

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
August 21, 2013

CALL TO ORDER

The August 21, 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; Pam Packer, Court Reporter; Tracy Telesha, Stenographer

Public registering attendance: Christine Kinger, 922 Sunnyside Road, Hummelstown; Charles W., Sharon, and Dorothy Hope Bikle, 570 Hilltop Road, Hummelstown; Ellen Straut, 541 Hilltop Road, Hummelstown; Peg Jesanka, 555 Hilltop Road; Brian Miller, 79 Runyon Road, Hummelstown; Jeff Rosensteel, 214 W. Caracas Avenue, Hershey; Sara Rogalli, 621 Hilltop Road, Hummelstown; Linda Zubler, 620 Hilltop Road, Hummelstown; Kevin Bagatta, 11 Lantern Lane, Palmyra; Ellen Bagatta, 641 Springhouse Lane, Hummelstown; Tom DeDonatis, 345 Elm Avenue, Hershey; Pam Moore and Craig Wrights, 59 Caramel Court, Hershey; Izanne Leonard Haak and William R. Haak, 205 Mine Road, Hershey; John Schniepp, Schniepp Design & Drafting; Greg Manmiller, Manmiller Construction; Joanne Landenberger, 594 Hilltop Road; Gary Frederick, Hillwood; John Schaefer, 435 E. Main Street, Hummelstown; Matt Flickinger, Titan Construction; Ron Lucas, Stevens & Lee; Keith Heigel, Adam Keiper – Light Heigel & Assoc.; Thomas Dispenza, 1280 Stone Creek Drive, Hummelstown; Jack Billmyer, 337 W. Chocolate Avenue; Dudley Peffley, 604 Hilltop Road; Paul Rabon, 61 Foxanna Drive, Hershey; Diane Leonard, 66 Cedar Avenue; Clint Wevadan; Brian Lecher, 1270 Stone Creek Drive, Hummelstown

APPROVAL OF MINUTES

On a motion by Vice Chairman Hammer, seconded by Member Davies, and a unanimous vote, the June 19, 2013 minutes were re-approved *(to include revisions suggested by Chairman Tafuto that were inadvertently not included in the motion to adopt these minutes during the July 2013 meeting).*

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On a motion by Vice Chairman Hammer, seconded by Member Davies, and a unanimous vote, the July 17, 2013 minutes were approved.

OLD BUSINESS

- A. **Adoption of Decision in the Case of Barry Burkholder (2013-27)**
Property location: 1020 W. Chocolate Avenue, Hershey
- B. **Adoption of Decision in the Case of Grace United Methodist Church (2013-34)**
Property location: 433 E. Main Street, Hummelstown
- C. **Adoption of Decision in the Case of John T. Swick II and Monina Joy Swick (2013-35)**
Property location: 124 Jacobs Creek Drive, Hershey
- D. **Adoption of Decision in the Case of Dave and Sheryl Sheffer (2013-36)**
Property location: 1315 Penn Avenue, Hershey
- E. **Adoption of Decision in the Case of Carl and Pamela Fackler (2013-37)**
Property location: 124 McKinley Avenue, Hershey
- F. **Adoption of Decision in the Case of C.F. Construction (2013-38)**
Property location: 12 Swatara Avenue, Hershey
- G. **Adoption of Decision in the Case of Troeg's Brewing Company (2013-39)**
Property location: 200 E. Hersheypark Drive, Hershey
- H. **Adoption of Decision in the Case of The Hershey Company (2013-41)**
Property location: 11 East Chocolate Avenue, Hershey
- I. **Adoption of Decision in the Case of The Hershey Company (2013-42)**
Property location: 19 East Chocolate Avenue, Hershey
- J. **Adoption of Decision in the Case of The Hershey Company (2013-43)**
Property location: 19 E. Chocolate Avenue, Hershey
- K. **Adoption of Decision in the Case of The Hershey Company (2013-44)**
Property location: 19 E. Chocolate Avenue, Hershey
- L. **Adoption of Decision in the Case of Burget & Associates, Inc. (2013-45)**
Property location: 810 W. Chocolate Avenue, Hershey

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M. Adoption of Decision in the Case of A to Z Realty, LLC (2013-46)
Property location: 721 Fishburn Road, Hershey

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

N. Continuance in the Case of Ketterline, Inc. (2013-40)
Property location: 593 Hilltop Road, Hummelstown

The applicant withdrew the case prior to the meeting.

NEW BUSINESS

A. Hearing in the Case of Pamela J. Moore (2013-47)
Property location: 59 Caramel Court, Hershey

This property, located in the Attached Residential zoning district, is presently improved with a single family semidetached dwelling. The applicant is proposing to construct a patio and pergola which will be attached to the building.

Relief is sought as follows:

- a. A Variance from Section 225-40(D)(1)(b) regarding rear yard setback

Pamela Moore was sworn in and gave testimony. Ms Moore has constructed a covered porch and in order to comply with her Homeowners' Association, she needs to attach it to her home. The porch is located 29 feet from the 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.

B. Hearing in the Case of Michael and Christine Kinger (2013-48)
Property location: 922 Sunnyside Road, Hummelstown

This property, located in the Suburban Residential zoning district, is improved with a single family dwelling. The applicants are proposing to construct a detached storage shed.

Relief is sought as follows:

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- a. A Variance from Section 225-32.D(2)(c) regarding side yard setback
- b. A Variance from Section 225-32.D(2)(b) regarding rear yard setback

Christine Kinger was sworn in and gave testimony. Ms. Kinger is proposing to install a 12 foot by 12 foot shed. In order to be in compliance with the ordinance, the shed would have to be placed in the middle of the yard. Ms. Kinger added that the yard has a slight grade and a mature magnolia tree; therefore, placement of the shed is limited. Ms. Kinger stated that there are other sheds in similar locations in her neighborhood. The shed will be 7 feet from the side property line and 11 feet from the rear 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 Greg M. Manmiller (2013-49)
Property location: 205 Mine 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 screened porch.

Relief is sought as follows:

- a. A Variance from Section 225-36.D(1)(b) regarding rear yard setback

Greg Manmiller was sworn in and gave testimony. Mr. Manmiller is proposing to construct a 13 foot by 15 foot screened porch. The placement of the porch is limited due to existing utilities and basement egress. The porch will encroach by nine feet into the rear yard setback.

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 Kevin Bagatta (2013-50)
Property location: 999 Clifton Heights Road, Hummelstown

This property, located in the Agricultural/Conservation zoning district, is improved with a single family dwelling. The applicant is proposing to construct an addition to be used as

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an accessory dwelling unit. Relief is sought as a special exception to permit the accessory dwelling unit.

Kevin and Ellen Bagatta were sworn in and gave testimony. Mr. Bagatta is proposing to construct a handicap-accessible in-law suite with kitchenette for his mother. The addition will be 640 square feet with a 120 square foot deck.

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 LIT Palmyra, LP (2013-51)
Property location: 350 N. Lingle Avenue, Palmyra

This property, located in the Agricultural/Conservation and Industrial zoning districts, is improved with an access drive to two existing warehouse/distribution buildings located in Lebanon County. The applicant is proposing to construct a new 374,000 square foot industrial building.

Relief is sought as follows:

- a. An appeal of the Zoning Officer's decision regarding maximum impervious cover (Agricultural/Conservation district)
- b. An appeal of the Zoning Officer's decision regarding maximum impervious cover (Industrial district)
- c. A Variance regarding maximum floor area ratio (Industrial district)

Ron Lucas, Stevens & Lee; Gary Frederick, Hillwood; and Keith Heigel, Light-Heigel & Associates, were sworn in and gave testimony. This property is located in two counties and three townships. Within the property are several slopes, a rail spur line, and two quarries which create a limited buildable area. The portion of the property located within Derry Township is vacant except for the access driveway.

LIT is proposing to construct a 374,000 square foot warehouse building which will be located in Derry Township and North Londonderry Township. The total impervious cover on the Derry Township portion will be 55.2% due to physical limitations of the property. Mr. Lucas is proposing the use of a "split-zone" lot to blend the various requirements so the respective impervious cover limits apply to the lot as a whole rather than exclusively within each of the zoning districts on the lot.

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Mr. Williams stated that an inter-governmental restrictive covenant agreement between the three municipalities should be written. Mr. Lucas confirmed that the agreement is being written.

Chairman Tafuto questioned whether there were any special conditions regarding storm water management. The applicant stated that there would be water quality treatment basins meeting the local ordinance requirements prior to being released to the quarries on the property. Mr. Williams replied that almost all the storm water runoff is directed into the quarries on the property, which act as detention basins.

Member Angello asked if the net developable area was used for the impervious calculations. Mr. Heigel replied that the floor area ratio used the net developable area, but the impervious used the net area.

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 Thomas M. DeDonatis (2013-52)
Property location: 311 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 as follows:

- a. A Variance from Section 225-10.A(6) regarding vertical expansion
- b. A Variance from Section 225-10.A(2) regarding expansion of living space by more than 25%
- c. A Variance from Section 225-36.D(1)(c) regarding side yard setback
- d. A Variance from Section 225-36.D(2)(c) regarding side yard setback
- e. A Variance from Section 225-36.F regarding maximum impervious coverage

Thomas DeDonatis was sworn in and gave testimony. Mr. DeDonatis stated that he purchased the home a year ago and has since discovered serious water damage to the foundation. Mr. DeDonatis is proposing to demolish the existing structure and construct

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a new home. The footprint for the new proposed home will be similar to the existing non-conforming home.

The proposed height of the roof at its highest point will be 30 feet, 6 inches. The proposed living space will be 3,652 square feet with a 1,000-square-foot finished basement. The location of the basement egress window well will encroach into the side yard by 4 feet. The location of the HVAC unit will encroach into the side yard by 4 feet.

The impervious cover will increase from 4,374 square feet to 4,725 square feet.

Mr. DeDonatis added that the lot is narrow and non-conforming at 75 feet wide.

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 Jack B. Billmyer, Inc. (2013-53)
Property location: 1305 Harding 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 laundry room and garage addition.

Relief is sought as follows:

- a. A Variance from Section 225-36.D(1)(a) regarding front yard setback

Jack Billmyer was sworn in and gave testimony. Mr. Billmyer stated that he is constructing a 24 foot by 26 foot garage, which will be attached to the home, with a 55 square foot laundry/mud room. The lot is a corner lot and is considered to have two front yards. The setback along McKinley on the side of the house will be 10 feet 9 inches from the 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.

H. Hearing in the Case of Mike and Diane Leonard (2013-54)
Property location: 127 Maple Avenue, Hershey

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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 constructing a new single family dwelling.

Relief is sought as follows:

- a. A Variance from Section 225-10.A(2) regarding floor area expansion
- b. A Variance from Section 225-36.D(1)(c) regarding side yard setback
- c. A Variance from Section 225-36.D(2)(c) regarding side yard setback
- d. A Variance from Section 225-10.A(6) regarding vertical wall expansion greater than 75%

Diane Leonard was sworn in and gave testimony. Ms. Leonard stated that she purchased a non-conforming home that was in disrepair. Ms. Leonard is proposing to demolish the existing home and rebuild using a similar footprint and reducing the impervious area.

The proposed floor area will increase from 2,136 square feet to 2,785.5 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.

Hearings closed at 7:45 p.m.

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DELIBERATIONS

The Board met to deliberate in the cases of Pamela J. Moore (2013-47); Michael and Christine Kinger (2013-48); Greg M. Manmiller (2013-49); Kevin Bagatta (2013-50); LIT Palmyra, LP (2013-51); Thomas M. DeDonatis (2013-52); Jack B. Billmyer, Inc. (2013-53); and Mike and Diane Leonard (2013-54) and directed the Solicitor to prepare the draft decisions on each case for formal action at the September, 2013 meeting.
