

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
June 20, 2012**

CALL TO ORDER

The June 20, 2012 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman William Tafuto in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Chairman William Tafuto; Vice Chairman Rick Hammer; Member Philip Wood; Member Michael Angello

Board members absent: Secretary Matthew Davies

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

Public registering attendance: David Sachs, 827 Glen Road; Christopher & Denise Grudi, 451 W. Areba Avenue; Ken Gall, Hershey Trust Co.; David Tshudy, Pepper Hamilton LLP; Tony DiSanta, Panera Bread; Linda Misceovich, Swatara Station Partners; Frank Nardo, 818 Reese Avenue; Patti Speile, 155 Oak Lane; Jon Sheppard, 243 Clark Road

APPROVAL OF MINUTES

On a motion by Member Angello, seconded by Vice Chairman Hammer, and a unanimous vote, the May 16, 2012 minutes were approved.

OLD BUSINESS

- A. Adoption of Decision in the Case of Casey S. Littlefield (2012-07)
Property location: 1731 Kaylor Road, Hummelstown**
- B. Adoption of Decision in the Case of David Fantom (2012-08)
Property location: 1473 Jill Drive, Hummelstown**
- C. Adoption of Decision in the Case of Michael D. Berner, dba Cocoa Medical Center (2012-09)
Property location: 1249 Cocoa Avenue**
- D. Adoption of Decision in the Case of Derry Presbyterian Church and Discovery Days Preschool (2012-11)**

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**Property locations: 248 E. Derry Road and 405 E. Chocolate Avenue,
Hershey**

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

NEW BUSINESS

**A. Hearing in the Case of Warren and Sheila Lyons (2012-12)
Property location: 1633 E. Derry Road, Hershey**

This property, located in the Village Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct a roof over an existing patio.

Relief is sought as follows:

- a. A Variance from Article 8, Section 225-36.D(1)(c) regarding side yard setback
- b. A Variance from Article 3, Section 225-10.A(6) regarding expansion of a non-conformity

Sheila Lyons was sworn in and gave testimony. Ms. Lyons would like to construct a roof over her existing concrete patio which currently comes within 5 feet 6 inches of the side property line. Ms. Lyons presented a letter from her adjacent neighbor who approves the proposed plan. Mr. Williams submitted photographs of the home and patio to the Board for their review.

No other persons provided testimony at this hearing.

Chairman Tafuto 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 Panera Bread, c/o Cindy Mehrtens of Answers, Inc.
(2012-13)
Property location: 1178 Mae Street, Hummelstown**

This property, located in the General Commercial zoning district, is presently improved with a commercial shopping center, bank, and other commercial space. The applicant is proposing to expand the seating area of the existing Panera Bread restaurant.

Relief is sought as follows:

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- a. A Variance from Article 28, Section 225-133 regarding off-street parking requirements

David Tshudy, attorney for the applicant, was sworn in and gave testimony. Panera is seeking to increase seating by 3 spaces, as the function of the shopping center does not require parking as originally anticipated and is currently underutilized. Mr. Tshudy stated that there are currently 920 parking spaces available for use for the center. Member Angello questioned how parking for the center was determined and whether parking calculations varied depending on the store/commercial use. Mr. Emerick replied that each store had its own calculation for parking depending upon commercial use.

No other persons provided testimony at this hearing.

Chairman Tafuto 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 Beulah Mae Lukens (2012-14)
Property location: 107 Almond Drive, Hershey

This case was withdrawn.

D. Hearing in the Case of Christopher Grudi (2012-15)
Property location: 451 W. Areba Avenue, Hershey

This property, located in the Village Residential zoning district, is presently improved with a single-family dwelling. The applicant is proposing to add an addition to the first floor and construct a second story addition.

Relief is sought as follows:

- a. A Variance from Article 8, Section 225-129.D(1)(c) regarding side yard setback
- b. A Variance from Article 8, Section 225.F regarding impervious cover
- c. A Special Exception from Section 225-34.C regarding accessory dwelling unit
- d. A Variance from Article 3, Section 225-10 regarding expansion of a non-conforming building
- e. A Variance from Section 225-36.D(1)(a) regarding front yard setback

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Christopher and Denise Grudi were sworn in and gave testimony. Mr. Grudi stated that he would like to add 1,800 square feet of additional space to his home to accommodate an in-law suite for aging relatives. Mr. Grudi will be expanding the first floor into the side yard setback due to the location of a walk-out basement entry in the rear center of the home. Mr. Grudi has spoken with his neighbor and he approves of the plan.

The proposed plan would expand the first floor of his home to allow remodeling to accommodate his in-laws to have their own sleeping and cooking areas. A second floor would be constructed for sleeping and bathroom areas for his family. The home is currently 1,100 square feet and would be increased to 2,000 square feet. Impervious cover would be at 32.9%. The proposed front porch would come within 14 feet 8 inches of the front yard property line.

Chairman Tafuto questioned whether pervious materials had been considered for any of the patio, sidewalk, or driveway areas. Mr. Grudi replied that he was concerned that pervious pavers may not be wheelchair friendly.

Vice Chairman Hammer asked why this plan is considered as an accessory use. Mr. Williams replied that it is considered an accessory use due to the in-law suite having its own kitchen and living space. Mr. Emerick further clarified that an accessory use limits the use to the present owners unless agreed upon by the Township to be transferred to a future owner.

PUBLIC COMMENT

Patti Speile stated that she helped to design the addition and took special care in maintaining the style of neighborhood.

No other persons provided testimony at this hearing.

Chairman Tafuto 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.

E. Hearing in the Case of James A. Nardo (2012-16)
Property location: 818 Reese Avenue, Hershey

This property, located in the Downtown Commercial and Downtown Commercial Sign zoning districts, is presently improved with a small commercial building and a billboard sign. The applicant is proposing to modify the location of the sign.

Relief is sought as follows:

- a. A Variance from Article 27, Section 225-129.C regarding permitted uses

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b. A Variance from Article 27, Section 225-130 regarding non-conforming signs

Frank Nardo (James Nardo's son) was sworn in and gave testimony. Mr. Nardo stated that he would like to move a 40-year-old single-sided billboard further from his building and would like to add another billboard in a V configuration to allow better visibility to traffic along Route 422 both east and westbound. The sign face area will remain the same.

Secretary Angello questioned if the sign were to be moved, would it be built from wood. Mr. Nardo stated that the sign would have a steel frame and be covered in a vinyl material. If the sign remains in place, it will remain wood with the additional leg of the V-configured sign being made with a steel frame.

PUBLIC COMMENT

Linda Misceвич, Swatara Station Partners, is the adjacent business owner. Ms. Misceвич stated that she will be razing the existing building on her property and constructing an office building within the year. She is concerned that moving the billboard would block the visibility of her business as the billboard would be within 6 feet of her property line.

Secretary Angello questioned whether Ms. Misceвич would be agreeable to the sign remaining in place with some sort of vinyl covering on the reverse side of the sign's structure. Ms. Misceвич stated that placing a "skin" on the sign's reverse side would be the least intrusive option.

Member Wood questioned whether a V-configured sign could be located in a less obtrusive position. Mr. Nardo stated the sign face will remain the same, but the drops around the property line affect placement.

No other persons provided testimony at this hearing.

Chairman Tafuto 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.

F. Hearing in the Case of David Sachs (2012-17)
Property location: 827 Glen Road, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to construct a detached garage.

Relief is sought as follows:

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- a. A Variance from Article 8, Section 225-36.D(2)(a) regarding front yard setback

- b. A Variance from Article 8, Section 225-36.D(2)(b) regarding rear yard setback

David Sachs was sworn in and gave testimony. Mr. Sachs would like to construct a 2-car garage with entry from S. 9th Street. Mr. Sachs stated that his property tapers in the rear and, due to its location on a corner, has two front yard setbacks. Also on the property are mature trees. Mr. Sachs' garage would be 18 feet from S. 9th Street and 7 feet from S. 8th Street.

PUBLIC COMMENT

Patti Speile, adjacent neighbor, stated that she approves of the proposed plan.

No other persons provided testimony at this hearing.

Chairman Tafuto 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 7:15 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Warren and Sheila Lyons (2012-12), Panera Bread, c/o Cindy Mehrstens of Answers, Inc. (2012-13), Christopher B. Grudi (2012-15), James A. Nardo (2012-16), and David Sachs (2012-17) and directed the Solicitor to prepare the draft decisions on each case for formal action at the July, 2012 meeting.
