

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**April 20, 2011**

**CALL TO ORDER**

The April 20, 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; Vice Chairman Matthew Davies; Secretary Frank Nardo; Member Rick Hammer

Board members absent: Member William Tafuto

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: Ed & Lynnea Pellissier, 206 Peach Avenue; John Potochny, 1429 Stone Cutter Circle, Hummelstown; Robert & Mary Smith, 671 Meadow Rose Court, Hummelstown; Massimo Rizzotto, Thomas J. Carricato & Sons; Bushra Melton, 129 Apple Lane; Marilyn Downing, 137 Apple Lane; John Mengel, 1319 Chocolate Avenue; Sandy Ballard, 650 Cocoa Avenue; Tim Winters, 208 Maple Avenue

**APPROVAL OF MINUTES**

On a motion by Member Hammer, seconded by Secretary Nardo, and a unanimous vote, the March 16, 2011 minutes were approved with the following correction:

Page 2, Michael Gietner's name should be spelled Michael Jietner.

**OLD BUSINESS**

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

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**B. Adoption of Decision in the Case of Jay Maruti, Inc. (2011-04)**  
**Property location: 126, 204, 208, 210 & 218 Hockersville Road, Hershey**

**C. Adoption of Decision in the Case of Swatara Station Partners, LLC (2011-05)**  
**Property location: Woodland Avenue & Hillside Road, Hershey**

On a motion by Member Hammer, seconded by Secretary Nardo, and a unanimous vote, the decisions for items a-c were adopted by consent agenda.

**NEW BUSINESS**

**A. Hearing in the Case of Robert and Mary Smith (2011-06)**  
**Property location: 65 E. Areba Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a 2-unit dwelling and a detached 4-car garage. The applicant is proposing to raze the 18'-4" by 36' garage and replace it with one measuring 26' by 36'.

Relief is sought as follows:

- a. A Special Exception from Article 3, Section 225-10.B regarding floor area
- b. A Variance from Article 8, Section 225-36.F regarding impervious coverage
- c. A Variance from Article 8, Section 225-36.E and 225-10.B(4) regarding vegetative cover

Robert Smith was sworn in and gave testimony. Mr. Smith stated that the current garage is in disrepair and only 17 feet wide in the interior which does not easily accommodate a modern car. The height of the proposed

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garage would remain at 18'-6". Mr. Smith also stated that the proposed garage would increase the floor area by 44.26%, but will be similar in size to garages in the neighborhood.

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.

**B. Hearing in the Case of Thomas Carricato & Sons (2011-07)**  
**Property location: 1082 Sand Hill Road, Hershey**

This property, located in the Agricultural/Conservation zoning district, is presently improved with a single family dwelling currently under construction. The applicant is proposing to further improve the property with a 3-car detached garage exceeding 20 feet in height.

Relief is sought as follows:

- a. A Variance from Section 225-25(1)(2) regarding maximum height

Representative for the applicant Massimo Rizzotto and applicant Tim Winters were sworn in and gave testimony. Mr. Rizzotto stated that in order to maintain the aesthetics of the property, the roofline of the garage needs to be 23'-7" to match the home.

Chairman Angello asked if the applicant was agreeable to incorporate the previous hearing related to this property into the current hearing. Mr. Winters agreed to do so.

Mr. Emerick further clarified that attached garages could be built to a height of 35 feet.

No other persons provided testimony at this hearing.

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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 Bushra A. Melton (2011-08)**  
**Property location: 129 Apple Lane, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to establish a family child care home.

Relief is sought as follows:

- a. A Special Exception from Article 8, Section 225-34.A regarding establishment of a family child care home
- b. A Variance from Article 25, Section 225-98.A regarding minimum lot area

Bushra Melton was sworn in and gave testimony. Ms. Melton stated a 52' by 67' by 64' fence with two self-closing gates is being installed around her rear yard. Ms. Melton's property is a total of .42 acres. In addition to the fence, Ms. Melton added that her driveway will be expanding from the existing 43' by 11' by adding a new area measuring 9' by 41' to allow more off-street parking.

Ms. Melton stated that no other changes or signage will be added and the appearance of the home will not change. Ms. Melton intends to watch three children in addition to her own three.

**PUBLIC COMMENT**

Marilyn Downing was sworn in and gave testimony. Ms. Downing stated that she is a neighbor and she supports the proposed day care. Ms. Downing did state that she has general traffic safety concerns in the neighborhood.

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Ed Pellissier was sworn in and gave testimony. Mr. Pellissier stated that he is a neighbor and inquired whether or not Ms. Melton would be prohibited from expanding the day care in the future.

Mr. Emerick replied that zoning prohibits larger day care centers in that 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, she has 30 days to appeal the decision.

**D. Hearing in the Case of John H. and Patricia Mengel (2011-09)**  
**Property location: 1319 E. Chocolate Avenue, Hershey**

This property, located in the Neighborhood Commercial zoning district, is improved with a Dairy Queen currently being renovated. The applicant is proposing to remove and update existing signage with current logos.

Relief is sought as follows:

- a. A Special Exception from Article 27, Section 225-129.B(2)(c) regarding sign area
- b. A Variance from Article 27, Section 225-129.B(1)(c) regarding sign dimension
- c. A Variance from Article 27, Section 225-129.B(2)(a) regarding allowable sign area

John Mengel was sworn in and gave testimony. Mr. Mengel stated that he is the new owner of the Dairy Queen store and is currently updating the design. As a requirement of the updates, the Dairy Queen logo must be included in the new signage. Mr. Mengel stated that the current pole sign located in the driveway is 58 square feet in dimension and the new proposed pole sign will be 51.46 square feet in area. The new proposed

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pole sign will be 17'-6" in height. Mr. Mengel stated that the height is needed due to the location of the sign in the middle of the parking lot for both visibility and clearance. Currently the Dairy Queen sign is obscured on the west side by the Dimitri's sign and by trees on the eastern side.

Chairman Angello questioned whether the applicant would be willing to agree to a condition where the sign would not hang over the right-of-way. Mr. Mengel agreed to this condition.

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 7:00 p.m.

**DELIBERATIONS**

The Board met to deliberate in the cases of Robert and Mary Smith (2011-06), Thomas Carricato & Sons (2011-07), Bushra Melton (2011-08), and John H. and Patricia Mengel (2011-09) and directed the Solicitor to prepare the draft decisions on each case for formal action at the May, 2011 meeting.

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