home, Church Road, was presented as a parcel that has an existing building. For each parcel, Ms. Holland discussed the applicable zoning criteria that included suitable height and density of buildings, architecture that would blend with the neighborhood, parking, setbacks, and land preservation. For a parcel such as Wordsworth Academy, the draft

ordinance would allow a maximum of three (3) stories or 45-foot height, 20 dwelling units per acre or over 100 units. She reviewed types of roofs, HVAC units, and façade styles.

Mr. Swavola inquired about types of zoning relief, age categories, and parking requirements. Ms. Holland advised that certain key considerations include zoning relief by special exception, encouragement of adaptive reuse of buildings, preservation of natural features, allowing for mixed-use development. The Committee discussed “Conditional Use” and use by “Special Exception”. In Mr. Swavola’s opinion, “Special Exception” puts the onus of responsibility on the Zoning Hearing Board and allows for more community input. Ms. Holland stated that the Fair Housing Act has certain criteria to meet age standards, i.e. 55+ and 62+. Data for parking requirements for older communities shows a reduced need for parking. Older people do not need a lot of parking, especially if they are near public transportation.

Mr. Simon asked if consideration was given as to how townhouses/cluster houses rather than a single building would fit the criteria. Ms. Holland responded that concentration was given to parcels where acreage was limited and would not allow for a development that would be spread out. Such parcels are prevalent in suburban Philadelphia communities.

Mr. Swavola reviewed the financial impact of age-restricted developments as per a study prepared by Township Staff. This could amount to revenues of approximately \$2,250,000 per year for 500 units. The Committee agreed that the draft ordinance needed to be publicized, and Mr. Swavola asked that it be placed on Channel 42 and the Township’s website. It will also be discussed at various Township meetings prior to a public hearing.

Upon motion of Mr. McKeown, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the scheduling of a Public Hearing on January 22,

2008 to consider an ordinance amending the Code of the Township, Chapter 295 thereof, entitled Zoning, Article XXXIII, creating an Age-restricted Overlay District (see attachment).

4. The Committee reviewed recommendations from the Economic Development Task Force (EDTF) for Certificates of Appropriateness for signage within the Commercial Enhancement Districts.

Upon motion of Mr. Portner, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Yorktown, Salon Paradisio, 8120 Old York Road, for signage.

Upon motion of Mr. Portner, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Yorktown, Cartridge World, 8120 Old York Road, signage.

Upon motion of Mr. Portner, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to Yorktown, Max & David's, 8120 Old York Road, signage.

Upon motion of Mr. Portner, and unanimously approved by the Committee, a Certificate of Appropriateness was issued to the Old York Road Skating Rink, 8116 Old York Road, for revised signage.

5. The Committee reviewed a request to schedule a Public Hearing for approval of an intermunicipal liquor license transfer. Mr. Kraynik updated the Committee. Said request is being made by the Grayling Corporation, owner of Chili's Restaurant, for the transfer of a restaurant liquor license presently located in Norristown Borough to Cheltenham Township. The Township is required to hold one public hearing for the purpose of receiving comments and recommendations from the public. The Township is also required, either by ordinance or resolution, to approve or disapprove the request. Said request complies with the Pennsylvania Liquor Code.

6. Upon motion of Mr. Greenwald, and unanimously approved by the Committee, it is recommended to the Board of Commissioners the scheduling of a Public Hearing on December 18, 2007 to consider approval of an intermunicipal liquor license transfer to the Cheltenham Square Mall.

7. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Report of the Building Inspector for the month of October 2007 was accepted.

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

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David G. Kraynik  
Township Manager

as per Anna Marie Felix