

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
December 14, 2016

CALL TO ORDER

The December 14, 2016 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 Steve Moniak; Member Mark Shrift

Board members absent: None

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

Public Registering Attendance: Lee Eckert, 1109 E. Chocolate Avenue; Joseph & Gloria Sassani, 304 Candlewyck Lane; Mark Winter; Ed Kaylor, Reiber Associates; Joe Halula, 526 Hockersville Road; Dave Getz, Wix, Wenger & Weidner; Jim Snyder, Secary & Assoc; Tom DeDonatis, 345 Elm Avenue; Mark Ovsak, 147 W. Governor Road; Jeff Schmidt, 1167 Duryea Drive; Jon & Gayle Smink, 308 Candlewyck Lane; Jeff Gelbaugh; Charles Huth, *The Sun*

APPROVAL OF MINUTES

On a motion by Member Moniak, seconded by Vice Chairman Wood, and a unanimous vote, the November 16, 2016 minutes were approved as written.

OLD BUSINESS

- A. Adoption of Decision in the Case of Kinsley Construction (2016-22)**
Property location: 14 East Chocolate Avenue, Hershey

- B. Adoption of Decision in the Case of Thomas DeDonatis (2016-23)**
Property location: 360 Maple Avenue, Hershey

- C. Adoption of Decision in the Case of David Lytle (2016-31)**
Property location: 941 Sunnyside Road, Hershey

On a motion by Vice Chairman Wood, seconded by Member Moniak, and a unanimous vote, the decisions for items 'A' – 'C' above were adopted by consent agenda.

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D. Adoption of Decision in the Case of Lee R. Eckert (2016-29)
Property location: 1115 and 1121 East Chocolate Avenue, Hershey

Mark Winter, attorney representing the applicant, was in attendance at the meeting and requested that this case be continued until the January 2017 meeting to allow the applicant to make revisions and changes to the plans that were previously presented to the Board.

E. Continuance in the Case of Chafia Capital Partners, LLC (2016-27)
Property location: 555 and 565 East Chocolate Avenue, Hershey

These properties are located in the Neighborhood Commercial zoning district. 555 East Chocolate Avenue is improved with an office building, and 565 East Chocolate Avenue is currently undeveloped. The applicant proposes to construct two commercial buildings, of which the western building is proposed to contain two restaurant spaces, one with drive-through service, and the eastern building is proposed to contain a medical office use. Relief was sought from permitted uses in the Neighborhood Commercial zoning district to permit the restaurant with drive-through service; front, side, and rear yard setback requirements; maximum impervious cover; minimum parking stall depth; minimum parking aisle width; minimum number of off-street parking spaces; minimum number of loading spaces; and maximum number and area of permitted signs.

David Getz (attorney) and Jim Snyder (engineer) were sworn in and gave testimony. Mr. Getz stated that the applicant is no longer proposing the restaurant uses but rather a new building that will contain a mix of office and retail space. The proposed building will be 21,600 square feet and will be located 25 feet from the front yard property line. A proposed patio area to the front of the building will be located 5 feet from the front yard property line.

Member Shrift questioned where loading spaces would be located. Mr. Snyder replied that the loading spaces will be in the rear of the proposed office/retail building.

Secretary Luttrell questioned the purpose of the proposed patio. Mr. Snyder responded that the patio will most likely encompass the entire front of the building, although the exact size and configuration will be determined by the tenant. The patio is proposed to improve the aesthetics and walkability of the area, as well as provide gathering space for patrons and employees of the building.

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. Continuance in the Case of Jeffrey and Ericka Schmidt (2016-32)
Property location: 433 Elm Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicants are proposing to demolish the existing dwelling and construct a new single family dwelling. Relief was sought in the form of a special exception to permit a front yard setback that is comparable to adjoining properties. Relief was also sought from maximum impervious coverage, maximum building height, and permitted floor area expansion of a nonconforming building.

Tom DeDonatis (the applicants' contractor) was sworn in and gave testimony. Mr. DeDonatis stated that the proposed roof height has been lowered to 34 feet, as visible from the public right-of-way along Elm Ave. If including the rear and side height elevations, the average building height will be 38.6 feet, which is down from 39.8 feet in the original application submittal.

Member Moniak asked if there are any other changes to the proposed plan. Mr. DeDonatis replied that there are no other changes at this time.

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 Joseph F. Halula (2016-33)
Property location: 526 Hockersville Road, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to install a shed. Relief was sought from minimum side yard setback requirements.

Joseph Halula was sworn in and gave testimony. Mr. Halula stated that his lot is narrow and he is proposing to locate a 12' x 24' shed on an existing stone pad, 6 feet from the side property line.

Member Shrift questioned whether the shed is currently in place. Mr. Halula confirmed that it is.

No other persons provided testimony at this hearing.

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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 Jon Smink (2016-34)
Property location: 308 Candlewyck Lane, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to install a storage shed. Relief was sought from minimum side and rear yard setback requirements.

John Smink was sworn in and gave testimony. Mr. Smink stated that he would like to place a 12' x 8' shed 10 feet from the side and rear property lines. Mr. Smink explained that his lot is narrow and features mature landscaping. The stone pad has been placed, but the shed has not.

Brandon Williams added that the Township is currently reviewing a draft Zoning Ordinance, and if and when the proposed changes are adopted, a setback of 5 feet would be applied to this particular zoning district, which would be applicable to both the rear and side yard setback distances.

PUBLIC COMMENT

Gloria Sassani, adjacent neighbor, stated that she feels the shed location is too close to the property line and would like to see it adhere to the current setback.

Secretary Wood questioned how far the proposed shed would be from the existing swing set. Mr. Smink replied that the shed would be 12 feet from the swing set.

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.

Hearings closed at 6:45 p.m.

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DELIBERATIONS

The Board met to deliberate in the cases of Chafia Capital Partners, LLC (2016-27); Jeffrey and Ericka Schmidt (2016-32); Joseph F. Halula (2016-33); and Jon Smink (2016-34) and directed the Solicitor to prepare the draft decisions on each case for formal action at the January 2017 meeting.

Submitted by:

Matthew Luttrell, Secretary