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Friday, April 30, 2021

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Community Matters: How a community can best work within the city's zoning process

Posted Thursday, April 29, 2021 11:30 am

by Celeste Hardester

Community Matters is a column from the Chestnut Hill Community Association Physical Division

Chestnut Hill is experiencing a virtual onslaught of potential development that is shaking up neighborhoods from the bottom of the Hill to the top. This is an extension of a trend throughout the City. In Spruce Hill, handsome rows of Victorian classics are interrupted with tragic tear-downs and replaced with modern monoliths. In the Lower Northwest, blocks of small row homes are overshadowed by five-story apartment complexes with minimal parking provisions. Examples go on and on, much of it allowed by zoning code without variances.

In Philadelphia, except for overlays, the zoning code is a one-size-fits-all rule book for the entire City. Any deviation from the code requires a variance, granted by the Zoning Board of Adjustment. This body has its own set of marching orders, which essentially is to support development and business generation wherever possible. Arguments fly back and forth about decisions made by the ZBA: Was that variance appropriately granted? Did they follow the law in the decision they rendered? Was a hardship proved? Was the variance excessive or could the ZBA have granted less?

A component of the zoning code is that if a Refusal or Referral is issued by Licenses and Inspections – meaning that a variance or special exception needs to be granted by the ZBA – the developer must first present their proposal to Registered Community Organizations. The law requires just one meeting with the RCO, so there is just one bite at the apple for a community to weigh in and hope to influence the developer's plans. Some RCO's hold zoning meetings as well as general RCO meetings, and developers attend the meetings because they want community support, which makes their process easier at the ZBA.

The CHCA has one of the most elaborate review processes in the City. Why? Because the process has proven over decades to be effective at improving outcomes. Its Development Review Committee (DRC), Land Use Planning & Zoning Committee (LUPZC), Streetscape Committee, and also the Chestnut Hill Conservancy's Historic District Advisory Committee (HDAC) are all staffed by volunteers who either own property, live or work in Chestnut Hill. Most of these volunteers are professionals, enabling them to evaluate a project from multiple dimensions, understanding the zoning code, and pushing for achievable alternatives where they can be found. Many of these volunteers have been performing this service for years and years, because they care deeply about Chestnut Hill, and are willing to put considerable time into that commitment.

These committees are the backbone of the RCO process in Chestnut Hill. Public meetings are a part of the review process, giving the community multiple opportunities to participate. In general, there are at least five public meetings for any given project.

Giving input to a developer does not mean that the community gets to say what happens. A property owner has a great deal of power to do as they wish. The ZBA does not consider aesthetics, culture, history, lost vistas, massing and many other standard concerns. They tend to be unsympathetic to impacts on parking. If a traffic study is not required, they will have no concern about ingress and egress. If a building is within the legal height limits, they take no issue. If they believe that the property presents a hardship as it exists, and that the property owner has presented a plan that is not excessive in its request for variance, they are very likely to grant the permit.

The ZBA can be influenced by community input, but only in certain ways. They will listen to considerable individual testimony but be impatient hearing repetitive complaints. They tend not to be swayed much by petitions. A lot of community input will get their attention, but they will want to know if the developer/property owner has tried to resolve disagreements with the community. If all parties agree that there could be value obtained in further negotiation, the ZBA may issue a continuance (usually two-three months later) and ask the parties to attempt to bring back a solution. If either party feels they have done what they can to negotiate, the ZBA will make a decision that day. Unless they feel that the variance will have an undue impact on neighboring property owners, or that the need for a variance has not been proved, they are very likely to grant the permit.



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This perspective of potential outcome at the ZBA is always in play when an RCO reviews a project. There are limits to the changes that can be made to a plan if it seems likely that the ZBA would grant a permit. A developer wants community support because they always want to keep their process moving. They generally don't want a continuance. So they will do what they feel they need to in order to gain support. It is a dance, back and forth.

All of the above goes out the window if a property owner wishes to build a project by right, meaning that their plans fall within the zoning code. In this case, there is zero requirement for community input.

The third avenue for a property owner is to seek an actual change in the zoning of the property. In this case, there is no requirement to meet with RCOs and the ZBA is not involved. The property owner will seek to gain the City Councilperson's agreement to introduce legislation to change the zoning. That Councilperson will likely want to know what the community thinks. But not always.

Having an impact on development outcomes is a complex process. It has a better chance of succeeding when community participants know the ropes and have a few successes and failures under their belts. With all that is going on in Chestnut Hill, the CHCA and the Conservancy encourage community members to become more involved. Attend meetings, join committees, seek to join boards, see what you can do to help. Chestnut Hill needs all of us.

Celeste Hardester is the coordinator of the CHCA's Physical Division.

Keywords

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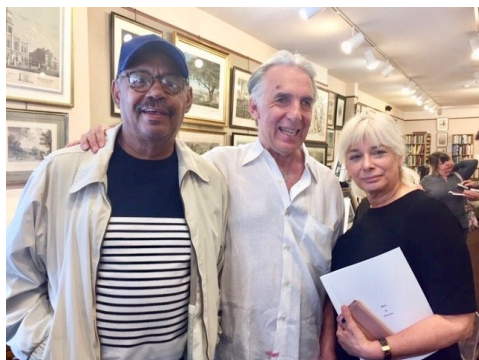
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THE LATEST**Health Commissioner says the current "epidemic wave is starting to decline." (/stories/health-commissioner-says-the-current-epidemic-wave-is-starting-to-decline,17305)**

At the city's COVID-19 press conference on Tuesday, Dr. Farley reported that daily case count averages have fallen along with test positivity rates.



(/stories/new-flourtown-authors-dark-baseballmurder-novel,17304)

New Flourtown author's 'dark' baseball/murder novel (/stories/new-flourtown-authors-dark-baseballmurder-novel,17304)

Now that the major league baseball season has just begun might be a good time for baseball fans to read "The Will of the Creator," a novel just released in early April by Flourtown novelist Sam Levitt, 61, which has a baseball theme (sort of).

Philadelphia Orchestra focuses on 20th century in virtual performance (/stories/philadelphia-orchestra-focuses-on-20th-century-in-virtual-performance,17303)

The restrictions on the number of players imposed by the COVID-19 lockdown have frequently limited the Orchestra's repertoire to either 18th century scores or expanded chamber music pieces composed in later eras.