

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
January 15, 2014**

CALL TO ORDER

The January 15, 2014 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; Secretary Philip Wood; Member Michael Angello; Member Matthew Brouillette

Board members absent: Member Michael Kushner

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: Tom DeDonatis, 345 Elm Avenue; Bill Bruggemeier, 165 W. Governor Road; Sue Huynh, 1224 E. Derry Road; Andrea Lowery, 143 Maple Avenue; George Giang, 75 White Pine Drive, Hershey; Phil Guarino, 109 W. Caracas Avenue; Jon Sheppard, 243 Clark Road; Glen Bollinger, Ephrata; Todd Pagliarulo, 321 Concord Ct.; Mark Winter, 310 W. Chocolate Avenue; Ken Gall, Hershey Trust Company; David Tshudy, Pepper Hamilton, LLP; Charleton Zimmerman; Carl & Sandra Pharmer, 941 Carriage House Court; Matt Weir, 1986 Church Road; Mike Leonard, 127 Maple Avenue

APPROVAL OF MINUTES

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, the December 18, 2013 minutes were approved.

REORGANIZATION

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, the following reorganization was approved for 2014:

Chairman – William Tafuto
Vice Chairman – Michael Angello
Secretary – Philip Wood

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OLD BUSINESS

- A. Adoption of Decision in the Case of Amy Knehans (2013-67)
Property location: 909 Sunnyside Road, Hummelstown**
- B. Adoption of Decision in the Case of Bill Gillespie Electric, Inc. (2013-68)
Property location: 867 Fishburn Road, Hershey**
- C. Adoption of Decision in the Case of Tamar and Josh Thomas (2013-70)
Property location: 1022 E. Governor Road, Hershey**
- D. Adoption of Decision in the Case of Old Forge Builders, Inc. (2013-71)
Property location: 136 Cedar Avenue, Hershey**
- E. Adoption of Decision in the Case of Thomas M. DeDonatis (2013-72)
Property location: 17 Elm Avenue, Hershey**

On a motion made by Vice Chairman Angello, seconded by Secretary Wood, and a unanimous vote, the decisions for items A-E were adopted by consent agenda.

- F. Continuance in the Case of Sue-Xuan T. Huynh (2013-69)
Property location: 1224 E. Derry Road, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling and a detached storage building. The applicant is proposing to convert the storage building into an accessory dwelling unit.

Sue-Xuan Huynh and Barry Speece were sworn in and gave testimony. Ms. Huynh stated that the detached building was at one point a garage that was converted into a workshop. Ms. Huynh is proposing to convert the workshop into a dwelling for her disabled son and, when the time comes, for a live-in caregiver. The existing residence contains 1,320 square feet. The proposed accessory dwelling will contain 784 square feet.

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.

NEW BUSINESS

- A. Hearing in the Case of Swatara Station Partners (2013-73)
Property location: The termini of both Woodland Avenue and Hillside Avenue, Hershey**

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This property, located in the Agricultural/Conservation zoning district, is unimproved. The applicant has received conditional approval for a five-lot subdivision, which they now propose to amend. As a result of this amendment, relief is sought from the minimum lot depth requirements pertaining to Lot 1 and Lot 2 of the subdivision.

Jon Sheppard of Swatara Station Partners, LLC, was sworn in and gave testimony. Mr. Sheppard stated that the subdivision plan was approved by the Board of Supervisors in 2011.

Vice Chairman Angello questioned why the minimum lot width variance had not been addressed previously.

At the time of the conditional plan approval in 2011, it was anticipated that a neighboring property owner would transfer a portion of their lot to the subdivision so that Lot 1 and Lot 2 would comply with the minimum lot depth requirements. Mr. Sheppard stated that in the interim period, the neighbor decided not to sell the land, which resulted in Lot 1 and Lot 2 being slightly smaller than the required width of 150 feet.

PUBLIC COMMENT

Blaine Rogers stated that storm water runoff has been increasing in the neighborhood since trees have been cut to make room for the future dwellings. Mr. Rogers is concerned that additional impervious development will make the problem worse.

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.

B. Hearing in the Case of William and Jean Bruggemeier (2013-74)
Property location: 165 W. Governor Road, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicants are proposing to construct an addition to the rear of the dwelling. Relief is sought from permitted expansion limitations of a nonconforming use and maximum impervious cover requirements.

Bill Bruggemeier and Glen Bollinger were sworn in and gave testimony. Mr. Bruggemeier stated that he would like to add a single story addition, 18 feet by 22 feet in dimension, for a bedroom and bathroom to accommodate his need for wheelchair access. Mr. Bollinger added that the impervious cover would increase from 32.06% to 35.14%. Mr. Bollinger further added that the existing storm water runoff management area could be expanded and lined with geotech fabric and aggregate stone.

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No other persons provided testimony at this hearing.

Chairman Tafuto 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.

C. Hearing in the Case of Farid Soulimani (2013-75)
Property location: 110 W. Chocolate Avenue Rear, Hershey

This property, located in the Downtown Commercial, Chocolate Avenue Preservation, and Downtown Commercial Sign zoning districts, is improved with a commercial building. The applicant is proposing to operate a full-service restaurant serving crepes. Relief is sought regarding minimum off-street parking requirements and approval for off-premises parking.

Farid Soulimani and George Giangli were sworn in and gave testimony. Mr. Soulimani stated that he is interested in leasing a former nail salon from building owner George Giangli to open a nine-seat, full-service crepe restaurant. The lot currently has nine non-conforming parking spaces. Mr. Giangli also has an agreement with the nearby Wells Fargo Bank to use nine spaces on their lot. The building owned by Mr. Giangli also houses two apartments and a single-operator beauty salon.

Vice Chairman Angello questioned how Mr. Soulimani intends to prevent patrons from parking at adjacent businesses. Mr. Soulimani replied that he will have signage installed in the parking area, as well as parking information listed on his website. Mr. Giangli added that having the off-site parking area at the bank has worked successfully for previous businesses.

Secretary Wood questioned whether the apartments have marked designated parking spaces. Mr. Giangli stated that they do not, but he has had very few issues during the many years of his ownership.

Mr. Soulimani stated that he feels he is bringing a unique concept to the area that will not directly compete with other restaurants in the area. The restaurant will be open from 10 a.m. until 8 p.m., but those hours are flexible at this point until peak times are determined.

PUBLIC COMMENT

Phil Guarino, owner of Fenicci's and Philip Arthur's, stated that parking is at a premium in the area. Mr. Guarino believes that there are other nearby properties downtown that are better suited to a restaurant rather than converting a lower volume usage as a nail salon to a much higher usage that a restaurant would demand.

No other persons provided testimony at this hearing.

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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.

D. Hearing in the Case of Hershey's Chocolate World (2013-76)
Property location: 251 Park Boulevard, Hershey

No one appeared to present the case. Upon a motion made by Secretary Wood, seconded by Vice Chairman Angello and a unanimous vote, Case No. 2013-76 was continued to the February meeting.

E. Hearing in the Case of Carl and Sandie Pharmer (2013-77)
Property location: 139 Maple 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 dwelling. Relief is sought from permitted expansion limitations of a nonconforming use, maximum impervious cover, minimum vegetative cover, and side yard setback requirements.

Carl and Sandie Pharmer were sworn in and gave testimony. Mr. Pharmer stated that he has owned the home since the 1980s and it is currently a rental property. The Pharmers are interested in moving back to the community. The proposed plan would increase the 1,680-square-foot home to 2,880 square feet, which would be a 73% increase. The existing detached garage would be removed and a new garage would be attached to the rebuilt home. Mr. Pharmer added that the side yard encroachment would not increase what currently exists, with the exception of a small HVAC pad on the west side.

PUBLIC COMMENT

Mike Leonard, neighbor, stated that most homes in the neighborhood do not have attached garages. The homes are separated from the detached garages by yards. Mr. Leonard is also concerned about any future paving on pervious areas. Brandon Williams clarified that any pervious areas designed to meet the requirements of the Township Stormwater Management Ordinance will be subject to an operations and maintenance agreement between the Township and property owner. This agreement will be referenced in the deed so that future owners will also be aware of the operations and maintenance requirements of the pervious areas.

Andrea Lowery, adjacent neighbor, stated that she would like to see the home stay in the same style as others in the neighborhood and is concerned that an attached garage will change the characteristics of the neighborhood. Ms. Lowery also has concerns about the location and associated noise of the HVAC unit.

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Greg Breidenstone, neighbor, is concerned about too much relief being requested for impervious cover and vegetative cover. Mr. Breidenstone stated that he has not had any water issues and does not want to risk any in the future.

No other persons provided testimony at this hearing.

Chairman Tafuto 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.

F. Hearing in the Case of the Hershey Trust Company, Trustee for Milton Hershey School (2013-78)
Property location: Mae Street and Hersheypark Drive, Hershey

This property, located in the General Commercial zoning district, is improved with a commercial shopping center. The applicant is proposing to demolish an existing bank building and construct a full-service restaurant. Relief is sought from minimum off-street parking requirements.

Todd Pagliarulo and Ken Gall were sworn in and gave testimony. Mr. Pagliarulo stated that the Trust Company is currently negotiating with three sit-down, chain-style restaurants about construction of a new 268-seat restaurant at the site of a former bank. Mr. Gall stated that the shopping center houses a variety of stores and businesses and they all share the large parking area. Mr. Gall further stated that during the peak time during Thanksgiving weekend, at least 273 parking spaces were unused at any given time.

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.

Hearings closed at 7:45 p.m.

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DELIBERATIONS

The Board met to deliberate in the cases of Sue-Xuan Huynh (2013-69); Swatara Station Partners, LLC (2013-73); William and Jean Bruggemeier (2013-74); Farid Soulimani (2013-75); Carl and Sandie Pharmer (2013-77); and the Hershey Trust Company, Trustee for Milton Hershey School (2013-78) and directed the Solicitor to prepare the draft decisions on each case for formal action at the February, 2014 meeting.

Submitted by:

Philip Wood, Secretary