

## ORDINANCE NO. 153

### AN ORDINANCE OF THE TOWNSHIP OF MILFORD, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE MILFORD TOWNSHIP PORTION OF THE QUAKERTOWN AREA ZONING ORDINANCE TO REVISE THE REGULATIONS CONCERNING VILLAGE HOUSE, TO MODIFY REGULATIONS CONCERNING OPEN SPACE DESIGNATIONS, DESIGNS STANDARDS AND MEANS OF PRESERVING OPEN SPACE

#### BACKGROUND

- A. On or about July 18, 1995, the Milford Township Board of Supervisors (the "Board") enacted a new Zoning Ordinance ("Zoning Ordinance") pursuant to its statutory authority, the Pennsylvania Municipalities Planning Code ("MPC"), Act 247 of 1968, as amended (53 P.S. §10101 et seq).
- B. Since its adoption, the Board has from time to time amended the Zoning Ordinance, most recently by Ordinance No. 151 adopted February 19, 2008.
- C. The Board of Supervisors believes it is in the interest of the Township and in accordance with community development objectives to amend the regulations concerning Village House to permit a greater flexibility in the design of such residential dwelling units.
- D. The Board of Supervisors believes it is in the interest of the Township and in accordance with the community development standards and the goal of preservation of open space to revise the regulations concerning design designation and ownership of open space.
- E. The Board of Supervisors believes it is in the interest of the Township and in accordance with the requirements of MPC to establish appeal periods within which an appeal must be taken from the determination of the Zoning Officer or Municipal Engineer.
- F. In accordance with MPC requirements, copies of this proposed Zoning Ordinance Amendment were forwarded to the Bucks County Planning Commission and the Milford Township Planning Commission on August 18, 2008 for their review and comment.
- G. In accordance with MPC requirements, notice of a public hearing to consider adoption of this Zoning Ordinance Amendment was duly advertised in the Intelligencer on November 4, 2008 and November 11, 2008.

H. The proposed Zoning Ordinance Amendment has been advertised, considered and reviewed, and a hearing held all in accordance with the requirements of Section 609 of the MPC (53 P.S. Section 1069).

***NOW, THEREFORE, be it ENACTED and ORDAINED*** and it is hereby ***ENACTED AND ORDAINED*** by the Board of Supervisors of Milford Township, Bucks County, Pennsylvania as follows:

**Section 01 – Section 251 Open Space** is amended and restated as follows:

Section 251 Open Space

Open space is land used for recreation, resource protection, amenity, or buffers; and is protected by the provisions of this ordinance and the Subdivision and Land Development Ordinance to ensure that it remains in such uses. Open space shall not include land occupied by nonrecreational buildings or structures, roads or road rights-of-way, utilities or utility rights-of-way, parking areas or nonrecreational uses, land reserved for future parking areas for nonrecreational uses, stormwater detention or retention basins, or the yards or lots of dwelling units.

Open space shall be used in accordance with Section 531 Open Space Designation; open space shall be owned and maintained in accordance with Section 534 Ownership of Open Space. Open space recreation uses specified in Section 531.b (3) may contain impervious surfaces. Such impervious surfaces shall be included in the calculation of the impervious surface ratio.

**Section 02 – Section 404 B.6, subsection b.(3)** is amended and restated as follows:

(3) Village House. A single family detached dwelling unit on an individual lot with private yards on all sides of the house. It differs from other forms of detached housing in the lot size and placement on the lot. It is similar to houses found in historic villages and towns. The house is placed close to the street and is additionally distinguished by planting or architectural treatments.

(a) Each unit shall provide at least two of the following features:

(i) An unenclosed porch running across at least three quarters (3/4) of the house front, being at least seven (7) feet in width.

(ii) A front yard enclosed by a wall or fence of permanent construction at least thirty (30) inches in height but no more than forty-eight (48) inches in height and one (1) flowering shrub per sixty (60) inches across the width of the front of the house.

(iii) Hedge of shrubs planted eighteen (18) inches on center for width of yard facing street and two (2) flowering trees.

(iv) Two (2) canopy trees per lot or three (3) flowering trees per lot.

(v) One (1) canopy tree, one (1) flowering tree, and one (1) flowering shrub per ninety (90) inches for width of yard facing street.

All of the remaining provisions of **Section 404 B.6(3)** shall continue in effect.

**Section 03** – **Section 530.b** is amended and restated as follows:

b. Open space shall not include land occupied by commercial, industrial, residential or other non-recreational buildings or structures, roads or road rights-of-way, parking areas for non-recreational uses, utilities or utility rights-of-way, land reserved for future parking areas for non-recreational uses, stormwater detention or retention basins, areas occupied by sewage disposal systems, (including but not limited to, community sewage treatment systems, spray fields and other sewage facilities), and/or the yards of lots of dwelling units.

**Section 04** – **Section 531.b.** is amended and restated as follows:

b. The use(s) of the open space shall be indicated on the plans. In designating the use(s), one or more of the following classes shall be used subject to the Board of Supervisor's sole discretion:

The remaining provisions of **Section 531.b** shall continue in force and effect.

**Section 05** – **Section 533** shall be deleted in its entirety and replaced with the following:

**Section 533 – Open Space Financial Security**

Designated planting and recreation facilities within the open space shall be provided by the developer. Financial security in an amount and form approved by the Board of Supervisors shall be required to secure the cost of installation in accordance with the provisions of the Subdivision and Land Development Ordinance. The financial security shall be retained by the Township for a period of time reasonably required to assure that plantings have been properly established and recreation facilities properly constructed which shall be for a period of not less than eighteen (18) months from the date the plantings and recreation facilities have been completed.

**Section 06** – **Section 534** is deleted and replaced by the following:

**Section 534 – Methods for the Preservation, Conveyance and Ownership of Open Space** – Open space shall be preserved by one of the following means which shall be selected by the Board of Supervisors and shall be subject to the Board of supervisors' sole discretion.

A. Dedication in fee simple to the Township – The Township may, at the sole discretion of the Board of Supervisors, accept any portion or portions of open space or recreation areas as provided:

(1) It is determined by the Board of Supervisors that the land is suitable and will serve the general public.

(2) The Township agrees to and has access to maintain the land.

(3) The title is conveyed to the Township without cost.

B. Conveyance to a conservancy, corporation, association, funded community trust, condominium or similar legal entity shall be allowed, provided:

(1) The land shall include a permanent conservation easement enforceable by the Township, which shall guarantee continued use of the land for the intended purposes in perpetuity and which shall require approval by Board of Supervisors prior to ownership of the land being transferred to another entity.

(2) Proper maintenance and continued funding for maintenance must be guaranteed.

(3) The corporation or association shall be responsible for liability insurance, taxes, and recovery from loss sustained by casualty, condemnation or otherwise. Certificates of insurance and tax payment receipts shall be provided to the Township.

(4) The corporation or association shall not be dissolved nor shall it dispose of the open space, except to another similar organization established to own and maintain the open space and which shall be approved by the Board of Supervisors. The corporation or association must first offer to dedicate the open space to the Township at no cost before such sale or disposition of the open space takes place.

C. Conveyance of a permanent conservation easement that is enforceable by Milford Township, where the land is owned by an entity other than the Township. The Township may require that the conservation easement also be granted to a conservancy, corporation, funded community trust, or similar legal entity approved by the Township as an additional method of oversight and enforcement. The terms of the conservation easement shall be subject to Township approval, shall prohibit further

subdivision and shall contain such other provisions deemed necessary to ensure the continued use of the open space for its intended purpose in perpetuity.

D. Private Holding – The Township may approve that the open space is part of fee simple lots with a permanent conservation easement enforceable by the Township, provided:

(1) The open space is subject to a conservation easement approved and enforceable by the Township prohibiting further subdivision, and containing such other provisions deemed necessary to ensure the continued use of the areas as open space in perpetuity.

(2) The cost and responsibility of maintaining Private Holding open space shall be the responsibility of the owner of the open space.

(3) Including open space within fee simple lots shall only be permitted at the discretion of the Board of Supervisors and shall not be part of any lot area necessary to meet requirement for lot width, area, or yards as specified in Article 5.

**Section 06** – Amend Section 1105 a. to add a new subsection 8 stating as follows:

8. Appeals from the Determination of the Zoning Officer or municipal engineer pursuant to Section 1105 a.(3), (4) and (7) shall be taken within thirty (30) days of the date of the action from which the Appeal is taken.

**Section 07** – Amend Section 1105.b to add the following at the end of subsection 6.

All such Appeals shall be taken within thirty (30) days of the date of the issuance of a Determination from which the Appeal is taken.

**Section 08: Repealer.** This Ordinance hereby repeals any inconsistent provision in the Zoning Ordinance now in effect or of other Ordinances, to the extent of such inconsistency. All other provisions of the Zoning Ordinance of Milford Township, not inconsistent herewith, shall remain in full force and effect.

**Section 09: Severability.** The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is determined by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the Milford Township Portion of the Quakertown Area Municipal Zoning Ordinance of 1995, as amended.

**Section 10: Effective Date.** This Ordinance shall become effective five (5) days after its adoption.

ENACTED and ORDAINED this 18<sup>th</sup> day of November 2008

BOARD OF SUPERVISORS  
MILFORD TOWNSHIP

ATTEST: *Jeffrey A. Vey*  
*Secretary Treasurer*

Jeffrey A. Vey, Manager

*Robert B. Mansfield*  
Robert B. Mansfield, Chair

*Charles Strunk*  
Charles Strunk, Vice Chair

*Absent*  
Timothy Damiani, Member