

**TOWNSHIP OF DERRY  
ZONING HEARING BOARD MEETING MINUTES  
January 18, 2017**

**CALL TO ORDER**

The January 18, 2017 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: Ed Kaylor, Reiber Assoc.; Lee Eckert, 1109 E. Chocolate Avenue; Teresa Peschel, 48 Half Street; Mark Winter, 310 W. Chocolate Avenue; James Strong, 100 Pine Street, Harrisburg; Andy Miller, Rettew/Verizon Wireless; Andrew Peterson, Verizon, Deb Baker, Verizon; Charles Huth, *The Sun*

**APPROVAL OF MINUTES**

On a motion by Secretary Luttrell, seconded by Vice Chairman Wood, and a unanimous vote, the December 14, 2016 minutes were approved as written.

**REORGANIZATION FOR 2017**

On a motion by Member Wood, seconded by Member Moniak, and a unanimous vote, the Board appointed Michael Kushner as Chairman; on a motion by Member Luttrell, seconded by Member Shrift, and a unanimous vote, the Board appointed Philip Wood as Vice Chairman; and on a motion made by Member Shrift, seconded by Member Moniak, and a unanimous vote, the Board appointed Matthew Luttrell as Secretary.

On a motion by Secretary Luttrell, seconded by Vice Chairman Wood, and a unanimous vote, all members of the Zoning Hearing Board were appointed as Hearing Officers.

**OLD BUSINESS**

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

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- B. Adoption of Decision in the Case of Jeffrey and Ericka Schmidt (2016-32)**  
**Property location: 433 Elm Avenue, Hershey**
- C. Adoption of Decision in the Case of Joseph F. Halula (2016-33)**  
**Property location: 526 Hockersville Road, Hershey**
- D. Adoption of Decision in the Case of Jon Smink (2016-34)**  
**Property location: 308 Candlewyck Lane, Hershey**

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

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

These properties, located in the Neighborhood Commercial zoning district, are improved with a single family dwelling (1115) and an auto sales dealership (1121). The applicant is proposing to replace the nonconforming residential use at 1115 East Chocolate Avenue by expanding the non-conforming auto sales use presently located at 1121 East Chocolate Avenue onto 1115 East Chocolate Avenue. Relief was sought in the form of a special exception for the substitution of nonconforming uses. Relief was also sought from maximum impervious coverage and minimum front and side yard setbacks requirements.

Lee Eckert, Ed Kaylor (land surveyor), and Mark Winters (attorney) were sworn in and gave testimony.

Mr. Eckert stated that he will be removing the existing house at 1115 East Chocolate Avenue and will use the area as extra parking and display space for his auto sales business. The sidewalk will be rebuilt and located five feet off the front yard setback. After the improvements are made, the impervious coverage will decrease from 58% to 56%.

Secretary Luttrell asked if the surrounding properties are commercial.

Mr. Eckert replied that surrounding properties are commercial and many have parking in front of the business buildings.

Member Moniak questioned whether the gravel area is existing. Mr. Kaylor replied that it does currently exist.

Member Moniak asked whether customers would be able to enter the property from the rear. Mr. Kaylor stated that there is no rear entrance to the property.

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.

**NEW BUSINESS**

**A. Hearing in the Case of Cellco Partnership, d/b/a Verizon Wireless (2016-35)**  
**Property location: 1215 Fishburn Road, Hershey**

This property, located in the Village Residential zoning district, is improved with a church and cemetery. The applicant is proposing to install a building-mounted communications antenna facility, including ground-mounted communications ancillary equipment located adjacent to the existing building. Relief was sought from front yard setback requirements for accessory structures, and the time in which a permit or certificate of occupancy must be secured.

Vice Chairman Wood recused himself from this hearing.

Deborah Baker, Andrew Peterson, Andrew Miller, and James Strong were sworn in and gave testimony.

The applicant is proposing to install a communications antenna inside a cupola located on top of the steeple of the church. The existing steeple is 52 feet high, and the proposed cupola will add an additional 14 feet, 6 inches. The 12 antennas will not be visible. The equipment platform and cabinet will be located on the ground and surrounded by an 8-foot-high vinyl fence and an evergreen landscape barrier. The equipment platform will be located 27.5 feet from the front yard adjacent to Fishburn Road; however, it will comply with the front yard requirements of 50 feet from Robin Road. It was noted that the church is 14.6 feet from the front yard property line along Fishburn Road.

Ms. Baker stated that she had worked with the church to locate the best placement of the equipment and it was determined to place the platform on an unused side of the church. Ms. Baker stated that ideally, the equipment is to be located inside the church and as close to the antennas as possible, but that was not possible in this case.

Ms. Baker added that a technician would service the ground level cabinet once or twice a month. The equipment will make no noise nor cause any vibration.

Chairman Kushner questioned what material would be used for the cupola. Ms. Baker stated that the material is fiberglass-like and can be molded and colored to match the existing steeple.

Secretary Luttrell asked how long the agreement is between the church and the communications company. Ms. Baker stated that the lease is for 25-30 years and if the lease is not renewed, everything other than the cupola will be removed.

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Member Moniak asked what the estimated weight of the cupola will be. Ms. Baker replied that the weight has not yet been determined, but a structural analysis will be done to ensure the ability of the steeple to accommodate the cupola.

Member Shrift asked the applicant to explain how the cable from the cupola to the ground-level cabinet would be concealed. Mr. Miller stated that a cover that would extend 8 inches from the side of the building will act as a conduit for the cables.

Member Shrift asked what the height of the equipment cabinets will be. Mr. Miller stated that the cabinets are roughly the size of a refrigerator. The cabinets will extend 8 inches off of the 8-foot-high vinyl fence. Member Shrift asked why a taller fence is not being used. Mr. Miller stated that 8 feet was chosen because that is the standard size of the fencing. Mr. Miller added that lowering the platform is a possibility.

Member Moniak questioned whether there would be any safety or malfunction prevention needs. Mr. Miller stated that there is no generator and only a small transformer that ties the equipment in to the church.

Member Moniak asked when the church was built. Ms. Baker stated that the State Historical Preservation reviewed the plan and saw no issues. Mr. Williams added that the church is not on the national register.

Secretary Luttrell questioned the lifespan of the fiberglass material used to make the cupola. Ms. Baker stated that currently the oldest one that she is aware of is about 12 years old. Ms. Baker added that there is a maintenance agreement which includes appearance.

Secretary Luttrell asked why the applicant requested a two year approval period for relief. Mr. Miller stated that two years was a precaution only and that the project should be in place within a year.

Member Shrift asked if this proposed antenna structure is replacing an existing tower or need. Mr. Peterson stated that the area is reaching its network capacity and the new antennas are needed to boost service. The service radius is approximately one mile.

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 7:10 p.m.

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**DELIBERATIONS**

The Board met to deliberate in the cases of Lee R. Eckert (2016-29) and Cellco Partnership, d/b/a Verizon Wireless (2016-35) and directed the Solicitor to prepare the draft decisions on each case for formal action at the February 2017 meeting.

Submitted by:

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Matthew Luttrell, Secretary