

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
March 16, 2011

CALL TO ORDER

The March 16, 2011 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Angello in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Chairman Michael Angello; Secretary Frank Nardo; Member William Tafuto; Member Rick Hammer

Board members absent: Vice Chairman Matthew Davies

Also Present: Anthony Nestico, Solicitor to the Board; Charles Emerick, Assistant Director of Community Development; Pam Packer, Court Reporter; Tracy Telesha, Stenographer

Public registering attendance: Joe Burget, Jr., Burget & Assoc., Inc.; Raj Patel, VA; Blaine & Ginny Rogers, 152 Clark Road; Ellen Brier, 77 Tice Avenue; George Ferguson, 153 Fishburn Road; Bill Landis, Sand Hill Road; Julie Clingan, 485 E. Main Street, Hummelstown; David Phelps, 10 Hillside Avenue; Harjit Singh, 7 Jacobs Circle Drive; Charlie Suhr, Stevens & Lee, Harrisburg; Gwen Wise-Weigle, 208 Clark Road; Chris Marozin, 121 Clark Road; Jon Sheppard, 243 Clark Road; Meeta Patel, Jay Maruti, Inc.; John Foley, Hess Realty; Steve Dilello, 220 Clark Road

APPROVAL OF MINUTES

On a motion by Member Hammer, seconded by Member Tafuto, and a unanimous vote, the February 16, 2011 minutes were approved.

OLD BUSINESS

None.

NEW BUSINESS

A. Hearing in the Case of Julie A. Clingan (2011-02)
Property location: 485 E. Main Street, Hummelstown

This property, located in the Business Office and General Sign Overlay zoning districts, is improved with a salon and spa. The applicant is requesting relief to retain a sign exceeding the height and area requirements of the ordinance.

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Relief is sought as follows:

- a. A Special Exception from Article 27, Section 225-129.B(1)(d) regarding sign size

Julie Clingan was sworn in and gave testimony. Ms. Clingan stated that due to the Township's measuring method, her 27.75 square foot sign is over the permitted size. The sign features a decorative rosette at the top which causes the total height of the sign to be measured from that point even though the sign itself does not occupy that area.

Ms. Clingan stated that the sign-maker assured her that the proper permits had been acquired. No permits are on file.

Ms. Clingan stated that the sign is not obstructing traffic visibility. The business itself is located along a lightly traveled road and the salon is secluded at 120 feet from the road. Ms. Clingan said that other businesses in the area have much larger signage.

Member Tafuto suggested the applicant take photographs of the sign in context to her business and the surrounding area.

Ms. Clingan requested a continuance to gather further information for her case.

On a motion made by Secretary Nardo and seconded by Member Tafuto, a continuance of Case 2011-02 was approved.

B. Hearing in the Case of McDonald's USA, LLC (2011-03)
Property location: 611 E. Main Street, Hummelstown

This property, located in the General Commercial and General Sign Overlay zoning districts, is presently improved with a restaurant. The applicant is proposing to rebuild the restaurant and install new signage.

Relief is sought as follows:

- a. A Special Exception from Section 225-129.B(2)(c) regarding allowance for larger signs and greater total sign area.
- b. A Variance from Article 27, Section 129.B regarding signs.

Charlie Suhr and Michael Jietner were sworn in and gave testimony. Mr. Jietner stated that the existing main sign is 455 square feet and 36 feet high and features a reader

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board. The proposed main sign will be 157 square feet and 36 feet high and will no longer have a reader board.

Mr. Jietner stated that the height of the sign is necessary for it to be seen due to the train bridge obstructing the view along Hersheypark Drive. Nearby signs include:

Cocoa Grill, which is 40 feet high and 200 square feet in area.

Wendy's, which is 29 feet high and 270 square feet in area.

Papa John's, which is 30 feet high and 112 square feet in area.

No other persons provided testimony at this hearing.

Chairman Angello 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 Jay Maruti, Inc. (2011-04)

Property location: 126, 204, 208, 210 & 218 Hockersville Road, Hershey

126 Hockersville Road is located in the Downtown Commercial zoning district and is improved with a CVS Store/Pharmacy and a dwelling. 204, 208, and 210 Hockersville Road are located in the Neighborhood Commercial zoning district and are improved with a motel and a residential building. 218 Hockersville Road is located in the Neighborhood Commercial zoning district and is improved with a dwelling. Petitioner is proposing to construct a new hotel occupying 204, 208, and 210 Hockersville Road.

Relief is sought as follows:

- a. A Variance from Section 225-10.B(3) regarding expansion of a nonconforming use outside of the lot area.
- b. A Variance from Section 225-10.B(4) regarding expansion of a nonconforming use.

Mark Winter, Joe Burget and Raj Patel were sworn in and gave testimony.

Mr. Burget stated that the owner recently purchased a residence adjacent to the property and entered into an agreement with the CVS Store/Pharmacy, which is adjacent to the hotel property, for construction of a driveway along the property line. The agreement will be filed with PennDOT for their approval.

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Mr. Burget also stated that since the adjoining residential lot has been purchased, it allows for an additional 18-foot connecting access driveway from the proposed hotel to Third Avenue. The 18 feet is necessary due to the slope of the property.

Chairman Angello questioned whether a second access drive is necessary. Chuck Emerick stated that having a secondary access drive is beneficial in the event of an emergency.

Mr. Emerick further stated that a landscape buffer along the alleyway is required, but not needed along the Petrina property since it is now owned by Mr. Patel.

No other persons provided testimony at this hearing.

Chairman Angello 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 Swatara Station Partners, LLC (2011-05)
Property location: Woodland Avenue and Hillside Road, Hershey

This property, located in the Agricultural/Conservation zoning district, is unimproved. The applicant is proposing to subdivide the 17.5 acres into 5 lots.

Relief is sought as follows:

- a. A Variance from Article 34, Section 225-163.D regarding minimum lot depth.
- b. A Variance from Article 34, Section 225-163.D & C regarding minimum lot width.

Jon Sheppard was sworn in and gave testimony.

Mr. Sheppard stated that Woodland Avenue ends in a steep slope, making a cul-de-sac impossible to configure to service all five lots. Two cul-de-sacs will be created, one at the end of each street. The resulting bulb of the cul-de-sac will create a distance less than 150 feet in one area on both lot #3 and lot #5.

Mr. Sheppard also stated that the property line for lot #4 and lot #5 is on the existing swale so as not to burden either homeowner.

Mr. Emerick stated that the property can by-right be subdivided into five lots without need for relief.

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PUBLIC COMMENT

Chris Marozin was sworn in and gave testimony. Mr. Marozin stated that he installed a swale on his property directed towards the Township's storm sewer. He is concerned that additional run-off could affect his property.

Mr. Emerick stated that the Zoning Hearing Board cannot make decisions regarding stormwater.

No other persons provided testimony at this hearing.

Chairman Angello 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.

DELIBERATIONS

The Board met to deliberate in the cases of McDonald's USA, LLC (2011-03); Jay Maruti, Inc. (2011-04); and Swatara Station Partners, LLC (2011-05) and directed the Solicitor to prepare the draft decisions on each case for formal action at the April, 2011 meeting.

