

**TOWNSHIP OF LOWER MERION**  
*Building & Planning Department*

**MEMORANDUM**

TO: Douglas S. Cleland, Township Manager  
FROM: Robert E. Duncan, Director of Building & Planning  
SUBJECT: Conversion of Religious and Club Uses to Multi-family Dwellings  
DATE: January 11, 2013

The conversion ordinance has been authorized for a public hearing and consideration for adoption at the January 16<sup>th</sup> BOC meeting. Staff has incorporated all of the comments recommended by the Board during the numerous meetings held last year. A copy of this ordinance is attached.

A summary of the more significant recent amendments are listed below. There were also a number of minor amendments to clean up language or provide better clarification.

155-133 A (3)

The Board suggested that the original language be maintained regulating exterior changes to the building. Staff has added language to refer to the specific chapters of the fire and building code. We also removed reference to fire escapes because the building code no longer permits the installation of new fire escapes.

155-133 A (5)

Language was added to clarify that the purpose of this section is to designate someone on site for the purpose of serving notice if there is a condition that requires the Township to notify the owner or their representative.

155-133 A (6)

Language was added to address non-conforming building area or impervious surface conditions.

155-133 B

Section B was moved to the Historic Resource incentive section of the code Section 155-151. This conversion is now a permitted historic incentive requiring a covenant to guarantee preservation of the historic building. Section 155-133 B now refers you to the historic incentive section of the code.

155-151 B (1) (g)

Since this has been moved from the conversion of dwelling section of the code to the historic incentives, the conversion can only be permitted by conditional use. The special exception has

been deleted from the ordinance because the historic incentive uses are only permitted by the BOC if a conditional use is granted. A new section has also been added to permit a non-historic building on the lot to be converted if the historic building is protected.

(g)(2) The entire building must be converted. No partial building conversions are permitted.

(g)(3) Three different separation alternatives have been included. One would require a 500' separation, the second would require a separation if more than 20 units are converted within the 500' separation area, and the third would eliminate the separation requirement entirely. Staff recommends that the separation requirement be eliminated since the permitted density is the same as it would be if the building is demolished and the lot is subdivided into multiple lots.

(g)(5) A provision has been added for small additions. The size of the addition would be limited no more than 10% of the existing building but in no case larger than 1,000 sq ft (The BOC must select a limit between 200 & 1,000 sq ft prior to adopting this ordinance).

There also is alternative language that would limit exterior changes to those required by the building or fire code.

(g)(6) A new section has been added that would permit detached garages provided they are located to the rear of the building and no larger than 600 sq ft (roughly the size of a two car garage). This is a new section that was added prior to the December B&P Committee meeting.

(g)(12) The ability to count on-street parking in front of the property is still permitted provided the property is not in a Local Historic District.

(g)(16)(a) Language was added to give the BOC greater authority to determine the amount of the permanent care fund for future cemetery maintenance.

(g) 16 (d) Language added to guarantee adequate circulation and parking to accommodate funeral processions.

(g) 16 (e) Language added to prohibit additional curb cuts for the cemetery use.

155-151 C (3)

Section 155-151 B (1) applies to Class I Resources only. A new section 155-151 C (3) has been added to also permit the conversion of a Class II Historic Resource.

## Planning Commission comments

The Planning Commission (PC) reviewed this ordinance at their January meeting. They recommended adoption with the comments listed below.

The PC suggested a provision be added to permit a historic accessory building to be converted. I believe we would interpret this as a permitted use under the current draft but if the BOC would like this language added to avoid any confusion, this clarification can be added to the ordinance.

The PC recommended no separation requirement. They also recommended that additions be permitted up to 1,000 square feet.

The PC also made two recommendations to the Cemetery provisions under subsection #16. They recommended that existing Cemetery plots not be subject to the 25' setback. They also recommended that there be an exception to the no new curb cut provision if a new curb cut is needed to access the property for maintenance purposes.

If the BOC would like to add any of these suggested amendments to the ordinance, they have two options to consider. They could adopt the ordinance as drafted and direct staff to prepare the amendments in a separate ordinance for the BOC to consider or they can direct staff to include these amendments prior to the adoption and re-advertise the ordinance for a new public hearing in February.

A copy of the Montgomery County Planning Commission review letter is also attached.

If you or any Board members have any questions prior to the January Board meeting, please give me a call.

**AN ORDINANCE**

**NO. \_\_\_\_\_**

**AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Zoning, Article XXV, §155-133 General Regulations, , Conversion Of Buildings, To Amend Section A And Add A New Section B, And To Amend Article XXVIA, Historic Resource Overlay District, To Amend Article XXVIA, §155-151 B (1), By Adding A New Section (g) To Establish Standards For The Conversion Of A Religious, Club Or Lodge Use To A Multi-Family Dwelling Use, Including The Maintenance Of Any Cemetery Associated With That Prior Use, and to amend §155-151 C By Adding A New Section (3) To Permit The Uses Authorized Under §155-151 B (1) (g).**

The Board of Commissioners of the Township of Lower Merion hereby ordains:

**Section 1.** The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXV, General Regulations, §155-133, Conversion of Buildings, shall be amended to provide as follows:

**§ 155-133. Conversion of buildings.**

- A. The Zoning Hearing Board may authorize as a special exception the conversion of a building used as a Single-Family Dwelling into a Two Family Dwelling or an Apartment House in R AA, R A, R 1, R 2, R 3, R 4, R 5 and R 6 Residence Districts, subject to the following requirements:
- 1) The minimum lot area requirement for the district in which the designated lot is located shall be provided for each dwelling unit in the proposed converted dwelling. No future subdivision of the property may reduce the lot area below the minimum requirement. A covenant shall be recorded to document this restriction.
  - 2) The conversion must occur on a lot that complies with the area and width regulations for the district in which the lot is located.
  - 3) There shall be no external expansion of the building except as may be necessary for reasons of safety or to comply with the building code provisions of Chapter 143 and the fire code provisions of Chapter 78. Exterior stairways shall, where practicable, be located to the rear of the building.
  - 4) The Zoning Hearing Board shall specify the maximum number of families and dwelling units permitted to occupy such building and may prescribe such further conditions and restrictions with respect to the conversion and use of such building and to the use of the lot as the Zoning Hearing Board may consider appropriate.

- 5) If the building is used and occupied as an Apartment House, either one of the units must be and remain occupied as the primary residence of the owner, or the owners must designate an agent of the property owner authorized to accept service on the owner's behalf.
  
- 6) The property shall comply after conversion with the Building Area and impervious surface requirements for a single-family dwelling in the district in which the property is located. To the degree the lot is Non-Conforming to the building area or Impervious Surface requirements, the existing and new improvements required to complete the building conversion may not result in an increase in Building Area or Impervious Surface beyond the increases permitted in Article XXV and XXVIA.
  
- 7) A planted buffer 20 feet in depth meeting the buffer standards in Section 155-114 D shall be required unless the Zoning Hearing Board makes a specific finding that the use of adjacent properties will be sufficiently protected from the impact of the converted building by a lesser buffer, or by no buffer at all.
  
- 8) If the net lot area exceeds five acres, the lot shall comply with the Open Space Preservation District provisions in Article XXVI.
  
- B. The conversion of a building listed as a Class I or II Historic Resource being lawfully used for a religious, club or lodge use into a Two Family Dwelling or an Apartment House, or an accessory building on the same lot, subject to compliance with §155-151 B (1) (g).

\*\*\*\*\*

**Section 2.** The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXVIA, Historic Resource Overlay District, To Amend §155-151 by adding a new section B (1) (g), as follows:

B. Uses permitted on properties designated as a Class I Historic Resource:

(1) Provided that the guarantee referenced in § 155-153B(4) has first been submitted and approved, a property upon which a Class I Historic Resource is situated, excluding buildings and structures which do not contribute to the historic resource, which property obtains access from any street, may, in addition to the uses permitted in Subsection A above, be used for any one of the following uses, subject to obtaining a recommendation from either the Board of Historical Architectural Review or the Historical Commission, pursuant to Chapter 88, and obtaining conditional use approval from the Board of Commissioners:

\*\*\*\*\*

(g) Conversion of a building being lawfully used for a religious, club or lodge use into a Two Family Dwelling or an Apartment House in all zoning districts. If a non-historic accessory building also exists on the subject lot, the non-historic building may be converted under this section provided the historic resource is subject to the guarantee referenced in Section 155-153 B (4). Any conversion under this section shall be subject to compliance with all of the following requirements:

- 1) The minimum lot area requirement for the district in which the subject lot is located shall be provided for each dwelling unit in the proposed converted building. No future subdivision of the property may reduce the lot area below the minimum requirement. A covenant shall be recorded to document this restriction.
  - a. Where any portion of the Lot containing a building to be converted includes a cemetery, the lot area devoted to the cemetery use shall not be included as part of this minimum lot area requirement .
- 2) The entire Historic resource and/or building must be converted to dwelling units. No partial building conversions shall be permitted under this section. The current edition of the building code shall be used to determine whether a building is designed and built as a separate building.
- 3) No conversion of a building to a residential use as authorized under this section shall be permitted if the lot on which the building proposed for conversion is located is within 500 feet of two other lots containing buildings authorized for conversion hereunder. This 500 foot separation is to be measured by the shortest distance between the lot on which the proposed conversion will take place and the lots which contain the existing converted buildings. *(Based on the discussion at the last B&P Committee meeting, there seemed to be support to delete the separation requirement. If separation requirements are going to be established, there seemed to be a consensus that the alternative language below was preferred.*

Or alternatively

No more than a total of 20 units may be permitted in buildings converted under this Subsection B on lots within 500 feet of one another. This 500 foot separation is to be measured by the shortest distance between the lot on which a proposed conversion will take place and the lots which contain the existing converted buildings.

*(Staff recommends the second alternative above if the Board decides to impose separation requirements. The Commissioners will need to decide whether 20 units is an appropriate limit before the separation requirement is established)*

Or alternatively

Delete the provision entirely

4) The uses on the subject lot shall comply with the Building Area and Impervious Surface requirements for the district in which the buildings are located. To the degree the lot is Non-Conforming to the Building Area or Impervious Surface requirements, the existing and new improvements required to complete the conversion may not result in an increase in Building Area or Impervious Surface beyond the increases permitted in Article XXV and XXVIA.

5) There shall be no external alteration of the converted building except as permitted below. Any changes to the exterior of the building shall be approved by the Historical Commission or the Historical Architectural Review Board for properties located in a Local Historic District

- (a) those necessary for reasons of safety or compliance with the Accessibility and exiting requirements in the International Building Code
- (b) openings required to accommodate new windows and doors; grade level patios or wood decks
- (c) vents or exhausts for mechanical systems
- (d) upper floor balconies on the side or rear of the building
- (e) small additions no greater than 10% of the existing building floor area but in no case exceeding {insert a number between two hundred (200) to one thousand (1000) square feet as determined by the Board of Commissioners prior to the adoption of this ordinance}.
- (f) New stairways shall be located to the rear of the building unless required by the building code to be located on the side of the building.

Or alternatively

There shall be no external alteration of the building except as may be necessary for reasons of safety or to comply with the building code provisions of Chapter 143 and the fire code provisions of Chapter 78. Exterior stairways shall, where practicable, be located to the rear of the building.

6) Detached garages are permitted provided they are located to the rear of the existing building to be converted and are limited to a maximum of two cars and no larger than 600 square feet. Detached garages shall be subject to the setback requirements in the zoning district but in no case may be less than ten feet (10') from the side or rear property line..

7) The Board of Commissioners shall specify the maximum number of families and dwelling units permitted to occupy such building and may prescribe such further conditions and restrictions with respect to the conversion and use of such building and to the use of the lot as they deem appropriate to achieve the following objectives:

- a) does not increase the number of dwelling units permitted above the limits set forth in section (g) 1 above.

- b) retains the visual character of the building and the grounds surrounding it as they were designed and/or as they have traditionally been maintained.
- c) assure the quiet enjoyment of residents living adjacent to the property and the quiet enjoyment and those future residents living in the converted building.
- d) assures that adequate parking is provided for residents of the building and their guests without degrading the existing or creating an unacceptable level of service on the adjacent road(s).

8) If the building is used and occupied as an Apartment House, either one of the units must be and remain occupied as the primary residence of the owner, or the owner must designate an agent of the property owner authorized to accept service of process on the owner's behalf.

9) A planted buffer 20 feet in depth shall be required meeting the buffer standards in Section 155-114 D unless a specific finding is made that the use of adjacent properties will be sufficiently protected from the impact of the converted building by a lesser buffer, or by no buffer at all.

10) Conversions to a principal use permitted under this section shall be limited to the Building Area devoted to the religious, club or lodge uses existing as of the effective date of this ordinance,

11) All new dumpsters, mechanical equipment and any other similar improvements added to the exterior of the building or property whether appurtenant thereto or on the property where the building is located shall be visually screened from adjacent properties by a wall, fence or landscaping.

12) The required parking shall comply with §155-95 except as noted noted herein:

(a) Where a residential use is created in accordance with this subsection, then the existing on site parking may be shared by both uses provided there is at least one parking space on the lot dedicated for each dwelling unit.

(b) Unrestricted on street parking for residents along the frontage of the subject lot may be utilized to meet the minimum parking requirements provided at least one off street parking space is provided for each dwelling unit and the subject lot is located outside a Local Historic District.

13) All surface parking spaces added to comply with required parking for the conversion shall be screened from the view of adjacent properties at ground level, to the extent practicable, by planting a mix of deciduous and evergreen trees and shrubs or a combination of fencing, walls or plantings.

14) Noise from mechanical units or other similar mechanical devices shall not exceed the background noise levels by more than 5 decibels when measured at the property line.

15) If the net lot area exceeds five acres, the lot shall comply with the Open Space Preservation District provisions in Article XXVI.

16) If there is a Cemetery on any portion of the lot where conversion is proposed, then the cemetery shall be subdivided and located on a separate lot. The applicant shall submit documents that demonstrating compliance with all of the following:

- a) That a cemetery company has been established and a permanent lot care fund has been created according to law and is being maintained in an amount which will guarantee the perpetual maintenance of the cemetery in the reasonable opinion of the Board of Commissioners, but in no lesser amount than required for a cemetery company established as of the date of application.
- b) Applicant shall submit on behalf of the cemetery company a maintenance program for the lot(s) and structures within it detailing the means by which both shall be cared for to keep them in neat, orderly and good appearance.
- c) A plan must be submitted documenting the location of the cemetery plots occupied and/or sold as of the date the application for conversion is filed. No existing or proposed cemetery plots may be located within twenty-five (25) feet of any property line. (Discuss with B&P Committee)
- d) With respect to the cemetery lot and the adjacent lot(s) on which the converted buildings are located, adequate provision shall be made for traffic circulation and parking to accommodate funeral processions.
- e) There shall not be any new curb cuts permitted for providing access to the cemetery.

**Section 3.** The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXVIA, Historic Resource Overlay District, To Amend §155-151 by adding a new section C (3) as follows:

C. Uses permitted on properties designated as a Class II Historic Resource. Provided that the guarantee referenced in § 155-153B(4) has first been submitted and approved, a property upon which a Class II Historic Resource is situated, excluding buildings and structures which do not contribute to the historic resource, which property obtains access from any street, may, in addition to the uses permitted in Subsection A above, be used for any one of the following uses, subject to obtaining a recommendation from the Historical Commission, pursuant to Chapter 88, and obtaining conditional use approval from the Board of Commissioners:

\*\*\*\*\*

(3) The conversion of a building being lawfully used for a religious, club or lodge use into a Two Family Dwelling or an Apartment House in all zoning districts. If a non-historic accessory building also exists on the subject lot, then the non-historic building may be converted to a Two family Dwelling or an Apartment House provided the historic resource is subject to the guarantee referenced in Section 155-153 C and the conversion complies with all of the provisions in Section 155-151 B (1) (g).

**Section 4.** Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 155 prior to the adoption of this amendment.

**Section 5.** The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

**Section 6.** This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board this      day of      , 2013.

BOARD OF COMMISSIONERS OF THE  
TOWNSHIP OF LOWER MERION

\_\_\_\_\_  
Elizabeth S. Rogan, President

ATTEST:

\_\_\_\_\_  
Jody L. Kelley, Secretary