

**EAST NORRITON TOWNSHIP  
PLANNING COMMISSION MEETING  
WEDNESDAY, FEBRUARY 15, 2012**

*A meeting of the East Norriton Township Planning Commission was held at the East Norriton Township Building, 2501 Stanbridge Street in East Norriton, Pennsylvania on Wednesday, February 15, 2012. Mr. Tornetta called the meeting to order at 7:00 p.m. Attending were East Norriton Township Planning Commission members Keith Tornetta, Colleen Henderson, Judith Belkowski, Frank Brouse, Kristl Wiernicki, Robert Schottmiller, Kevin McDevitt, William Griffin and Jeffrey Moller. Zoning Officer, Bryan Bortnichak, Township Planner, Richard Cramer and Township Solicitor, Sean Kilkenny, Esq., were also in attendance.*

**1. Approve Minutes of the January 18, 2012 Planning Commission Meeting**

Chairman Tornetta made a motion to approve the January 18, 2012 meeting minutes. Mrs. Henderson seconded the motion and the motion was passed 9 – 0.

**2. Review ZHB Case 2012-2, 689 W. Germantown Pike, McDonald's USA, LLC**

Present: Bernadette Kearney, Esquire  
Bill Zuccarello, McDonald's

Bernadette Kearney reviewed that McDonald's is asking for signage relief. Ms. Kearney reviewed the tandem drive-thru that will be installed.

Ms. Kearney reviewed the relief being requested is for six wall and incidental signs with a total area of 116.2 square feet.

Chairman Tornetta asked about the incidental sign table on the plan that references eleven signs. Bill Zuccarello stated the plan should reference seven signs, not eleven, and the square footage referenced is correct. Ms. Kearney will have the engineer correct the plans.

Chairman Tornetta referenced the request is for 116.2 square feet when 39.9 square feet is what is actually allowed. Chairman Tornetta expressed that he feels the second fascia sign on the side of the building that faces Walgreens is not needed. Mr. Zuccarello agreed.

Bryan Bortnichak pointed out the history of other food chains asking for additional wall signage and the board not permitting them in the past.

Richard Cramer stated that it is good for the board to have sign standards to control visual clutter.

Kristl Wiernicki asked if McDonald's has been in contact with Einstein about possibly installing a walkway from Einstein to McDonald's. Mr. Zuccarello stated he is not aware of any conversations.

Kevin McDevitt asked about the canopy location and emergency vehicles getting into the area. Mr. Zuccarello stated that emergency vehicles will have no problem with this location.

Bryan Bortnichak asked if the ID sign on Germantown Pike will remain. Ms. Kearney stated that it will remain.

There being no further comments, Chairman Tornetta made a motion for recommendation of approval for relief for a variance under §205-113.B to permit an incidental sign to exceed four square feet. A variance under §205.114.A to permit more than one business/wall sign on the building, exceeding the maximum area of thirty-nine square feet for wall signage, *with the exception that one fascia sign will be removed*. A variance under §205-115 to permit more than one freestanding sign (including menu boards). And a variance under §205-115.A to permit freestanding signs to exceed twenty-five square feet (including menu boards). The motion was seconded by Mr. McDevitt and passed 8 – 1, with Mr. Griffin opposed.

**3. Case #2012-3, 2107 and 2111 DeKalb Pike, Bee and Vee Incorporated. d/b/a Growing Together Day Care Services**

Present: Ed Hughes, Attorney  
Victoria Deans, Applicant  
Victor DePallo, Planner

Victor DePallo reviewed that the proposal entails two properties along DeKalb Pike to house a day care center. Phase one would house a preschool center. Phase two would eventually be an after school program. Mr. DePallo reviewed the vehicular circulation

plans, the drop off and parking plans. The overflow of parking is proposed to be located at St. Paul's Church with a lease agreement for thirty parking spaces. Mr. DePallo reviewed the buffer area to the rear of the property and playground placement on the property. The maximum number of students to be accommodated in the daycare center is eighty students and twenty students in the after school program. The hours of operation would be 6:00 a.m. to 6:00 p.m. and the programs will include a bus service for pick up and drop off. The facility has two buses, one bus holds a maximum of twelve students and the second bus holds thirty-six students. The buses will be housed at another location. Mr. DePallo reviewed that a significant amount of asphalt is being removed in an effort to get a reduction in the impervious coverage.

Ed Hughes reviewed the relief requested as follows: (1) §205.54.2 a variance to allow use of the subject property as a day care center. (2) §204-54.8A a variance to allow parking in the front yard along Hartranft Blvd and parking within fifty feet from the rear property line (twenty-seven feet provided). (3) §205-102B(1)(b) a variance to allow access to a public street to be located less than two hundred feet from an intersection. (4) §205-102B(1)(e) a variance to allow parking to be located less than twenty feet from a building. (5) §205-21.1B(1)(e) a variance to permit the drop off and pickup area to be designed and located as shown on the plan. Mr. DePallo reviewed the proposed parking, drop off and pick up areas.

Jeffrey Moller asked about the seasonal sales held in the church parking lot. Mr. DePallo stated that an agreement is being made that will allow the seasonal sales. The overflow of parking will be moved over to the other parking lot next to the church and across Hancock Avenue.

Kristl Wiernicki questioned the designating of the proposed thirty parking spaces to be used.

Judy Belkowski asked about entering the property off of Hartranft Blvd and what provisions are going to be made to prevent a backup on Hartranft Blvd during inclement weather. Mr. DePallo stated each student is met by an aid and escorted into the building. Mr. DePallo stated that the students are staggered as they are dropped off. Mrs. Belkowski also asked about the drive exiting onto DeKalb Pike and if there is enough room for emergency vehicles. Mr. DePallo stated that plans have been given to the Fire Marshal.

Colleen Henderson asked if the hours could be defined for drop off and pick up. Ms. Deans stated that the drop off time would be between 6:30 a.m. until 9:00 a.m. and pick up normally is between 5:00 p.m. until 6:00 p.m. Mrs. Henderson questioned how many

cars could be in queue in the center driveway. Mr. DePallo estimated that there could be five cars. Mrs. Henderson also questioned the lease of the parking area with the church. Mr. Hughes stated that currently they have a one year lease with the church and a five year verbal lease that would coincide with the lease of the property.

Mr. Griffin asked about the ages of the students for the daycare center and the ages of the students in the aftercare program. Ms. Deans stated that the daycare center would have children from six weeks old up to five years old and the aftercare program would have children from the age of five years old up to twelve years old. Mr. Griffin also expressed concerns about the traffic patterns in the area.

Mrs. Belkowski asked if there has been any attempt by the applicant to contact the surrounding neighbors for input. Mr. Hughes stated that will be done prior to the March Zoning Hearing Board meeting.

Mr. Hughes reviewed the additional requests for relief as follows: (6) §205-54.8B(2) a variance to permit the one-way exit drive to be a width of less than sixteen feet. (7) §205-103 a variance with special exception to allow required parking spaces to be located elsewhere than on the same lot. (8) §205-103B a variance to allow the common off-street parking area to be located more than two hundred feet from the entrance to the day care center between November 20 and December 30 each year. And (9) §205-54.5.C a variance to allow maximum total impervious coverage in excess of thirty percent (31.77% ± proposed).

Robert Schottmiller asked about church services being held in the day or early evening hours. Mr. Hughes was not aware of any conflicts with parking needs of the church.

Bryan Bortnichak questioned Ed Hughes about the structure of relief request for the offsite parking between the period of November 20<sup>th</sup> and December 30<sup>th</sup>. Mr. Bortnichak suggested Mr. Hughes also speak with the church about other holidays that the parking area has been used for in the past and advised that outdoor sales permits would be denied expect from November 20<sup>th</sup> to December 30<sup>th</sup> of each year. Mr. Bortnichak asked about the driveway on 2107 DeKalb Pike and if there have been discussions about what type of driveway it would be. Mr. DePallo stated that this has not yet been resolved. Mr. Bortnichak addressed the members stating that he felt the proposed use is unique with a high demand for parking in the a.m. and late afternoon.

Mr. Cramer stated that once the use of the parking area and a lease have been agreed upon and it is going to be a long term lease possibly discussing an easement with the

church as long as the facility is used as a day care center. Mr. Cramer also suggested that it would be a good idea to stripe and sign the crossing of the area to the play area.

There being no further comments, Chairman Tornetta made a motion to not recommend approval of all the variances requested based on conversation by the board and staff. Mr. Tornetta stated that he felt this is not the right situation. Other board members stated their reasons for not recommending for approval. The motion was seconded by Mr. Griffin and passed 9 – 0.

**4. Case #2012-4, 2006 DeKalb Pike, Second Chance Services, LLC**

Present: Richard DeMarco, Esquire  
Maria Keashon, Applicant  
Scott Harrity, Property Owner

Richard DeMarco provided the board with floor plans for the proposed use of 2006 DeKalb Pike. Mr. DeMarco reviewed that a Use and Occupancy Permit application for a transitional residential group home was denied by the Zoning Officer. Mr. DeMarco stated that he believes the proposed use meets the requirements of the Township's ordinance. Mr. DeMarco stated that Second Chance Services, LLC is proposing a home for individuals with disabilities that will house no more than sixteen individuals not twenty as proposed in the application. The home will house individuals while they recover from drug and alcohol addiction and transition back to employment. He added that none of the residents will be violent or sexual offenders.

Mr. DeMarco noted that the average stay for a resident is between three and nine months but the residents must leave the program after nine months. He noted that all residents are male, over the age of eighteen and that they are randomly drug tested. The individuals are permitted to leave for employment. The individuals that reside at the property will operate and act as if they are part of a family. There are a total of eight employees that work three shifts to provide twenty-four hour supervision. Mr. DeMarco stated part of challenging the Zoning Officer's decision is that the code, in his opinion, adheres to the Fair Housing Act. The definition of family includes a group of unrelated individuals who reside together as a family. Mr. DeMarco stated they are not requesting a variance, what they are requesting is an accommodation under the Fair Housing Act.

Mr. DeMarco stated the property is twenty-one thousand square feet and the building is about thirty-four hundred square feet. There are thirteen parking spaces. Visitors will be permitted with a staggered schedule. This is not a lockdown program but, there will be security cameras and staff will provide twenty-four hour supervision. Friends and family members would be able to pick up residents, but residents would not have cars on the property.

Chairman Tornetta questioned Mr. DeMarco why he is challenging the Zoning Officer's decision. Mr. DeMarco feels that an application should be issued. They are also requesting an accommodation under the Fair Housing Act. Mr. DeMarco stated that the municipality is under a duty to grant and to provide residential opportunities to individuals with disabilities.

Chairman Tornetta stated that he interprets it differently the supervision is not of a typical family and the length of stay does not constitute a family. Mr. DeMarco disagreed and stated the FHA dictates that you cannot consider disability of the residents and the support necessary for them to live as part of the reason to not grant accommodation.

Judy Belkowski questioned if the group of sixteen will enter the program together and be there the same amount of time. Mrs. Keashon stated that Montgomery County does not have a program for the mentally disabled or any person with any kind of disability. She stated the individuals coming into the program individually are coming for an after treatment after they have gone through detox. No one is accepted if they have a criminal background or are sexual offenders. Mrs. Belkowski again questioned if the individuals are coming and going where the bond of family comes into play.

Kevin McDevitt asked Mr. Bortnichak if there are any group homes in the township. Mr. Bortnichak stated that there are approximately a dozen group homes in the township. Mr. DeMarco stated that they are no transitional housing facilities in Montgomery County and that there are group homes where the individuals are permanently established, this is the only proposal where the individuals will transition to gainful employment or reconnect with their families. Mr. McDevitt stated that Mrs. Keashon is referring to the property as a facility not a family.

Jeffrey Moller asked for articulation from the Zoning Officer or the Township Solicitor for the reason for denial. Mr. Bortnichak stated to the best of his knowledge there are a number of group homes in the township and that those residents are housed on a permanent basis or lengthy period of time. When the application came in to the Township it contained the specific language "transitional residential group home". Mr. Bortnichak stated he felt there is something inherent in the definition of family that

lends its self to that fact that the residents are there on a more or less permanent basis. The fact that it is a transitional home is why Mr. Bortnichak denied the application because the transitional nature of the residents coming and going from the group home is not permanent enough to be considered a family.

Sean Kilkenny agrees with Mr. DeMarco that we should not focus on the disabilities and that we should look into the transitional or family status related to the facility.

Robert Schottmiller asked if Second Chances is for profit. Mrs. Keashon stated it was. Mr. Schottmiller asked if drug and alcohol was an addiction or a disease. Mr. DeMarco stated it is a disability under federal law. Mr. Schottmiller expressed concern about the three, six or nine month turnover of the residents, with the period being too high for sixteen people being rotated in a residential area. Mr. Schottmiller also, expressed that he felt that the definition of family is not being met.

Jeffrey Moller asked about the program. Mrs. Keashon reviewed that they check the criminal backgrounds of the individuals before they enter the program. Mr. Moller asked who pays for the program. Mrs. Keashon stated that the state pays for the individuals that are placed in the program. Mr. Moller questioned if there are any similar programs in the area. Mrs. Keashon stated according to the Department of Welfare that Montgomery County does not have a program. Chairman Tornetta stated that it sounds as if this use can go anywhere. Mr. Demarco stated absolutely. Mr. Kilkenny stated that predisposes that the applicant can meet the burden under the Township's zoning ordinance and also under the Fair Housing Act. There is obviously a lot of inquiring by the Zoning Hearing Board and Planning Commission as to the nature of this relationship. Mr. Kilkenny stated that there are other group homes in the Township and an institutional zoning district that maybe a better fit for a use like this.

Jennifer DeLaurentis of 2008 DeKalb Pike, a neighbor to this property, expressed her concern for her family's safety and welfare. Mrs. DeLaurentis asked about where the individuals where they will be able to walk for some fresh air and who will be supervising the individuals. Mrs. DeLaurentis expressed she felt this location was not the proper location for this type of program. Mrs. DeLaurentis asked where the individuals come from to be in this program. Mrs. Keashon reviewed the possible background of potential individuals for entering the program.

Mr. Demarco stated that the Township's ordinance is in compliance with the FHA and Mr. Demarco is asking that the Board grant an accommodation and to apply the definition of family in the Township ordinance.

Mr. Moller asked if there is clear decisional law with respect to the distinction that everyone is making between a transitional environment and a group home environment that would be binding in this jurisdiction. Mr. Demarco stated that distinction should not be made according to the FHA, because it applies to the disabilities of the individuals.

Bill Griffin stated that he is still not convinced that this is a family and made a recommendation that the appeal be denied based on the fact that the use does not meet the definition of a family in accordance with the Zoning Ordinance. The motion was seconded by Mr. Tornetta and passed 9 – 0.

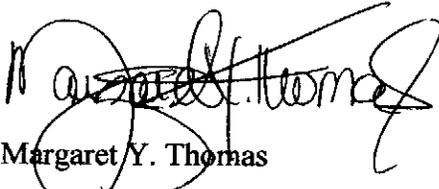
**5. Other Business**

Planning Commission members reviewed the construction and land development update provided by Mr. Bortnichak.

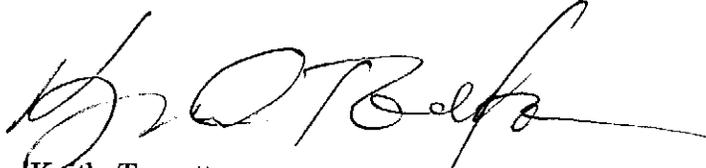
**6. Adjournment:**

Mr. Tornetta made a motion to adjourn. The motion was seconded by Mr. Schottmiller and passed 9 – 0. The meeting adjourned at approximately 9:25 p.m.

Respectfully submitted,



Margaret Y. Thomas



Keith Tornetta  
Chairman