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## Newsletter of the Pa. Association of Zoning Officials

October 2021

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### Latest News

#### **Final PAAZO Fall Seminar to Be Held November 9**

The final PAAZO seminar of the fall 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.

In addition, the PAAZO Seminar that was held October 21 was recorded and is available on demand for PAAZO members who may need CZO continuing education credits.

For more information or to register, access the registration links in the "Training Opportunities" section below or go to [learn.psats.org](http://learn.psats.org).

#### **PSATS to Host Classes for New ZHB Members in Early 2022**

Recognizing that many townships will be appointing new zoning hearing board members at their organization meetings in January 2022, PSATS will be offering a "Duties of Zoning Hearing Board Members" class at multiple locations that are to be determined (*one of which will also be made available online*). This three-hour evening class will get new members up to speed on their responsibilities. Please save the following dates: February 23, March 3, and March 8, 2022.

#### **PSATS Zoning Academy Filling Up; Limited Spots Remain**

There are still a handful of spots left for the Zoning Academy on December 7-9 at PSATS. If you or someone in your township would benefit from a comprehensive introduction to zoning in Pennsylvania, go to [learn.psats.org](http://learn.psats.org) to register.

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### Training Opportunities

#### **[PAAZO Fall Seminar \(Chester County\) - 11/9 In-Person](#)**

#### **[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 focused on giving attendees a foundational understanding of all important aspects of zoning in Pennsylvania. This class will greatly benefit newer zoning officials, prospective zoning officials, and municipal officials and employees who are seeking a better understanding of zoning's impact on municipal operations.

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## **Legal Update**

### **Zoning Board Member Conflicted Due to Role with Nonprofit Applicant**

In *Pascal v. City of Pittsburgh Bd. of Adjustment*, \_\_\_ A.3d \_\_\_, 2021 WL 4303202 (Pa. Sept. 22, 2021), the Pennsylvania Supreme Court ruled that a member of the city's zoning board could not participate in a decision involving a nonprofit community development corporation for which she also served as a board member even though there was no evidence that she tried to influence the other members of the zoning board to benefit the nonprofit and there were enough other votes in favor of the application.

Several residents objected to the zoning board's decision to grant the nonprofit's application for variances and special exceptions to build retail space, remodel and reopen a restaurant, and build dwelling units on a property that included multiple commercial buildings. They argued that the zoning board member had a clear conflict of interest given her role with the nonprofit.

The zoning board argued that although the board member should not have participated in the consideration of the applications, its decision should stand because even if the board member had been disqualified, the results would have remained the same (*it was a unanimous vote*). Relying on its own precedent in *Borough of Youngsville v. Zoning Hearing Bd. of Youngsville*, 450 A.2d 1086, the Commonwealth Court upheld the decision because there was no evidence that the board member improperly influenced the other members.

The Supreme Court rejected the argument that evidence of undue influence was necessary to disturb the zoning board's decision. It held that principles of due process apply to zoning board proceedings and that the member's participation "in ruling on the propriety of zoning applications brought by an organization on whose board she sat at all relevant times so clearly and obviously endangered the appearance of neutrality that her recusal was required under well-settled due process principles...." It ruled that the Commonwealth Court erred in upholding the "tainted" zoning board decision.

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We would love to hear what you think about this newsletter's new format, plus any suggestions you may have. Send us an email at [paazo@psats.org](mailto: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.



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