

**TOWNSHIP OF DERRY  
ZONING HEARING BOARD MEETING MINUTES  
June 19, 2013**

**CALL TO ORDER**

The June 19, 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; Vice Chairman Rick Hammer; Secretary Philip Wood; Member Michael Angello, Member Matthew Davies

Board members absent: None

Also Present: Anthony Nestico, Solicitor to the Board; Brandon Williams, Assistant Director of Community Development; Court Reporter from Hughes, Albright, Foltz & Natale Reporting Service, Inc.; Tracy Telesha, Stenographer

Public registering attendance: Phil Guarino, 109 W. Caracas Avenue; Kurt Startoni, 520 Hillcrest Road; Franklin Romero, 328 Mill Street; Rick Russell, The Hershey Company; Ekrem Abdic, 441 Leearden Road

**APPROVAL OF MINUTES**

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, the May 15, 2013 minutes were approved.

**OLD BUSINESS**

- A. Adoption of Decision in the Case of Tomassi, LLC (2013-15)  
Property location: 25 Tomassi Drive, Hummelstown**
- B. Adoption of Decision in the Case of Valley Pools, Inc. (2013-19)  
Property location: 228 W. Granada Avenue, Hershey**
- C. Adoption of Decision in the Case of William Hess (2013-20)  
Property location: Southwest corner of Mae Street and Ethel Avenue,  
Hummelstown**
- D. Adoption of Decision in the Case of Lynda Schoffstall (2013-21)  
Property location: 98 Plymouth Circle, Hershey**
- E. Adoption of Decision in the Case of Valley Pools, Inc. (2013-22)  
Property location: 2280 Flintlock Drive, Hummelstown**

**TOWNSHIP OF DERRY  
ZONING HEARING BOARD MEETING MINUTES  
June 19, 2013**

- F. Adoption of Decision in the Case of New Cingular Wireless PCS, LLC d/b/a AT&T (2013-23)**  
**Property location: 1309 Sand Hill Road, Hummelstown**
- G. Adoption of Decision in the Case of Kenneth Schlangen (2013-24)**  
**Property location: 206-208 Linden Road, Hershey**
- H. Adoption of Decision in the Case of Irvin J. and Lucinda L. Hess (2013-25)**  
**Property location: 840 E. Chocolate Avenue, Hershey**
- I. Adoption of Decision 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**

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, the decisions for items 'A' through 'I' were adopted by consent agenda.

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

This case was withdrawn by the applicant.

- K. Continuance in the Case of Barry Burkholder (2013-27)**  
**Property location: 1020 W. Chocolate Avenue, Hershey**
- L. Continuance in the Case of 1016 Old West Chocolate Avenue, LLC (2013-28)**  
**Property location: 1016 W. Chocolate Avenue, Hershey**

On a motion by Member Angello, seconded by Secretary Wood, and a unanimous vote, items 'K' and 'L' were continued to the July meeting.

**NEW BUSINESS**

- A. Hearing in the Case of Philip A. Guarno (2013-30)**  
**Property location: 108 W. Chocolate Avenue, Hershey**

This property, located in the Downtown Commercial and Chocolate Avenue Preservation Overlay zoning districts, is presently improved with a restaurant. The applicant is proposing to construct a patio with seating element in the front yard.

Relief is sought as follows:

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**June 19, 2013**

- a. A Variance from Article XXXIV, Section 225-173.G regarding seating in front yard setback area
- b. A Variance from Article XIV, Section 225-60.F regarding impervious coverage
- c. A Variance from Article XXVIII, Section 225-133.E regarding parking requirements

Phil Guarno was sworn in and gave testimony. Mr. Guarno stated that he would like to replace a flower bed and install a pervious patio with four tables and seating for eight. The seating will be passive and will offer no table service. The pavers that will be used are similar in appearance to existing pavers being used by other businesses along Chocolate Avenue.

Chairman Tafuto questioned whether the proposed wall will be a decorative wall or if it will be a retaining wall, and followed up by stating that if infiltration is proposed behind the retaining wall, the water would have to be captured so that it would not flow out onto the public sidewalk. Chairman Tafuto also commented that if infiltration would be proposed around the tree that is shown to remain, the tree may not survive and should be monitored by the owner accordingly. Mr. Guarno replied that the proposed wall will comply with the Township's storm water management regulations.

Mr. Guarno added that the Design Review Board requested that an opening to the sidewalk leading to the patio be installed.\* The seating will be open to the general public and not actively enforced for patron-only use. The total impervious coverage of the lot will be 94.08%.

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 Ekrem Abdic (2013-31)**  
**Property location: 520 Hillcrest 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 first and second floor addition.

Relief is sought as follows:

- a. A Variance from Section 225-10.A(2) regarding floor area expansion greater than 25%

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*\*The following is an excerpt from the May 20, 2013 Design Review Board minutes:*

*“Member Herman asked how people would access the patio area. Mr. Guarno responded that the access would be from the parking lot. He stated that he can add steps to access the patio on the other side if desired, but they are not necessary. The Board agreed that the proposal is acceptable without the steps.”*

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**June 19, 2013**

- b. A Variance from Section 225-173.O regarding front yard setback

Kurt and Alexis Startoni and Ekrem Abdic were sworn in and gave testimony. Ms. Startoni stated that she is the third generation owner of the home. In order to accommodate her family, she would like to add a three bedroom second floor addition over the first floor. The footprint of the home will not change. The addition will increase the total floor area by 71%. The second floor will overhang the first by four feet in the front of the house. The front stoop will be 5' x 6' and will be 20 feet from the front yard property line.

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 Franklin Romero (2013-32)**  
**Property location: 328 Mill Street, Hershey**

This property, located in the Village Residential zoning district, is improved with a single-family dwelling. The applicant is proposing to construct a covered patio in the rear of the home.

Relief is sought as follows:

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

Franklin Romero was sworn in and gave testimony. Mr. Romero is proposing to install a 22' x 11' covered patio. The proposed patio will increase the impervious cover to 37.6%.

Chairman Tafuto asked the applicant to clarify whether the patio was actually a wooden deck and if the proposal would be to cover only the existing square footage of the deck. Mr. Romero responded in the affirmative to both clarifications.

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 The Hershey Company (2013-33)**  
**Property location: 19 E. Chocolate Avenue, Hershey**

This property, located in the Village Core, Downtown Commercial Sign Overlay and Chocolate Avenue Preservation Overlay zoning districts, is improved with an office building under renovation. The applicant is proposing to construct three temporary signs along Chocolate Avenue to notify the public of the construction activities occurring on the property.

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**June 19, 2013**

Relief is sought as follows:

- a. A Special Exception from Section 225-129-C(1)(c) regarding maximum sign area and number of signs
- b. A Special Exception from Section 225-129.C(3)(a) regarding number of street frontage signs
- c. A Special Exception from Section 129-C(5)(d) regarding number of colors

Rick Russell, The Hershey Company, was sworn in and gave testimony. Mr. Russell stated that the three proposed signs will be 4' x 8' on 4-foot high stands. The signs will be in place for approximately six to eight months.

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 Grace United Methodist Church (2013-34)**  
**Property location: 433 E. Main Street, Hummelstown**

The applicant requested that this case be continued to the July meeting.

Hearings closed at 6:45 p.m.

**DELIBERATIONS**

The Board met to deliberate in the cases of Philip A. Guarno (2013-30); Ekrem Abdic (2013-31); Franklin Romero (2013-32); and The Hershey Company (2013-33), and directed the Solicitor to prepare the draft decisions on each case for formal action at the July, 2013 meeting.

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