

**TOWNSHIP OF DERRY  
ZONING HEARING BOARD MEETING MINUTES  
September 18, 2013**

**CALL TO ORDER**

The September 18, 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; Charles Emerick, Director of Community Development; Brandon Williams, Assistant Director of Community Development; Pam Packer, Court Reporter; Tracy Telesha, Stenographer

Public Registering Attendance: Joe Burget, Jr., Burget & Associates; Ambrose Heinz, Stevens & Lee; Ralph G. Watters, DTMA; Paul Gross, Buchart Horn, Inc.; Jim Rafferty, Tana Properties; Steve Dzuramin, Wix, Wenger & Weidner; Mark Winter, 310 W. Chocolate Avenue; David, Sheila, and Gladys Wertley, 807 Twin Oaks Drive

**APPROVAL OF MINUTES**

On a motion by Vice Chairman Hammer, seconded by Member Davies, and a unanimous vote, the August 21, 2013 minutes were approved with the following revision:

- Page 6, paragraph 2 – insert the following as the second sentence in the paragraph: “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.”

**OLD BUSINESS**

- A. Adoption of Decision in the Case of Pamela J. Moore (2013-47)  
Property location: 59 Caramel Court, Hershey**
- B. Adoption of Decision in the Case of Michael and Christine Kinger (2013-48)  
Property location: 922 Sunnyside Road, Hummelstown**

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- C. Adoption of Decision in the Case of Greg M. Manmiller (2013-49)  
Property location: 205 Mine Road, Hershey**
- D. Adoption of Decision in the Case of Kevin Bagatta (2013-50)  
Property location: 999 Clifton Heights Road, Hummelstown**
- E. Adoption of Decision in the Case of LIT Palmyra, LP (2013-51)  
Property location: 350 N. Lingle Avenue, Palmyra**
- F. Adoption of Decision in the Case of Thomas M. DeDonatis (2013-52)  
Property location: 311 Maple Avenue, Hershey**
- G. Adoption of Decision in the Case of Jack B. Billmyer, Inc. (2013-53)  
Property location: 1305 Harding Avenue, Hershey**
- H. Adoption of Decision in the Case of Mike and Diane Leonard (2013-54)  
Property location: 127 Maple Avenue, Hershey**

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

**NEW BUSINESS**

- A. Hearing in the Case of C.F. Construction (2013-55)  
Property location: 643 Swatara Avenue, Hershey**

This property, located in the Downtown Commercial zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct a storage shed. Relief is sought from the minimum rear yard setback requirements.

The applicant requested a continuance until the October 2013 meeting.

On a motion made by Secretary Wood, seconded by Member Davies, and a unanimous vote, case no. 2013-55 was continued.

- B. Hearing in the Case of Gladys Wertley (2013-56)  
Property location: 1358 E. Caracas Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling and a mobile home dwelling. The applicant is proposing to construct a

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second floor addition to the single family dwelling. Relief is sought from floor area expansion limitations for a nonconforming building.

Gladys and David Wertley were sworn in and gave testimony. Ms. Wertley stated that she would like to expand her home by adding a second floor addition. The footprint of the home would remain the same. The second floor addition will add 1,225 square feet of living space and reach a maximum height of 26 feet. Ms. Wertley's is a small corner lot which has three street frontages. Ms. Wertley added that there are several other two-story homes in her neighborhood, and the planned addition to her home will remain within the character of the neighborhood.

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 the Derry Township Municipal Authority (2013-57)**  
**Property location: 670 Clearwater Road, Hershey**

This property, located in the Public and Floodplain Overlay zoning districts, is improved with a municipal wastewater treatment plant and administrative offices. The applicant is proposing to rehabilitate a flood damaged control building. Relief is sought from required improvements to, and the design and construction standards for, existing buildings located within the Floodplain Overlay district.

Ralph Watters, DTMA, and Paul Gross, Buchart-Horn, were sworn in and gave testimony. Mr. Watters testified that moving flood prone areas of the facility to a second floor would minimize future potential flood damage. DTMA had received approval from the Board of Supervisors to proceed with the improvements to the facility on May 22, 2012. In the meantime, the projected costs of the project have increased to 60.5% of the value of the property, which puts the project over the 50% increase threshold and therefore necessitates new approval.

Mr. Watters requested that the testimony involved in the previously-granted relief be incorporated into this request for relief, as there are no new changes.

Mr. Emerick added that for the Township, it is more economically feasible to salvage the existing building rather than to relocate it.

Chairman Tafuto questioned whether the time-lag of the equilibrating internal hydrostatic forces were taken into consideration in the project scope. Mr. Gross replied that plans have been submitted dealing with hydrostatic issues.

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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.

**D. Hearing in the Case of Burget & Associates, Inc. (2013-58)**  
**Property location: 810 West Chocolate Avenue**

This property, located in the Industrial zoning district, is improved with a nonresidential building, commonly referred to as Curry's Mill. The applicant is proposing to redesign the previously-approved parking lot on the property. Relief is sought from interior landscaping requirements within a parking facility, specifically related to the number and location of the proposed landscaping and parking.

Steve Dzuramin of Wix, Wenger & Weidner; Jim Rafferty, Tana Properties; and Joe Burget, Burget & Associates, Inc., were sworn in and gave testimony. Mr. Burget stated that a previous land swap agreement with the adjacent neighbor has been abandoned, necessitating the redesign of the parking area. Six additional spaces have been added to the western edge of the property and three spaces have been added to an interior green space island.

Mr. Dzuramin requested that all testimony from previous hearings on the property be incorporated into this hearing.

Mr. Burget reviewed the plan changes. 7.8% green space will be located within the parking area. Five trees will be located inside the parking area, and four trees will be located outside the parking area. Overall there will be 74 parking spaces which will accommodate seating for 213 people. The parking area will be five feet from the western property line.

**PUBLIC COMMENT**

Ambrose Heinz, attorney for the adjacent neighbor, objected to the request for incorporation, stating that his client believes there have been too many changes to the plan and the new proposals will affect his property. Mr. Heinz also stated that the use variance was not advertised properly and should not be permitted to be discussed.

Todd Wilfong, adjacent neighbor, was sworn in and gave testimony. Mr. Wilfong stated that the proposed land swap is an area that collects stormwater runoff. Mr. Wilfong is also concerned about parking so close to the property line due to the use of trucks and forklifts on his property. He is concerned about possible vehicle damage and safety. Mr. Wilfong stated that a 30-foot easement agreement between the two property owners has been in existence since 1960.

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Chairman Tafuto asked whether the applicant would consider continuing the case to allow for more time to negotiate a solution.

Mr. Dzuramin replied that his client feels no solution can be reached and would like to move forward.

Mr. Burget added that the applicant is willing to remove four parking spaces to reach the required 10% interior green space, as well as to include all 9 required trees in the parking lot interior, thus leaving only the western setback as the only requested variance.

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 The Greenskeeper (2013-59)**  
**Property location: 502 Sophia Circle, Hummelstown**

This property, located in the Suburban Residential zoning district, is improved with a single family dwelling. The applicant is proposing to construct a rear patio, pergola, outdoor fireplace, and storage shed. Relief is sought from the minimum front yard and side yard setback requirements for detached accessory uses.

Eric Allebach, The Greenskeeper, and Frank Jimenez, property owner, were sworn in and gave testimony.

Mr. Allebach stated that the lot is irregularly shaped and has three street frontages. During the hearing, the applicant indicated that the landowner no longer desires to construct the shed and therefore requested that the application be amended to no longer include the request for relief regarding setbacks for the storage shed. The outdoor fireplace will be 27 feet from the property line adjacent to Waltonville Road.

Mr. Williams added that the new 885-square-foot patio and 48-square-foot walkway will bring the impervious cover to 21.1%.

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 Gladys Wertley (2013-56); the Derry Township Municipal Authority (2013-57); Burget & Associates, Inc. (2013-58); and The Greenskeeper (2013-59) and directed the Solicitor to prepare the draft decisions on each case for formal action at the October, 2013 meeting.

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