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Newsletter of the Pa. Association of Zoning Officials

December 2021

Latest News

PSATS' First-Ever Zoning Academy a Success

Thirty people from around the state attended PSATS' Zoning Academy December 7-9. This new event covered the fundamentals of Pennsylvania zoning and included lots of interactive exercises. More than 20 of the attendees also signed up to take the Certified Zoning Official exam and are now CZOs. Thank you to all who participated. PSATS will offer the Zoning Academy again in 2022.

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.

Training Opportunities

[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 intersect with the Uniform Construction Code. Topics will include an overview of the Municipalities Planning Code, zoning requirements and difficulties, responsibilities of building code officials 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.

[Intergenerational Community Engagement and Planning: Values and Practices – 2/9/22 \(Webinar\)](#)

As individuals grow apart in today's society, communities need to come together. They not only provide a geographic location where people live but also offer social interaction and common ties that bind their people together. Ideally, these community features and related opportunities should

be available to benefit all residents from the very young and senior citizens. Many communities would like to engage citizens in an all-age, inclusive planning process, but don't have the knowledge, staffing, or expertise to develop such assessments and strategies to capture information for use in a decision-making process. In this webinar, representatives of Penn State Extension will engage participants in a discussion of challenges they have faced and provide practices for how they can address them to the benefit of their communities.

[Providing for “Missing Middle” Housing Options – 3/9/22 \(Webinar\)](#)

Recent publications by Daniel Parolek of Opticos Design and policy changes from around the country have spurred a renewed interest in 'Missing Middle' Housing. Missing Middle Housing includes a diverse set of housing types that were fundamental building blocks of pre-1940s neighborhoods. Today, typical single-family zoning often prevents a range of housing options within a given district or proposed residential development.

This presentation will review how Cranberry Township has worked to create greater flexibility and remove regulatory barriers imposed by typical Euclidean zoning. Specifically, the presentation will examine the township's recently adopted Planned Neighborhood (PN) Overlay and its elements. The webinar will also present important metrics to consider as other communities analyze their existing housing stock and plan for long-term solvency and financial sustainability.

[PAAZO Spring Educational Forum – 4/24/22 \(In-Person Seminar\)](#)

This educational forum explores issues that zoning officers and planning and zoning officials face on a regular basis and discusses effective strategies to address them. Specific agenda topics will be forthcoming.

Legal Update

Court Strikes Down Land Development Plan Because Ordinance Failed as Spot Zoning

In *Dorsey v. Borough Council of Conshohocken Borough*, No. 114 C.D. 2020, 2021 WL 5774689 (Pa.Cmwith. Dec. 7, 2021), the Commonwealth Court built on its prior ruling that a borough zoning amendment to permit a new convenience store and gas station constituted illegal spot zoning and determined that the borough's issuance of a land development plan approval the same day that it adopted the zoning amendment was invalid.

In 2014, the property owner requested a variance to develop a convenience store and gas station on the property. The borough denied that request. Three years later, the property owner sought an amendment to the borough's zoning ordinance to allow additional permitted uses in the zoning district, including its proposed use. The borough enacted the zoning amendment and approved the land development plan the same day, despite the fact that the zoning amendment did not take effect for five days. A group of neighbors challenged the appropriateness of the zoning amendment. The zoning hearing board sided with the neighbors, while on appeal, the trial court sided with the borough.

In August, the Commonwealth Court agreed with the zoning hearing board and ruled that the zoning amendment constituted impermissible spot zoning. To support its conclusion, the court noted that the property was the only parcel in the entire zoning district that could satisfy the requirements to have a convenience store with a gas station and ATM without first demolishing existing structures.

In the present appeal, the court determined that the borough could not grant land development approval in the absence of a valid zoning amendment.

Commonwealth Court Remands Question of Standing for Commenter Unable to Attend Virtual Meeting

In *Wright v. Town of McCandless Zoning Hearing Bd.*, ___ A.3d ___, 2021 WL

5856132 (Pa.Cmwlth. Dec. 10, 2021), the Commonwealth Court vacated a trial court order that determined that a resident had no standing to appeal the approval of two dimensional variances and ruled that the trial court must consider whether the resident's submission of a public comment read into the record at a virtual hearing was sufficient to grant standing.

A developer sought to build a three-story, twenty-dwelling apartment complex and applied for a variance to reduce the number of parking spots needed. The zoning hearing board conducted a virtual meeting consistent with Act 15 of 2020, which permitted virtual meetings due to the COVID-19 pandemic.

Wright wished to participate but did not have access to the web conferencing platform. She then dictated a statement opposing the variances to a township employee; that statement was later read at the virtual hearing as a public comment. At the hearing there was discussion about where Wright lived but not about whether she had party status. The zoning hearing board later granted the applications and noted that Wright opposed them.

Wright appealed that decision and the developer moved to quash for lack of standing on Wright's part. Wright argued that she obtained party status by submitting her statement during the hearing and based on the totality of the circumstances (*including improper public notice, lack of access to documents, inability to use the virtual platform, etc.*). The Commonwealth Court determined that a remand was in order because the trial court did not consider whether Wright had obtained party status through the submission of her statement

Legislative Report

Senate Bill 208 currently awaits Gov. Wolf's signature after it passed in the House. The 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.

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. Email comments and suggestions to Managing Editor Brenda Wilt at bwilt@psats.org or PAAZO Program Manager Kathy Kronicz at kkronicz@psats.org.



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