

ORDINANCE No. 72 , 1989

AN ORDINANCE AMENDING THE TILDEN TOWNSHIP ZONING ORDINANCE OF OCTOBER 20, 1987, REVISING ARTICLE XVII IN ORDER THAT ARTICLE XVII MAY MORE FULLY COMPLY WITH THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE AS AMENDED BY ACT 170 OF 1988, TO PROVIDE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ZONING ORDINANCE OF TILDEN TOWNSHIP AND DELETING OF SECTIONS IN ARTICLE XIX OF THE ORDINANCE THAT WOULD OTHERWISE BE SUPERFLUOUS.

WHEREAS, the Township of Tilden, in October, 1987, revised its Zoning Ordinance pursuant to the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended; and

WHEREAS, said Municipalities Planning Code was further and extensively revised by Act 170 of 1988, requiring that certain changes be made in the Township Zoning Ordinance in order to more fully comply with the Municipalities Planning Code; and,

WHEREAS, the Township is desirous of bringing its entire Ordinance into compliance with all of the extensive changes required by Act 170 of 1988, the review and implementation of which will require considerable coordination and time; and

WHEREAS, the Township believes that immediate measures must be taken to amend the existing Ordinance in order that the Ordinance may more fully comply with the Municipalities Planning Code, as amended in 1988, in order to administer and enforce that Ordinance to the maximum extent allowable under law; therefore

Section 1. It is hereby enacted and ordained that Article XVII, of the Tilden Township Zoning Ordinance of October 20, 1987, is amended and replaced in its entirety as follows:

Section 1700. ZONING OFFICER

1. Appointment

A Zoning Officer shall be appointed by the Township Supervisors to administer and enforce this Zoning Ordinance. Compensation of the Zoning Officer shall be established by the Supervisors. The Zoning Officer shall not hold any elective office in the Township.

2. Duties and Powers

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance and the amendments thereto and he shall have such duties and powers as are

conferred on him by this Ordinance and as are reasonably implied for that purpose. The Zoning Officer's duties shall include, but are not limited to, the following:

- a. Receive applications for zoning and/or building and sign permits and issue zoning and/or building and sign permits as set forth in this Ordinance.
- b. Keep a record of all official business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the subsequent action taken on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, and reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as the structures, etc. remain.
- c. Make inspections as required to fulfill his duties. In doing so, however, he shall first seek the permission of the land owner or tenant, and, in the event such permission cannot be voluntarily obtained, he shall have the right to take such other legal means as are authorized under the law.
- d. Issue permits for buildings, structures, and land uses for which Subdivision and Land Development approval is required only after all necessary approvals have been secured and plans recorded.
- e. Issue permits for uses requiring new or altered on-site sewage disposal facilities only after any necessary permit has been issued by the Township Sewage Enforcement Officer.
- f. Issue permits for special exception uses or for variances only after a special exception or variance has been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance. Issue permits for conditional uses only after a conditional use has been approved by the Township Supervisors.
- g. Issue permits for buildings requiring approval by the Pennsylvania Department of Labor and Industry only after such approval has been secured. Issue permits for a use involving an access point requiring Pennsylvania Department of Transportation approval only after such approval has been secured.

- h. Be responsible for keeping this Ordinance and the Official Zoning Map up to date so as to include all amendments thereto.
- i. Issue Certificates of Use and Occupancy in accordance with the terms of this Ordinance.
- j. Register identified non-conforming structures and uses created as a result of the adoption of this Ordinance and the official Zoning Map, or created as a result of amendments thereto, if directed to do so by the Township Supervisors.
- k. Submit a monthly report of his activities to the Township Supervisors and Township Planning Commission.
- l. When directed by the Township Supervisors, send enforcement notices as provided in the Pennsylvania Municipalities Planning Code, as amended.
- m. Institute civil enforcement proceedings as a means of enforcement when acting within the scope of the officer's employment, when authorized by the Township Supervisors.

Section 1701. ZONING PERMIT

1. Requirements

No building or structure, shall be erected, constructed, assembled, extended, moved, or added to nor shall land, buildings and structures be put to any use or additional use or have their use changed without a permit therefor issued by the Zoning Officer. No such permit shall be issued unless there is conformity with the provisions of this Ordinance, except upon written order from the Zoning Hearing Board in the form of a variance, or upon order from any court of competent jurisdiction.

2. Application Procedures

The application for a Zoning Permit shall be submitted to the Zoning Officer in writing on a form prescribed by the Zoning Officer. The application shall be submitted by the owner or lessee of any building, structure or land or the agent of either provided, however, that if the application is made by a person other than the owner or lessee, it shall be accompanied by a written authorization from the owner or lessee

authorizing the work and designating the agent. The application shall include a written statement by a registered engineer or surveyor that all street lines on the plan have been accurately staked out in the ground and be accompanied by two sets of at least the following information:

- a. A map of the lot in question, drawn to scale, indicating the lot size and showing all dimensions of lot lines and the exact location(s) on the lot of all existing and proposed building, fences, signs, structures and alterations to buildings or structures.
- b. The use, height, length, width and proportion of the total lot area covered of all proposed and existing buildings, structures and additions or alterations to buildings or structures.
- c. A statement indicating the number of dwelling units and/or commercial or industrial establishments to be accommodated within existing and proposed buildings on the lot. In the case of commercial and industrial uses and home occupations, the floor area to be devoted to each use shall be indicated.
- d. The location, dimensions and design of parking and loading areas including the size and arrangement of all spaces and means of ingress, egress and interior circulation, recreation areas, screens buffer yards and landscaping, means of egress from and ingress to the lot, routes for pedestrian and vehicular traffic, and outdoor lighting.
- e. The location of all utility lines, the method of proposed water supply and sewage disposal, and the location of any on-lot facilities.
- f. All other information necessary for the Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.

3. Approval or Disapproval

Upon receipt of the application and all accompanying information, the Zoning Officer shall examine them to determine compliance with this Zoning Ordinance and all other Township Ordinances. Within thirty (30) days from the day he receives the application the Zoning Officer shall either approve or disapprove the application and return one copy of the application and accompanying information containing the Zoning Officer's decision and signature to the applicant. The

other copy shall be retained by the Zoning Officer. If disapproved, the Zoning Officer shall attach a statement to the application explaining the reasons therefore, indicating the manner in which the application could be corrected and/or modified to obtain approval, and informing the applicant of his rights to appeal.

4. Issuance and Posting of Permit

Upon approval of the application by the Zoning Officer and the payment of the fees established from time to time by resolution of the Township Supervisors, the Zoning Officer shall issue a Permit which shall be visibly posted on the site of operations during the entire time of construction. The permit shall expire one (1) year from the date of approval of the application by the Zoning Officer, provided that it may be extended at the discretion of the Zoning Officer for one (1) year periods not exceeding a total of two years. A Zoning and/or Building Permit shall expire if the activity which is authorized by the permit is not begun, in the opinion of the Zoning Officer, within one (1) year of issuance of the permit.

5. Rights of Permit Holders

The permit shall be a license to proceed with the work described on the approved application in accordance with all Township Ordinances. The Zoning Officer shall revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of any false statement or misrepresentation of fact in the application on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance.

Section 1702. ZONING COMPLIANCE CERTIFICATE

1. Requirements

It shall be unlawful to use and/or occupy any building, structure or land or portion thereof for which a zoning and/or building permit is required until a Zoning Compliance Certificate has been issued by the Zoning Officer. The Zoning Officer shall not issue a Zoning Compliance Certificate unless he has inspected such building, structure or land and has determined that all provisions of the Zoning Ordinance and other rules, regulations and ordinances of the Township have been complied with.

2. Issuance

Upon the receipt of notification that the work for which a Zoning and/or Building Permit has been issued has been completed, the Zoning Officer shall inspect the premises within ten (10) days to determine that the work has been performed in accordance with the approved application and all Ordinances of the Township. If he is satisfied that the work has been completed in accordance with the approved application, he shall issue a Certificate of Use and Occupancy to the permit holder for the use indicated on the approved application. A copy of the Certificate of Use and Occupancy shall be retained by the Zoning Officer as part of the Township records. If he finds that the work has not been performed in accordance with the approved application, the Zoning Officer shall refuse to issue the Certificate of Use and Occupancy and in writing give the reasons therefore and inform the permit holder of his right of appeal.

For uses for which performance standards are imposed by this Ordinance, no Certificate of Use and Occupancy shall become permanent until thirty (30) days after the use is in operation and only after, upon reinspection by the Zoning Officer, it is determined that the use is in compliance with all performance standards. After such reinspection, the Zoning Officer shall notify the applicant that the Certificate of Use and Occupancy is permanent, or that the use is not in compliance and that the Certificate of Use and Occupancy will be revoked within thirty (30) days of the notification if compliance with all performance standards is not secured.

3. Temporary Certificate of Use and Occupancy

Upon request of the holder of a zoning and/or building permit, the Zoning Officer may issue a Temporary Certificate of Use and Occupancy for a building, structure, sign and/or land or portion thereof before the entire work covered by the permit shall have been completed. Such portions may be used and/or occupied prior to full completion of the work provided life and the public health, safety, morals and general welfare of the residents and inhabitants of the Township are not endangered.

The Zoning Officer may also issue a Temporary Certificate of Use and Occupancy for such temporary uses as tents, trailers, and buildings on construction sites, and for the use of land for religious and other public and semi-public purposes or other temporary use and/or occupancy upon order of the Zoning Hearing

Board. Such temporary certificates shall be for the period of time to be determined by the Zoning Hearing Board at the time of application, but in no case shall any certificates, except those for uses on construction sites, be issued for more than one (1) year.

Section 1703. SCHEDULE OF FEES, CHARGES AND EXPENSES

The Township Supervisors shall establish, by resolution, a schedule of fees and charges for requests for zoning and/or building permits, certificates of use and occupancy, special exceptions, variances, amendments to this Ordinance and other matters pertaining to this Ordinance. A collection procedure shall also be established. Until all application fees and charges have been paid in full, no action shall be taken on any application or other matter.

Section 1704. AMENDMENTS

The provisions of this Zoning Ordinance and the Official Zoning Map may, from time to time, be amended, supplemented or changed by the Board of Supervisors, pursuant to the following procedure.

1. Procedure

The following procedures shall be observed prior to making any amendment or change to this Ordinance or parts thereof, including the Official Zoning Map:

- a. Every proposed amendment or change not initiated by the Township Planning Commission shall be referred to the Township Planning Commission at least thirty (30) days prior to the date of the public hearing the Township Supervisors hold on the amendment to provide the Township Planning Commission an opportunity to submit recommendations prior to the hearing. The Planning Commission shall review each amendment against the Comprehensive Plan for the Township.
- b. All proposed amendments to this Ordinance shall be submitted to the County Planning Commission for their recommendations at least thirty (30) days prior to the public hearing.
- c. Curative Amendments - The procedure upon curative amendments shall be as established in the Pennsylvania Municipalities Planning Code. A curative amendment shall be referred to the County and the Township Planning Commissions as provided in this section and notice of any hearing thereon shall be given as provided by law.

2. Submission of Impact Statement

With a request for a zoning amendment initiated by other than the Township Planning Commission or Township Supervisors, a statement indicating the impact of the zoning change on the Township may be required, at the option of the Planning Commission with the application for rezoning. The statement shall compare the impact on the Township resulting from the existing zoning with the impact resulting from the proposed zoning, specifically discussing:

Environmental Impact - The impact on wooded areas, flood plains, areas of high water table, wildlife habitats, storm water runoff, erosion and sedimentation, historic sites, water quality, air quality, solid waste generation, and noise levels.

Traffic Impact - The impact on traffic generated per day and at peak hours, including numbers and routes expected to be used. An analysis of traffic capacities of adjacent roads and intersections and roads and intersections to be significantly affected by the zoning change shall be prepared.

Services Impact - The demand for school, police, sewer, water, sanitation, and road maintenance services.

3. Public Hearing

The Township Supervisors shall hold a public hearing before voting on the enactment of any amendment or change. Public notice of such hearing shall be given as required by law. In addition, if the proposed amendment involves a zoning map change, notice of the public hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the hearing. If, after any public hearing held upon an amendment or change, the proposed amendment or change is changed substantially or is revised to include land previously not affected by it, the Township Supervisors shall hold another public hearing pursuant to public notice prior to voting on the amendment or change. The Township Supervisors shall vote on the proposed amendment within ninety (90) days after the last public hearing. Enactment of amendments shall be in accordance with the procedures established in the Pennsylvania Municipalities Planning Code, as amended.

Once a public hearing has been advertised regarding an individual property, a notice shall be posted on each side of the affected property which faces a street in such a position that such notice is readily readable. The notice shall state the following:

That an application for an amendment to this Ordinance has been requested;

The proposed use of the property;

The existing Zoning District and the proposed Zoning District;

The name of the applicant and the owner of the property;

The date, time, and place of the public hearing.

Section 1705. ENFORCEMENT NOTICE

1. If it appears to the Township Supervisors that a violation of this Zoning Ordinance has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided for in the Pennsylvania Municipalities Planning Code, as amended.
2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing, by the owner of record.
3. An enforcement notice shall state at least the following:
 - a. The name of the owner of record and any other person against whom the Township intends to take action.
 - b. The location of the property in violation.
 - c. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
 - d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

- e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance and the Municipalities Planning Code.
- f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanction clearly described.

Section 1706. ENFORCEMENT REMEDIES

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgement of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership, or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid over to the Township.

Section 1707. APPEALS

Proceedings for securing review of any ordinance or of any decision, determination or order of the Township Supervisors, their agencies, the Zoning Hearing Board, or Zoning Officer issued pursuant to this Ordinance shall be in accordance with the Pennsylvania Municipalities Planning Code, as amended.

Section 2. Sections 1900 through 1906 of the Zoning Ordinance of October 20, 1987, are deleted.

Section 3. The provisions of the this Ordinance shall be severable, and if any provisions shall be held to be unconstitutional, invalid, or illegal by any Court of competent

jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as legislative intent that this Ordinance would have been enacted if such unconstitutional, invalid or illegal provision had not been included therein.

Section 4. All Ordinances or parts of Ordinances in conflict herewith, being the same are hereby repealed.

Section 5. This Ordinance shall become effective in accordance with the law.

Duly enacted at a public meeting of the Board of Supervisors of the Township, held on the *5th* day of *December*, 1989.

BOARD OF SUPERVISORS OF
TILDEN TOWNSHIP, BERKS COUNTY

Wellington R. Ketner
Gary L. Wilhelm
Earl L. Katzman

Attest

Anna M. Shellenberger