

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
July 18, 2012**

CALL TO ORDER

The July 18, 2012 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Vice Chairman Hammer in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Vice Chairman Rick Hammer; Secretary Matthew Davies; Member Philip Wood; Member Michael Angello

Board members absent: Chairman William Tafuto

Also Present: Anthony Nestico, Solicitor to the Board; Charles Emerick, Director of Community Development; Brandon Williams, Assistant Director of Community Development; Diane Foltz, Court Reporter; Tracy Telesha, Stenographer

Public registering attendance: Troy Valenti, Wendy's VMA; Thomas Alexander, 960 E. Governor Road; Kathy Gulliver, 968 E. Maple Street, Palmyra; Tim Anderson, Pepper Hamilton, LLP; Fran & Steve Bevan, 1265 Jill Drive, Hummelstown; Chris Fricchione, Shentel/NB&C; Wesley Winner, Shentel/NB&C; John Baptista, Advantage; Tom Zolmer, AT&T

APPROVAL OF MINUTES

On a motion by Secretary Davies, seconded by Member Angello, and a unanimous vote, the June 20, 2012 minutes were approved.

OLD BUSINESS

- A. Adoption of Decision in the Case of Warren and Sheila Lyons (2012-12)
Property location: 1633 E. Derry Road, Hershey**
- B. Adoption of Decision in the Case of Panera Bread, c/o Cindy Mehrtens of Answers, Inc. (2012-13)
Property location: 1178 Mae Street, Hummelstown**
- C. Adoption of Decision in the Case of Christopher Grudi (2012-15)
Property location: 451 W. Areba Avenue, Hershey**
- D. Adoption of Decision in the Case of James A. Nardo (2012-16)
Property location: 818 Reese Avenue, Hershey**

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**E. Adoption of Decision in the Case of David Sachs (2012-17)
Property location: 827 Glen Road, Hershey**

On a motion by Secretary Davies, seconded by Member Angello, and a unanimous vote, the decisions for items a-e were adopted by consent agenda.

**F. Continuance in the Case of Justin Engle (2012-10)
Property location: 150 W. Chocolate Avenue, Hershey**

The applicant requested a continuance to the August meeting.

NEW BUSINESS

**A. Hearing in the Case of H. Stephen and Frances J. Bevan (2012-18)
Property location: 1265 Jill Drive, Hummelstown**

This property, located in the Suburban Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct a garden shed.

Relief is sought as follows:

- a. A Variance from Article 7, Section 225-32.D(2)(c) regarding side yard setback

Stephen Bevan and Fran Bevan were sworn in and gave testimony. Mr. Bevan stated that he would like to place a 12 foot by 16 foot storage shed to accommodate his gardening supplies. Due to the narrow lot and developed location of the gardens, the shed must be situated 13 feet from the side yard line. Mr. Bevan testified that no other location on his property is suitable for the shed. Mr. Bevan added that an existing border of evergreen trees is along the property line and would prohibit visibility of his shed from his neighbor's property.

Mr. Williams questioned the height of the proposed shed. Mr. Bevan replied that it would be well below the limit of 20 feet.

No other persons provided testimony at this hearing.

Vice Chairman Hammer 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 Wesley Winner of Network Building and Consulting (2012-19)
Property location: 215 W. Chocolate Avenue, Hershey**

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- C. Hearing in the Case of Wesley Winner of Network Building and Consulting (2012-20)**
Property location: 175 E. Hersheypark Drive, Hershey

- D. Hearing in the Case of Wesley Winner of Network Building and Consulting (2012-21)**
Property location: 671 Hilltop Road, Hummelstown

The property at 215 West Chocolate Avenue, located in the Downtown Commercial and Chocolate Avenue Preservation Overlay zoning districts, is presently improved with an apartment building with multiple telecommunications facilities. The applicant is proposing to replace 6 existing antennas with 6 new antennas and 2 microwave dishes.

The property at 175 East Hersheypark Drive, located in the Public zoning district, is presently improved with the Pennsylvania State Police training facility and a water tower with multiple telecommunications facilities. The applicant is proposing to replace 6 existing antennas with 6 new antennas and 2 microwave dishes.

The property at 671 Hilltop Road, located in the Agricultural/Conservation zoning district, is presently improved with a cellular tower with multiple telecommunications facilities. The applicant is proposing to replace 6 existing antennas with 6 new antennas.

Relief is sought as follows:

- a. A Variance from Section 225-197.B regarding antenna size

Member Wood recused himself from these cases.

Wesley Winner and Chris Fricchione were sworn in and gave testimony. Mr. Winner stated that in order for the new 4G technology to be accessible in the area, new antennas need to be installed. Seventy-two inches is the smallest antenna that will still allow for 4G technology.

No other persons provided testimony at this hearing.

Vice Chairman Hammer informed the applicant that the Board has 45 days to render decisions and if the applicant is aggrieved in any way, they have 30 days to appeal the decisions.

- E. Hearing in the Case of Russell Wertz (2012-22)**
Property location: 1315 E. Caracas Avenue, Hershey

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The applicant requested a continuance.

F. Hearing in the Case of Thomas W. Alexander (2012-23)
Property location: 960 E. Governor Road, Hershey

This property, located in the Agricultural/Conservation zoning district, is improved with a single-family dwelling. The applicant is proposing to construct a first floor master bedroom suite addition.

Relief is sought as follows:

- a. A Variance from Section 225-10.A(2) regarding expansion of a non-conforming use.

Thomas Alexander was sworn in and gave testimony. Due to health reasons, Mr. Alexander would like to add a first floor master bedroom which will line up with an existing garage that is 6.5 feet from the property line. Mr. Alexander is proposing a 416 square foot addition that will add 15.85% impervious cover. Mr. Alexander stated that only a small portion of the addition will be 6.5 feet from the property line and the lot is irregularly shaped. Mr. Alexander's nearest neighbor's home is not adjacent and sits further back from his home.

No other persons provided testimony at this hearing.

Vice Chairman Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, he has 30 days to appeal the decision.

G. Hearing in the Case of Thomas M. DeDonatis (2012-24)
Property location: 1080 Swatara Road, Hershey

This property, located in the Agricultural/Conservation zoning district, is in the process of being improved with a single-family dwelling.

Relief is sought as follows:

- a. A Variance from Article 5, Section 225-25.I(a) regarding maximum height

Scott Paterno, property owner, was sworn in and gave testimony. Mr. Paterno stated that while his home was originally planned to have standard egress windows for the lower level, it was discovered during excavation that a walk-out basement was possible. Due to safety concerns, Mr. Paterno stated that he would prefer a walk-out door from

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his basement. Mr. Paterno stated that his home is located on a 3.5 acre hilltop lot surrounded by Hershey Trust lands.

No other persons provided testimony at this hearing.

Vice Chairman Hammer informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, he has 30 days to appeal the decision.

**H. Hearing in the Case of New Cingular Wireless PCS, LLC
(2012-25)
Property location: 170 Washington Avenue, Hershey**

This property, located in the Agricultural/Conservation zoning district, is improved with a 122 foot AT&T communications monopole. The applicant is proposing to replace three existing antennas with three new antennas.

Member Wood recused himself from this case.

Relief is sought as follows:

- a. A Variance from Article 34, Section 225-197.B regarding maximum antenna height

Kate Durson and Brock Riffel were sworn in and gave testimony. Ms Durson stated that three 96 inch antennas will replace three existing antennas to allow 4G technology access in the area. Mr. Riffel also added that the whip antenna on top of the 117.5 foot tower will be removed as it is no longer necessary.

Mr. Emerick questioned what determined the length necessary for the antennas. Mr. Riffel replied that proximity of adjacent antennas determined the size and that currently for 4G, 72 inches to 96 inches is the range with 96" being the current maximum.

Mr. Emerick questioned whether the antennas could be mounted horizontally. To which, Mr. Riffel replied that in some cases that is possible, but not in the majority.

No other persons provided testimony at this hearing.

Vice Chairman Hammer 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.

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**I. Hearing in the Case of Valenti Mid-Atlantic Realty, LLC (2012-26)
Property location: 625 E. Main Street, Hummelstown**

This property, located in the General Commercial and General Sign zoning districts, is improved with a Wendy's fast-food restaurant. The applicant is proposing to erect a wall sign on the southern-facing wall above the drive-thru window.

Relief is sought as follows:

- a. A Variance from Section 225-129.B(1)(d) regarding sign dimensions
- b. A Variance from Section 129.B(2)(a & b) regarding sign area
- c. A Variance from Section 225-129.B(3)(d) regarding total number of signs
- d. A Variance from Section 225-129.B(1)(j)[1] regarding directional signs
- e. A Variance from Section 225-130 regarding enlarging non-conforming signs

Troy Valenti and Tim Anderson were sworn in and gave testimony. Mr. Valenti stated that after completion of the new Wendy's restaurant it was determined that the company's "cameo" logo would be visible above the drive-thru window. Mr. Anderson requested that all testimony from the previous hearing be incorporated into case 2012-26.

Upon a motion made by Member Angello, seconded by Member Wood and a unanimous vote, the previous hearing's testimony was incorporated.

No other persons provided testimony at this hearing.

Vice Chairman Hammer 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 H. Stephen and Frances Bevan (2012-18); Wesley Winner of Network Building and Consulting (2012-19, 20, 21); Thomas W. Alexander, (2012-23); Thomas M. DeDonatis (2012-24); New Cingular Wireless PCS, LLC (2012-25); and Valenti Mid-Atlantic Realty, LLC (2012-26) and directed the Solicitor to prepare the draft decisions on each case for formal action at the August, 2012 meeting.

