

**TOWNSHIP OF DERRY  
BOARD OF SUPERVISORS**

**PUBLIC HEARING**

**Monday, October 21, 2013**

600 Clearwater Road, Hershey, Pennsylvania 17033

**CALL TO ORDER**

The October 21, 2013 Public Hearing of the Township of Derry Board of Supervisors was called to order at 6:00 p.m. by Supervisor Marc A. Moyer.

**ROLL CALL**

***Supervisors Present:***

Sandy A. Ballard  
John Foley, Jr.  
Marc A. Moyer, Secretary

***Supervisors Absent:***

E. Christopher Abruzzo, Chairman  
Kelly C. Fedeli, Vice-Chairman

**Also Present:**

Charles E. Emerick, Director of Community Development  
Jenelle Stumpf, Community Development  
James N. Negley, Township Manager/Township Treasurer  
Jon Yost, Solicitor  
Brenda Van Deursen, Recorder

**Public Present:** Julia Fure, Frank Ferrari, Herbert Reynolds, James Stough, Sandi Orth, Bill Orth, Mikie Minto, Michael Minto, Bill Woodring, Judy Woodring, Steven Walls, Mike Leonard, Diane Leonard, Ruth Kiebler, Phil G., Judith Borland, Teresa Peschel, George Porter, Cheryl Rowe, Randy Rowe, Dennis Drobenak, Rita Brightbill, Rich Gamble, Matt Weir, Mr. and Mrs. William P., Lisa DiVittore, Julie Kullman, Abe Brandt, Jr.

**NEW BUSINESS:**

The purpose of the hearing is for public comment regarding proposed Ordinance No. 639, which would amend Chapter 225 (Zoning) of the Code of the Township of Derry by expanding the Chocolate Avenue Preservation Overlay District and the Downtown Commercial Sign Overlay District.

**Charles Emerick, Director of Community Development** – This Ordinance proposes to encompass all lands in the Village Core zoning district and all the land in the Downtown Commercial zoning district, and extend across the lands of Norfolk Southern railroad to encompass the tract of land commonly known as the “Silos Tract” (which is in the Industrial zoning district).

This amendment is strongly supported by our 1991 Comprehensive Plan as well as the more recent citizen's survey and Comprehensive Plan Study Group findings. In February 2013, conversations were started that the Chocolate Avenue Preservation Overlay District should be expanded to include all properties in the Township that are zoned Downtown Commercial and Village Core as well as the Silo Tract that is zoned Industrial in anticipation of the downtown being developed, offering a layer of protection in design standards. In the Chocolate Avenue portion of our Comprehensive Plan, it noted the intent of establishing a Design Review District and the creation of the Design Review Board is to preserve, protect, enhance, and maintain the existing architectural values, historic character, and cohesive image of the Chocolate Avenue corridor. The review and approval process is intended to create an atmosphere for compatible growth, and to assure that new structures rehabilitated existing structures and related landscape improvements will be in keeping with the character of the area. It noted that the scope and boundaries subject to the Design Review should include both sides of Chocolate Avenue for its full length within the Township and extend in-depth to include any existing proposed or zoned areas subject to commercial development.

This adoption will make the Design Review Board a review agency for activities inside of this district. The Board has operated in the Township for the last 20 years overseeing 340 cases with only one appeal. Without the proposed extension of the District there is no protection of architectural style, no say in continuity of street front activity, no oversight of open space and parking layout and no meaningful way to maintain the quality, character, and visual continuity of the proposed improvements.

These standards would only affect any change within the District. Anything that is there now will be grandfathered. Presently, in the fee schedule, if there is an improvement proposed that is less than \$2,500, there is no fee for the Design Review Board to review the proposal. If the improvement is proposed at more than \$2,500, there is a flat fee of \$25. The submission window for getting in front of the Design Review Board is 15 days ahead of their meeting.

**PUBLIC/VISITOR COMMENT:**

**Julie Kullman, 22 Hockersville Road** – Ms. Kullman said her home is a 1950's rancher cinder block and needs a lot of work. She does not understand why this little house would be preserved. Supervisor Foley said he doesn't believe they would preserve that particular home and structure, but if there should be changes made then it would fall under the review of the architectural committee. She still does not see why she would need approval on her home if she makes any changes. Supervisor Ballard said the idea is to encourage folks to make improvements in keeping with the Overlay district.

**Mike Minto, 8 Hockersville Road** – Mr. Minto asked who decides what the standard is. It is his property and he doesn't think the Board should decide what he does with it. He said if a property owner makes an improvement on his property without permission it will be the police enforcing this. Would you really send men with guns to a home to enforce this ordinance?

**Mr. DiVittore, 22 Hockersville Road** – Mr. DiVittore said he is a life long resident of Swatara Station. There are about 65 homes from the memorial on Chocolate all the way up to Reese's and down to Swatara Creek and south of Mill Street that meets Hockersville Road. At one time those

65 houses in that area had three convenience stores, two general stores, a post office, a train station for pedestrians, a motorcycle shop, a bicycle shop and a drug store on the other side. What kind of preservation are you doing in Swatara area when none of those entities are there now? He ought to be able to paint his house any color he wants. He doesn't understand why the change.

**David Romanoski, 243 S. Mill Rd., Hummelstown** – Mr. Romanoski thanked Mr. Emerick for talking with him because it clarified a lot of questions he had. He has five properties that are going to be affected by this proposed ordinance. One of the things he questions is the deciding factor. He mentioned that recent decisions made by the State Supreme Court have ruled that no ordinance can be passed by a local Township or Borough that is ambiguous. Since there are no defined standards as to what is preservation and what is not preservation we fall into that ambiguity of what is right and what is wrong. How do we know what standard we have to build to or repair our house to? Unless we get some concrete guidelines, this is very ambiguous.

**Diane Leonard, 66 Cedar Avenue** – Mrs. Leonard's property is on 337 West Chocolate Avenue. Her concern is who will come into power to make the decision. Why don't we trust the residents and owners of properties that have a lot of money invested in their homes? She mentioned that her property has to be accessed by an alley or through Rite-Aid because there is no clear infrastructure to get to them and yet she would have to get approval to paint her home. She believes there is a double standard here. She does not like the idea that a group of eight people on the Design Review Board have the right to approve or disprove something that she feels is an appropriate change to her property.

**Mike Leonard, 66 Cedar Avenue** – Mr. Leonard owns property at 337 West Chocolate Avenue. Mr. Emerick went over things with him and he appreciated it but he doesn't think any more regulations are needed. He believes there are hidden costs besides the permit fee. He asked the Board to consider what they are imposing to the owners of this area.

**Julia Fure, 19 Mallard Road** – Ms. Fure said she does not feel part of the Chocolate Avenue Preservation because her house is on a dead end street facing the back of the factory. Currently, there is a big hole in her street of which the Township is not going to be fixing because it looks like it is for draining issues. She opposes the ordinance.

**Dennis Dobenack, 13 Hockersville Road** – The only building in his neighborhood that deserves historic preservation is the Old Train Station. It is a beautiful building and should be preserved. His neighborhood is old and the people buying the houses aren't buying them to live in, but to fix them up to create rental income. Unfortunately, a good portion of those people just care about the cash flow and the houses are not kept up as best as they could be. We should have an ordinance for rental buildings to be kept up to meet a standard. After so many years of paying taxes, he should have the right to do what he wants with his property. This is an intrusion and he doesn't see the benefit of it.

Supervisor Foley asked how many are here from Swatara Station and the response was a show of about 27 hands.

**Teresa Peschel, 48 Half Street** – Ms. Peschel bought her house because she did not want to live in a Homeowners Association where she would be told what she can do and cannot do on her property. She spent the last 12 years restoring her home. She keeps her property up and is against this change.

**Phil Guarno, 109 West Caracas Avenue** – Mr. Guarno owns property on Chocolate Avenue which is the main strip of town. He understands there are many different goals and opinions for this area. He understands the Chocolate Factory and Chocolate Avenue, but why would we want to interfere with the homes on Caracas and Swatara Station. He asked if he would have to get permission from the Design Review Board if he paints his door a different color, changes the lighting, adds a Jacuzzi, etc. Mr. Emerick said he would need approval for any exterior modifications. Mr. Guarno said he doesn't appreciate government selective enforcement. He is really nervous because he is going to have to ask permission of people and elected officials whom when he walks down the street or out of this room they won't look at him in a public environment because he differs in an opinion.

**Frank Ferrari, 7 Millard** – Mr. Ferrari said this Township needs to stop building in this town. Nobody is in favor of this project.

**Mikie Minto, 8 Hockersville Road** – Mrs. Minto mentioned that when they ask the Township for help, the people make snide comments and laugh because they don't feel it is a concern. They have had issues with the traffic because GPS says you can get across the railroad tracks. They have had their cars side-swiped and their fences have been taken down by a car. Supervisor Moyer asked if it is Township personnel that are making the comments. Mrs. Minto said yes. Supervisor Moyer said this is unacceptable behavior and she should let the Township know who the people are. Mrs. Minto said they very seldom get snow removal. If we are talking about preserving the land, the Township should address these issues that we are experiencing. Supervisor Moyer said unless we know about the lack of services, we cannot do anything about it. He encouraged her to let the Township know when they aren't getting the services needed. Supervisor Ballard added that if you are not satisfied with the response from the Township office, let the Board of Supervisors know. Mrs. Minto owns chickens and asked if they would be grandfathered in with this ordinance change. Mr. Emerick said the ordinance doesn't address chickens.

**Mr. DiVittore, 22 Hockersville Road** – Mr. DiVittore said he called twice about Railroad Street and Swatara Station quite some time ago. The road is still the same way from when he called. In the center of Peach Street grass is growing and the road is deteriorating.

**Steven Walls, 117 West Caracas** – Mr. Walls said he bought his home in October 1994. The house beside him has been owned by three different families since then. They tore down a huge tree to put a pool in and to add a vinyl fence. With all that, why would he have to ask what color to stain his deck.

**Judith Borland, 15 Hockersville** – Ms. Borland bought her property in 1991. Since that time, they have little traffic except trucks that do not belong there and tourists that get lost. There is no one that comes back to look at the preservation of their properties. The owners who live there upkeep their properties, but the people who bought properties for rentals do not. The grass at the train

station is never cut unless Dennis Leonard cuts it. Why preserve something if they don't keep the property up?

**Rich Gamble, Hockersville Road** – Mr. Gamble said as you look at existing zone and the projected new zone you can see who the majority property owners involved in that area are and who has the greatest interest. He mentioned a report done on the tax base that indicated 47% of the people who pick up the biggest tab of taxes are private residents. If you want to make it a corporate town, take away our taxes.

**William Pope, 111 and 113 East Caracas Avenue** – Mr. Pope and his wife lived at this address for over 37 years. They retired 15-16 years ago and about 10 years ago, they moved out of their house into an RV trailer. They never fixed up their places because they assumed the Hershey Company was going to buy it. They have been informed by the Hershey Historical Society that Mr. Pope may have the only original worker's house left in the community. It was built in 1903, the year the Hershey Company was incorporated. Mr. Hershey built houses for his workers because he cared about his people. It was a wonderful place, but today there is no vision. If you had just stayed with the principal of the man, this community would still have the vision Mr. Hershey intended. Since the sale of his properties is not going to happen, he will have to fix them up for renters. He will make improvements and will never ask permission for any of it. Mr. Pope said, "He does not know if there will be trouble or not, but you better bring guns because he will kill you in a heartbeat." If anybody wants to buy his properties for \$300,000 they can have them. Mr. Pope said, "Do not send people with guns to his house or they will be fired on. He will fire first. Today will be a good day to die. Never use force on him."

**Meeta Patel, 210 Hockersville Road** – Ms. Patel said their plan for a hotel is approved. She wondered if the color they chose in the plan has to be changed. Mr. Emerick said since they pulled permits for the building, they may proceed with the building no matter what is decided.

Supervisor Moyer thanked everyone for their comments and said the Board will take the comments under advisement.

#### **ADJOURNMENT**

Chairman Moyer called for an adjournment. Supervisor Foley moved to adjourn the Public Hearing at 7:10 p.m. Supervisor Ballard seconded. ***Motion carried, 3-0.***

SUBMITTED BY:

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Marc A. Moyer  
Township Secretary

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Brenda Van Deursen  
Recording Secretary