

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

**CALL TO ORDER**

The October 15, 2014 meeting of the Township of Derry Zoning Hearing Board was called to order at 5:30 p.m. by Vice Chairman Michael Angello in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

**ROLL CALL**

Board members in attendance: Vice Chairman Michael Angello; Secretary Philip Wood; Member Michael Kushner; Member Matthew Brouillette

Board members absent: Chairman William Tafuto

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: D.B. Kisthardt, 593 Bullfrog Valley Road, Hummelstown; Alic Tahir, Morris Leasing, LLC; Julie Miller and Aaron Zeamer, 930 Red Rose Court, Suite 300, Lancaster; Harry Rebman, 1028 East Governor Road, Hershey; Tom DeDonatis, 345 Elm Avenue; Todd Logan, 785 Zurich Drive; Dale & Garnet Nissley, 264 Highland Road; Linda Viccaro, 888 Innsbruck Drive, Hummelstown; Glen Sponaugle, 985 Eby Road, Palmyra; Jim Hess, 801 E. Chocolate Avenue; George Porter, 909 E. Chocolate Avenue; Margaret Nipper, 949A Innsbruck Drive, Hummelstown; Sally Arndt, 1050 East Governor Road; Drue Heisey, 286 Quarry Road, Hummelstown; Katie Yoder, 890 Innsbruck Drive, Hummelstown; James Mentzer, III, 951C Innsbruck Drive, Hummelstown; Mark Allshouse, Esq., 4833 Spring Road, Shermansdale, PA; Alicia & Mark Winters, 1030 E. Governor Road; Charles Huth, *The Sun*; Anne Newman, 531 Elm Avenue; Nancy Garber, 442 Cedar Avenue; Geoff Ford & Monica Reckner, 513 Elm Avenue; M. Patricia Woods, 883 Alpine Drive, Hummelstown

**APPROVAL OF MINUTES**

On a motion by Member Brouillette, seconded by Member Kushner, and a unanimous vote, the September 17, 2014 minutes were approved.

**OLD BUSINESS**

- A. Adoption of Decision in the Case of Yingst Engineers & Associates, Inc. (2014-39)**  
**Property location: 637 Fishburn Road, Hershey**

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- B. Adoption of Decision in the Case of Randall Byler (2014-40)  
Property location: 647 Hill Church Road, Hummelstown**
- C. Adoption of Decision in the Case of Milton and Linda Purcell (2014-41)  
Property location: 345 West Chocolate Avenue, Hershey**
- D. Adoption of Decision in the Case of The Hershey Company (2014-42)  
Property location: 19 East Chocolate Avenue, Hershey**
- E. Adoption of Decision in the Case of the Township of Derry Industrial and  
Commercial Development Authority (2014-43)  
Property location: 21, 31, 35 West Caracas Avenue, Hershey**
- F. Adoption of Decision in the Case of Brian and Lynda Grubb (2014-44)  
Property location: 20 Clark Road, Hershey**
- G. Adoption of Decision in the Case of Hanuman, LLC (2014-45)  
Property location: 210 Hockersville Road, Hershey**

On a motion made by Member Brouillette, seconded by Member Kushner, and a unanimous vote, the decisions for items A-G were adopted by consent agenda.

**NEW BUSINESS**

- A. Hearing in the Case of Alic Tahir (2014-46)  
Property location: 450 Cedar 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 second story addition. Relief is sought regarding expansion limitations for a nonconforming structure.

Alic Tahir was sworn in and gave testimony. Mr. Tahir stated that he would like to remove the roof and add a second floor to his home. The footprint will remain the same. The living space will be increased by 1,672 square feet from the original 1,670 square feet, which is a 71% increase.

Public Comment:

Nancy Garber, adjacent neighbor, stated that she has concerns about losing the existing view from her home and asked for clarification regarding variances for

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setbacks. Brandon Williams explained the allowable variances for expansion. Ms. Garber stated that she is in agreement with Mr. Tahir's plan.

Vice Chairman Angello 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 Harry R. Rebman and Sara Lee Service (2014-47)**  
**Property location: 1028 East Governor Road, Hershey**

This property, located in the Agricultural/Conservation zoning district, is improved with a restaurant. The applicants are proposing, due to the loss of parking leases and property surveys, to alter the layout of the parking area to accommodate patrons for the restaurant. Relief is sought regarding minimum design requirements for a parking area, including driving lane width, inclusion of a handicapped accessible parking space in minimum parking requirements; and that relief granted by the Board in 2008 be continued as appropriate, pending a court decision regarding use of portions of the existing driveways.

Harry Rebman was sworn in and gave testimony. Mr. Rebman is the former owner of the Campbelltown Café, which is currently under a sales agreement. The property has contained a restaurant use for over 35 years. Recently a long standing parking lease on an adjacent property was removed. A new parking plan, which utilizes existing shared driveways on either side of the restaurant in a one-way direction and parking space configuration, was presented to the Township.

Mr. Rebman stated that space 5 has a slight encroachment by the air conditioning condenser located in the front of the spaces, which will have no effect on vehicle door opening. The other non-conforming space is noted as space A, which has a slight encroachment from the handicapped ramp to the door. Mr. Rebman would also like to be able to count the accessible space toward the number of seats that will be available in the restaurant. Under current calculations, accessible parking is not included in the number of allotted seats inside the restaurant.

**Public Comment:**

Mark Allshouse, attorney for adjacent neighbors Josh Thomas and Mark Winters, was sworn in. Mr. Allshouse stated that his clients have no issues with spaces 5 and A. Mr. Thomas purchased the home a year ago, at which time he terminated the parking lease. Entrance and exit to his home is a shared two-way driveway along the boundary of the Rebman property. Mr. Winters also has a two-way driveway along the eastern side of the Rebman property which has shared access with the land-locked Sponaugle property in the rear.

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Mr. Allshouse questioned whether Mr. Rebman has any signed documents allowing one-way only access of the shared driveways. Mr. Rebman stated that he is not asking his neighbors to give up the two-way usage, noting that one-way access was suggested by the Township.

Harry Arndt, who lives on the Sponaugle property, stated that he has concerns about parking too close to the driveway access to his home and is also concerned that the driving lanes are too narrow for emergency vehicles to navigate.

Mr. Rebman agrees that the driving lanes are narrow and added that he believes the fence on the east side makes the situation worse.

Chuck Emerick stated that the relief that was granted by the Township in 2008 was granted with the provision that the one-way driving lane used was for the restaurant.

No other persons provided testimony at this hearing.

Vice Chairman Angello 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 Tom DeDonatis (2014-48)**  
**Property location: 204 Maple Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to demolish the existing dwelling and construct a new single family dwelling. Relief is sought regarding expansion limitations for a nonconforming structure, and front and side yard setbacks.

Thomas DeDonatis was sworn in and provided testimony. Mr. DeDonatis stated that the existing home is in poor repair. He is proposing to raze the house and detached garage and replace it with a two-story single family home with attached garage.

Mr. DeDonatis stated that the lot is small and on a corner. The new home will maintain the existing side yard setbacks. The new dwelling will contain 2,872 square feet above grade, which is a 40% increase. With the proposed finished basement, total living space will be 3,427 square feet, which is a 75% increase.

No other persons provided testimony at this hearing.

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Vice Chairman Angello 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 Geoffrey Ford (2014-49)  
Property location: 513 Elm 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 front porch onto the dwelling. Relief is sought regarding front yard setback requirements.

Geoff Ford was sworn in and gave testimony. Mr. Ford stated that his home is on a narrow, small lot. He would like to replace an existing front stoop with a front porch to improve the aesthetics of his home, as there are similar front porches in his neighborhood. The proposed porch, which will be 4'-8" by 36' will be covered and no wider than the house. The total impervious area on the property after the improvements will be 30.86%. Due to the slight amount above the permitted amount of impervious cover, the applicant verbally requested a variance for cover above 30%.

No other persons provided testimony at this hearing.

Vice Chairman Angello 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.

**E. Hearing in the Case of Irvin J. and Lucinda L. Hess (2014-50)  
Property location: 801 East Chocolate Avenue, Hershey**

This property, located in the Neighborhood Commercial and General Sign Overlay zoning districts, is improved with a restaurant. The applicants are proposing to replace an existing sign wall with a larger sign. Relief is sought regarding permitted vertical height of a wall sign and total allowable sign area.

George Porter, attorney for the applicants, and Jim Hess were sworn in and gave testimony. Mr. Porter explained that the current sign is in need of being refreshed and changed to match the updated exterior décor. The new proposed sign is 11 feet by 4 feet, with an area of 43.315 square feet.

Mr. Williams questioned the manner in which the sign will be illuminated. Mr. Hess replied that the existing lights will be used and the sign will not be illuminated from within.

No other persons provided testimony at this hearing.

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Vice Chairman Angello 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.

**F. Hearing in the Case of Dale and Garnet Nissley (2014-51)**  
**Property location: 264 Highland Road, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicants are proposing to place a storage shed on the property. Relief is sought regarding rear and side yard setbacks.

Dale Nissley was sworn in and gave testimony. Mr. Nissley stated that he would like to put a 12 foot by 20 foot storage shed 8 feet from the side property line and 8 feet from the rear property line.

Mr. Nissley added that his adjacent neighbor has a similarly sized and located storage shed, and that it is a common feature of the neighborhood.

No other persons provided testimony at this hearing.

Vice Chairman Angello 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 Village of Innsbruck Condominium Association (2014-52)**  
**Property location: 883, 885, and 887 Alpine Drive, Hummelstown**

This property, located in the Multi-Family Residential zoning district, is improved with a nonconforming 3-unit townhouse structure, with 1 unit being condemned. The applicant proposes to demolish the condemned unit, thereby creating a single family semidetached dwelling, which is also a nonconforming structure. Relief is sought regarding the substitution of one nonconforming structure with another.

Julie Miller, attorney for the applicant, and Jim Mentzer, President of the Homeowners' Association were sworn in and gave testimony.

Ms. Miller stated that the townhouse addressed as 883 Alpine Drive has had significant damage due to settling of the ground supporting the foundation, caused by storm water runoff and faulty construction. In addition, some damage has occurred to the attached townhouse addressed as 885 Alpine Drive. The townhouse at 883 Alpine Drive was

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condemned by the Township in December, 2013. Ms. Miller stated that the cost to repair the dwelling would far exceed the value.

Secretary Wood asked what the estimated amounts were to repair and to demolish the townhouse. Mr. Mentzer stated that the cost to repair was estimated at \$300,000 and the cost to demolish was estimated at \$50,000. In addition to either of those costs, an estimated \$20,000 will be needed to repair and support the townhouse at 885 Alpine Drive. The current market value of the townhouse at 883 Alpine Drive is under \$100,000.

No other persons provided testimony at this hearing.

Vice Chairman Angello 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 7:40 p.m.

**DELIBERATIONS**

The Board met to deliberate in the cases of Alic Tahir (2014-46), Harry R. Rebman and Sara Lee Service (2014-47), Tom DeDonatis (2014-48), Geoffrey Ford (2014-49), Irvin J. and Lucinda L. Hess (2014-50), Dale and Garnet Nissley (2014-51), and Village of Innsbruck Condominium Association (2014-52) and directed the Solicitor to prepare the draft decisions on each case for formal action at the November, 2014 meeting.

Submitted by:

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Philip Wood, Secretary