

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
March 20, 2013**

CALL TO ORDER

The March 20, 2013 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 Matthew Davies; Member Michael Angello

Board members absent: Vice Chairman Rick Hammer

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: James A. and Sandra E. Knox, 951 Clifton Heights Road, Hummelstown; Paul R. Van Fleet, Capozzi Adler P.C.; A. C. Tahir, 240 Beech Avenue, Hershey; Erma Weigel, 559 Farmhouse Lane, Hummelstown; Dorothy Richett, 547 Farmhouse Lane, Hummelstown; Bruce Kinney, 543 Farmhouse Lane, Hummelstown; Thomas Logan, 554 Stauffers Church Road; Dale Holte, 2279 Southpoint Drive, Hummelstown; Sue Stough, 750 Creekside Drive, Hummelstown; Ken Scardino, 696 Stoverdale Road, Hummelstown; Jim Flaherty, Derry Homes, LLC; Joe Eisenhauer, Light-Heigel & Assoc.; Brian Soyka, Sheetz, Inc.; Meeta, Hardi and Chris Patel, Hanuman, LLC; Justin Shelton, Fairfield Inn; Ron Lucas, Stevens & Lee; Lou Mione, 309 Cocoa Avenue; Kristen Furlan, 1903 Limestone Drive, Hummelstown

APPROVAL OF MINUTES

On a motion by Member Davies, seconded by Secretary Wood, and a unanimous vote, the February 20, 2013 minutes were approved.

OLD BUSINESS

- A. Adoption of Decision in the Case of Hershey's Chocolate World (2013-01)
Property location: 251 Park Boulevard, Hershey**

- B. Adoption of Decision in the Case of Lebanon Valley Homes (2013-02)
Property location: 497 Middletown Road, Hummelstown**

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C. Adoption of Decision in the Case of Milton W. Purcell (2013-03)
Property location: 345/347 W. Chocolate Avenue, Hershey

D. Adoption of Decision in the Case of Gabriel Plebani (2013-05)
Property location: 710 Stauffers Church Road, Palmyra

On a motion by Member Davies, seconded by Secretary Wood, and a unanimous vote, the decisions for items a-d were adopted by consent agenda.

E. Continuance in the Case of Hanuman, LLC (2013-04)
Property location: 210 Hockersville Road, Hershey

Case 2013-04 was continued from the previous hearing in February. Representative for the applicant, Chris Brandenburg, Sign-A-Rama, was sworn in and gave testimony. Mr. Brandenburg stated that the proposed pole sign will comply with the height requirements and will be 28.23 square feet in size. The pole sign is the smallest offered by the Super 8 chain.

Meeta Patel explained that the photographs she distributed depict where the hotel is in relation to the street. Ms. Patel added that the pole sign will be located behind the CVS sign.

Ms. Patel added that the proposed wall sign will be located above the second floor windows and will be 4 feet to allow for easier visibility from the main highway (Route 422).

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 Thomas Alan Logan (2013-07)
Property location: 554 Stauffers Church Road, Palmyra

This property, located in the Agricultural/Conservation zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct a sunroom addition to the rear of the dwelling.

Relief is sought as follows:

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- a. A Variance from Article V, Section 225-25.H regarding maximum impervious coverage

Thomas Logan was sworn in and gave testimony. Mr. Logan is proposing to add a 320 square foot sunroom to replace an existing 16 x 20 foot deck. Mr. Logan stated that his lot is irregular and smaller than the size requirements for the zoning district.

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 Fairfield Inn and Suites (2013-08)
Property location: 651 W. Areba Avenue, Hershey

This property, located in the Downtown Commercial and Limited Sign overlay zoning districts, is presently being improved with a hotel. The applicant is proposing to construct an exterior wall sign on the building.

Relief is sought as follows:

- a. A Variance from Section 225-129.C(1)(c) regarding location of wall signage
- b. A Variance from Section 225-129.C(1)(c) regarding size of wall signage

Paul Van Fleet and Justin Shelton were sworn in and gave testimony. Mr. Van Fleet presented and described photographs that he submitted depicting the placement of the sign and the visibility from Route 422. The proposed sign will be located above the second floor windows and will be 4.8 square feet in area.

Member Angello questioned if the sign placement is in an effort to increase motorist safety due to the applicant's opinion of a possible safety issue. Mr. Van Fleet stated that it was the intent. Mr. Van Fleet further added that due to the franchise relationship, the sign style is predetermined and that limited the applicant's choices in sign size.

Secretary Wood asked if there will be any other signage on the property. Mr. Shelton replied that there will be a monument sign, directional and wall signage, which will be in compliance with the ordinance. Mr. Van Fleet added that any sign lighting will also be in compliance.

Mr. Williams stated that the proposed total area for all signs on the property will be 254 square feet.

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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 Sheetz, Inc. (2013-09)
Property location: 777 Middletown Road, Hummelstown

This property, located in the Neighborhood Commercial zoning district, is presently unimproved. The applicant is proposing to construct a convenience store, gas pumps and a carwash. The applicant is proposing to construct exterior signs on the property.

Relief is sought as follows:

- a. A Special Exception from Section 225-129.B(2)(c) regarding freestanding signage
- b. A Variance from Section 225-129.B(3)(a) regarding freestanding signage
- c. A Variance from Section 225-129.B(1)(f) regarding canopy sign size
- d. A Variance from Section 225-126.S regarding signage on gas pumps
- e. A Variance from Section 225-129.B(1)(i) regarding informational sign size

Due to a possible conflict of interest, Chairman Tafuto recused himself from the hearing.

Ron Lucas, Mike LaCesa and Brian Soyka were sworn in and gave testimony.

Mr. LaCesa stated that signage is crucial as Sheetz is not normally a single destination, but rather a stop on the way. Clear and visible gas price signs are important for price-shopping consumers. The proposed pole sign will only have the lowest octane price and the auto diesel price, even though three grades of gasoline will be sold. A single pole sign will be placed in the most visible spot along Middletown Road. There will be no signs along Stoverdale Road.

Mr. LaCesa stated that the proposed canopy over the gas pumps will not be attached to the building and will not be backlit. The canopy, which will be constructed of metal, will feature the Sheetz logo in the center facing Middletown Road. The canopy will have LED-style lights mounted flush to the underneath.

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Signage directing which pumps will offer auto diesel will be attached to the support poles nearest the designated pumps at a height so as not to interfere with vehicles or customers.

The pole sign will be similar in design to the one presently at Walton Avenue. The pole sign will be 14.11 feet high, 68.12 square feet in area and have a clearance of 8 feet.

Member Angello questioned what the difference is between a pole sign and a free-standing sign. Mr. Emerick clarified that a free-standing sign can be up to 15 feet in height and 32 square feet in area. A pole sign can be 7 feet in height with 8 feet of clearance underneath.

Due to the land contours, Mr. Emerick suggested there be a minimum clearance of three feet under the sign and a maximum height of 15 feet.

MOTION

On a motion made by Member Angello, seconded by Member Davies and a unanimous vote, the Zoning Hearing Board agreed to the suggestion for the pole sign to be no more than 15 feet in height with at least 3 feet of clearance underneath.

Mr. Emerick questioned how the gas prices would be changed. Mr. LaCesa replied that the price board is on a scrolling system that is operated from within the store.

Mr. Emerick also added that the proposed "MTO" sign on the rear of the building will need to comply with the ordinance if it is visible from the road.

PUBLIC COMMENT

Bruce Kinney was sworn in and gave testimony. Mr. Kinney questioned why the Township was forcing Sheetz to put in a taller sign than they proposed. Mr. Emerick replied that the applicant was using the free-standing guidelines; however, the Township has determined this type of sign is considered a pole sign. Sheetz is not required to make the sign larger than what they proposed.

Mr. Kinney also questioned what the difference is between truck and auto diesel.

Mr. Soyka replied that there is no difference in the fuel, but the nozzle and dispensing system is different. Auto diesel pumps run slower than truck diesel pumps. Truck drivers understand this difference and would not choose to fuel the large tanked trucks at a slow-pumping auto diesel pump.

No other persons provided testimony at this hearing.

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Secretary Wood 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 James Flaherty/Derry Homes, LLC (2013-10)
Property location: Clifton Heights Road, Hummelstown (Lot 4 and Lot 6 on a plan for Derry Homes)

This property, located in the Agricultural/Conservation zoning district, is presently unimproved. The applicant is seeking to regain relief granted in case 2007-38.

Relief had been granted and is being sought to continue as follows:

- a. A Variance from Section 225-163.B.(5) regarding minimum lot area
- b. A Variance from Section 225-163.C regarding minimum lot width
- c. A Variance from Section 225-25.D.(3) regarding side yard setback
- d. A Variance from Section 225-25.G regarding minimum vegetative lot coverage
- e. A Variance from Section 225-25.H regarding maximum impervious lot coverage

Joseph Eisenhauer, Light-Heigel, was sworn in and gave testimony. Mr. Eisenhauer stated that in 2007, relief was granted in conjunction with the subdivision of 3 lots. One of the conditions of the Zoning Hearing Board's Decision was that building permits had to be applied for within a year of the date of the Decision. The approval expired for 2 of the lots (Lots 4 and 6) due to the building permit condition not being met within the stated timeframe.

Secretary Wood stated that the original approval allowed for 30% impervious cover, and he questioned what the thinking was behind that decision. Mr. Eisenhauer replied that due to the lot size and the standard size of an average home, 30% would allow a suitably sized home to be constructed. Mr. Williams added that the area is closer to Village Residential, as it is surrounded by developments which are zoned Village Residential.

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PUBLIC COMMENT

James Knox, neighbor, was sworn in and gave testimony. Mr. Knox stated that he has concerns about zoning changes when a potential buyer is not yet known for the three lots.

Mr. Eisenhower clarified that the center lot has been sold and the lots are zoned for single family homes only.

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 8:25 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Hanuman, LLC (2013-04); Thomas Alan Logan (2013-07); Fairfield Inn and Suites (2013-08); Sheetz, Inc. (2013-09); and James Flaherty/Derry Homes, LLC (2013-10), and directed the Solicitor to prepare the draft decisions on each case for formal action at the April, 2013 meeting.
