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Newsletter of the Pa. Association of Zoning Officials

September 2021

Latest News

Don't Miss the PAAZO Fall Seminars

The PAAZO Fall Seminars hosted by PSATS are just around the corner! The first will be held at PSATS in Enola, Cumberland County, October 19 and will feature presentations on zoning for controversial uses, “quality of life” enforcement, solar facilities, spot zoning and short-term rentals, and regional zoning projects.

The second seminar will be held October 21 in Monroeville, Allegheny County, and will include sessions on regulation of 5G wireless facilities, how communities approach hot zoning topics, a legal and legislative update, and regional zoning projects.

The final seminar will be held November 9 in Exton, Chester County, and cover ethical and legal gray areas, enforcement best practices, checklists for preparing for ZHB hearings, regional zoning, and zoning for controversial uses.

New PSATS Zoning Academy To Be Offered!

The PSATS Zoning Academy will be held December 7-9 at the PSATS Education Center in Enola and will focus on the foundational aspects of zoning. It will include small group and individualized exercises and post-Academy assessments and will leave attendees well-prepared for the Certified Zoning Officials exam, which will be available at the conclusion of the Academy for those who have not yet taken it. This will also be a great refresher for seasoned zoning officials and a good start for those looking to get into the zoning field.

Training Opportunities

[Hot Topics in Planning: Storefront Vacancies, Recovery and Multi-Family Impacts – 10/13 Webinar](#)

In this webinar, representatives of the Montgomery County Planning Commission will discuss several new and emerging areas in the planning world and their efforts to address them. They will review the impacts of the COVID-19 pandemic on commercial environments and how they might

continue, as well as what municipalities and developers are doing or could do in the future to address the pandemic impacts on their commercial areas. They will also address the uptick in multi-family residential developments that have been proposed or are in development and review new research on the impacts of multi-family housing and how COVID-19 affects it.

PAAZO Fall Seminars

Here are the dates and registration information:

- [October 19, 2021 \(PSATS, Cumberland County\)](#)
- [October 21, 2021 \(Monroeville, Allegheny County\)](#)
- [November 9, 2021 \(Exton, Chester County\)](#)

[How to Use Your Solicitor Efficiently and Effectively – 10/20 Webinar](#)

This session will highlight real-life experiences and ideas that the presenters have implemented with their municipal clients and leave you with practical advice that you can implement to maximize your municipality's legal budget.

[Efficiencies in Park and Open Space Management – 11/10 Webinar](#)

Designed to emphasize the importance of parks and public open space as essential elements in community infrastructure, this webinar will highlight opportunities for land managers to improve maintenance, operational efficiencies, and sustainability efforts. Participants will also network in small groups to share best practices in resource management and capital planning across various industries that can be applied to public works, facilities, grounds, and public property stewardship.

[PSATS Zoning Academy – 12/7-12/9 In-Person](#)

The PSATS Zoning Academy is a multi-day class that is focused on providing attendees with a foundational understanding of all important aspects of zoning in Pennsylvania. This class will greatly benefit newer zoning officials, those looking to become zoning officials, and municipal officials and employees seeking a better understanding of zoning's impact on municipal operations.

Legal Update

Court Rejects Zoning Ordinance Restricting Gun Clubs

In *Drummond v. Robinson Twp.*, ___ F.4th ___, 2021 WL 3627106 (3d Cir. Aug. 17, 2021), the federal appeals court ruled that a Pennsylvania township's zoning ordinance restricting gun clubs lacked the historical foundation necessary to apply the strictest level of constitutional scrutiny and found that the township failed to establish a close fit between the rules in the ordinance and the actual public benefit they served.

The issues in this case arose after Drummond leased land that had been used as a gun club and shooting range. Residents asked the township to rezone the property to limit activities, including the "use of high power rifles." The township amended the rules governing "sportsmen clubs" in its "Interchange Business District" (IBD) to include a "rim-fire rifle rule," which limited the types of firearms that could be used, and a "non-profit ownership" rule. The township left intact the permissive rules governing gun ranges in two other zoning districts.

The court found that there was a lack of historical foundations justifying either of the regulations and determined that it would apply the intermediate level of scrutiny. The court acknowledged that the ordinance promotes a substantial government interest but that "[n]o evidence ties the challenged rules to the asserted interest, and the Township neglects to explain why it eschewed more targeted alternatives." Also problematic was that the township left in place more permissive

rules elsewhere in the township. The court ultimately remanded the matter to the district court to “marshal evidence to explain why, for Sportsman’s Clubs in IBD districts, it embraced the unusual rim-fire rifle and non-profit ownership rules over more common, less burdensome alternatives.”

ZHB’s Failure to Determine Meaning of “Arcade Game” Leaves Township with Loss

In *786KTZ, LLC v. Zoning Hearing Bd. of Lancaster Twp.*, No. 883 C.D. 2020, 2021 WL 3720112 (Pa. Cmwlth. Aug. 23, 2021), the Commonwealth Court affirmed a trial court decision that reversed a zoning hearing board order because the board did not consider the usual and customary definition of “arcade game.”

The township issued a notice of violation to the owner of a convenience store that had four Pace-O-Matic machines in it. The machines are like Pennsylvania Lottery machines but are not regulated by the state and are considered games of skill.

The ZHB denied the owner’s appeal and found that while the township zoning ordinance does not have a definition of “arcade games” it does have a definition for an “amusement arcade.” The ZHB decided that the zoning ordinance “sought to include games of skill as a game that would be found in an arcade, and therefore not permitted in a convenience store.”

On appeal, the township argued that the ZHB appropriately used the definition of “amusement arcade” and determined the machines were arcade games under the ordinance. The Commonwealth Court disagreed. It found that the ZHB used the examples contained in the definition of “amusement arcade” as the definition for the undefined term, “arcade game,” when what it should have done was try to determine the usual and ordinary meaning of the term.

Please share your thoughts about this newsletter’s new format, plus any suggestions you may have. Send us an email at paazo@psats.org or call Editor Brenda Wilt at (717) 763-0930, ext. 123, or PAAZO Program Manager Kathy Kronicz at (717) 763-0930, ext. 154.



Pennsylvania State Association of Township Supervisors

David M. Sanko, Executive Director

4855 Woodland Drive
Enola, PA 17025