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Newsletter of the Pa. Association of Zoning Officials

January 2022

Latest News

Miss the Town Halls on ARPA Final Rule? They're Online!

On Thursday, January 20, PSATS hosted two members only town halls that reviewed the final rule issued by the U.S. Department of the Treasury relating to municipal use of American Rescue Plan Act Funds.

The final rule contains significant new flexibility by allowing municipalities to opt for a standard lost revenues allowance of \$10 million to be used for general government purposes. This means that municipalities can choose to use their ARPA funds for more zoning and land use initiatives (*including some of those things that may have been on your wish list for a long time*).

If you missed the town halls, you can find links to the recorded sessions [here](#).

PC and ZHB Alternates: Did Your Municipality Appoint Any?

The Pa. Municipalities Planning Code permits municipalities to appoint alternate members to the zoning hearing board and planning commission. However, sometimes those appointments fall through the cracks and are not made at the organization meeting. Double check with your municipalities on whether alternate appointments were made at the organization meeting and, if not, encourage them to fill those alternate spots at an upcoming meeting.

Need a Zoning Mentor? Or Looking to Become One?

PAAZO is gauging interest from members about a possible mentoring program among zoning officials in different municipalities. If you have interest in becoming a mentor or being mentored, please contact Kathy Kronicz at kkronicz@psats.org.

Reminder: Upcoming PSATS Training for Zoning Hearing Board Members

PSATS will be hosting in-person and virtual classes over the next couple of months that will focus on the duties of zoning hearing boards. Please encourage your zoning hearing board members to attend one of the following evening classes:

- [February 22 – Chester County](#)

- [March 3 – Butler County](#)
- [March 8 – Cumberland County](#)
- [March 15 – Virtual](#)

Training Opportunities

[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 to senior citizens. Many communities would like to engage citizens in an all-age, inclusive planning process, but do not have the knowledge, staffing, or expertise to develop 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 benefit 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 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

Transportation Services with Vehicle Storage Not Akin to Towing and Storage

In *Cicconi v. Zoning Hearing Bd. of Tinicum Twp.*, No. 328 C.D. 2021, 2022 WL 30145 (Pa.Cmwlth. Jan. 4, 2022), the Commonwealth Court ruled that a zoning hearing board properly denied an application seeking approval to park vehicles used to transport the aged and infirm on a property previously used as a towing service and storage yard because those uses were not sufficiently similar.

The court also ruled that the applicant failed to properly preserve an argument that the zoning hearing board violated Section 908 of the Municipalities Planning Code and the applicant's due process rights by conferring with the zoning officer in executive session regarding the decisions to be rendered.

Mandamus Action to Compel Permit Issuance Deemed Moot After Applicant Pays Stormwater Fee Under Protest

In *Roosevelt Holding, LP v. Sampere, Zoning Officer of West Manchester Twp.*, No. 410 C.D. 2021, 2022 WL 29897 (Pa.Cmwth. Jan. 4, 2022), the court ordered dismissal of a mandamus action because the applicant secured the relief sought through other means.

Roosevelt sought an access drive permit in conjunction with a land development plan. The township advised Roosevelt that the permit had been approved but also came with a stormwater management fee of almost \$22,000. Roosevelt then attempted to pay the township \$85 for the zoning permit but nothing for the stormwater management fee, began constructing the access drives and filed a mandamus action in which it argued that the township had no authority to levy a stormwater management fee. After the zoning official issued a stop work order, Roosevelt paid the fee under protest and received the permit.

Considering that Roosevelt obtained the permit it sought, the court held that “Roosevelt’s own conduct rendered its lawsuit moot, thereby depriving us, and Common Pleas, of the ability to rule on this matter’s merits.”

Court Reverses and Remands ZHB’s Rejection of Wind Facility and Meteorological Tower

In *Atlantic Wind, LLC v. Zoning Hearing Bd. of Penn Forest Twp.*, No. 585 C.D. 2020, 2022 WL _____ (Pa.Cmwth. Jan. 12, 2022), the court ruled that a township zoning hearing board wrongly concluded that the zoning ordinance prohibited a proposed wind energy/wind turbine facility as a second proposed use (there was no evidence that a first use as a government facility had ever been approved by special exception) and that a meteorological tower was not permitted by special exception and/or accessory use (the zoning officer had concluded the tower was an integral part of the overall project). It also remanded back to the zoning hearing board for consideration of various noise metric issues because it did not provide any explanation of its resolution of the factual issues involved.

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. To access past newsletters, log in at psats.org and choose the Newsroom tab. 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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