

**MINUTES**  
**EXETER TOWNSHIP PLANNING COMMISSION MEETING**  
**JULY 7, 2010**

The Regular Meeting of the Exeter Township Planning Commission was held on Wednesday, July 7, 2010 at the Township Hall, 4975 DeMoss Road, Berks County, Pennsylvania. Donald R. Wilson, Chairman called the meeting to order at 7:00 p.m. followed by the Pledge to the Flag.

**COMMISSION MEMBERS:** Donald R. Wilson, Chairman  
Paul L. Schwartz, Vice Chairman  
John W. Bittig, Secretary  
Greg T. Unger  
Gary L. Shane

**ABSENT:** Richard Littlehales  
William Rush

**OTHERS IN ATTENDANCE:** Joe Rogosky, GVC Consulting Engineer  
Michael G. Crotty, Esq.  
Cheryl Franckowiak, Zoning Officer  
Linda Cusimano, Recording Secretary

**1. MINUTES**

**MOTION BY** Mr. Unger, seconded by Mr. Schwartz, to approve the minutes of the June 7, 2010 Planning Commission Meeting as presented. The motion carried unanimously.

**2. AGENDA**

**MOTION BY** Mr. Schwartz, seconded by Mr. Shane, to approve the agenda of the July 7, 2010 Planning Commission meeting. The motion carried unanimously.

The following business was discussed:

**3. INTRODUCTION TO SHAREPOINT** - Eric Gardecki

Mr. Gardecki explained to the Planning Commission how to access SharePoint on the laptop computers to use during the meeting and answered questions about the process.

**4. ZONING ORDINANCE – LANGUAGE REVISIONS**

Mr. Crotty explained the proposed revisions to the Zoning Ordinance concerning signs.

Mrs. Franckowiak explained that they way the ordinance was written prior to these revisions the setbacks for electronic signs would restrict them in such a way that all of our Highway Commercial properties would not be able to have electronic signs. The proposed ordinance now separates the restrictions for off-premise and on-premise signs. She further stated that all of the provisions and restrictions concerning no flashing lights and no glare would protect the residential properties from the electronic signs.

Mr. Crotty then explained the changes to definition of “violent offense” and to also revise the language of the group home section in order to permit them in the LI district. Mr. Bittig asked what zones would allow group homes? Mrs. Franckowiak replied that they would be allowed in R, RC and LI. Mr. Schwartz asked what the Board of Supervisors thoughts were on the districts. Mr. Crotty replied that his recollection was that the Board

is sending this to the Planning Commission with the thought of adding the LI district. Mr. Schwartz asked what the Board wanted the Planning Commission to address this evening. Mrs. Franckowiak replied that specifically these items were coming from the Board and there were some other items that Mr. Crotty would raise for the Planning Commissions consideration this evening. Mr. Crotty stated that the other thought that was “floated” was to specifically define and regulate jails and detention facilities separate and apart from Group Homes and allowing those only in the LI district. Mr. Crotty did not have any specific language to share, but considerations that we would want would be: 1) licensing by the State Department of Corrections; 2) allow only as Conditional Use or Special Exception; 3) to require setbacks from residential uses/residential zones, daycares and schools; 4) require a certain amount of parking; 5) limit the impervious coverage; 6) specifically define it; and, 7) require certain security provisions be put in place and be established in evidence either by Special Exception or Conditional Use process. Mr. Unger asked why the zones were being increased for the allowance of group homes. Mr. Crotty replied that it was by the request of certain residents.

### **Public Comment**

**Chip White, 500 Walnut Road**, handed out copies of land use appeals to the Planning Commission.

Mr. White stated that the reason the ordinance was being revised was because it was “exclusionary”. He did not feel that was the case. He felt that there were group homes already allowed in Exeter Township so the Ordinance was not exclusionary. He further stated that he wondered what angle Adelphoi Village was looking for, did they want the term group home to be defined in our ordinance or did they just want to allow more than three unrelated people? He found some Commonwealth Court cases/decisions that weren’t exactly on point, but pretty close and he read from the copies that he previously handed out to the Planning Commission.

Mr. White also stated that we have group homes in the Township, but restrict them to three non-related persons living there and considering all of the points in the Commonwealth Court cases he did not feel the Township ordinance was exclusionary and felt that it should not be changed. Mrs. Franckowiak replied that we do not recognize/label group homes in the Township. They existed under the definition of a family. Mr. White replied that we allow it de facto. Mr. Crotty replied that there was a function of line drawing that Townships are permitted to make, where the Township can determine and hopefully the courts will uphold between residential and institutional uses. The number of 14 was first suggested by Adelphoi because it was under the state regulations that controlled them; if you go above the number of 14 you are considered a dormitory and 14 or below is considered residential group home use. Mrs. Franckowiak asked Mr. Crotty to explain how the term group home originated. Mr. Crotty replied that group homes encompass the two forms of group home uses that traditionally come before a Township. One is the group homes that are covered under the fair housing act/fair housing amendment act; facilities that are designed to provide services for individuals with handicaps and the other was a provision of adjudicated or dependent juveniles which the state has come to call group homes or personal care homes. Mr. Schwartz asked if the fair housing act required us to allow what we currently have. Mr. Crotty replied that we would be challenged under the FHA for prohibiting group homes for more than three individuals with handicaps. He further stated that the draft of the ordinance covers both of those facilities. Mr. Unger asked if we did nothing to this ordinance how could we be challenged. Mr. Crotty replied that if you did not allow group homes or a home for adjudicated youths above three individuals it would be similar to the Land Display appeal as they would say we are being exclusionary because they could cite state regulations or standards for juvenile group homes throughout Pennsylvania and would say that the limit to three would be unconstitutional and arbitrary.

**Lisa VandarLaan, 5560 Boyertown Pike**, stated that this was not a group home, this was a correctional facility. It was considered a correctional facility by the Department of Justice as of 2006 census and read from same. She further stated that she found no documentation that set any industry standard for the amount of children that are on average in a group home. She further read from documentation concerning group homes and adjudicated youth. Ms. VandarLaan stated that if you allow this correctional facility in here you will have to allow other correctional facilities here and then they would all be concentrated in Exeter Township.

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Ms. VandarLaan asked the Planning Commission to consider what the ramifications would mean.

Ms. VandarLaan then spoke as to what she perceived as the Planning Commissions function. She then read from a court decision for a Chester County zoning exclusion. Ms. VandarLaan further stated that they could even put a correctional facility in Glen Oley Farms. She then stated that she felt that the Planning Commission did not do enough research before working on language for the Ordinance. Accusations and discussion ensued relative to claims of bias.

### **\*Mr. Schwartz left the meeting**

**Dona Starr, Exeter Township Resident**, stated that in response to what Ms. VandarLaan has said, Mrs. Starr pointed out that Ms. VandarLaan was reading from the Municipality Planning Code and the only two Boards that it applied to in a quasi judicial capacity were the Zoning Hearing Board and the Board of Supervisors when they are considering a Conditional Use Application. The Planning Commission is exempt from that.

Mrs. Starr then stated that she felt this was not a group home and should not be placed in that category. It was more of a group institution. A judge would make a decision as to what a juvenile would be sentenced to. She also felt that we should call out both group homes for handicapped and group institution in our ordinance.

**Lisa VandarLaan**, stated that she asked Cheryl Auchenbach of the Berks County Planning Commission if in fact correctional facilities are something that every Township in Berks County would have to zone for. Her statement was that although she would have to research it she felt that there would be public safety and welfare issues with this as these children are taken out of their community because they were a threat there. Ms. VandarLaan then asked the Planning Commission to consider that when writing the language for the Zoning Ordinance. Mr. Wilson replied that concerning her statement that this Board did not take time to look at any issues or do their own research, the Planning Commission relied heavily on staff and our solicitor to guide us and get examples of ordinances. We have professional resources that we review. Mr. Unger stated that he did not like having these facilities in our residential areas and felt that the Township was "running scared".

Mr. Bittig stated that he had lived next door to a juvenile correction facility with 300 vicious juvenile offenders and lived there for 17 years. He never had a problem because they ran to Philadelphia as fast as they could, and living under those circumstances he understood their fears and concerns. Mr. Crotty stated that in response to Mr. Unger's statement, he would not agree that by putting these restrictions in the ordinance and regulating the group homes as proposed was "running scared". The choice before the Township is to be potentially subjected to an exclusionary challenge where the burden is on the Township to prove that the restrictions that we could legislate in place through the ordinance would otherwise be appropriate and required. As opposed to legislating and prohibiting violent offense, prohibiting aggravated assault and prohibiting juveniles that have been adjudicated for aggravated assault, it also prohibits and does not permit adults that have been found guilty of crimes, this only allows adjudicated or dependant youth. It did not mean that the Township, or the Board or the Planning Commission were running scared, he thought the decision was to put the regulations in place so that we could control and mitigate to the greatest extent possible, now, without having to subject yourself to a challenge, any of the public, health, welfare and safety concerns that have been raised.

**Dr. Einsig, 351 Walnut Road**, introduced himself and stated his family lives two houses down from the Bernets' property. He said that he understands the mission of Adelphoi Village, but he did not want to be a neighbor. He shared information about a phone conversation he held and stated he wanted the Planning Commission to understand the gravity of the situation.

**Dona Starr, Exeter Township Supervisor**, stated that Adelphoi asked us to allow aggravated assault, robbery and burglary. We thought that if we allowed robbery and burglary in the lesser of offenses, that they might be happy with that and not challenge us. We did not want to allow aggravated assault as that was basically the same charge as attempted murder. The Board of Supervisors said there was no way we would allow aggravated assault.

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**Jill Skaist**, stated that she wanted the Planning Commission to do their best to stop this from coming into Exeter and stated her main concern was for Glen Oley Farms.

Mr. Unger wanted to make a motion, but was unsure how to word it. Mr. Crotty replied that there were a couple of options; 1) Consider the ordinance as proposed, which was being steered away from; 2) Remove the group home section altogether, instead rely back on the definition of Family; 3) Revise the definition of group home to not permit a facility similar to Adelphoi, but to otherwise regulate group homes for the mentally challenged or handicapped. Mr. Unger stated that he felt we should stop, regroup and figure out what we need to do, but he will not support the ordinance the way it is being proposed. Mr. Shane asked what the ramifications would be if we would not address group homes. Mr. Crotty replied that he would assume that they would file a validity challenge with the Zoning Hearing Board and then we would have to assess the allegations that they raise and go through that process. He further stated that if someone proved that your ordinance is exclusionary under Pennsylvania Law they are generally permitted site specific relief. They get what they proposed. It is then the burden of the Township and anyone objecting to prove to the Zoning Hearing Board that the regulations that you want to impose against them are required for the public health, safety and welfare.

**Dona Starr, Exeter Township Resident**, asked what if we did define group homes and have that use exclusive for mentally challenged or handicapped and allow those in residential areas and then also add a definition for a group institution and that would be allowed only in Light Industrial. Then we would allow that use, just not where they originally wanted it.

**MOTION BY** Mr. Unger, seconded by Mr. Bittig to recommend the Board of Supervisors not approve the Ordinance as written and to revisit the definition of group home and group institution and determine where they would be appropriately situated. The motion carried with Mr. Shane, Mr. Unger, Mr. Bittig and Mr. Wilson voting in favor.

**Hamid B. Chaudhry, 5710 Perkiomen Ave**, stated that he wanted to talk to the Planning Commission about the Dairy Queen sign and wanted to ask the Planning Commission to please recommend that the Sign Section of the ordinance be written to separate the setback distances for off-site advertising signs and on-site advertising signs as he would like to put up a digital sign and the setbacks from residential zones would not allow for him to place one at his business. It would also preclude all of the businesses along 422 to place a digital board. Mr. Crotty explained that was exactly what was being proposed in the draft ordinance; it would place setback restrictions on off-premise electronic signs only. Mr. Chaudhry thanked the Planning Commission.

**MOTION BY** Mr. Unger, seconded by Mr. Shane to recommend the Board of Supervisors re-advertise the Zoning Ordinance and approve the ordinance with the exception of the Group Homes as discussed with the previous motion. The motion carried unanimously.

**ADJOURNMENT**

**MOTION BY** Mr. Shane, seconded by Mr. Unger, to adjourn the July 7, 2010 meeting of the Exeter Township Planning Commission at 8:55pm. The motion carried unanimously.

Respectfully Submitted,

John W. Bittig  
Planning Commission Secretary

Correspondence to:  
BOS: Zoning Ordinance revisions

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