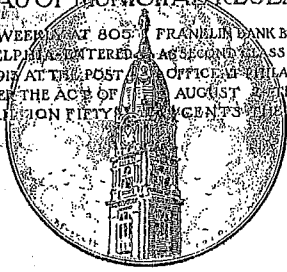


CITIZENS' BUSINESS

BUREAU OF MUNICIPAL RESEARCH

ISSUED WEEKLY AT 805 FRANKLIN BANK BUILDING
PHILADELPHIA ENTERED AS SECOND CLASS MATTER
JUNE 7, 1917 AT THE POST OFFICE PHILADELPHIA,
PA. UNDER THE ACT OF AUGUST 3, 1912—
SUBSCRIPTION FIFTY CENTS PER YEAR



What About Zoning?

James W. Follic

No. 397

January 1, 1920

The proposed zoning ordinance was not passed and the present zoning commission goes out of existence on January 5. A new commission should be appointed and provided with funds to continue the work.

hearings were not held prior to the introduction of the ordinance into councils, as a result of which apparent defects could have been eliminated, the public could have been educated in the meaning and the importance of such regulations, and a public sentiment would have been created to insure the passage of the ordinance by councils.

Program for the Future

The present zoning commission passes out of existence with the old charter, but there is a provision in the new charter whereby a zoning commission may be appointed by the new mayor. It is advisable that a new commission should be created immediately in order to profit by the public interest in zoning which has just been created. This commission should be provided with funds to publish the proposed zoning regulations and maps, and should institute an educational campaign to inform the public why the regulation of the location, size and use of buildings will promote the public health, safety, order and general welfare. Public hearings should be held to answer questions concerning the proposed regulations. As a result of these hearings apparent discrepancies could be eliminated from the regulations as they now exist so that a new ordinance could be passed without lengthy hearings by the new council.

To all our readers and friends
A Happy New Year

The Zoning Ordinance

On November 6, 1919, there was introduced into councils a zoning ordinance to regulate the location, size and use of buildings. This ordinance was referred to the survey committee which held a public hearing on December 2, and which then passed on the ordinance to the city solicitor for an opinion. This step, taken at the eleventh hour of the existence of the old councils, practically closed the door on zoning under the old administration.

Public Interest in Zoning

At the public hearing just referred to, as well as at the special hearings conducted by the zoning commission, there was manifested a keen interest in the subject of zoning, but it was quite clear that the public was not yet ready for so important a measure of legislation, and that its immediate passage would be inexpedient because it was not generally understood and there would not be public support for its enforcement. In this connection it is to be recalled with regret that mimeographed copies of the ordinance had not been widely distributed, and were not even available to all of the persons and organizations particularly interested in the contents of the ordinance, and that the maps which are an integral part of the ordinance were not available in adequate number.

How the Ordinance was Drafted

Under the authority of Act 175, P. L. 285 of May 11, 1915, and in accordance with resolution of councils of July 20, 1916, the mayor appointed the existing zoning commission which comprises seven public officials and five citizens who represent certain business and civic organizations. This commission has studied the zoning problem during a period of three years, and has made its public report in the form of the proposed zoning ordinance. Its initial work involved the preparation of maps covering the entire city area which indicate the existing conditions in regard to each of the three major considerations, height of buildings, area of lot covered by buildings, and the uses to which buildings are put. By the use of these maps and from the study of zoning regulations in other cities, the commission has formulated proposed regulations applicable to the different districts into which the city area is divided according to height, area and use of buildings.

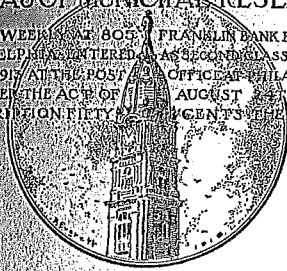
Appropriations approximating \$13,000 constitute the entire amount made available to the commission during three years. The accomplishment of such a comprehensive study for this meager sum has been due to the fact that it was carried out in conjunction with the bureau of surveys whose chief engineer is a member of the commission. But while the study itself was carefully made despite inadequate funds, there was unfortunately no provision for the publication and wide distribution of the proposed ordinance.

It is also regrettable that numerous public

CITIZENS' BUSINESS

BUREAU OF MUNICIPAL RESEARCH

ISSUED WEEKLY AT 803 FRANKLIN BANK BUILDING
PHILADELPHIA, ENTERED AS SECOND CLASS MATTER
JUNE 7, 1917 AT THE POST OFFICE AT PHILADELPHIA,
PA. UNDER THE ACT OF AUGUST 3, 1912—
SUBSCRIPTION FIFTY CENTS PER YEAR—



A Tip to Billy Penn

No. 569

April 19, 1923

If Billy Penn from his lofty watch-tower on City Hall could only warn the populace against the dangers of uncontrolled growth in the city which he laid out, and sound the alarm for zoning!

regulate the location, size, and use of buildings, and to make different regulations for different districts. In regard to the use of this power, there has been much planning and some discussion, but only mild public approval and indifferent support from the city's legislators. The city has heretofore remained on the side-lines and watched groups of its citizens forced to take court action to protect their interests. (See CITIZENS' BUSINESS No. 521, May 18, 1922.) But now the city is drawn into the fray and the use to which it would devote certain property is being contested in court. Will this change of conditions arouse the city from its lethargy? Is it not just as necessary for the city government to have the guide furnished by zoning in planning public construction as it is necessary for the citizen in planning the use of private property?

Other Cities Are Active

While Philadelphia procrastinates, other cities are active and the list of zoned cities is rapidly growing. In Chicago the Real Estate Board has recently published what is authoritatively described as the most complete study ever made on the subject of building heights. Within the past three weeks the City Council of Chicago has made a decision in regard to this vexatious point in zoning control and has unanimously passed a zoning ordinance. Is there any good reason why an early agreement on the height of buildings should not be reached in Philadelphia thus removing the main obstacle to zoning in this city?

For the present the comprehensive program has been side-tracked and the efforts of the Zoning Commission are being concentrated upon the formulation of a plan for West Philadelphia alone. Doubtless this will serve a useful purpose in spreading the gospel of zoning. Partial zoning, however, may not stand the legal test, but even if it does, West Philadelphia is not the only child which needs "rearing." Is it not about time that serious consideration be given to a zoning plan for all parts of Philadelphia?

IT is apparently just as difficult to submerge permanently a piece of legislation which the public welfare demands as it is "to keep a good man down." Both keep bobbing up in spite of efforts to suppress them.

A Development in City Street Cleaning

Doubtless every one knows that the Department of Public Works proposes to erect a stable for municipal street cleaning horses on an unused portion of the Glenwood Cemetery plot adjacent to the connecting railway and close to Diamond Street. The land is being appropriated for public use in accordance with an ordinance approved July 7, 1922, and the necessary funds are available to proceed with the construction. In fact the grading and the foundations have been completed and the contract awarded for erection of the building. In addition, that portion of Glenwood Avenue which lies between Diamond Street and the city's holding has been opened to a width of sixty feet so as to give direct and easy access to the stable.

Nearby Residents Seek to Restrain City

The project is being carried out, however, against opposition of the nearby residents. Failing in their efforts to induce the city fathers peacefully to abandon the construction of the stable, the complainants have filed a petition in equity praying that the city be restrained on the grounds that the stable would be a nuisance and a menace to health and would depreciate property values. Several hearings have been held, but no decision has yet been announced by the court.

Attempt to Restrict Location of Stables Fails

Coincident with the appeal to court, the complainants were instrumental in having a bill introduced into the legislature to prohibit in cities

of the first class the erection of stables to accommodate more than 50 horses at one time within 800 feet of any public playground, school, church, or other place of public worship having a seating capacity of more than 100 persons. This measure (House Bill No. 159) had a swift and unobstructed journey through both houses of the legislature but ran onto the rocks when it reached the Governor. In the veto message of March 29, the Governor states that the standards fixed are arbitrary and, in absence of a substantial reason why the proposed regulation should not be applied as well to second and third class cities, that the bill would undoubtedly be held unconstitutional. The Governor declares also that the bill violates the principle of home rule.

Is Municipal Street Cleaning Jeopardized?

In the Governor's opinion, moreover, House Bill No. 159 was intended to hamper the city in erecting stables necessary for municipal street cleaning which alone would be sufficient reason for vetoing the bill. Doubtless this view has the sympathetic approval of many Philadelphians who have supported the program of municipal street cleaning. But on sober reflection, some may very properly ask whether the permanent establishment of so meritorious a program should be jeopardized by running contrary to local community interests. It is true that the Department of Public Works proposes to erect a stable of most modern design which it believes will not prove objectionable. But even if the court dismisses the petition of the plaintiff in the present case, other city stables will have to be created from time to time at scattered points in the city. These stables also may have to run the gauntlet of local community objection. Is there not a method by which permissible locations can be fixed for the entire city?

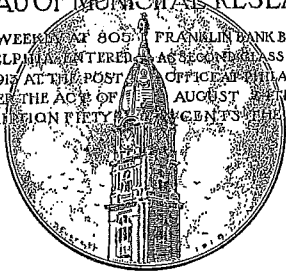
The City as Well as the Citizen Without a Guide

The answer is in the affirmative. Since 1915 the city has possessed the authority of law to

CITIZENS' BUSINESS

BUREAU OF MUNICIPAL RESEARCH

ISSUED WEEKLY AT 805 FRANKLIN BANK BUILDING
PHILADELPHIA ENTERED AS SECOND CLASS MATTER
JUNE 7, 1917 AT THE POST OFFICE AT PHILADELPHIA,
PA. UNDER THE ACT OF AUGUST 3, 1912—
SUBSCRIPTION FIFTY CENTS PER YEAR



Zoning for Philadelphia

No. 598

November 8, 1923

The appointment by council of an advisory committee to study and report upon zoning for Philadelphia should lead to the early passage of a zoning ordinance for the city.

ON November 1, 1923, council passed a resolution providing for the appointment by the president of council of an advisory committee on zoning, to consist of one councilman from each of the eight districts and representatives from a number of business and professional organizations. The appointment of this committee, which is to study and report upon zoning, is another incident in the history of zoning in Philadelphia, and brings zoning for the city again to the fore.

Progress of Zoning in Philadelphia

Since 1916, when the mayor appointed the first zoning commission, by authority of a resolution of councils dated July 20, 1916, the problem of obtaining adequate zoning regulations for Philadelphia has been before the people. An ordinance to zone the entire city, which was prepared by this commission, was not passed by councils before they went out of existence with the old city charter. Under the authority of the new charter a second commission was appointed which prepared and forwarded to the mayor a zoning ordinance for the whole city. The committee of council to which the ordinance was referred passed a motion to eliminate the area of the old city—from Vine Street to South Street between the two rivers—from the area covered by the ordinance. Subsequently the ordinance was returned to the zoning commission for revision. The zoning commission later, at the request of council, submitted a zoning ordinance for West Philadelphia which has not yet been reported out of committee.

The Extent of Zoning in American Cities

It may be of value at this time to observe how zoning has been received elsewhere. The United States department of commerce has published lists of the cities having partial or complete zoning. From these lists it appears that about 183 cities

larger area, thus greatly enhancing the total value of downtown property without depreciating the value of any single piece."

The Constitutionality of Zoning

Since zoning has often been attacked on grounds of unconstitutionality, it is of interest to note what the Supreme Court of the United States has had to say on regulations of this kind. In *Reinman v. Little Rock*, 237 U. S. 171, decided in 1915, this court made the following pronouncement: "...and so long as the regulation in question is not shown to be clearly unreasonable and arbitrary, and operates uniformly upon all persons similarly situated in the particular district, the district itself not appearing to have been arbitrarily selected, it cannot be judicially declared that there is a deprivation of property without due process of law, or a denial of the equal protection of the laws, within the meaning of the fourteenth amendment." The court sustained the Little Rock ordinance, which prohibited a certain business within an area defined by the ordinance.

Early Action Desirable

It would appear that sufficient time has elapsed since zoning was first adopted in this country to show that a carefully prepared ordinance adapted to the needs of a city is necessary and beneficial. The legal status of zoning is becoming firmly established. Delay will permit much to be done that will detract from the benefits to be obtained from zoning. Council will have available the results of studies made by previous commissions including the present commission appointed by the mayor. The people have had opportunity to become familiar with the principles of zoning. There does not seem to be any reason, therefore, why council should not be able, with the help of the proposed advisory committee, to pass a zoning ordinance for Philadelphia without much further delay.

containing about 40 per cent of the total urban population of the United States now have zoning. When it is considered that partial zoning was first adopted in this country by Los Angeles in 1909, and that the first complete ordinance was enacted by New York City in 1916, the spread of the movement seems phenomenal. That such a large number of municipalities, so different in size, character, and location, have found zoning desirable is highly significant.

New York City's Interesting Experience

The experience of New York City with zoning has been reviewed in a recently published report of the chief engineer of the board of estimate and apportionment. Of particular interest is the following statement contained in this report: "The substantial proportion of the requests received for increasing the restrictions leads to the belief that if the public had been as well informed at the time the zoning resolution was adopted as to the benefits to be derived therefrom as it is today, the restrictions could have been made somewhat more drastic."

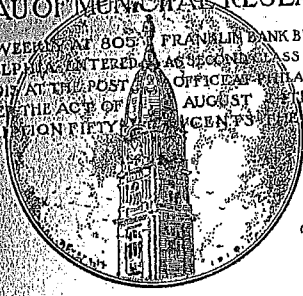
Opposition to Zoning in Philadelphia

Much of the opposition to zoning in Philadelphia has been directed against restriction of building heights. Those who are doubtful as to the wisdom of such restrictions might turn with profit to the published report of the results of studies made by the Real Estate Board of Chicago when zoning was being considered before its adoption in that city. These studies, which extended over a period of six months, led the Chicago Real Estate Board to recommend building height limitations which bore a relation to the width of the streets and were much less than the tentative maximum limitation proposed by the Chicago Zoning Commission. Among other things, the report states that "these limitations [as to height] will serve to distribute business over a

CITIZENS' BUSINESS

BUREAU OF MUNICIPAL RESEARCH

ISSUED WEEKLY AT 805 FRANKLIN BANK BUILDING
PHILADELPHIA, PA. ENTERED AS SECOND CLASS MATTER
JUNE 7, 1917 AT THE POST OFFICE AT PHILADELPHIA,
PA. UNDER THE ACT OF AUGUST 24, 1912—
SUBSCRIPTION FIFTY CENTS PER YEAR



Zoning Not Untried in Philadelphia

No. 620

April 10, 1924

For many years Philadelphia has had regulations which embody the principles of zoning.

THE recent appointment by the mayor of a commission of 18 members to prepare a zoning ordinance for the city revives interest in a problem which has been before the people for eight years. Previous attempts to obtain adequate zoning regulations have been unsuccessful. This has been due, in part, to a feeling that zoning embodies principles entirely untried in Philadelphia.

Zoning Principles Not New to Philadelphia

To embody zoning principles in regulations for the city would not be entirely new or hitherto untried in Philadelphia. For many years laws and ordinances have regulated the construction or use of buildings on private property in the city. Laws and ordinances not only prohibit certain types of construction in specified sections of the city, but also limit building heights and prohibit many uses of property in much the same way as does complete zoning.

Park, Parkway, and Boulevard Zoning

Examples of ordinances that embody zoning principles are those which regulate the use of property adjacent to certain parks, parkways, and boulevards. An ordinance of March 21, 1917, restricts the height of all buildings, except churches, thereafter erected on property within 200 feet of Logan Square or of the Parkway from Broad street to Fairmount Park. Not only is the height of buildings in this area limited, but different maximum heights are fixed for different sections. Furthermore, no building on land abutting on the Parkway or on Logan Square may be used for a stable, garage, manufacturing, or for certain other purposes. Another ordinance regulates the use of buildings erected within 200 feet of Cobbs Creek Park, Cobbs Creek Parkway, or the Roosevelt Boulevard. Penalties for violations of these ordinances are prescribed.

but all have failed of enactment. Meanwhile, the number of cities in the United States which have enacted zoning ordinances has grown to 221. A problem which has been solved successfully by so large a number of municipalities, including New York, Chicago, Baltimore, and Pittsburgh, should not prove insurmountable for Philadelphia. It is hoped, therefore, that the new commission will succeed in formulating, in the near future, a comprehensive zoning ordinance which will be reasonable, effective, and appropriate to the city's requirements, and which will be promptly enacted by city council.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, ETC., REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912,

Of *CITIZENS' BUSINESS*, published weekly at Philadelphia, Pennsylvania, for April 1, 1924.
State of Pennsylvania }
County of Philadelphia } ss.

Before me, a notary public in and for the State and county aforesaid, personally appeared *William C. Beyer*, who, having been duly sworn according to law, deposes and says that the following is, to the best of his knowledge and belief, a true statement of the ownership, management, etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in section 443, Postal Laws and Regulations, to wit:

1. That the names and addresses of the publisher, editor, managing editor, and business managers are:

Publisher, *Bureau of Municipal Research, 805 Franklin Bank Bldg., Philadelphia.*

Editor, *William C. Beyer, 805 Franklin Bank Bldg., Philadelphia.*

Managing Editor, *None.*
Business Managers, *None.*

2. That the owners are:
Bureau of Municipal Research, 805 Franklin Bank Bldg., Philadelphia. No capital stock.

George Burnham, Jr., Chairman, Morris Bldg., Phila.
Percy H. Clark, Esq., Treasurer, 321 Chestnut St., Phila.

3. That the known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are:
None.

(Signed) *William C. Beyer*
Sworn to and subscribed before me this 28th day of March, 1924.

(Signed) *Martha H. Quinn*
[SEAL] (My commission expires January 16, 1927.)

Other Restrictions on the Use of Property

Still other restrictions on the use of privately owned real estate have been in force for years. An outstanding example is the prohibition against the erection of frame buildings. Under authority given by law, the city has, by ordinance, prohibited the erection of frame buildings (with a few minor exceptions) in practically all of the built-up portions of the city, and also in some other sections. Even in those sections where frame buildings are not prohibited they are limited as to height, and, unless the wall facing a party line is built of brick and of specified thickness, they must be erected at least 18 inches from the party line.

Not a Long Step to Complete Zoning

The ordinances mentioned above regulate the use of private property in the interests of the general welfare. Specified kinds of uses are prohibited, heights of buildings are limited, and construction of frame buildings is restricted. The requirement that wooden buildings be set back from the party line limits the portion of a lot which may be built upon, as does the requirement of state law that an open space of at least 144 square feet be provided under certain conditions. The necessity for such restrictions, all of which have the effect of zoning, has long been recognized and accepted. It should not be difficult, therefore, to take the next step and embody the same principles in a general zoning ordinance for the city.

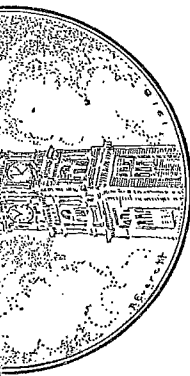
The Problem Before the Zoning Commission

Since zoning principles are already established in Philadelphia the problem before the new zoning commission is to extend their use to meet the city-wide needs which now exist. In this work the experience of the past will serve as a useful guide. Since 1916, commission after commission has proposed zoning ordinances for Philadelphia,

CITIZENS' BUSINESS BUREAU OF MUNICIPAL RESEARCH

PUBLISHED BY THE

ISSUED WEEKLY AT 311 SOUTH JUNIPER STREET
PHILADELPHIA - ENTERED AS SECOND CLASS MATTER
JUNE 7, 1913 AT THE POST OFFICE AT PHILADELPHIA,
PA., UNDER THE ACT OF AUGUST 24, 1912 -
SUBSCRIPTION FIFTY CENTS PER YEAR



Philadelphia's Zoning

No. 1,347

March 15, 1938

Philadelphia's zoning experience of more than four years indicates that there is need for improvement in the zoning regulations and in their administration.

THE large number of changes made in Philadelphia's zoning regulations suggests that they could be more closely fitted to the city's needs. This problem will become more pressing as undeveloped areas are built up. Better administrative facilities are required to assure effective zoning, now and in the future.

Many Changes. That the number of changes made in Philadelphia's zoning regulations has been unusually large is shown by a comparison with New York City's experience. During the first four years of zoning in New York, the number of amendments to the zoning resolution averaged 25 a year. In Philadelphia, an average of 55 amending ordinances were approved annually in the four years 1934-1937, the first full calendar years of zoning. As New York had over twice Philadelphia's area to zone, this comparison is particularly significant.

Poor Fit Indicated. Apparently, many of Philadelphia's changes were made to fit the zoning regulations to local requirements. A considerable portion were reclassifications which permitted small business places such as grocery stores, bake shops, and dry-cleaning establishments on small corner properties originally restricted to residences. Provision for these neighborhood stores convenient to residential areas is not necessarily contrary to good zoning. There are, moreover, safeguards against changes which might nullify zoning. Property owners who would be affected by proposed changes may protest at public hearings and may even appeal to the courts. Most proposed amendments bring some protests, and many protested changes are not made. Only one change of property use has been appealed to the courts. In this case the Superior Court decided that a change made by Council which the zoning Board of Adjustment had not recommended should not be made.

A Continuing Job. A continuing study of the zoning requirements is needed to correct existing

regulations and provide for the future. The adjustments resulting from such a study should anticipate many changes and save the time of property owners and public officials spent in petitioning, attending public hearings, and amending the zoning ordinance. A maximum of zoning stability would be achieved by providing for every reasonable local need. As the city grows, however, fully-justified adjustments will have to be made. Zoning should not be a strait-jacket stifling growth. Particularly, careful study will be required to adjust zoning in areas still undeveloped. A start on such a study has been made as a WPA project. Information is being gathered and the preparation of maps begun to show the use of all properties in the city.

Better Facilities Needed. The administrative arrangements and facilities require improvement. In the first place, it is desirable to make the Board of Adjustment, which must approve changes and exceptions to the regulations, a continuing body whose five members have overlapping terms of office, as required by law. The present Board includes four department heads who, although appointed for overlapping terms, will probably, like their predecessors, cease to be members when their terms as department heads end. The appointment of department heads, who are already burdened with other duties, was an economy measure; it was not necessary to pay them for the zoning work. Up to the present, zoning has been most economically conducted. An increasing volume of work has been handled by the Bureau of Engineering, Surveys, and Zoning with decreasing appropriations for personnel. In order that the full protection of zoning may be assured, it is desirable that the city, as soon as it is able, provide adequately for continuing the studies for the adjustment of the zoning regulations now and in the future and for handling the routine work.



PROGRESS TOWARD MODERNIZING PHILADELPHIA'S ZONING LAW

A THOROUGH OVERHAULING of Philadelphia's outmoded zoning is getting under way. The Zoning Advisory Commission is now holding public hearings* at which interested groups and citizens may express their views on zoning problems and on the manner in which the Commission should approach the revision of the Zoning Ordinance and Map.

Present Zoning Ordinance

The Philadelphia Zoning Ordinance was adopted in 1933 under state enabling legislation of 1929. Originally providing 14 types of districts, the Ordinance has been amended so that there are now 23 types—12 residential, 6 commercial, 3 industrial, 1 trailer camp, and 1 park.

Most of the districts added in recent years facilitate modern types of site design, such as grouped row houses (C-1), garden apartments, shopping centers with adequate parking, and "campus-type" industries. Greater protection is

* The first hearing was held November 19. Two others are scheduled for December 6 and 12 (7:30 P.M., Room 483, City Hall).

Glossary of Zoning Terms

Philadelphia Zoning Ordinance: A 97-page code regulating the use, height, and area of buildings and the use of land in the several types of zoning districts.

Zoning Map: A series of large-scale maps (part of the Zoning Ordinance) covering the whole city and establishing the boundaries of zoning districts.

Zoning Section: A unit of the city's Department of Licenses and Inspections which issues zoning permits and use registration permits for buildings and uses in accordance with the Zoning Ordinance. It also abates zoning violations.

Zoning Board of Adjustment: A 6-member departmental appeal board authorized to grant variances from the strict application of the terms of the Zoning Ordinance in hardship cases. It also grants exceptions in types of cases specifically authorized in the Zoning Ordinance.

Non-conforming use: A use of land or structures not in conformity with the Zoning Ordinance. A legal non-conforming use is one which existed prior to the adoption or amendment of the Zoning Ordinance or was legalized as a variance.

now afforded by prohibitions against new dwellings in industrial and shopping center districts.

Zoning Map Changes and Variances

Since 1933, about 1,000 changes in Philadelphia's Zoning Map have been authorized by city Council (184 in the past three years). Many changes affected only a few properties each, but a considerable number cover more extensive areas. Some placed the newer types of districts on the zoning map; many others represented down-grading of existing neighborhoods, allowing either higher residential densities or extension of commercial or industrial uses.

In addition, since 1933 the Zoning Board of Adjustment has itself granted about 30,000 "variances" and 3,000 "exceptions" (a combined total

a proposed change is, or is not, in conformity with a comprehensive plan.

Zoning Advisory Commission

Pursuant to resolution of Council, the Mayor, on March 28, 1955, appointed an 11-member commission, advisory to the City Planning Commission and Council, to study zoning problems and to make both short-term and long-term recommendations thereon.

The Zoning Advisory Commission recently retained a real estate counseling firm to correlate previous studies, to consult with all concerned city agencies, and to draw up a plan of operation. The public hearings now under way are a first step in a formal interchange of views between the Commission and citizen groups.

Because of the complexity of the problems involved and the need to consult with many affected interests, and judging by similar experiences in other cities, it may be two or three years before full recommendations are available, and five years or more before a completely revised Zoning Ordinance and Map is adopted by Council.

Correction to Citizens' Business No. 2,110

In CITIZENS' BUSINESS No. 2,110, city income for 1947 was erroneously listed as \$160.1 million. The correct figure is \$106.1 million.

CITIZENS' BUSINESS—\$1 a year. Published semi-monthly except in July and August by Bureau of Municipal Research and Pennsylvania Economy League (Eastern Division), 1321 Arch St., Phila. 7, Pa. Entered as second class matter at Phila. P. O. on June 7, 1913.

of 2,434 in 1954). Each separate variance usually involves a relatively minor change for a single property, or legalization of a non-conforming use. However, the net cumulative effect of such a large number of changes is a creeping intrusion of blighting influences into residential areas.

Non-Conforming Uses

Part of the difficulty stems from the liberal provisions with respect to "legal non-conforming uses." The Zoning Ordinance permits not only the indefinite continuance of such uses, but also, within certain limits, their expansion. Moreover, insofar as discontinued non-conforming uses may be resumed at any time, there is no effective method for their eventual elimination.

Other weaknesses are lack of adequate municipal inspection to detect zoning violations, and the liberal treatment accorded violators brought before the magistrates' courts.

City Planning and Zoning

Philadelphia's original zoning was drawn largely to protect existing properties. After the establishment of the City Planning Commission, greater emphasis was placed on zoning to guide future development, including the creation of new types of zoning districts previously mentioned.

The Home Rule Charter transferred from the Zoning Board of Adjustment to the Planning Commission the responsibility of advising Council on proposed zoning ordinance and map changes. Only rarely does Council authorize a zoning map change reported unfavorably by the Planning Commission. Thus the Planning Commission helps prevent detrimental zoning changes.

However, since the Commission has not yet adopted a Physical Development Plan for the city, there is no clear guide to determine whether



ZONING ADMINISTRATION

Report Suggests Means of Overhauling City's Zoning Procedure and Practices

Although Philadelphia's zoning procedures and practices as developed within the present legal framework—principally the Home Rule Charter and the 1933 Zoning Ordinance, as amended—have generally produced reasonably satisfactory relations among the four city agencies primarily concerned with zoning administration, the need for improvement in certain areas is apparent. This is the major conclusion of the recently-released report on *Zoning Administration in Philadelphia*,* prepared by the BMR-PEL for the city's Zoning Advisory Commission.

Focus of Recommendations

The 105-page report focuses on "methods of providing closer correlation and integration of the zoning procedures and practices of the Zoning Section of the Department of Licenses and In-

* Copies of this report are available at \$1.50 each. However, contributors to the BMR-PEL may obtain single copies without charge.

spectations, the Zoning Board of Adjustment, the City Planning Commission, and city Council, and appropriate administrative methods of these agencies dealing with the public." To this end, the BMR-PEL makes 19 major recommendations, which are based on the findings of its zoning administration study and, in some part, on data published in an earlier report, *Administrative Survey of the Department of Licenses and Inspections*.*

The Zoning Board of Adjustment

In addressing the bulk of the recommendations to the problems of the Zoning Board of Adjustment, the report notes "it is with respect to the Board that the greatest opportunity for administrative improvement is presented, directed primarily toward the objectives of producing sounder decisions on zoning appeals and reducing the heavy and detailed volume of work placed on the Board." Among the recommendations pertaining to the Board are the following—in capsule form:

- Formalize and promulgate the conditions prerequisite to the granting of variances and exceptions.
- Prevent creeping neighborhood deterioration through elimination of non-conforming uses by such means as (1) discontinuance at the end of reasonable amortization periods, (2) removal of nuisances by public acquisition and demolition, and (3) strict enforcement of housing, building, fire, and related codes.
- Develop an expanded program which will assure the Board's being advised of the interest of other public agencies in certain zoning cases.
- Appoint a "technical secretary" to head the staff of the Board, so that there will be no need for the

* Published by the BMR-PEL in December 1956. A limited number of copies of the 400-page, 2-volume report are available at \$10 per copy.

Directed to Other Agencies

A number of the recommendations contained in the report would require action by other public bodies involved in the zoning function, including Council and the City Planning Commission. In summary form these (and agency concerned) are:

- Adopt a statement of public policy and general procedures to govern the processing of, and decision on, proposed amendments to the zoning ordinance and maps (Council).
- Adopt detailed rules and regulations to be followed in zoning activities (City Planning Commission).
- Extend to all types of properties the provisions of the 1955 state act which now protects buyers of multi-family dwellings and of structures containing both commercial and residential uses from acquiring properties not in conformity with the city's Zoning and Housing Codes (Council).
- Review formally—at 10-year intervals—the operation of the zoning process so that the impact of zoning decisions, made on a day-to-day basis, may be seen in perspective against the backdrop of changing neighborhood conditions and community objectives (ad hoc agency, such as the Zoning Advisory Commission).



CITIZENS' BUSINESS—\$1 a year. Published monthly except in July and August by Bureau of Municipal Research and Pennsylvania Economy League (Eastern Division), 1321 Arch Street, Philadelphia 7, Pennsylvania. Entered as second class matter at Philadelphia P. O. on June 7, 1957.

Charter Versus Statutes

A conflict in city and state legislation on zoning has been resolved by a recent State Supreme Court decision. The opinion, in effect, upholds the validity of a city ordinance of December 6, 1955, which provides—among other things—that "the procedure to be followed with respect to the enactment of ordinances which deal with zoning matters shall and need only conform in every respect to the procedure for the enactment of all other ordinances of the City as prescribed in the Philadelphia Home Rule Charter. . . ." Further, the ordinance embodies a repealer of those sections of the State Act of May 6, 1929 (P.L. 1551), which are inconsistent with the ordinance.

The state act referred to specifies that an affirmative vote by an extraordinary majority of all members of Council is necessary to the passage of any amendment to the city's zoning ordinance when such amendment is protested by 20% or more of the property owners in or near the area affected by the zoning change. On the other hand, the 1955 ordinance—as it derives from Section 2-201(7) of the charter—requires an affirmative vote by only a simple majority of all members of Council to effect passage of such an amendment. Hence, the test case and ensuing court decision.

The decision serves to demonstrate again the meaning of "home rule"; i.e., in matters of purely local concern which do not touch on subjects specifically reserved to the State Legislature by the 1949 Home Rule Act, the provisions of the charter and ordinances of Council are paramount even if they run counter to existing statutes.

head of the Zoning Section to supervise the Board's staff.

- Amend the Philadelphia Home Rule Charter to allow the Board to delegate to a qualified staff employee the power and duty to hold public hearings on specified types of cases. In any event, both before and after the effective date of such an amendment, the "technical secretary" should make analyses and, possibly, recommendations which would aid the Board in reaching decisions.
- Increase the fees charged for zoning appeals so that the city's revenue from zoning appeals will approximately equal the cost of handling such appeals.