

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
May 15, 2013**

CALL TO ORDER

The May 15, 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 Michael Angello

Board members absent: Vice Chairman Rick Hammer; Member 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: Randy Wright, Hanover Engineering Assoc.; Gary Lucas, Advantage Engineers; Massimo Rizzotto, Tomassi, LLC; George Porter, 909 E. Chocolate Avenue; Kate Durso, Fitzpatrick Lentz & Bubba; William Seaman, 228 W. Granada Avenue; Lynda Schoffstall, 98 Plymouth Circle; Richard Hess, 98 Plymouth Circle; Jim Hess, Desserts, Etc.; John Dunn; Lee Vasillades, 212 Linden Road; George Gish, 102-104 W. Granada Avenue; Matthew Mandia; Shaun Paul, RF Services; Bill Hoffer, Valley Pools; Mark Winter, 310 W. Chocolate Avenue; Ed Kaylor, Reiber Assoc; Kenneth Schlangen, 17 Hickorytown Road, Carlisle

APPROVAL OF MINUTES

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, the April 17, 2013 minutes were approved.

OLD BUSINESS

- A. Adoption of Decision in the Case of 202-214 West Chocolate Avenue, LP (2012-54)**
Property location: 202, 208, 214 West Chocolate Avenue, Hershey

Mr. Nestico stated that the public hearing record on case 2012-54 is closed. Mr. Emerick added that the Zoning Officer determined that a landscape barrier to the rear of the property is not needed.

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, the decision for case 2012-54 was adopted.

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- B. Adoption of Decision in the Case of Wilco Electric, Inc. (2013-11)
Property location: 1041 Stoney Run Road, Hummelstown**
- C. Adoption of Decision in the Case of Gerald T. Stephens (2013-12)
Property location: 1184 Julianne Drive, Hummelstown**
- D. Adoption of Decision in the Case of Ash Suri (2013-13)
Property location: 730 Stauffers Church Road, Palmyra**
- E. Adoption of Decision in the Case of Kent and LaDonna Zeller (2013-16)
Property location: 860 Fairhaven Road, Hummelstown**
- F. Adoption of Decision in the Case of Luttrell Design Group (2013-17)
Property location: 132-134 W. Granada Avenue, Hershey**
- G. Adoption of Decision in the Case of John Bitner (2013-18)
Property location: 640 Linden Road, Hershey**

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, the decisions for items B – G were adopted by consent agenda.

- H. Continuance in the Case of Tomassi, LLC (2013-15)
Property location: 25 Tomassi Drive, Hummelstown**

This property, located in the Agricultural/Conservation zoning district, is presently unimproved. The applicant is proposing to construct a single family dwelling.

Relief is sought as follows:

- a. A Variance from Article V, Section 225-25.D(2) regarding rear yard setback
- b. A Variance from Article V, Section 225-25.D(3) regarding side yard setback

Massimo Rizzotto and Randy Wright were sworn in and gave testimony. Mr. Rizzotto stated that he had appeared before the Zoning Hearing Board for case 2013-15 regarding the construction of a single family home.

Mr. Rizzotto stated that he is building on one of four lots in a cul-de-sac located in the Agricultural/Conservation district, but the immediate area more closely resembles the Suburban Residential district. Due to the small lot size, 30 feet of rear yard setback is needed to accommodate the corner of the proposed pool.

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Mr. Williams questioned whether the pool overflow would be tied into the sewer. Mr. Wright replied that the pool would tie into the sewer and the impervious calculation has taken that into consideration.

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 Valley Pools, Inc. (2013-19)
Property location: 228 W. Granada Avenue**

This property, located in the Village Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct an in-ground pool and spa on the property.

Relief is sought as follows:

- a. A Variance from Article VIII, Section 225-36.F regarding maximum impervious cover

Bill Seaman and Bill Hoffer were sworn in and gave testimony. Mr. Seaman stated that he would like to install an 11 foot by 22 foot, 6 inch in-ground pool with attached hot tub, surrounded by a concrete apron and walkway.

Chairman Tafuto questioned whether the overflow will be connected to the sewer. Mr. Seaman replied that it can be connected.

Mr. Williams questioned what the area of the pool/spa will be. Mr. Hoffer stated that the pool/spa will be 278 square feet and will increase the total impervious area by 321 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.

**B. Hearing in the Case of William Hess (2013-20)
Property location: southwest corner of Mae Street and Ethel Avenue,
Hummelstown**

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The applicant is proposing to combine the properties and then subdivide it into two separate single-family dwelling lots.

Relief is sought as follows:

- a. A Variance from Section 225-36.B regarding maximum residential density
- b. A Variance from Section 225-36.D.(1) regarding minimum front yard setback
- c. A Variance from Section 225-36.H regarding minimum lot width
- d. A Variance from Section 225-36.I regarding minimum lot depth

Ed Kaylor and William Hess were sworn in and gave testimony.

Mr. Hess stated that CAMA SDIRA, LLC is the current owner of a .598 acre lot located at the southwest corner of Mae Street and Ethel Avenue. The lot is improved with a one-story dwelling. Immediately adjacent to the south is a .130 acre lot currently owned by the Hershey Trust Company. CAMA SDIRA, LLC is proposing to purchase the Hershey Trust Company property and after combining the lots, subdividing it into two building lots. Lot 1 would be 13,444 square feet and Lot 2 would be 10,982 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.

C. Hearing in the Case of Lynda Schoffstall (2013-21)
Property location: 98 Plymouth Circle, Hershey

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

Relief is sought as follows:

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

Lynda Schoffstall and Richard Hess were sworn in and gave testimony. Mr. Hess stated that due to the property having two front yards and mature trees, the location for a storage shed is limited.

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Mr. Hess is proposing to place a 10 foot by 20 foot shed on the corner of the property behind the house. The shed will be placed 13 feet from the rear property line, which is considered to be a front yard as it fronts along Plymouth Road.

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.

**D. Hearing in the Case of Valley Pools, Inc. (2013-22)
Property location: 2280 Flintlock Drive, Hummelstown**

This property, located in the Village Residential zoning district, is improved with a single-family dwelling. The applicant is proposing to construct an in-ground swimming pool.

Relief is sought as follows:

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

Olin Beers, Steve Ogden, and Dana Ogden were sworn in and gave testimony. Mr. Ogden stated that the rear of the property is considered the front yard due to street frontage on Locust Street. Mrs. Ogden added that they had received permission from their Homeowners Association upon purchase of their home to build a pool.

Mr. Williams clarified that when the development was constructed, it was classified as a cluster development with no interior property boundaries, so a determination of impervious coverage is based on the entire development and not the individual lots.

Mr. Ogden added that the pool overflow would be connected to the sewer.

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.

**E. Hearing in the Case of New Cingular Wireless PCS, LLC d/b/a AT&T (2013-23)
Property location: 1309 Sand Hill Road, Hummelstown**

This property, located in the Agricultural/Conservation zoning district, is presently improved with a cellular tower and multiple telecommunications facilities. The applicant is seeking to add three antennas.

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Relief has been requested as follows:

- a. A Variance from Section 225-197.B regarding maximum height of communications antennas

Secretary Wood recused himself.

On a motion made by Member Angello and seconded by Secretary Wood, Chairman Tafuto and Member Angello were appointed as Hearing Officers for case 2013-23.

Gary Lucas and Shaun Paul were sworn in and gave testimony. Mr. Lucas stated that three antennas will be placed to upgrade the cellular service in the area. The new antennas will not extend above the top of the tower.

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.

F. Hearing in the Case of Kenneth Schlangen (2013-24)
Property location: 206-208 Linden Road, Hershey

This property, located in the Village Residential zoning district, is presently improved with a single family dwelling that was formerly two separate dwelling units. The applicant is seeking to re-establish two separate dwelling units in the building.

Relief has been requested as follows:

- a. A Variance from Section 225-33 regarding permitted use

Kenneth Schlangen was sworn in and gave testimony. Mr. Schlangen stated that the previous owner had cut an opening in the party wall in the downstairs of the building to allow him access to both sides after he became handicapped. The second floor, attic, and basement remain separated and each side is serviced by its own utility connections and is deeded separately.

Mr. Williams clarified that there is a DTMA condition for the common lateral agreement.

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PUBLIC COMMENT

George Gish, adjacent neighbor, stated that the dwelling had been used as a single family dwelling for over twenty years. Mr. Gish has concerns about the increase in parking that two separate units would bring.

Lee Vasillades confirmed that the dwelling had been used previously as a single family home.

Cindy Schlangen, co-owner of the property, stated that the interior is set up completely separate. Ms. Schlangen stated that homes in the area were built prior to the multi-vehicle lifestyle and in such areas parking is always a concern.

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.

**G. Hearing in the Case of Irvin J. and Lucinda L. Hess (2013-25)
Property location: 840 E. Chocolate Avenue, Hershey**

This property, located in the Neighborhood Commercial zoning district, is presently improved with a mixed-use commercial building containing a bakery/restaurant and office space. The applicant is seeking to construct a patio consisting of permeable materials in the front yard setback area.

Relief has been requested as follows:

- a. A Variance from Section 225-52.E regarding maximum impervious cover
- b. A Variance from Section 225-52.C(1) regarding front yard setback

Jim Hess was sworn in and gave testimony. Mr. Hess stated that he would like to construct a 480.5 square foot patio made with pervious material. The patio will be located in front of the building and be used for passive seating. No table service will be offered. The patio will increase the impervious cover from 65% to 69.4%. The edge of the patio closest to the road will be in line with the front of the buildings on either side.

Mr. Williams questioned whether there will be an awning over the patio area. Mr. Hess replied that no awning is planned; however table umbrellas may be used.

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.

**H. Hearing in the Case of Criterium-Yingst Engineers, Inc. (2013-26)
Property location: 1319 E. Chocolate Avenue, Hershey**

The applicant requested a continuance.

**I. Hearing in the Case of Barry Burkholder (2013-27)
Property location: 1020 W. Chocolate Avenue, Hershey**

The applicant requested a continuance.

**J. Hearing in the Case of 1016 Old West Chocolate Avenue, LLC (2013-28)
Property location: 1016 W. Chocolate Avenue, Hershey**

The applicant requested a continuance.

**K. Hearing in the Case of Township of Derry Parks and Recreation Department
(2013-29)
Property location: East of Locust Street, north of Jo Ann Avenue,
Hummelstown**

This property, located in the Village Residential zoning district, is improved with a residential development and open space tracts known as Southpoint Meadows II. The applicant is proposing to obtain 2.922 acres of the property for the purposes of park and recreation use.

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

- a. A Variance from Section 225-36.F regarding transfer of permitted impervious cover

Mr. Emerick reviewed his memorandum outlining the Township's desire to utilize dedicated land for the creation of a 2.922 acre park.

Secretary Wood questioned what the Parks & Recreation Department had in mind for the area. Matt Mandia stated that the park could possibly include a small pavilion and it would involve the relocation of the bike/walking trail.

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.

Hearings closed at 8:10 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Tomassi, LLC (2013-15), Valley Pools (2013-19), William Hess (2013-20), Lynda Schoffstall (2013-21), Valley Pools, Inc. (2013-22), New Cingular Wireless PCS, LLC (2013-23), Kenneth Schlangen (2013-24), Irvin J. and Lucinda L. Hess (2013-25), and Township of Derry Parks and Recreation Department (2013-29) and directed the Solicitor to prepare the draft decisions on each case for formal action at the June, 2013 meeting.
