

# Memo

To: Planning Commission

From: Mila Robinson

Date: November 13, 2020

**Re: Summary of a potential variance request – 127 Hidden Pond Way**

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Chris and Vanessa Ward, property owners of 127 Hidden Pond Way, would like to install an in-ground swimming pool at their house. Their property is located in Arborview community that was developed under Flexible Development regulations. They submitted a preliminary design plan that shows the location of a proposed pool and its features in relevance to property lines. Due to regulations that were applied to the community when it was developed, they have to seek a variance with the Zoning Hearing Board (ZHB).

Information below provides a summary of the situation.

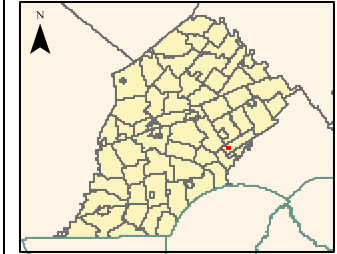
- Under the Flexible Development regulations, a 50' setback for the proposed pool is required from the tract boundary line. The rear property line of 127 Hidden Pond Way is that tract boundary line with the 50' setback line running through the rear patio of the existing home.
- The side and rear yard setbacks for a swimming pool are 25', measured to the water's edge. Decking around a pool may protrude into the setback provided it is reasonable in size.
- There is a private storm sewer system in the rear yard and a 20' wide easement protecting it.
- Under the township's stormwater management regulations put in place in December 2013, if the cumulative increase in impervious surface since that time will exceed 1,000 sq.ft., a stormwater management feature will be required. If the cumulative impervious surface will exceed 2,000 sq.ft., fully engineered drawings will be required with the installation of a stormwater management facility.
- The property owner will also have to submit a copy of the Arborview HOA approval letter to receive a building permit.

The proposed pool encroaches into the 50' rear setback. Therefore, the property owners have to apply for a variance to seek relief from that requirement.

127 Hidden Pond Way



COUNTY OF CHESTER  
PENNSYLVANIA



Find Address Information

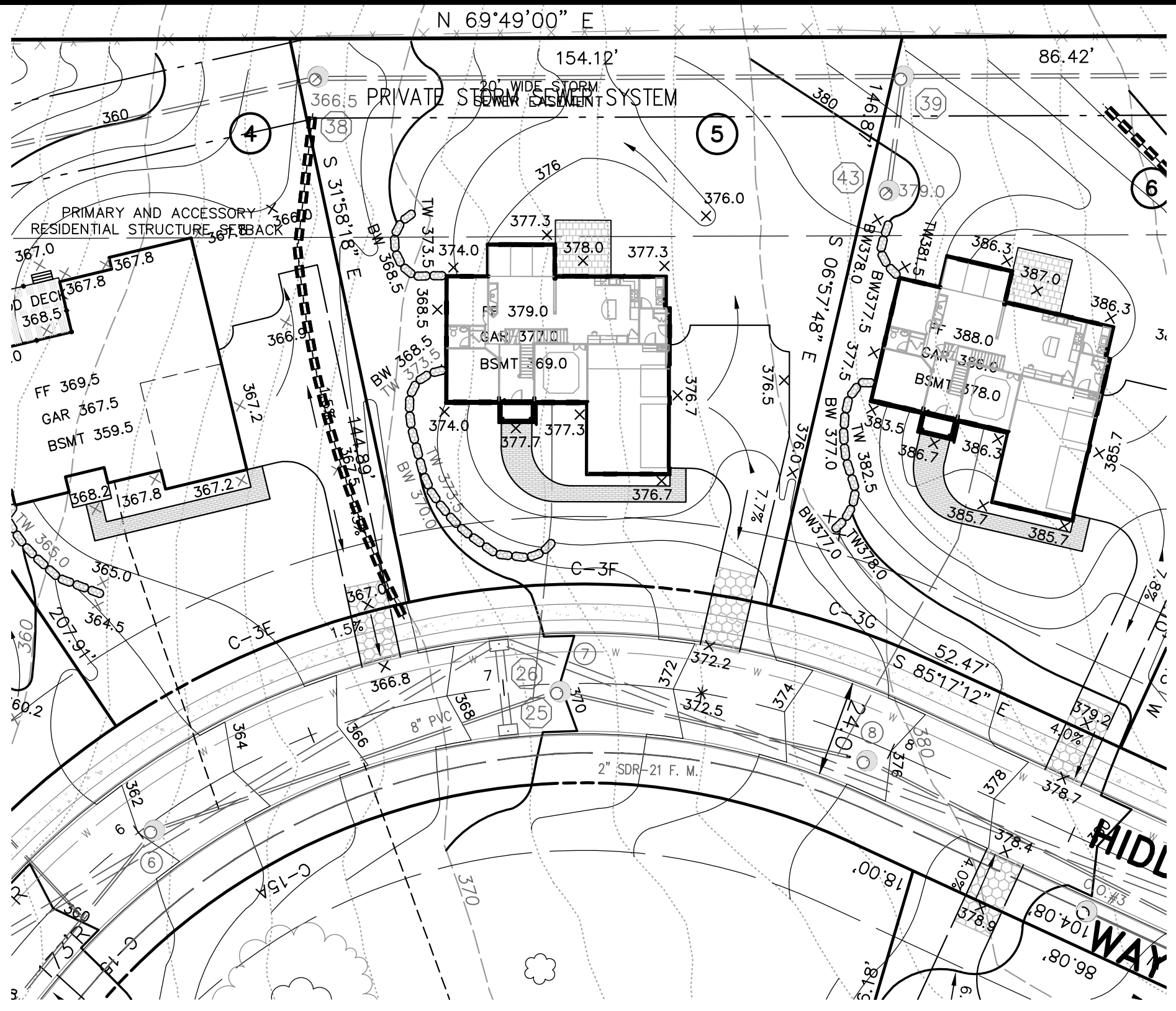
PARID: 6704 00230600  
UPI: 67-4-23.6  
Owner1: WARD CHRISTOPHER &  
Owner2: VANESSA A  
Mail Address 1: 5812 N 12TH ST  
Mail Address 2: #33  
Mail Address 3: PHOENIX AZ  
ZIP Code: 85014  
Deed Book: 6878  
Deed Page: 1832  
Deed Recorded Date: 6/23/2006  
Legal Desc 1: NWS OF HIDDEN POND  
WAY  
Legal Desc 2: LOT 5 & DWG  
Acres: 0.39  
LUC: R-10  
Lot Assessment: \$ 56,770  
Property Assessment: \$ 384,520  
Total Assessment: \$ 441,290  
Assessment Date: 12/19/2019  
Property Address: 127 HIDDEN POND WY  
Municipality: WESTTOWN  
School District: West Chester Area

Map Created:  
Friday, November 13, 2020

County of Chester



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**LEGEND**

- 302--- EXISTING 2' CONTOURS
- 310--- EXISTING 10' CONTOURS
- x 300.00 EXISTING SPOT ELEVATION
- FLOOD PLAIN
- STREAM LINE
- 25 WETLAND POINTS
- 302 PROPOSED 2' CONTOURS
- 300 PROPOSED 10' CONTOURS
- x 212.52 PROPOSED SPOT ELEVATION
- PROPOSED CURB
- PROPOSED STORM INLET AND PIPE
- PROPOSED SAN. MH AND FORCE MAIN
- PROPOSED STORM ENDWALL AND PIPE
- PROPOSED 18" SILT FENCING

**GENERAL NOTES**

1. BEING UPI #67-4-23 AND UPI #67-4-23.01. (CHESTER COUNTY ASSESSMENT MAP 67-4, PARCELS 23 AND 23.01)
2. BOUNDARY INFORMATION, CONTOURS AND PHYSICAL FEATURES FROM AN ACTUAL FIELD SURVEY PERFORMED BY BRANDYWINE VALLEY ENGINEERS, A DIVISION OF VOLLMER ASSOCIATES AND SHOWN ON EXISTING CONDITIONS PLAN FOR SHELTER DEVELOPMENT, DATED 12-12-00, REVISED 2-08-01, BY BRANDYWINE VALLEY ENGINEERS.
3. TOPOGRAPHY PHOTOGRAMMETRICALLY COMPILED BY AIR SURVEY CORPORATION, STERLING, VA.
4. ELEVATIONS BASED ON NGVD 1929 DATUM.
5. PUBLIC WATER AND PUBLIC SEWER WILL SERVE THE PROJECT.
6. LOT AREA: 17,146 S.F.
7. STREET ADDRESS: 127 HIDDEN POND WAY
8. THE FACE OF THE RETAINING WALLS SHALL BE A MINIMUM OF FIVE (5) FEET FROM ANY PROPERTY LINE.

**ZONING INFORMATION**

PROPERTY IS ZONED R-2 RESIDENTIAL AND DEVELOPED UNDER THE FLEX DEVELOPMENT REQUIREMENTS OF THE WESTTOWN TOWNSHIP ZONING ORDINANCE.

RESIDENTIAL SETBACKS  
 30 FEET FROM CURBLINES  
 50 FEET FROM PROPERTY BOUNDARY LINES

MAXIMUM BUILDING HEIGHT: 3 STORIES OR 38 FEET

**OWNER/APPLICANT**

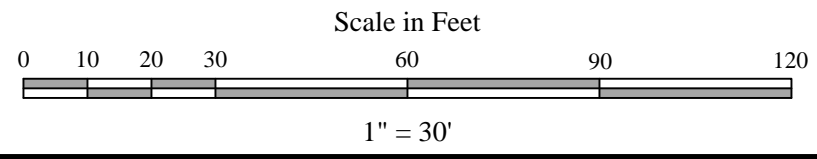
Greenstone Development Corp.  
 P.O. Box 973  
 Paoli, PA 19301  
 Phone: 610-695-8464  
 Attention: Tom Galbally

**COPYRIGHT**

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**CURVE TABLE**

CURVE	DELTA	RADIUS	LENGTH	BEARING	CHORD
C-3F	Δ=25°00'30"	210.00'	91.66'	S 70°31'57" W	90.93'



**LOT GRADING PLAN**  
 FOR  
**LOT 5**  
**ARBORVIEW**

WESTTOWN TWP. - CHESTER COUNTY - PENNSYLVANIA

*Chester Valley Engineers, Inc.*  
 Civil Engineers & Land Surveyors

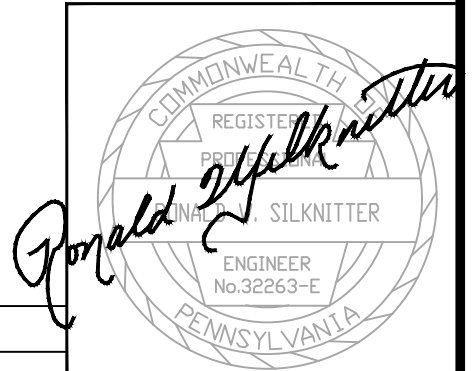
83 Chestnut Rd. Tel: (610) 644-4623  
 Post Office Box 447 Fax: (610) 889-3143  
 Paoli, Pa 19301 Email: cve@chesterv.com

PROJECT NO.

**17087**

F.B.

SCALE	DATE	DRAWN BY	CHECKED BY	DRAWING
1" = 30'	1-16-06	RS	RS	



X:\CVE-17000\17087\dwg\Plot Plans\Lot 05.dwg, 5/23/2020 10:44:35 AM, 1:1.



**GENERAL SPECIFICATIONS**

**PERMIT REQUIREMENTS**

PERMIT OFFICE WESTOWN TWP.

PHONE NUMBER \_\_\_\_\_

**SETBACKS**

FRONT \_\_\_\_\_ REAR \_\_\_\_\_  
 SIDE \_\_\_\_\_ HOUSE \_\_\_\_\_  
 EQUIPMENT \_\_\_\_\_ STREET \_\_\_\_\_

**SWIMMING POOL**

SIZE 22' x 44' AREA 750<sup>sq</sup> DEPTH 3'6" TO 7'  
 SHAPE FREEFORM PERIMETER 120'  
 GRADING ROUGH TRACTOR SIZE TBD

POOL CAPACITY - GALL @ 30,000  
 PUMP CAPACITY - GPM VARIES  
 MOTOR HP VARIABLE SPEED  
 FILTER - SQ. FT. 60 RATE 140 +/-  
 TURNOVER - HRS < 6 HOURS  
 SKIMMER & W.D. LINE 2" SCH 40 PVC  
 RETURN LINE \_\_\_\_\_

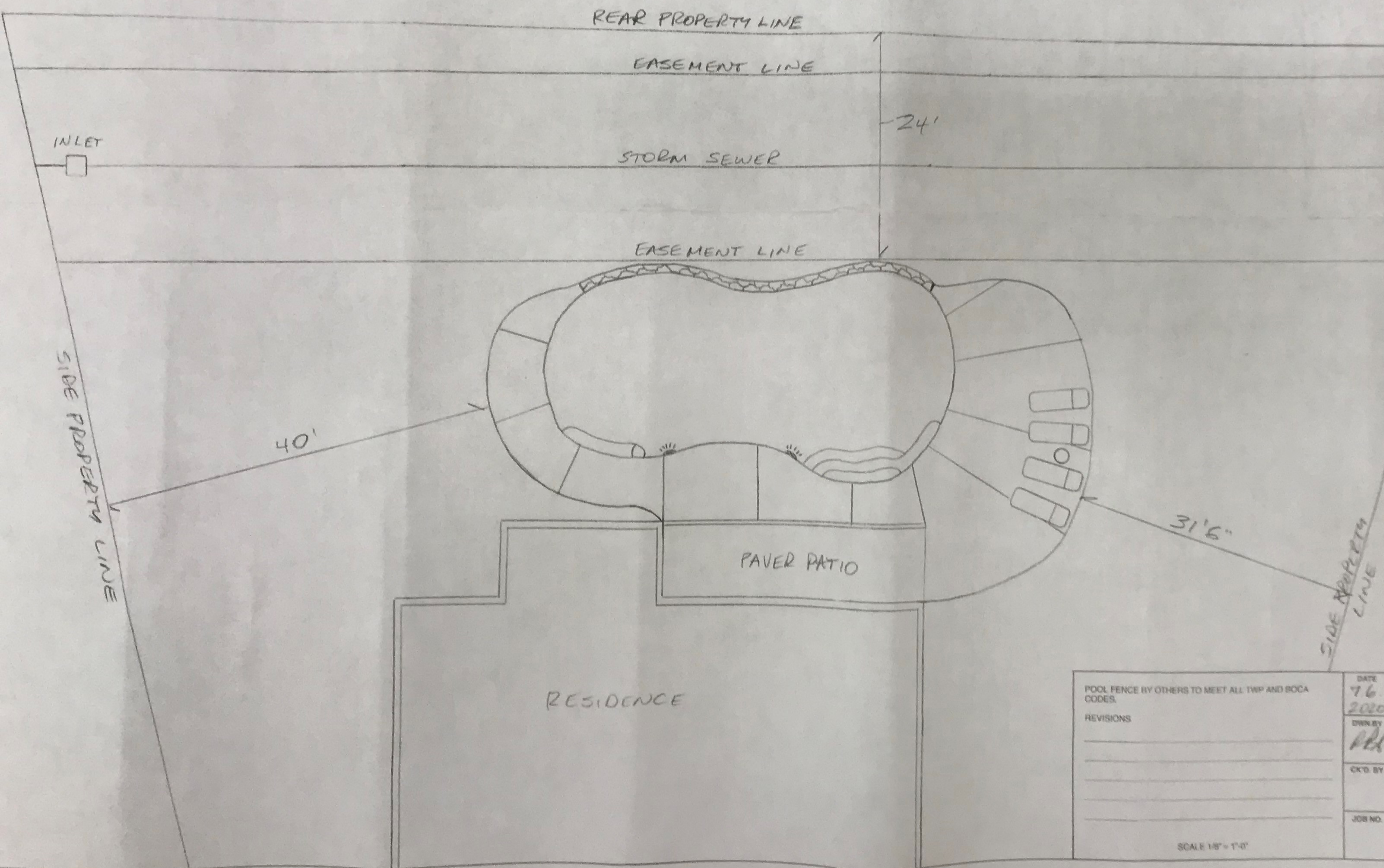
SKIMMER MODEL HAYWARD x 2  
 BACKWASH TO YARD  
 HEATING RAMPAGE BTU 399,000  
 VALVE BY HEIDEL VENTED BY N/A  
 POOL CLEANER POLARIS STUB Ø

CHLORINATOR ZODIAC NATURE 2  
 TILE CHOICE T&D STEP BORDER Ø  
 COPING MOUNTAIN FIELDSTONE  
 BOARDING Ø COLOR Ø  
 BOARD SUPPORTS Ø

LADDER Ø LOVE SEAT 6' w/ STEP  
 HOPE RINGS ✓ HOPE & FLOATS ✓  
 VIC Ø MANT KIT ✓

LIGHT 2 LARGE WHITE LED  
 CLOCK EASY TOUCH 4 w/ SC  
 ELECTRIC BY LYONS ELECTRIC  
 ELECTRICAL BONDING BY PARAGON  
 SPA Ø

RAISED BOND BEAM Ø  
 DECK BY ACD - 660<sup>sq</sup> STAMPED  
CONCRETE w/ CURB EDGE  
 NOTES: 1. 28' DECK DRAIN



POOL FENCE BY OTHERS TO MEET ALL TWP AND BOCA CODES.

REVISIONS


DATE 76. 2020  
 DWN BY PH  
 CK'D BY \_\_\_\_\_  
 JOB NO. \_\_\_\_\_

**Paragon Pools & Service**  
 425 E. Linfield Rd  
 Royersford PA 19468  
 610-948-5850

NAME THE WARD FAMILY  
 ADDRESS 127 HIDDEN POND WAY  
WEST CHESTER, PA 19382

CROSS STREETS \_\_\_\_\_  
 RES. PHONE \_\_\_\_\_ BUS. PHONE \_\_\_\_\_

SCALE 1/8" = 1'-0"



## Stormwater, Zoning, & SALDO Proposed Changes w/Status Updates

Created: January 29, 2019

No. (origination year - month)	Ordinance Name	Description of Changes/Status	Source <sup>i</sup>	Priority	Approved date (PC)	Approved date (BOS)
2013-10	<a href="#">Chapter 57</a> Bi-Directional Antennas	<a href="#">MR checked with Andy Kirk, and Pat McKenna. Ordinance appears to only need appropriate IBC reference</a>	WEGO PD	1		
2020-08	<a href="#">Chapter 49 Animals</a>	To address dog feces and strengthen language regarding leashing and control of animals; <a href="#">PC made a motion to approve.</a>	BOS	1	<a href="#">11/4/2020</a>	
<a href="#">2017-08.7</a>	<a href="#">170-1605. G. (2). n Major home occupations</a>	<a href="#">Correct reference from 170-1700D to 170-1708.A</a>	<a href="#">PC (EA)</a>	<a href="#">1</a>		
2018-08.8	170-602.D R-1 Residential Area and Bulk Regulations	Residential Cluster per 170-602, which has been deleted (replaced by Flexible Development.) Remove 170-602.D and renumber as necessary.	PC (EA)	1		
<a href="#">2017-09.1</a>	<a href="#">149-910 Street Construction</a>	<a href="#">This section could be revised to remove the reference to "PennDOT Seldom Used Specifications 1983" and more appropriately Reference PennDOT Publication 46. <u>Need Bob F to double-check</u></a>	<a href="#">MT (KM)</a>	<a href="#">1</a>		
<a href="#">2017-09.2</a>	<a href="#">149-910.D Paving - Bituminous Surface Course ID-2A</a>	<a href="#">This section could be revised to remove the reference to Bituminous Surface Course ID-2A. This section should be completely re-written to include a modern specification of the Superior Asphalt Paving System (Superpave). <u>Need Bob F to double-check and provide up-to-date specs</u></a>	<a href="#">MT (KM)</a>	<a href="#">1</a>		
<a href="#">2017-09.3</a>	<a href="#">149-803 Stormwater Management in the Land Development Ordinance</a>	<a href="#">This section could be completely removed since the Township Stormwater regulations were installed as a "stand alone - §144" section in 2013. <u>A general reference to Chapter 144 should be retained in Chapter 149</u></a>	<a href="#">MT (KM)</a>	<a href="#">1</a>		
<a href="#">2017-09.4</a>	<a href="#">144-301T General Requirements</a>	<a href="#">A typo appears in the code. The ordinance should correctly read "seventy-five" (75), not fifty, which was the original language from the Chester County Model ordinance.</a>	<a href="#">MT (KM)</a>	<a href="#">1</a>		

**Deleted:** Twp Solicitor is waiting for Bldg Code update instructions from Bldg Inspector Andy Kirk.

**Deleted:** waiting to hear back from

**Deleted:** 2020-08

**Deleted:** Dogs Amendment

Revised: [November 13, 2020](#)

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**Deleted:** November 12, 2020 November 11, 2020

2017-09.7	Lighting waivers	Remove lighting requirements in residential from the code): 149-602.C.(4).(h)	MT (KM)	1		
2017-08.6	170-1502.B & G, Projections into setbacks and setback exceptions	Safety issue for access for emergency equipment, also swimming pool decks and patios (or other materials) should be required to remain outside of the 25' setback. <a href="#">See 11/13/20 memo from J. Snook</a>	PC (EA)	1		
2017-08.4	170-1509 Storage	Reword this section to apply to residential situations. <a href="#">See 11/13/20 memo from J. Snook</a>	PC (EA)	1		
2020-02	Update to Alarms Ordinance	Update language and move fees to fee schedule	WE / JG	2		Feb 2020
2017-09.8	Stormwater	§144-311.B.2 HDPE Pipes to be used in areas not supporting traffic loads. This request has been made on several applications and been granted by the BOS frequently enough to warrant amending the code.	CE (BU); MT (KM)	2		
2017-09.14	Definitions "lot area" and "tract area"	The definition of "Lot Area" and "Tract Area" are treated differently in Zoning	MT (KM); PC (EA)	2		
2017-09.15	Lot Area	The acreage contained within the property lines of a lot, as defined in the deed or as shown on an approved subdivision plan. Such acreage shall be exclusive of the following: A. Any area used for gas, oil, natural gas, electric, or communications transmission facilities, whether below or aboveground, that do not serve the lot or lots traversed. B. Any area within a street or other transportation right-of-way, existing or proposed. C. Any area within a permanent drainage easement. D. Every lot created by subdivision shall have a contiguous and uninterrupted area equal to 75% of the minimum lot area required by the applicable zoning district, which is unencumbered by wetlands, one-hundred-year floodplains, steep slopes and/or stormwater management basins/facilities.	MT (KM)	2		
2017-05	Open Space	When the Flexible Development option was added to the Ordinance, it included an extensive Open Space description -170-907. It was decided to refer the Open Space requirements in all other districts to this section in order to avoid repetition.	PC (EA)	3		

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		While there are requirements for some portion of the Open Space be useable for active recreation, storm water management often occupies a significant area. Revising the open space definition and regulations has been suggested. Establishment of an Open Space fund, clarification of in lieu of fees				
	Revise Floodplain Ordinance	Based on comments received during review in 2017, PC members indicated a desire to make some changes with Beth Uhler' assistance		3		
2001-08.1	Buffers & Screening - MU and R-3 Districts	Present regulations generally require buffers between districts rather than between uses. (Except for commercial vs residential).  Possibility for problems in MU and R-3 districts where residential and non-residential uses are permitted. The MU District is presently developed as residential except for one tract (5 acres?) currently industrial, which could be redeveloped for any use permitted in the C1 District.	PC (EA)	3		
2017-08.3	170-900 Flexible Development	170-904.C There are no lot size limits in Flex. For single-family dwellings, the only control of lot size is the requirement that there can be only 4 lots per acre in the area used for single-family dwellings (smallest lots could be just under 11,000 square feet).  170-904. E. (3). (10) Setbacks - The only setback regulations for dwellings in Flex are 30 feet behind the curb line and 30-foot separation between structures. This applies to decks, sheds, and even dwellings. (Not to swimming pools, however.)	PC (EA)	3		
2017-08.5	170-1513.B Interior circulation and streets minimum widths	Consider reducing the minimum paved width of streets on low traffic volume streets.	PC (EA)	3		
2001-08.2	149-915 Driveways	PC has suggested on several occasions that the Board adopt a freestanding driveway ordinance.	MT (KM)	3		
2017-09.9	Proposed Additions to the Code (1)	§170-1600 – Consider adding Drive Thru Regulations Recall Dunkin' Donuts	MT (KM)	3		

2017-09.10	Proposed Additions to the Code (2)	§170-1600 – Consider adding MS4 Assist Regulations Recall the Maneri Property 1126 Kolbe Lane, Rustin and Crebilly CU	MT (KM)	3		
2017-09.11	Proposed Additions to the Code (3)	§149-1514 – Consider adding a Belgian Block Section of Code with detail.	MT (KM)	3		
2017-09.12	Proposed Additions to the Code (4)	§170-1600 – Parking has become popular for compact cars, oversized vehicle, electric vehicle, seniors citizen and new or expecting parents, multi-family, and residential uses. (rideshare parking)	MT (KM)	3		
2017-09.13	Proposed Additions to the Code (5)	§170-1600 – Truck Turning Templates are not required by ordinance and should be added to the preliminary/ final plan set requires. All vehicles for emergency response, delivery, trash, and recycling should be provided to major applications.	MT (KM)	3		
2019-03	Parking Regulations Update	Times, circumstances, streets, locations, rideshare parking locations	Twp (WE)	4		
2015-07	Residential Chicken Ord.	Tabled indefinitely		4		
2018-05	High tunnels or “hoop houses”	No adoption deadline	House Bill No. 1486	4		
2017-06	Conditional Use Posting Requirements	Brought before BOS in summer 2017 (WIP), not scheduled before the PC or BOS		4		
2017-09.5	Administrative Preliminary or Final Waivers	Modern applications contain so much information that the boundary between preliminary and final has become almost negligible as far as engineering detail. Rarely have I seen a request for a waiver from preliminary to prelim/final denied.	MT (KM)	?		
2017-09.6	Landscaping Waivers	<ul style="list-style-type: none"> <li>Westtown Woods: §149-925-I.5 – Street Trees within 5 feet of property and within 10 feet of side lot lines</li> <li>§149-924.D which would require a separate tree protection plan.</li> <li>Fairshare Builders: §149-924.D(12)(b) – Regarding the request to waive the full amount of compensatory trees, the site was formerly a tree nursery.</li> <li>Rustin Residential: §149-925-I.5 – Street Trees within 10 feet of side lot lines.</li> </ul>	MT (KM)	?		



		<i>-Considering that these requests are handled on a case-by-case basis, I see no reason to make changes to the Code. - KM</i>				
	Medical Services (curative amendment)	Adopted by BOS 7/16/2018. PC and BOS noted at the time that Medical Services may be appropriate in more zoning districts than just POC. (R-3, C-1, C-2). Consider amending by-right uses in these zoning districts to allow Medical Services, and to make existing medical services conforming to code.	(Twp) WE	?		
2019-01	Sidewalks	(discussed)	PC	?		
2019-02	Riparian Buffers	Needs contemporary definition	PC	?		
2019-04	Commencement of Development	Add times and days of the week, 149-404?	PC	?		
2019-05	Gross Habitable Area	Add definition: "All usable space within a dwelling unit without netting out any space unless it is not capable of being lived in." (Examples of spaces to exclude: hvac closets, unfinished basements, unfinished attics)	PC	?		
2019-06	Business or Trade School	Add definition:	WE	?		
2019-07	Accessory Dwelling Units	Gross habitable area definition, proximity to principal dwelling, require water & sewer connection, maximum number of parking spaces, including garages in size restrictions	KF	?		
2019	<a href="#">170-201 Definitions</a>	Add definition for "Boarding home(s)"	PC	1		
<a href="#">2020-11</a>	<a href="#">170-201 Definitions</a>	<a href="#">Add definition or clarification to existing definitions of "building area" and "floor area" to include more details about "breezeway"</a>	<a href="#">MR &amp; JS</a>	<a href="#">?</a>		
<a href="#">2020-11</a>	<a href="#">170-1502 Projections into setbacks and setback exceptions</a>	<a href="#">Issue of 15 feet setback for patios on small lots</a>	<a href="#">MR &amp; JS</a>	<a href="#">?</a>		
<a href="#">2020-11</a>	<a href="#">170-201 Definitions</a>	<a href="#">Add definition and subsequent regulations regarding "self-storage facilities"</a>	<a href="#">RH</a>	<a href="#">?</a>		



<a href="#">2020-08</a>	<a href="#">Signs Ordinance Amendment</a>	<a href="#">Add language that was missed when original ordinance was adopted; BOS authorized Act 247 review at 9/8/20 mtg</a>	<a href="#">BOS/PC</a>	<a href="#">1</a>	<a href="#">9/9/2020</a>	<a href="#">11/16/2020</a>
2020-03	Sign Ordinance	BOS Authorized Act 247 review at 1/21/2020 mtg	PC (EA)	COMPLETED	4/3/19	1/21/2020
2017-08.1	New Accessory Structure Setbacks	PC refers back to Twp Mgr for resolution of including word "uninhabitable" in language	PC (EA)	COMPLETED	4/17/19	6/3/2019
2017-08.2	Convert Accessory Dwelling Units into Rental Dwelling Units by Special Exception	PC recommends language to BOS for consideration	PC (EA)	COMPLETED	4/17/19	5/6/2019

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Source Initials Key:

- Board of Supervisors (BOS) and initials
- Planning Commission (PC) and initials
- Township Staff (Twp) and initials
- Cedarville Engineering (CE) and initials
- McCormick Taylor (MT) and initials
- Al Federico (AF)
- Brandywine Conservancy (BC) and initials
- William Ethridge (WE)
- JoAnne Grubbe (JG)
- [Mila Robinson \(MR\)](#)
- [John Snook \(JS\)](#)

Deleted: November 12, 2020 November 11, 2020



**ORDINANCE 2019-\_\_**

**AN ORDINANCE OF WESTTOWN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 57, "BUILDING CONSTRUCTION," ARTICLE II, "BUILDING CODE," OF THE CODE OF WESTTOWN TOWNSHIP.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that Chapter 57, Building Construction, of the Code of Westtown Township, as amended, be amended as follows:

**SECTION 1.** Chapter 57, "Building Construction," Article II, "Building Code," §57-3, "Adoption of Building Code," is hereby deleted in its entirety and replaced with the following.

**§ 57-3. Adoption of Building Code.**

A certain document, three copies of which are on file in the office of the Secretary of Westtown Township, being marked and designated as the International Building Code, 2006 Edition, including all appendix chapters (see International Building Code Section 101.2.1, 2006 edition), as published by the International Code Council, be and is hereby adopted as the Building Code of Westtown Township, for regulating and governing the conditions and maintenance of all property, buildings and structures, by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the Secretary of Westtown Township are hereby referred to, adopted and made a part hereof as if fully set out in this article, including Appendix J - EMERGENCY RESPONDER RADIO COVERAGE, with the additions, insertions, deletions and changes, if any, prescribed in § 57-4 below.

**SECTION 2.** Chapter 57, "Building Construction," Article II, "Building Code," §57-4, "Additions, insertions and changes," is hereby deleted in its entirety and replaced with the following.

**§57-4. Additions, insertions and changes.**

The following sections of the Building Code are revised as follows:

- A. **Section 101.1 Title**, insert: Westtown Township, Chester County, Pennsylvania.
- B. **Section 112 Board of Appeals.** The Township, along with five other municipalities in Chester County, is a member of the West Chester Area Council of Governments (WCACOG) pursuant to an intergovernmental cooperation agreement to create the West Chester Area Council of Governments dated the 1st day of April, 2003. The WCACOG has formed a Board of Appeals for the members in the WCACOG, which Board shall hear and decide appeals of orders, decisions or determinations made by the respective municipalities' building official relative to the application and interpretation of the municipalities' building code and all other related codes that are referenced in Chapter 35 of the IBC 2003. The Board of Appeals shall be appointed by the WCACOG and shall be



governed by rules and regulations adopted by the WCACOG pursuant to the agreement. The Board of Appeals shall adopt rules of procedure for conducting its business.

- C. **Section 113.4 Violation penalties**, delete in its entirety and replace with the following: Any person who violates or permits a violation of this code shall, upon conviction in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this code that is violated shall also constitute a separate offense, subject to the appellate process set forth herein.
- D. **Section 510 EMERGENCY RESPONDER RADIO COVERAGE**, to read as follows:
- 510.1 Emergency responder radio coverage in buildings. All buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communications systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.
- Exceptions:
1. Where approved by the building official and the fire code official, a wired communication system in accordance with Section 907.2.13.2 shall be permitted to be installed or maintained in lieu of an approved radio coverage system.
  2. Where it is determined by the fire code official and WEGO Police Department Chief of Police that the radio coverage system is not needed.
  3. Any structures in Use Group(s) R3 & S.
  4. Any building constructed of wood frame.
  5. Any building thirty-five (35) feet high or less which does not make use of any metal construction or underground storage or parking areas.
  6. Elevators.
- 510.2 Radio signal strength. The building shall be considered to have acceptable emergency responder radio coverage when signal strength measurements in 95 percent of all areas on each floor of the building meet the signal strength requirements of Section 510.2.1, 510.2.2, 510.2.3, 510.2.4, and 510.2.5.
- 510.2.1 Minimum signal strength into the building. A minimum signal strength of – 95dBm shall be available when transmitted from the closest CCDES radio communications system site.
- 510.2.2 Minimum signal strength out of the building. A minimum signal strength of – 95dBm shall be available when transmitted from the closest CCDES radio communications system site.
- 510.2.3 Frequency range. The frequency range which must be supported shall be between 700MHz and 800MHz.
- 510.2.4 Reliability factor. Adequate radio coverage shall include a 90% reliability factor.
- 510.2.5 Signal strength measurements. Signal strength measurements shall be based on one input signal adequate to obtain a maximum continuous operating output level.
- 510.3 Emergency responder radio coverage in existing buildings. Existing buildings that do not have approved radio coverage for emergency responders within the building, which are non-exempt and for which a building permit application has been sought



which constitutes a change in use or an increase of twenty percent (20%) or more of the total floor area of the building, shall be equipped with such coverage according to one of the following:

1. Wherever existing wired communication system cannot be repaired or is being replaced, or where not approved in accordance with Section 510.1, Exception 1.
2. The provisions of this Section shall become applicable upon notification to the property owner that unacceptable performance levels exist. The property owner shall have ninety (90) consecutive calendar days from the date of notification to submit a professional plan for enhancing radio coverage and an additional ninety consecutive calendar (90) days to achieve compliance with the remaining requirements of this Section. An additional extension may be granted by the Code Officer.

510.4 Amplification systems allowed. Buildings and structures which cannot support the required level of radio coverage shall be equipped with either a radiating cable system or an internal multiple antenna system with or without FCC type accepted bi-directional 700/800 MHz amplifiers as needed. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least twelve (12) hours without external power input. The battery system shall charge in the presence of an external power input. If used, bidirectional amplifiers shall include filters to reduce adjacent frequency interference at 35dB below the public safety band. Settings used should not attenuate the rebanded public safety frequencies, and further provided that they are not more than one MHz from these frequencies.

510.5.5 Appeals. If an owner of a building or structure receives written notice from the Township pursuant to Section 113.2, he/she may file an appeal to the West Chester Area Council of Governments Board of Appeals (the "Board of Appeals"). The appeal shall conform to the requirements adopted by the Board of Appeals.

- E. **Section 1612.3 Establishment of flood hazard areas**, insert: Westtown Township, Chester County.
- F. **Section 3410.2 Applicability**, insert: The date of adoption of this Building Code.
- G. **Appendix J – EMERGENCY RESPONDER RADIO COVERAGE**, to read as follows:

#### **SECTION J101 – GENERAL**

J101.1 Scope. Systems, components and equipment required to provide emergency responder radio coverage shall be in accordance with this appendix.

J101.2 Permit. A construction permit is required for installation of or modification to emergency responder radio coverage systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

#### **SECTION J102 – DEFINITIONS**

J102.1 Definitions. For the purpose of this appendix, certain terms are defined as follows:  
 AGENCY. Any emergency responder department within the jurisdiction that utilizes radio frequencies for communication. This could include, but not be limited to, various public safety agencies such as fire department, emergency medical services and law enforcement.



APCO. Association of Public Safety Communications Officials International

CCDES. Chester County Department of Emergency Services

FFC. Fame Fire Company

FCC. Federal Communications Commission

FWCFC. First West Chester Fire Company

GFC. Goshen Fire Company

NABER. National Association of Business and Education Radio

NPSPAC. National Public Safety Planning Advisory Committee

PCIA. Personal Communications Industry Association

WEGO PD. Westtown-East Goshen Regional Police Department

(For the purposes of this Section, parking structures and stairwells are included in the definition of “building” and stair shafts are included in the definition of “all parts of a building” but elevators may be excluded if a communication system has already been installed.)

### **SECTION J103 – TECHNICAL REQUIREMENT**

J103.1 System design. The emergency responder radio coverage system shall be designed in accordance with Sections J103.1.1 through J103.1.5.

J103.1.1 Amplification systems allowed. Buildings and structures that cannot support the required level of radio coverage shall be equipped with a radiating cable system, a distributed antenna system with or without Federal Communications Commission (FCC) certified 700/800 MHz signal boosters or other system approved by the AGENCY in order to achieve the required adequate radio coverage.

J103.1.1.1 Buildings and/or structures that have installed a radiating cable system, a distributed antenna system with Federal Communications Commission (FCC) certified signal boosters or other system shall not interfere with the operation of any previously installed device intended to increase emergency responder radio coverage in buildings or the agency’s public safety communications radio system. If used, bidirectional amplifiers shall include filters to reduce adjacent frequency interference at 35dB below the public safety band. Settings used should not attenuate the rebanded public safety frequencies, and further provided that they are not more than one MHz from these frequencies.

J103.1.2 Technical criteria. The AGENCY shall maintain a document providing the specific technical information and requirements for the emergency responder radio coverage system. This document shall contain, but not be limited to, the various frequencies required, the location of radio sites, the effective radiated power of radio sites and other supporting technical information.



J103.1.3 Secondary power. The emergency responder radio coverage system shall be equipped with a secondary source of power. The secondary source of power shall be either a battery system or an emergency generator. The secondary power supply shall supply power automatically when the primary power source is lost. The secondary source of power shall be capable of operating the emergency responder radio coverage system for a period of at least 12 hours.

J103.1.3.1 Battery systems. The active components of the installed system or systems shall be capable of operating on an independent battery system for a period of at least 12 hours without external power input. The battery system shall automatically charge in the presence of external power input.

J103.1.4 Signal booster requirements. If used, signal boosters shall meet the following requirements:

1. All signal booster components shall be contained in a NEMA4-type waterproof cabinet.
2. The battery system shall be contained in a NEMA4-type waterproof cabinet.
3. The system shall include automatic alarming of malfunctions of the signal booster and battery system. Any resulting trouble alarm shall be automatically transmitted to an approved central station or proprietary supervising station as defined in NFPA 72 or, when approved by the AGENCY, shall sound an audible signal at a constantly attended location.
4. Equipment shall have FCC certification prior to installation.

J103.1.5 Additional frequencies and change of frequencies. The emergency responder radio coverage system shall be capable of modification or expansion in the event frequency changes are required by the FCC or additional frequencies are made available by the FCC.

J103.2 Installation requirements. The installation of the public safety radio coverage system shall be in accordance with Sections J103.2.1 through J103.2.5.

J103.2.1 Approval prior to installation. No amplification system capable of operating on frequencies licensed to any public safety agency by the FCC shall be installed without prior coordination and approval of the AGENCY.

J103.2.2 Permit required. A construction permit, as required by Section 105.7.5 of the International Fire Code, shall be obtained prior to the installation of the emergency responder radio coverage system.

J103.2.3 Minimum qualifications of personnel. The minimum qualifications of the system designer and lead installation personnel shall include:

1. A valid FCC-issued General Radio Operators License, and
2. Certification of in-building system training issued by a nationally recognized organization or school or a certificate issued by the manufacturer of the equipment being installed. The AGENCY may waive these requirements upon successful demonstration of adequate skills and experience satisfactory to the AGENCY.



J103.2.4 Acceptance test procedure. When an emergency responder radio coverage system is required, and upon completion of installation, the building owner shall have the radio system tested to ensure that two-way coverage on each floor of the building is a minimum of 90 percent. The test procedure shall be conducted as follows:

1. Each floor of the building shall be divided into a grid of 20 approximately equal areas.
2. The test shall be conducted using a calibrated portable radio of the latest brand and model used by the AGENCY talking through the AGENCY's radio communications system.
3. A maximum of two nonadjacent areas shall be allowed to fail the test.
4. In the event that three of the areas fail the test, in order to be more statistically accurate, the floor may be divided into 40 equal areas. A maximum of four nonadjacent areas shall be allowed to fail the test. If the system fails the 40-area test, the system shall be altered to meet the 90-percent coverage requirement.
5. A test location approximately in the center of each grid area shall be selected for the test, then the radio shall be enabled to verify two-way communications to and from the outside of the building through the public agency's radio communications system. Once the test location has been selected, that location shall represent the entire area. If the test fails in the selected test location, that grid area shall fail, and prospecting for a better spot within the grid area shall not be allowed.
6. The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified during annual tests. In the event that the measurement results become lost, the building owner shall be required to rerun the acceptance test to reestablish the gain values.
7. As part of the installation a spectrum analyzer or other suitable test equipment shall be utilized to insure spurious oscillations are not being generated by the subject signal booster. This test shall be conducted at time of installation and subsequent annual inspections.

J103.2.5 FCC compliance. The emergency responder radio coverage system installation and components shall also comply with all applicable federal regulations, including but not limited to, FCC 47 CFR 90.219.

J103.3 Maintenance. The emergency responder radio coverage system shall be maintained in accordance with Sections J103.3.1 through J103.3.5.

J103.3.1 Maintenance. The public radio coverage system shall be maintained operational at all times.

J103.3.2 Permit required. A construction permit, as required by Section 105.7.5 of the International Fire Code, shall be obtained prior to modification or alteration of the emergency responder radio coverage system.

J103.3.3 Testing and proof of compliance. The emergency responder radio coverage system shall be inspected and tested annually or whenever structural changes occur, including additions or remodels that could materially change the original field performance tests. All tests shall be completed at the expense of the property owner. Testing shall consist of the following:

1. Signal boosters shall be tested to ensure that the gain is the same as it was upon initial installation and acceptance.
2. Back-up batteries and power supplies shall be tested under load for a period of one hour to verify that they will properly operate during an actual power outage. If within the one-hour test period the battery exhibits symptoms of failure, the test shall be extended for additional one-hour periods until the integrity of the battery can be determined.
3. All other active components shall be checked to verify operation within the manufacturer's specifications.
4. At the conclusion of the testing, a report verifying compliance with section J103.3.3 shall be submitted to the AGENCY.
5. In addition the annual test, the building owner shall perform a radio coverage test a minimum of once every five (5) years to insure that the radio system continues to meet the requirements of the original acceptance test. The procedure set forth above shall apply to such tests.
6. All tests shall be conducted, documented and signed by a person in possession of a current FCC technician license or a current technician certification issued by the APCO, NABER, or PCIA. All test records shall be retained on the inspected premises by the building owner and a copy submitted to the CCDES Technical Division and the CCDES Chief Dispatcher upon inquiry.

J103.3.4 Additional frequencies. The building owner shall modify or expand the emergency responder radio coverage system at his or her expense in the event frequency changes are required by the FCC or additional frequencies are made available by the FCC. Prior approval of a public safety radio coverage system on previous frequencies does not exempt this section.

J103.3.5 Field testing. After reasonable notice to the building owner or his/her representative, AGENCY personnel shall have the right to enter onto the property at any reasonable time to conduct field testing to verify the required level of radio coverage.

**SECTION 3.** If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 4.** All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.



**SECTION 5.** That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 4 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**SECTION 6.** This amendment shall take effect and be in full force and effect 5 days from and after the date of its final passage and adoption.

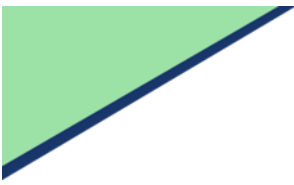
ENACTED AND ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

WESTTOWN TOWNSHIP  
BOARD OF SUPERVISORS

ATTEST:

Secretary

DRAFT



## MEMORANDUM

To: John Snook  
Mila Robinson

From: Bob Flinchbaugh, P.E.

Subject: Draft Ordinance Revision Recommendations

Date: November 13, 2020

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As a follow up to my March 23 email and as discussed at the June 3, 2020 Planning Commission Meeting, the following comments and recommendations are offered:

**SECTION 1.** Article III, Stormwater Management Standards, §144-301.T, General Requirements, shall be amended to read as follows:

T. Disturbance of existing ground cover during construction of the proposed regulated activity is prohibited within seventy-five (75)<sup>(4)</sup> feet of top-of-bank of all perennial and intermittent waterways, water bodies (lakes, ponds, etc.) and wetlands, except for activities otherwise approved by state or local agencies (e.g., stream restoration projects, road crossings, subsurface utility projects, etc.). At the Municipal Engineer's discretion, and with Conservation District and PADEP approval where necessary, the nondisturbance buffer may be reduced because of setback or other site constraints, but never be less than 10 feet.

**COMMENTS AND RECOMMENDATIONS:**

1. It is recommended that the last sentence, referencing the reduction of the nondisturbance buffer being reduced to 10 feet, be eliminated. The applicant can request relief in the form of a waiver of if the applicant is unable to meet the 75-foot requirement.
2. It is recommended that the activities to be considered exempt, when authorized by the appropriate county, state and/or federal agencies, be clearly specified to include:
  - a. Stream restoration and improvements
  - b. Roadway crossings
  - c. Riparian improvement projects
  - d. Subsurface utility installation
3. It is recommended that the nondisturbance area be increased to 150 feet for projects located in special protection (High Quality, Exceptional Value watersheds), consistent with PA Code Chapter 102.14(a)(1).

**SECTION 2.** Article III, Stormwater Management Standards, §144-311.B.(2), Other conveyance and system design standards, shall be amended to read as follows:

(2) Storm sewers shall be reinforced concrete when constructed within rights-of-way public streets. High Density Polyethylene Pipe (HDPE) may be used in all other areas.

**COMMENTS AND RECOMMENDATIONS:**





1. It is recommended Section 601 of the PennDOT 408 Specifications be referenced as it applies to acceptable pipe materials. Along with pipe material, this section references acceptable fill limits applicable to each type of pipe indicated.

**SECTION 3.** Article VI, Preliminary Plan, §149-602, Preliminary plan requirements, shall be amended to read as follows:

(h) A statement noting proposed signage for the development.

**COMMENTS AND RECOMMENDATIONS:**

1. Discussion item.

**SECTION 4.** The following sections contained in Article VIII, Supplementary Studies and Plans, §149-803, Stormwater Management, shall be removed:

- §149-803.B.(2)
- §149-803.B.(4-9)

**COMMENTS AND RECOMMENDATIONS:**

1. It is recommended that title of Section 149-803 be revised to read “Storm Drainage Facilities”.
2. Section 149-803.A should be retained as part of Chapter 149, as this section pertains to Storm Drainage (storm sewer collection system, swales) which are not stormwater management facilities and are not covered under Chapter 144. Reference to “basins” should be eliminated from this section.
3. The flowing sections of 149-803.B (2) should be retained as part of Chapter 149; the remainder of this section can be removed as these criteria are covered under Chapter 144:
  - Section 149-803.B.(1)(d) – This section sets forth requirements for design computations associated with stormwater conveyance facilities, including storm sewer, inlets, runoff control measures, culverts, and drainage channels. Conveyance facilities are not stormwater management facilities and are not covered under Chapter 144.
4. Section 149-803.B(3) should be retained as part of Chapter 149, as this section pertains to the storm sewer system, not stormwater management facilities.
5. Sections 149-803.B(4-9) can be removed from Chapter 149 in their entirety.

**SECTION 5.** Article IX, Development & Design Standards, §149-910, Street Construction, shall be amended to read as follows:

§ 149-910 Street Construction.

[AMENDED 7-22-2002 BY ORD. NO. 2002-5]

All materials used for the construction of streets and/or roads as herein defined and the method of construction and installation shall be in strict accordance with the requirements of PennDOT specifications publication 408 and/or PennDOT Publication 46, and/or the latest revision thereof.

**COMMENTS AND RECOMMENDATIONS:**

1. Amendment is recommended as stated; reference to “and/or PennDOT Seldom Used Specifications” has been removed and replaced with “and/or PennDOT Publication 46”.



**SECTION 6.** Article IX, Development & Design Standards, §149-910.D.(4), Paving, shall be amended to read as follows:

(4) Bituminous Surface Course ID-2A. Bituminous surface course ID-2A shall consist of constructing a binder course and wearing course of hot mixed, hot laid asphalt concrete on the above prepared base course. The binder course shall be rolled with vibratory roller and compacted to a depth of not less than two inches and the wearing course not less than 1 1/2 inches. The materials and construction methods shall be in strict accordance with the requirements of Section 420, Bituminous Wearing Course ID-2, and Section 421, Bituminous Binder Course ID-2, of PennDOT Publication 408, as amended. The Township may require that the final application of bituminous concrete be withheld until the streets are offered for dedication to the Township if the wearing course is not applied immediately after the binder course. (NOTE: The binder course shall be thoroughly cleaned and tack coated in accordance with PennDOT Publication 408, as amended.)

**COMMENTS AND RECOMMENDATIONS:**

1. 190-910.D. (2) & (3) Gives 2 options for base course: Type I using 8" of crushed aggregate base course and Type II requiring 6" of PennDOT No. 2A coarse aggregate, 5-6" of Bituminous Concrete Base Course. It is recommended that consideration be given to eliminating Section 190-910.D.(2) and that (3) be utilized, based upon the following:
  - Per the structural coefficients referenced in PennDOT Publication 242, Table 9.3, the latter specification is over 50% more structurally sound.
  - Prior to application of the wearing course, a pavement section will be in place during construction consisting of 7" of asphalt.
2. Consideration should be given to removing references to the Marshall Pavement Design Method (ID-2A, ID-2, etc.) replacing them with references to the Superpave Design Method based. Marshall Designed Pavement mixtures are seldom produced and are no longer PennDOT approved. The following Superpave Mixtures should replace references to Marshall Mixtures:
  - "ID-2B" and "BCBC" should be replaced by "Superpave Asphalt Mixture, 25mm Bituminous Base Course, PG64S-22, 0.3<3 ESALs".
  - "ID-3" should be replaced by "Superpave Asphalt Mixture, 19mm Bituminous Binder Course, PG64S-22, 0.3<3 ESALs".
  - "ID-2W" and "Wearing Course ID-2" should be replaced by "Superpave Asphalt Mixture, 9.5mm Bituminous Wearing Course, PG64S-22, 0.3<3 ESALs".

**SECTION 7.** Article VI, R-1 Residential District, §170-602.D, shall be removed.

**COMMENTS AND RECOMMENDATIONS:**

1. Discussion item; elimination of Residential Cluster Development.

**SECTION 8.** Article XV, General Regulations, §170-1502.B, Projections into setbacks and setback exceptions, shall be amended to read as follows:

B. In situations where the Board of Supervisors permits a lot size which conforms to the footprint of a building, such components or decks may project no more than 25% of the minimum distance between buildings or be set back at least 20 feet from the tract boundary; projections into open space not covered by these standards shall be subject to approval by the Board of Supervisors.



Memorandum

11/13/20

To: Westtown Township Planning Commission

From: John D. Snook

Re: Projections into Setbacks and Flex Development Regulations

*Projections into setbacks were including in your list of potential amendments with a specific note as to potential safety issues where setbacks were less than 25 feet from lot lines. Ironically, in the short time since Will Ethridge left and the backlog of zoning applications due to COVID resuscitated, Mila and I have seen considerable other confusion with these provisions. The most important issue is that the side yards in many places are less than 25 feet and even less than the 15 feet in the current ordinance text. The current 15 feet, where applicable, is adequate for an emergency vehicle. If a building is permitted closer to the property line by the side yard setback, what difference does it make if an accessory structure is placed at the same line? Technically, the current language inferring a minimum 15 feet setback does not if there is no projection into a minimum yard area. So, if the minimum side yard is five feet, the accessory structure may “project” to that line without being considered a “projection” in the context of this section. For better clarification, we suggest consideration of the amendments to §170-1502 as shown below in track changes.*

*While previous rounds of Flex Development amendments remain in flux, a key remaining issue is that there are no yard area limitations for Flex Development other than a minimum setback from streets and from neighboring buildings. There is no formal requirement for specific lot lines, although all flex developments to date have provided individual lots. We have recently seen requests for building expansion up to the lot line, so long as the minimum distance between buildings can be sustained. How do you maintain your building without trespassing, if your home is right on the lot line?*

§170-1502, **Projections into setbacks and setback exceptions.**

- A. The following components of principal buildings or accessory thereto (with or without accessory dwelling units), may project into any required yard so long as they are set back at least 15 feet from any lot line: porches, terraces; platforms excluding decks, stoops, patios, and other uncovered landings; buttresses; chimneys; cornices; piers or pilasters; unenclosed fire escapes; and unroofed steps. This provision does not apply to extensions that comply with the minimum

**Commented [JS1]:** What does this apply to and should it be permitted in the front yard or regulated as with decks?

yard area where the minimum yard area is less than 15 feet from the lot line, such as certain side yards, or where projected along and parallel to a lot line where two dwellings are attached to each other.

B. In situations where the Board of Supervisors permits a lot size which conforms to the footprint of a principal building, such components or decks may project into common lands no more than 25% of the minimum distance between buildings as applicable, or be set back at least 15 feet from the tract boundary; projections into open space not covered by these standards shall be subject to approval by the Board of Supervisors.

**Commented [JS2]:** Should this be specified as a conditional use?

C. Raised decks attached to a dwelling may extend only into a required side or rear yard, but not a front yard, provided that they are set back a minimum of 15 feet from any lot line, except where in compliance with a minimum yard area where the minimum yard area is less than 15 feet from the lot line or where projected along and parallel to a lot line where two dwellings are attached to each other.

**Deleted:** (except along a lot line where two dwellings are attached to each other)

D. An open gazebo or a similar unenclosed uninhabitable decorative structure with a maximum floor area of 64 square feet shall be permitted within a front yard setback, provided the front yard has a minimum width of 50 feet. Where otherwise permitted in a side or rear yard, the provisions of this subsection do not apply.

E. A movable awning or movable canopy may project into any required yard not more than 25 feet, but shall not be closer than 15 feet from any property line, except where within a minimum yard setback that is less than 15 feet.

F. Arbors, garden sheds, private garages, private greenhouses, trellises, workshops, and similar accessory structures shall be permitted within side and rear yard areas provided they do not exceed the height, nor 50% of the footprint, of the principal structure. The side and rear yard setbacks for such structures shall be no less than the height of the accessory structure, irrespective of the otherwise applicable yard requirement of the district. Any wheels attached to a mobile structure must be removed prior to the issuance of any permits. These standards do not apply to flexible developments.

**Commented [JS3]:** There is no reason why this subsection cannot also apply to flex development where lot lines are provided. Where a flex development is condo style and there are no lot lines, this should add something like "such structures shall only be permitted within a defined building envelope approved as part of the order of conditional use approval for any flex development."

G. Swimming pools, measured from the edge of the water, tennis courts, and similar outdoor recreation facilities shall be permitted within side and rear yard areas provided they are set back at least 25 feet from the lot line or, in the case of a Flexible Development, not within any required tract perimeter setback.



- H. Corner lots. If a corner lot is occupied by a single-family detached dwelling, and the applicant proves to the Zoning Officer that there is no suitable permitted location for customary accessory uses/structures (such as a shed or pool), then the Zoning Officer may permit such accessory use/structure in one of the two front yards, provided it is located and landscaped so as to minimize the impacts upon the neighborhood.

**Additional Section in Flex Development standards to be amended through additional text; section number pending other amendments:**

904.E(10)(b) currently reads as follows and should be amended as there is otherwise no minimum setback other than the front yard setback:

No single-family detached dwelling or twin dwelling may be erected within 30 feet of any other structure, nor within five feet of any side lot line within the development.

It also would be worth adding to the Flex Development standards a subsection as follows:

As a condition of Conditional Use approval, the Board of Supervisors may require that the subdivision/land development plan include allocation of specific lot lines for individual residences and/or, including where individual lot lines beyond the footprint of the principal residential structures are not provided, specific designation of a permitted building envelope for each residence, including for allocation of planned or potential accessory structures, to be recorded on the final plan and each deed.

**Memorandum**

**11/13/20**

**To: Westtown Township Planning Commission**

**From: John D. Snook**

**Re: Storage Regulations**

**Chapter 170, Zoning, Article XV, §170-1509, Storage**

*Storage is one of the issues on your list of potential amendments, but with only the note that it needs to specifically deal with residential properties, presumably as different from non-residential properties. Included below is the existing “Storage” section (170-1509) in the Westtown Zoning Ordinance, followed by a sample from Lower Mount Bethel Township, Northampton County (“LMB”), which I recently drafted for them in the context of a complete new Zoning Ordinance, and which specifically deals with residential properties. There is no “magic” about the sample; it is simply provided for purposes of discussion by the Planning Commission, to note both differences and things that are not part of the current Westtown ordinance but may be useful and pertinent.*

**§170-1509, Storage**

The following standards shall apply to the storage of all man-made materials:

- A. Storage for periods in excess of 30 days shall be screened from view of any public right-of-way and any contiguous residential use. Screening shall consist of continuous evergreen plantings and/or include an architectural screen.
- B. No storage shall be permitted within the front yard of a lot.
- C. No merchandise, goods, articles, or equipment shall be stored, displayed, or offered for sale outside any building except seasonal articles which are too large or otherwise infeasible to be stored indoors. Such articles shall be stored adjacent to the principal building housing the commercial use, and shall be enclosed by either walls or opaque fencing designed to be architecturally compatible with the building. Such enclosure shall be at least six feet high. Any outdoor display area shall be considered sales floor area for purposes of computing building coverage and parking requirements.
- D. Any organic refuse and garbage shall be stored in tight, verminproof containers. On multifamily, commercial, or industrial properties, solid waste storage shall be centralized to expedite collection. Storage containers shall be enclosed on three sides with masonry walls and shall be architecturally screened.

**Commented [JS1]:** While the current Westtown section is entitled “Storage,” it essentially deals with outdoor storage and should not be confused with self-storage facilities, for example, which are an indoor commercial use and probably should be dealt with specifically.

**Commented [JS2]:** Not all items stored are man-made. Note Subsection A.1 in the LMB sample which previously had said “man-made,” but which wording was revised and expanded to include a more specific list and also exclude storage in connection with agriculture and timber harvesting which are protected uses by state regulation.

**Commented [JS3]:** The LMB sample does not provide a 30-day “grace period,” although a violator, upon notice would typically be given 30 days to remove the violation if not immediately hazardous.

**Commented [JS4]:** The Westtown text does not include specific reference to otherwise applicable landscaping or screening regulations as the LMB sample does.

**Commented [JS5]:** Subsections A-F here are generally consistent with the LMB model, which goes further in separating out residential uses and as noted below.

**Commented [JS6]:** The LMB sample text does not specifically identify merchandise storage outdoors; this is something potentially beneficial in the existing Westtown text.



E. Flammable and combustible liquids, solids, or gases shall be stored in accordance with the Township Fire Code.[1] There shall be no storage of hazardous waste anywhere within the Township, including temporary storage in a parked vehicle. Hazardous waste shall be as defined in Pa. Act 97-1980, the Solid Waste Management Act (35 P.S. § 6018.101 et seq.), or any subsequent amendment or revision thereto.

[1] Editor's Note: See Ch. 87, Fire Prevention.

F. Any establishment which furnishes carts or mobile baskets as an adjunct to shopping shall provide definite locations within the required parking areas for storage of said carts. Each designated storage location shall be clearly marked for storage of shopping carts. Signs indicating the storage locations shall not be considered as regulated by the provisions of Article XVIII.

**§170-1509, Outdoor Storage. Sample from Lower Mount Bethel Township**

A. General Requirements

1. Outdoor storage of products, materials, equipment, machinery, or supplies other than those accessory to a permitted agricultural use or timber harvesting operation shall be screened from view of public rights-of-way and adjacent residential uses. Screen landscaping shall be in accordance with Section \_\_\_\_.
2. All organic refuse or garbage shall be stored in tight, vermin-proof containers. In multiple family, commercial and industrial developments, garbage storage shall be centralized to expedite collection and enclosed on three (3) sides by an architectural screen or plantings.
3. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, except the following where permitted by the fire marshal and where enclosed within an approved safety fence, compatible with the architectural and landscaping style employed on the lot. Permitted liquid storage tanks shall be enclosed by a moat or berm to contain potential spillage.
  - a. Tanks or drums of fuel connected directly with and located and operated on the same lot as the devices or appliances they serve.
  - b. Tanks or drums for storage of not more than three hundred (300) gallons of fuel oil or gasoline or diesel fuel, provided such tanks are located no closer than twenty-five (25) feet to any lot line.
4. No materials or wastes shall be deposited upon a lot in such form or manner that they may contaminate a stream or watercourse, or otherwise

**Commented [JS7]:** The LMB model specifies "outdoor storage."

**Commented [JS8]:** Highlighted sections or portions of sections below, or as specifically noted, go further than or otherwise differ from the Westtown text.

**Commented [JS9]:** This subsection is more specific than the Westtown text yet includes certain exclusions and does not define "hazardous" or reference the fire code as does the Westtown text.

render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse.

5. No vehicles without current license plates shall be stored outside on any lot.

B. Residential Outdoor Storage

1. Recreational Vehicles.

a. Not more than one recreational vehicle, including travel trailers and water craft, shall be parked or stored on any residential property, except in a carport or enclosed building or to the rear of the rear-most wall of the dwelling where screened from view from any public road or neighboring residential property, provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed forty-eight (48) hours.

b. No such equipment shall be used for dwelling purposes on a residential lot for more than seven days per quarter.

2. No storage shall be permitted within the front yard of any residential lot. In the case of a reverse-frontage or corner lot where more than one yard is considered a front yard, storage may be permitted beyond the minimum front yard setback in no more than one such front yard.

C. Non-Residential Outdoor Storage

For all non-residential uses, storage of materials, equipment or vehicles, but not including parking and similar activities, shall be carried on within a building, except that outdoor storage for a permitted agricultural, industrial or commercial use may be authorized where all of the following conditions are met:

1. The agricultural, industrial or commercial use involved traditionally employs long-term outdoor storage of materials or products (e.g., lumber yard).

2. Such storage is needed for the successful operation of the use, and the proposed site is suitable for outdoor storage.

3. The applicant can demonstrate that indoor storage is not practical.

4. The standards described in Section \_\_\_\_\_, Access and Traffic Control, herein, shall be met.

**Commented [JS10]:** Note that residential properties are also subject to all of the provisions in subsection A above but not to the specific provisions for non-residential properties in subsection C below.



5. The materials stored shall not exceed eight (8) feet in height and the storage area shall comply with setback and impervious coverage requirements, measured as if the storage area, when full up to eight (8) feet in height, were an accessory structure.
6. The storage shall comply with any applicable condition of a prior plan approval.
7. The storage area shall be located to the side or rear of the property behind the front building line of any principal structure.
8. The storage area shall be screened from view from any public right-of-way or any residential use or zoning district by buildings, walls or an effective landscape screen, as set forth in Section \_\_\_\_ of this Ordinance.
9. Any establishment which furnishes shopping carts as an adjunct to shopping shall provide definite areas within the building and parking area for storage of said carts. Each designated storage area shall be enclosed by a barrier at least six (6) inches higher than the parking area surface, and shall be clearly marked for storage of shopping carts. All shopping carts shall be stored indoors, or otherwise secured during non-operating hours.

**Commented [JS11]:** This subsection goes further than the current Westtown text in dealing with **indoor and** outdoor storage of shopping carts. The Westtown text excludes signage for shopping carts from otherwise applicable sign regulations, which LMB does not.