

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
August 19, 2015

CALL TO ORDER

The August 19, 2015 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Michael Kushner in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Chairman Michael Kushner; Vice Chairman Philip Wood; Secretary Matthew Luttrell; Member Mark Shrift; Member Catherine Wagner (*arrived at 6:25 p.m.*)

Board members absent: None

Also Present: Anthony Nestico, Solicitor to the Board; Charles Emerick, Director of Community Development; Brandon Williams, Assistant Director of Community Development; Diane Smith, Court Reporter; Tracy Telesha, Stenographer

Public Registering Attendance: Charles Huth, *The Sun*; Pete Russo, 5006 E. Trindle Road; Barbara and Kathryn Conklin, 128 E. Caracas Avenue; Joseph Kulasinsky, 304 Para Avenue; Kenny Hinebaugh, EEI; Joe Eisenhauer, LHAI; Brian Evans, Evans Engineering, Inc.; Jamie Pascotti, 169 Chocolate Group; Vickie Feinstein, 1319 Quail Hollow Road; Valerie Rowe, 310 Para Avenue; Pat Leonard, 318 Beech Avenue; Anne Newman, 531 Elm Avenue; Lewis and Stephanie Shaw, 1039 Faidell Drive, Hummelstown; Craig Smith, RGS Associates

APPROVAL OF MINUTES

On a motion by Secretary Luttrell, seconded by Member Shrift, and a unanimous vote, the July 15, 2015 minutes were approved as written.

OLD BUSINESS

- A. Continuance in the Case of 169 Chocolate Group, LLC (2015-21)**
Property location: North of West Chocolate Avenue, west of North Linden Road, south of the Norfolk Southern railroad tracks, and east of Ridge Road, Hershey

The 8 parcels of land involved in this petition are located in the Village Core zoning district. One of the parcels is currently improved with a building that formerly housed the

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Hershey Post Office, and another with their temporary modular office building. All other parcels are currently vacant. The petitioner desires to consolidate the parcels and redevelop the property with two future mixed-use buildings, alterations and additions to the existing building, and associated parking facilities, including a parking deck structure. Relief is sought from access requirements to the site for fire apparatus.

Brian Evans and Kenny Hinebaugh, Evans Engineering; Jamie Pascotti, 169 Chocolate Group, LLC; Richard Gribble, architect; and Pat Leonard were sworn in and gave testimony.

Pat Leonard, Chief of the Hershey Volunteer Fire Company, stated that he reviewed the plans and sees no issues. Mr. Leonard also added that he was not quite sure where the 40 foot height limitation came from, as the department's current equipment is more than adequate to accommodate a building that is 40 feet in height. Mr. Leonard added that the fire department typically approaches a building at a 45 degree angle on the corners of a building. Mr. Leonard also noted his approval of the proposed buildings being serviced by a sprinkler system.

Chuck Emerick clarified that the Zoning Ordinance is 22 years old and does not take modern fire-fighting apparatus into consideration.

Chairman Kushner questioned whether a fire lane could be placed on the east side of the building. Mr. Evans replied that in order to have a dedicated fire lane, the proposed handicapped-accessible spaces would have to be moved into the parking area rather than against the building. This would create safety issues for those patrons, as they would have to cross a traffic lane to get to the building.

Mr. Emerick questioned whether the building would comply with the state Uniform Construction Code. Mr. Gribble replied that the concrete and metal building, which will have multiple exit points, two fire stairs, and full sprinkler system, will comply.

No other persons provided testimony at this hearing.

Chairman Kushner 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.

NEW BUSINESS

- A. Hearing in the case of Barbara Conklin (2015-22)**
Property location: 128 East Caracas Avenue, Hershey

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This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to construct a patio in the rear yard. Relief is sought regarding required side yard setbacks.

Barbara Conklin was sworn in and gave testimony. Ms. Conklin stated that she would like to install a 240-square-foot paver patio. Due to the narrow, sloped lot and position of mature shade trees, the patio placement will come within five feet, six inches of the side property line. Ms. Conklin has spoken with her neighbors about her plans and they did not express any opposition to the proposed patio.

No other persons provided testimony at this hearing.

Chairman Kushner 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.

B. Hearing in the case of Joseph Kulasinsky (2015-23)
Property location: 304 Para Avenue, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to construct a two-story addition to the rear of the existing dwelling, a Bilco egress door, and a central air conditioning unit. Relief is sought regarding expansion limitations of a nonconforming structure, and from the side and front yard setback requirements for detached accessory structures.

Joseph Kulasinsky was sworn in and gave testimony. Mr. Kulasinsky stated that he is constructing a 20-foot addition (793 square feet) to the rear of his home. The floor area will be a 33% increase. A Bilco basement access door will be placed six feet from the side property line due to the narrowness of the lot.

PUBLIC COMMENT

Valerie Rowe, a neighbor, stated her concerns regarding stormwater runoff and her preference to see the Bilco door and air conditioning pad moved to the rear of the house rather than on the side. Mr. Kulasinsky replied that he is agreeable to working with neighbors' concerns regarding the placement of the Bilco door and air conditioning pad. Ms. Rowe questioned whether the new downspouts will be directed toward the street. Mr. Kulasinsky stated that the new downspouts will be tied into the existing system, which is underground and drains out into the street.

Vice Chairman Wood asked if an existing mature oak tree would be removed. Mr. Kulasinsky stated that the oak tree is old and could present a danger to the home. A replacement tree and landscaping will be planted.

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No other persons provided testimony at this hearing.

Chairman Kushner 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.

C. Hearing in the case of Scott and Vickie Feinstein (2015-24)
Property location: 1319 Quail Hollow Road, Hummelstown

(Note: Member Wagner arrived during the hearing.)

This property, located in the Suburban Residential zoning district, is improved with a single family dwelling and attached two-car garage. The applicants are proposing to construct an attached one-car garage with unfinished second floor storage and workshop space. Relief is sought regarding side yard setback requirements.

Vickie Feinstein was sworn in and gave testimony. Mrs. Feinstein stated that another garage is necessary to house an additional vehicle, a woodworking shop, and pool equipment. The covenants of the homeowners' association does not allow for detached garages or storage sheds. Ms. Feinstein is proposing a single car garage with storage area that will come within 10 feet of the side property line. The proposed plan has received approval from the homeowners' association as well as the adjacent neighbor.

No other persons provided testimony at this hearing.

Chairman Kushner 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.

D. Hearing in the case of Lewis and Stephanie Shaw (2015-25)
Property location: 218 and 214 Elm Avenue, Hershey

These properties are located in the Village Residential zoning district. The property at 218 Elm Avenue is improved with a single family dwelling and an attached garage, a portion of which extends over the property line onto 214 Elm Avenue. The applicants are proposing to construct additional living space onto the rear of the dwelling, including a finished lower level and a patio roof that extends over the existing attached garage. Relief is sought regarding expansion limitations of a nonconforming structure and maximum impervious coverage requirements.

Lewis and Stephanie Shaw were sworn in and gave testimony. Mr. Shaw stated that the proposed renovations are needed to expand the living space and to protect the underlying patio structure from ongoing water damage. The majority of the addition will

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be placed over existing paved surface area, and a portion of the existing walkways and a shed will be removed from the property. As a result, the impervious cover increases have been kept to a minimum, with a final impervious cover ratio of 32.5%.

Chuck Emerick noted that the garage encroaches onto the adjacent property; however, an access easement agreement was executed with the neighbor to permit continued access over the property line to the garage. The neighbor has also signed an application form, acknowledging that this work is proposed by the Shaws.

No other persons provided testimony at this hearing.

Chairman Kushner 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.

E. Hearing in the case of Tyler Boland (2015-26)
Property location: 268 McCorkel Road, Hershey

This property, located in the Agricultural/Conservation zoning district, is improved with a single family dwelling. The applicant is proposing to subdivide the property into two lots. Relief is sought regarding minimum lot area, minimum lot width, and minimum vegetative coverage requirements.

Joe Eisenhauer, Light-Heigel Associates, was sworn in and gave testimony. Mr. Eisenhauer stated that the subject property had previously received relief related to this subdivision plan; however, when a complete survey of the property was done, it was discovered that the dimensions were incorrect.

Lot 2 is proposed to be 23,100 square feet, needing 1,900 square feet of relief. Lot 2 is proposed to be 124.49 feet in width, needing 0.41 feet of relief.

The prior relief granted for Lot 1 would have allowed for impervious coverage of 23% of the proposed lot area. An existing driveway on the lot, which also provides access for an adjoining tract, was not accounted for under the prior application. With this driveway now accounted for, Lot 1 is proposed to have 2% additional relief over the previously approved impervious cover. As a result, impervious coverage is proposed to be 25%.

No other persons provided testimony at this hearing.

Chairman Kushner 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.

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F. Hearing in the case of Michael J. Kondraski (2015-27)

Property location: 1099 Swatara Road, Hershey

This property, located in the Agricultural/Conservation zoning district, is improved with a single family dwelling and two storage sheds. The applicant is proposing to replace the storage sheds with one larger storage shed. Relief is sought regarding expansion limitations of a nonconforming structure.

Michael Kondraski was sworn in and gave testimony. Mr. Kondraski stated that he would like to replace two old shed structures which are in poor repair with a new 12-foot by 18-foot pre-fabricated shed. The shed would be placed on a gravel base in the corner of the lot, five feet from the property line on one side and 6 feet from the property line on the other side. This location is similar to the current location of the sheds. Mr. Kondraski stated that if he were to comply with the setbacks, the new shed would be in the middle of his oddly-shaped back yard.

PUBLIC COMMENT

Dan Hess, adjacent neighbor, stated his approval of the proposed plan.

No other persons provided testimony at this hearing.

Chairman Kushner 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.

G. Hearing in the case of DSG Development Corporation (2015-28)

Property location: West of Whitetail Drive, adjacent to the Swatara Creek, and on the north and south sides of Fawn Lane, Hummelstown

H. Hearing in the case of DSG Development Corporation (2015-29)

Property location: North of Jo Ann Avenue and east of Locust Street, Hummelstown

The property represented by Case No. 2015-28 is located in the Attached Residential and Multi-Family Residential zoning districts and is improved with the Deer Run Commons housing development, including common driveways providing access to the dwelling units. The property represented by Case No. 2015-29 is located in the Village Residential zoning district and is improved with the Southpoint Meadows II housing development, including common driveways providing access to the dwelling units. In both cases, the applicant proposes to maintain PP&L-approved streetlights along the common driveways. Relief is sought regarding the requirement that lighting fixtures illuminating driveways and walkways be full-cutoff fixtures.

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Craig Smith, RGS Associates, and Doug Gelder, developer, were sworn in and gave testimony. Mr. Smith stated that both the Deer Run Commons and Southpoint Meadows II subdivisions were developed as a condominium-style development containing private driveways instead of a public roads. Mr. Smith indicated that the driveways are comparable to public streets in appearance and function. The contractor for PP&L installed “acorn” light fixtures which are similar in design to the fixtures found on public roadways and found in other areas adjoining these developments. PP&L does not have a full cut-off style of fixture and will not allow another style of fixture to be installed on its light poles. In order to comply with the full cut-off fixture requirement, the existing poles and fixtures would need to be completely replaced, which would cause an inconvenience to the residents and bring no significant change in lighting.

Secretary Luttrell asked who maintains the existing lighting fixtures. Mr. Smith stated that the fixtures are maintained by PP&L.

No other persons provided testimony at these hearings.

Chairman Kushner 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.

Hearings closed at 7:35 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of 169 Chocolate Group, LLC (2015-21); Barbara Conklin (2015-22); Joseph Kulasinsky (2015-23); Scott and Vickie Feinstein (2015-24); Lewis and Stephanie Shaw (2015-25); Tyler Boland (2015-26); Michael J. Kondraski (2015-27); DSG Development Corporation (2015-28) and DSG Development Corporation (2015-29), and directed the Solicitor to prepare the draft decisions on each case for formal action at the September 2015 meeting.

Submitted by:

Matthew R. Luttrell, Secretary