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Newsletter of the Pa. Association of Zoning Officials

November 2021

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## Latest News

### **Commonwealth Court Provides Guidance on Planned Residential Developments**

As planned residential developments become more popular as a zoning classification, there is little legal precedent in Pennsylvania for how to address them. In the attached article ([click here](#)), Alan Shuckrow and Alexis Wheeler of Strassburger McKenna discuss the Commonwealth Court's decision in *Gouwens v. Indiana Twp. Bd. of Supervisors*, \_\_\_ A.3d \_\_\_, 2021 WL 4075406 (Pa.Cwmlth. July 8, 2021), which sheds some light on the issue.

### **Governor Signs New Law Allowing Extension of Liquor License Service Areas**

Gov. Tom Wolf recently signed into law Act 81 of 2021 (HB 425), which authorizes the Pennsylvania Liquor Control Board (LCB) to temporarily extend the licensed premises of a licensed entity, including a club, retail dispenser, hotel, and restaurant upon request. An extended licensed premises includes any outside serving area that is adjacent to the existing licensed area or within 1,000 feet of the main licensed building even if separated by a road. The act requires the termination of an extended licensed premises permit if the LCB receives a valid protest or determines that the proposed area does not meet the requirements of the act or board regulations. Act 81 took effect November 5.

### **Save the Date for PAAZO's Spring 2022 Seminar**

The PAAZO Spring Zoning Officials Seminar will be held Sunday, April 24, 2022, at the Hershey Lodge. It will include sessions on a variety of topics important to the practice of zoning officials.

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## Training Opportunities

### **[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.

### **[The Benefits of Grid-Independent Solar for Municipalities – 12/8 \(Webinar\)](#)**

In this webinar, Jason Wert with RETTEW will review the many benefits – financial, long-term resiliency, and sustainability – that grid-independent solar operations can bring municipalities and municipal authorities. He will use as a case study the University Area Joint Authority in State College, which incorporated a Battery Energy Storage System (BESS) into its original solar array and has since achieved approximately 80% grid-based energy independence through this integrated system at its wastewater treatment and reuse facilities.

### **[The Code Official's Guide to Zoning – 1/18/22 \(Virtual Class\)](#)**

This 90-minute virtual class provides a comprehensive overview of current zoning issues and problems as they interact with the Uniform Construction Code. Topics will include an overview of the MPC, zoning requirements and difficulties, responsibilities of BCOs to meet and manage zoning challenges, permit issuance and enforcement conflicts, violation letter requirements and templates, and legal issues in zoning.

### **[Should We Have an Ordinance for That? – 1/12/22 \(Webinar\)](#)**

**Save the date** for a presentation by representatives of the Tri-County Regional Planning Commission, which has developed a helpful toolkit for key issues. A detailed description and registration link will be forthcoming.

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## **Legal Update**

### **Court Reverses Retroactive Variance for Freestanding Front-Yard Garage**

In Plum Borough v. Koromvokis, No. 179 C.D. 2021, 2021 WL 5286734 (Pa.Cmwlth. Nov. 15, 2021), the Commonwealth Court reversed the award of a dimensional variance retroactively authorizing a freestanding garage in the front yard of a property because the zoning hearing board was without substantial evidence to justify a hardship finding.

The borough's building code official informed the property owner that he was in violation of the zoning ordinance because he built the garage, which had a street-facing edge less than 3 feet from the road, without approval. The property owner requested the variance because the property's grade was steep, and a retaining wall would be required to build anything further up the hill. The zoning hearing board approved the variance and the trial court affirmed after taking no additional evidence.

The court ruled that the zoning hearing board abused its discretion in granting the variance. It found that the property owner's "own words fatally undermine the idea that he could not have built a garage on the Property without variance

relief. ... [T]he challenge facing [the property owner] here was not that he could not build the garage elsewhere; rather it was that he did not want to build it elsewhere.” (emphasis in original).

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## Legislative Report

Following is a summary of relevant legislation affecting townships that is under consideration by the General Assembly. Please note that the status of these bills may have changed since this newsletter was finalized.

### **Bonds for development improvements (SB 208/PN 177)**

This bill would amend the Pennsylvania Municipalities Planning Code to clarify that a municipality may not require a developer to post a bond of more than 110% of the costs of the improvements. It would also clarify that a municipality may retain 110% of the estimated cost of the remaining improvements.

Status: Before the House.

### **Electronic transmission of land use documents (SB 755/PN 943)**

This bill would amend the Pennsylvania Municipalities Planning Code to give municipalities and counties the option to transmit electronically land use documents that they are currently required to submit to another entity for review and comment, such as proposed zoning ordinance amendments and comprehensive plans.

Status: Has passed the Senate and is pending committee assignment in the House.

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This monthly newsletter for members of the Pennsylvania Association of Zoning Officials focuses on news and matters of interest to zoning officials, lists upcoming training opportunities, and provides a snapshot of zoning-related legal decisions. You can access past newsletters under the “Newsroom” tab when you are signed in at [psats.org](http://psats.org). Email comments and suggestions to Editor Brenda Wilt at [bwilt@psats.org](mailto:bwilt@psats.org) or PAAZO Program Manager Kathy Kronicz at [kkronicz@psats.org](mailto:kkronicz@psats.org).



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