

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
July 20, 2011

CALL TO ORDER

The July 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 member 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: Robert Buchter; Milton Purcell, 345 West Chocolate Avenue; Janet Armstrong, 1329 Quail Hollow Road; Rich Mattis, 316 Spring Road, Palmyra; Tev & Judy Tevethia, 120 Sand Road; Jake Rissinger, 25 Trinidad Avenue; Larry Nelson, 306 Bahia Avenue; Frank Donaghue, 959 Muirfield Drive; Glen Bollinger, Bollinger Builders; Fred & Glenda Speicher, 2438 Bachmanville Road; Bill Liedholm, Hershey Lodge; Ira Ropson, 418 Center Street; Jon Sheppard, 243 Clark Road; Jim DeShong, 2460 Bachmanville Road; Sandy Ballard, 650 Cocoa Avenue; Doug Miller, 228 Clark Road; Ty Kugan, 247 Clark Road; Michael Small, 210 S. Railroad, Palmyra; Doug Wolfe, 45 Trinidad Avenue; Randall Wright, 1342 E. Derry Road; Jeff Neft, 30 Kraybill Drive, Palmyra; Beth Heister, 59 Trinidad Avenue; Tyler Boland, 59 Trinidad Avenue; Kendra Wolfe, 45 Trinidad Avenue

APPROVAL OF MINUTES

On a motion by Vice Chairman Davies, seconded by Secretary Nardo, and a unanimous vote, the June 15, 2011 minutes were approved with the following changes:

Page 4, paragraph 1 should read "to increase *outdoor* seating by 16 seats"

Page 4, paragraph 3 should read "Mr. Guarino added that no *live* music will be played"

OLD BUSINESS

- A. Adoption of Decision in the Case of Ted and Donna Mandes (2011-18)**
Property location: 1343 Harding Avenue, Hershey

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- B. Adoption of Decision in the Case of M RAE, Inc., Fenicci's of Hershey (2011-19)**
Property location: 102 W. Chocolate Avenue, Hershey
- C. Adoption of Decision in the Case of Chocolate Town Inn, Inc. d/b/a Days Inn of Hershey (2011-20)**
Property location: 350 W. Chocolate Avenue, Hershey
- D. Adoption of Decision in the Case of Kirk and Madeline Saville (2011-21)**
Property location: 220 Para Avenue, Hershey
- E. Adoption of Decision in the Case of Swatara Station Partners (2011-22)**
Property location: Woodland Avenue and Hillside Road, Hershey

On a motion by Vice Chairman Davies seconded by Secretary Nardo, and a majority vote, the decisions for items a-e were adopted by consent agenda. Chairman Angello and Member Hammer abstained from voting.

- F. Adoption of Decision in the Case of Apex Maintenance Group (2011-23)**
Property location: 550 Homestead Road, Hershey

Solicitor Nestico recommended the following conditions:

- a. LED lights will remain off between the hours of 10pm and 7am.
- b. The sign message will not be changed during the 30 minute period before and after arrival and dismissal times.
- c. The sign message may only be changed once an hour.
- d. The sign message may not scroll
- e. The brightness level will be determined by the Township's zoning officer.

On a motion by Secretary Nardo seconded by Member Hammer, and a unanimous vote, the decision for item f was adopted.

- G. Continuance in the Case of Laurence and Colette Nelson (2011-11)**
Property location: 306 Bahia Avenue, Hershey

On a motion by Secretary Nardo seconded by Member Hammer, and a unanimous vote, the case was continued by the request of the applicant.

- H. Continuance in the Case of Ty J. Kreamer (2011-24)**
Property location: 240 Clark Road, Hershey

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This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to relocate a property line.

Relief is sought as follows:

- a. A Variance from Article 4, Section 225-36.D(1)(b) regarding rear yard setback
- b. A Variance from Article 8, Section 225-36.F regarding impervious coverage
- c. A Variance from Article 3, Section 225-10.A regarding expansion of a non-conforming building

Ty Kreamer was sworn in and gave testimony. Mr. Kreamer stated that in 2009, the adjacent property was purchased by Swatara Station Partners and a survey at that time revealed that part of the Kreamers' property was on Swatara Station Partners' property. Rear yard relief is needed for a small area that comes within 23 feet of the property line.

Mr. Kreamer read a letter from his neighbor June C. Schultz in which she commended the improvements to Mr. Kreamer's property and her support for the proposed property line relocation.

Mr. Emerick stated that previous permits were reviewed and at the time all appeared to conform to the property dimensions. Mr. Emerick further clarified that Mr. Kreamer's impervious coverage calculations are conservative and most likely contain less than 32% total coverage.

Mr. Kreamer stated that an existing improperly placed pin was used for prior calculations.

PUBLIC COMMENT

Jon Sheppard, Swatara Station Partners, was sworn in and gave testimony. Mr. Sheppard read a letter from his business partner Linda Misceovich stating that due to inconsistent property measurements on three previous permit applications (2006: .79 acres; 2008: .66 acres; 2011: .73 acres), the area of Mr. Kreamer's property cannot be determined until a survey is completed.

Member Hammer questioned whether Mr. Sheppard believes the survey he had done is accurate and shows the Kreamer property is conforming for rear yard setback. Mr. Sheppard stated that his property was surveyed and he is confident the abutting property line is accurate.

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Chairman Angello asked whether Mr. Sheppard questioned the Kreamer permit application discrepancy and if Mr. Kreamer was involved in any meetings regarding the property. Mr. Sheppard stated that he did question it and sent Mr. Kreamer letters, but did not meet in person.

Mr. Sheppard reviewed 8 photographs of the Kreamer property and described various storm water runoff issues including a 6-8 inch deep trench cut into his property by runoff from the Kreamer property.

Mr. Sheppard stated that he has a boundary agreement in which Mr. Kreamer agrees to manage storm water runoff. Mr. Sheppard stated that he sold enough property to Mr. Kreamer to be able to create a storm water management system which has not yet been completed.

Mr. Sheppard asserts that Mr. Kreamer should have an as-built survey completed to determine accurate calculations of his property.

Mr. Kreamer stated that the existing driveway on his property was built in 1969 and no changes have been done to it. Mr. Kreamer further added that he removed three out-buildings, two large dog kennels, a dumpster and five oil barrels that had been left on the property when he purchased it. Mr. Kreamer clarified that the trenches depicted in the photographs were caused by his skid loader while working this past spring and not by storm water runoff. Mr. Kreamer further stated that the proposed slope for storm water management in the boundary agreement cannot be completed until Swatara Station Partners completes the work on their property.

Ira Robson, neighbor on Center Street, was sworn in and gave testimony. Mr. Robson is concerned about storm water runoff drastically affecting his property and other Center Street neighbors.

Doug Miller was sworn in and gave testimony. Mr. Miller stated that he has noticed a large increase in storm water runoff and has had to place several large rocks on his property to divert runoff. Mr. Miller added that the muddy runoff goes directly into the sewer system.

Mr. Kreamer stated that he has installed rain water collection barrels and a dry creek bed and intends to do his portion of the storm water management according to the boundary agreement.

Sandy Ballard was sworn in and gave testimony and stated that she believes the Zoning Hearing Board needs to hold the line on impervious coverage requirements.

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Chairman Angello questioned whether Mr. Sheppard would be satisfied if Mr. Kreamer completes the storm water management plan. Mr. Sheppard affirmed that he would, but believes an as-built survey should be completed. Chairman Angello stated if the Zoning Hearing Board requires a survey it could very well show Mr. Kreamer is in compliance, but that would have no affect on storm water runoff issues in the area.

Mr. Kreamer requested a continuance.

On a motion by Member Hammer, seconded by Vice Chairman Davies, and a unanimous vote, case 2011-24 was continued.

NEW BUSINESS

A. Hearing in the Case of James Deshong (2011-25)
Property location: 2460 Bachmanville 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 carport.

Relief is sought as follows:

- a. A Variance from Article 5, Section 225-25.F(3) regarding side yard setback

James Deshong was sworn in and gave testimony. Mr. Deshong is proposing to erect a free-standing metal carport over an existing driveway.

Mr. Emerick stated that Mr. Deshong's home is unique due to being a residential home in an agricultural 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, he has 30 days to appeal the decision.

B. Hearing in the Case of Janet Armstrong (2011-26)
Property location: 1329 Quail Hollow Road, Hummelstown

This property, located in the Suburban Residential zoning district, is presently improved with a single family dwelling with attached garage. The applicant is proposing to expand the kitchen and garage area and add an egress window to the basement.

Relief is sought as follows:

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- a. A Variance from Article 7, Section 225-32.D(1)(c) regarding side yard setback

Janet Armstrong and Glenn Bollinger were sworn in and gave testimony. Ms. Armstrong stated that the proposed expansion will be 10 feet, 3 inches from the west side and 13 feet, 4 inches from the east side for the egress window.

Member Hammer questioned if there is currently a garage on the property. Ms. Armstrong replied that the new garage will be attached to the existing garage.

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.

C. Hearing in the Case of Milton W. Purcell (2011-27)
Property location: 345 W. Chocolate Avenue, Hershey

This property, located in the Downtown Commercial zoning district, is improved with a single family semidetached dwelling. The applicant is proposing to improve a portion of the dwelling for use as a beauty salon.

Relief is sought as follows:

- a. A Variance from Article 14, Section 225-60.A & C regarding lot density
- b. A Variance from Article 14, Section 225-60.D(3) regarding minimum yard depth
- c. A Variance from Article 14, Section 225-60.F regarding maximum impervious coverage

Robert Buchter was sworn in and gave testimony. Mr. Buchter stated that he owns both sides of a duplex that is currently divided into apartments. Mr. Buchter is proposing to convert one of the apartments into a beauty salon.

Mr. Buchter stated an additional 156 square feet of impervious coverage is necessary to accommodate a handicap-accessible space. Mr. Buchter further stated that if handicap accessibility into the building is required, he would prefer to have a lift installed rather than a ramp due to porch elevation.

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The proposed impervious coverage will be 69.39%. Currently there is no driving lane or back up area and Mr. Buchter doesn't intend to change that.

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, he has 30 days to appeal the decision.

**D. Hearing in the Case of John Jacob Rissinger (2011-28)
Property location: 25 Trinidad Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a commercial building. The applicant is proposing to add a 20 foot by 24 foot shed.

Relief is sought as follows:

- a. A Variance from Article 8, Section 225-36.F regarding maximum impervious coverage

John Jacob Rissinger was sworn in and gave testimony. Mr. Rissinger stated that he had a pre-fabricated shed placed on his property within the setbacks. The shed increased the impervious coverage by 1.5%. Mr. Rissinger added that he is planning to install 2 foot wide by 3 foot deep trenches along the side of the shed to assist with storm water runoff direction.

Mr. Emerick questioned whether Mr. Rissinger cut into the alleyway to install his shed. Mr. Rissinger replied that the only macadam that was cut into was on his property.

PUBLIC COMMENT

Doug Wolf, neighbor, was sworn in and gave testimony. Mr. Wolf stated that he believes the alley was placed in the wrong location and Mr. Rissinger's property line is actually on the yellow line. Mr. Wolf is concerned that re-locating the shed to be in compliance will make access to his driveway difficult.

Member Hammer questioned whether leaving the shed as it is currently positioned and out of compliance would make access to Mr. Wolf's driveway easier.

Mr. Rissinger stated that he would prefer to leave the shed as placed so long as Mr. Wolf is satisfied that his driveway access will be satisfactory.

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Mr. Emerick suggested that Mr. Rissinger request the additional 9 feet of relief in the form of a variance from Section 225-36.D(2)(c) regarding side yard setback.

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, he has 30 days to appeal the decision.

E. Hearing in the Case of Robin Schock Dickinson (2011-29)
Property location: 1345 E. Derry Road, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling and detached garage. The applicant is proposing to expand the footprint and add a second story to the detached garage.

Relief is sought as follows:

- a. A Variance from Article 3, Section 225-10 regarding expansion of a non-conforming structure

Rick McCann was sworn in and gave testimony. Mr. McCann is seeking to expand the dwelling by 44% with an expansion of the dwelling to be 438.25 square feet and 536.35 square feet to the second story of the garage.

Chairman Angello questioned what will be the purpose of the second floor of the garage. Mr. McCann replied that the property owner is an artist and will use the second floor for storage.

No other persons provided testimony at this hearing.

Chairman Davies 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.

F. Hearing in the Case of Dave and Mary Catherine Hess (2011-30)
Property location: 212 Maple Avenue, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling and one-car garage. The applicant is proposing to expand the garage.

Relief is sought as follows:

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- a. A Variance from Article 3, Section 225-10 regarding expansion of a non-conforming structure
- b. A Variance from Article 8, Section 225-36.F regarding maximum impervious coverage
- c. A Variance from Article 8, Section 225-36.D(2)(b) regarding rear yard setback

Dave Hess and Jeff Reitt were sworn in and gave testimony. Mr. Hess stated that he cannot use his current one-car garage due to its narrow width. Mr. Hess is proposing to increase his garage from 256 square feet to 616 square feet to be able to park two vehicles. Mr. Hess is also proposing side entry to his garage to increase safety by allowing him to turn around on his property and not into the alley.

Mr. Hess added that the proposed garage expansion will add 1,044 square feet of impervious coverage.

PUBLIC COMMENT

Bill Liedholm, neighbor, was sworn in and gave testimony. Mr. Liedholm stated that he supports the plan and agrees that side entry is the safest due to the configuration of the alley.

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.

G. Hearing in the Case of Frank T. and Lonna Donaghue (2011-31)
Property location: 158 Oak Lane, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling and attached garage. The applicant is proposing to expand the dwelling and add a second story.

Relief is sought as follows:

- a. A Variance from Article 3, Section 225-10.A regarding floor area expansion
- b. A Variance from Article 8, Section 225-36.D(1)(a) regarding front yard setback

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Frank Donaghue and Glenn Bollinger were sworn in and gave testimony. Mr. Donaghue stated that he is proposing to add a front porch and mud room to the first level and a second floor containing 4 bedrooms.

The additions will increase the home from 1,540 square feet to 3,256 square feet. The floor area will increase by 111%.

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.

**H. Hearing in the Case of William Liedholm, Hershey Lodge
(2011-32)
Property location: 325 University Drive, Hershey**

This property, located in the Commercial Recreation zoning district, is improved with The Hershey Lodge. The applicant is proposing to replace an existing sign with a new, larger sign.

Relief is sought as follows:

- a. A Variance from Article 27, Section 225-129.B(1)(l) regarding sign size and maximum number of signs

William Liedholm was sworn in and gave testimony. Mr. Liedholm stated that he is proposing to remove an existing sign for the Hershey Grill and replace it with a larger sign that will depict the new logo for the Hershey Grill and a sign for Enterprise car rental. The new proposed sign will be 42 square feet on a 10 foot pole.

Member Hammer questioned if the sign will be illuminated from within. Mr. Liedholm replied that the sign would be illuminated from within.

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 9:30 p.m.

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DELIBERATIONS

The Board met to deliberate in the cases of James Deshong (2011-25); Janet Armstrong (2011-26); Milton W. Purcell (2011-27); John Jacob Rissinger (2011-28); Robin Schock Dickinson (2011-29); Dave and Mary Catherine Hess (2011-30); Frank T. and Lonna H. Donaghue (2011-31); and William Liedholm, Hershey Lodge (2011-32) and directed the Solicitor to prepare the draft decisions on each case for formal action at the August, 2011 meeting.

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