

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
December 21, 2011**

CALL TO ORDER

The December 21, 2011 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:05 p.m. by Member Rick Hammer in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Secretary Frank Nardo; Member Bill Tafuto, Member Hammer

Board members absent: Chairman Michael Angello; Vice Chairman Matthew Davies

Also Present: Anthony Nestico, Solicitor to the Board; Charles Emerick, Acting Director of Community Development; Pam Packer, Court Reporter; Tracy Telesha, Stenographer

Public Registering Attendance: David Quillen, 1126 Sand Hill Road; Lou Bushman, 32 Maple Avenue; Lorrie Bushman, 32 Maple Avenue; Joe & Lanie Bellissimo, 214 N. Mill Road; Pam & Steve Nelson, 1204 Julianne Drive; Bryan Bellissimo, 21 Summer Lane, Mechanicsburg; Kathy Heiserman, 44 Maple Avenue; Jean Bomgardner, 56 Maple Avenue; Barb Krasuski, 153 S. Hanover Street; Peter Swan, 153 S. Hanover Street; Chuck Simmons, Tanger Outlets; Lou Mione, Cocoa Avenue; Dennis Phillippy, 20 Maple Avenue; George Porter, 909 E. Chocolate Avenue; Jeta Combs, 415 Hillside Road, New Cumberland; Laurie Schivin, 104 Laurel Drive; Eric Barnhart, 104 Laurel Drive; Rebecca Masters, 106 Maple Avenue; Bob Brophy, 163 Woodbine Drive; Heather Weiss, 515 Randall Circle; Ty Kreamer, 240 Clark Road; Maria & Paul Thompson, 33 Elm Avenue; Scott Young, 38 Maple Avenue; David Whitenack, 210 Cedar Avenue; Sandy Ballard, 650 Cocoa Avenue; Molly & Stan Snyder, 126 Elm Avenue; Tom Benjamin, Lititz Sign Co.

APPROVAL OF MINUTES

On a motion by Secretary Nardo, seconded by Member Tafuto, and a unanimous vote, the November 16, 2011 minutes were approved.

OLD BUSINESS

- A. **Adoption of Decision in the Case of Laurence and Colette Nelson (2011-11)**
Property location: 306 Bahia Avenue, Hershey
- B. **Adoption of Decision in the Case of Karen and Greg Drew (2011-51)**

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Property location: 105 Somerset Drive, Hershey

**C. Adoption of Decision in the Case of Steve Klick (2011-53)
Property location: 457 W. Areba Avenue, Hershey**

**D. Adoption of Decision in the Case of Kent P. Bachmann, Hershey
Entertainment and Resorts Company (2011-54)
Property location: 27 W. Chocolate Avenue, Hershey**

On a motion by Member Tafuto, seconded by Secretary Nardo, and a majority vote, the decisions for items a-d were adopted by consent agenda.

**E. Continuance in the Case of Ty J. Kreamer (2011-24)
Property location: 240 Clark Road, Hershey**

Ty Kreamer and Joe Burget, land surveyor, were sworn in and gave testimony. Mr. Burget stated that the Kreamer property contains an access road off Clark Road which is used by multiple property owners to gain access to their properties. Not including this access road, the Kreamer property has 38% impervious cover (the road impervious cover is 58.2%).

Mr. Burget explained that the surrounding lots were sold with unclear boundaries and in order to rectify the area of the Kreamer property, Mr. Kreamer will be considered the owner of the entire tract minus the subdivided lots.

Mr. Kreamer stated that he would like to amend the previously sought relief:

- a. Rear yard setback will be 5.06 feet from the property line
- b. Side yard setback will be 4.29 feet from the property line for the garage and 4.68 feet from the property line for the patio

Public Comment

Barbara Myers was sworn in and gave testimony. Ms. Myers questioned whether the common roadway is denoted for use as a right-of-way. Mr. Burget replied that the right-of-way use is in the surrounding property owners' deeds.

No other persons provided testimony at this hearing.

Member Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, he has 30 days to appeal the decision.

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**F. Continuance in the Case of David A. Quillen (2011-33)
Property location: 1126 Sand Hill Road, Hershey**

David Quillen was sworn in and gave testimony. Mr. Quillen stated that the house was originally planned with a pool; however, upon mapping out placement, it was discovered that the pool was too close to the home. Mr. Quillen is requesting an amendment to allow ten feet relief on rear yard setback.

Mr. Emerick questioned if the plan accounts for the decking area around the pool. Mr. Quillen replied the decking plans are in the plan.

Public Comment

Sandy Ballard was sworn in and gave testimony. Ms. Ballard questioned whether the adjacent neighbor was informed to the proposed pool location. Mr. Quillen replied that the neighbor approves of the plans.

No other persons provided testimony at this hearing.

Member Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, he has 30 days to appeal the decision.

NEW BUSINESS

**A. Hearing in the Case of Pam and Steve Nelson (2011-55)
Property location: 1204 Julianne Drive, Hummelstown**

This property, located in the Suburban Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to place a detached shed on the property.

Relief is sought as follows:

- a. A Variance from Article 8, Section 225-32.D(2)(a) regarding front yard setback
- b. A Variance from Article 8, Section 225-32.D(2)(b) regarding rear yard setback

Pam Nelson was sworn in and gave testimony. Ms. Nelson stated that she would like to install a 10 foot by 10 foot shed which includes a four foot porch in the rear of her property. The location Ms. Nelson is proposing is the only level area on her property.

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Ms. Nelson stated that to place the shed elsewhere could cause storm water runoff issues for the neighbors. In addition, existing mature trees would prohibit the equipment needed to place the shed.

Mr. Emerick questioned whether the existing shrubbery will remain that would conceal the proposed shed. Ms Nelson replied that the shrubbery would remain in place.

No other persons provided testimony at this hearing.

Member Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, she has 30 days to appeal the decision.

B. Hearing in the Case of Heather Weiss (2011-56)
Property location: 515 Randall Circle, Hummelstown

This property, located in the Suburban Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct a hard surface children's play area on the property.

Relief is sought as follows:

- a. A Variance from Article 7, Section 225-32.D(2)(c) regarding side yard setback

Heather Weiss was sworn in and gave testimony. Ms. Weiss is proposing to remove an existing concrete and wood patio that was damaged by the flooding in September and replace it with a 20 foot by 28 foot concrete pad for a children's play area. Due to the narrowness of the lot, the pad will come within 10 feet of the side property line.

Mr. Emerick added that the property will be under 15% impervious cover.

Member Tafuto questioned why a sidewalk and planter area are included in the plans. Ms. Weiss replied that those features were left over from the contractors quote and will not be constructed.

No other persons provided testimony at this hearing.

Member Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, she has 30 days to appeal the decision.

C. Hearing in the Case of Joseph and Melanie Bellissimo (2011-57)
Property location: 39 Elm Avenue, Hershey

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This property, located in the Village Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to enlarge the size of the dwelling, including a two-car attached garage.

Relief is sought as follows:

- a. A Variance from Article 3, Section 225-10 regarding expansion of a non-conforming use
- b. A Variance from Article 8, Section 225-36.D.(1)(b) regarding rear yard setback
- c. A Variance from Article 8, Section 225-36.D.(1)(1) regarding front yard setback

Joe Bellissimo and his attorney, George Porter, were sworn in and gave testimony. Mr. Porter stated that the Bellissimos are under contract to purchase the 1,635-square-foot home and are proposing a 1,146-square-foot addition. Mr. Porter stated that average homes along Elm Avenue are 2,835 square feet and the improvements the Bellissimos are proposing will bring their home to 2,781square feet.

Mr. Bellissimo stated that the home has been vacant for four years and requires maintenance for roof and termite damage. Mr. Bellissimo added that the garage is currently in the home's basement and due to the steep grade, water runoff is an issue. Mr. Bellissimo is proposing the addition to allow single floor living for health reasons.

Mr. Bellissimo has the original 1932 blue prints and intends to maintain the home's aesthetics. The home is located on a corner lot and is considered to have two front yards.

Public Comments

Maria Thompson was sworn in and gave testimony. Ms. Thompson is an adjacent neighbor and is opposed to the proposed improvements because she believes a 72% floor area increase is too great. Ms. Thompson is also concerned about how the neighborhood's historical aesthetics would be affected by the proposed attached garage. Ms. Thompson stated that her property is located down-stream from the Bellissimo's property and she is concerned about runoff.

Architect for the Bellissimos, Brian Bellissimo, was sworn in and gave testimony. Brian explained several of the methods that will be used to control storm water runoff including use of pervious materials, rain barrels and gardens, and bio-swales. Brian

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stated that the proposed setback will be 50 feet along Elm Avenue, 25 feet along Linden Avenue, and 15 feet from the adjacent neighbor's property.

Realtor Ron Johns was sworn in and gave testimony. Mr. Johns listed the property in July and had approximately 30 showings. Mr. Johns stated that the property is in need of extensive repairs and updating to meet the needs of today's home buyer. The proposed improvements should increase property value.

Melanie Bellissimo was sworn in and gave testimony. Ms. Bellissimo stated that there are 63 homes along Elm Avenue and 22 have garages within 20 feet of the alley.

Mr. Emerick questioned what the side porch would be constructed of. Mr. Bellissimo replied that all efforts will be made to recycle decking from other areas of the home.

Mr. Emerick questioned if the proposed garage will have a second floor. Mr. Bellissimo stated that the dormers are ornamental only.

Mr. Bellissimo also added that the basement under the proposed addition would be unfinished storage space and the escape well and HVAC pad would be located in compliance with the zoning requirements.

Dennis Dolby was sworn in and gave testimony. Mr. Dolby stated that he is a lifelong Township resident and lives in a home that maintains its original 1932 footprint. Mr. Dolby stated that while a home of this proposed size would fit in to other areas of Elm Avenue, the area in concern is more compact and the homes immediately adjacent are smaller in size.

Mr. Bellissimo stated that he believes maintaining the aesthetics while still being under the average square footage of homes in the area will be an asset, particularly since the home has been neglected.

Rebecca Masters was sworn in and gave testimony. Ms. Masters is concerned about the proposed size.

Zoe Tice was sworn in and gave testimony. Ms. Tice is concerned that the proposed addition is almost the entire length of the property.

No other persons provided testimony at this hearing.

Member Hammer informed the applicants that the Board has 45 days to render a decision and if the applicants are aggrieved in any way, they have 30 days to appeal the decision.

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D. Hearing in the Case of Barbara Krasuski (2011-58)
Property location: 153 S. Hanover Street, Hummelstown

This property, located in the Neighborhood Commercial zoning district, is presently improved with a single family dwelling. The applicant is proposing to enlarge the size of the dwelling, including an attached two-car garage.

Relief is sought as follows:

- a. A Variance from Article 3, Section 225-10.D.(a)(2) regarding floor area expansion

Barbara Krasuski was sworn in and gave testimony. Ms. Krasuski stated that her garage was demolished and her home damaged by sinkholes due to flooding. Ms. Krasuski is proposing to replace the garage and place it at the proper setback and connect it to the existing home. The home will also be expanded to allow for a dining room, shop area, and storage to be incorporated into the area that attaches the home and garage.

The existing home is 1,307 square feet and the proposed additions would add 1,311 square feet.

No other persons provided testimony at this hearing.

Member Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, they have 30 days to appeal the decision.

E. Hearing in the Case of Tom Benjamin, Lititz Sign Co. (2011-59)
Property location: 46 Outlet Square, Hershey

This property, located in the General Commercial zoning district, is presently improved with a commercial retail center. The applicant is seeking an appeal of the decision of the Zoning Officer related to the installation of a wall sign.

Relief is sought as follows:

- a. A Special Exception from Article 27, Section 225-124/125 regarding maximum sign height

Tom Benjamin was sworn in and gave testimony. Mr. Benjamin stated that an existing 4 foot by 4 foot sign for Underarmour is attached to the rear of the building facing Hersheypark Drive.

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Mr. Emerick stated that multiple sign permits were issued at the same time. The Underarmour sign was installed when other signs were installed.

Mr. Benjamin stated that he assumed in good faith that the Underarmour sign was permitted. His secretary contacted the Township and was told all signs permits were ready and he received all sign stickers. Mr. Benjamin believes that to shrink the logo to fit on a 3 foot high permitted sign would render it difficult to be seen from the road.

Member Tafuto confirmed that even if the permitting confusion had not occurred, the sign would have still needed a waiver for the height.

Member Hammer questioned if the permit referenced specific signs.

Mr. Benjamin stated that Underarmour was written on the back of the sticker. Mr. Emerick confirmed that the handwriting appeared to be that of Township staff member Jenelle Stumpf.

No other persons provided testimony at this hearing.

Member Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, he has 30 days to appeal the decision.

Hearings closed at 8:55 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Ty Kreamer (2011-24), David A. Quillen (2011-33), Pam and Steve Nelson (2011-55), Heather Weiss (2011-56), Joseph and Melanie Bellissimo (2011-57), Barbara Krasuski (2011-58), Tom Benjamin, Lititz Sign Co. (2011-59) and directed the Solicitor to prepare the draft decisions on each case for formal action at the January, 2012 meeting.




