

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**August 22, 2012**

**CALL TO ORDER**

The August 22, 2012 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Tafuto in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

**ROLL CALL**

Board members in attendance: Chairman William Tafuto; Member Philip Wood; Member Michael Angello

Board members absent: Vice Chairman Rick Hammer; Secretary Matthew Davies

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

Public registering attendance: Brad & Nancy Kiscadden, 1412 E. Derry Road, Hershey; Jeff Budgeon, Holy Trinity; Dave Gasper, 1311 Old Forge Road, Annville; Karen Albert, ARM Group, Inc.; Thomas Eckert, 433 N. Lingle Road; Tom DeDonatis, The DeDo Corp.; Sarah Messersmith, 128B Cocoa Avenue; Luishell Ortiz, 128B Cocoa Avenue; Tom Nehilla, Rhoads & Simon, LLP; Jack Billmyer, 337 W. Chocolate Avenue; William R. Haak, Holy Trinity Lutheran Church; Dennis Phillippy, Holy Trinity Lutheran Church

**APPROVAL OF MINUTES**

On a motion by Member Wood, seconded by Member Angello, and a unanimous vote, the July 18, 2012 minutes were approved.

**OLD BUSINESS**

- A. Adoption of Decision in the Case of H. Stephen and Frances J. Bevan (2012-18)**  
**Property location: 1265 Jill Drive, Hummelstown**
  
- B. Adoption of Decision in the Case of Wesley Winner of Network Building and Consulting (2012-19)**  
**Property location: 215 W. Chocolate Avenue, Hershey**
  
- C. Adoption of Decision in the Case of Wesley Winner of Network Building and Consulting (2012-20)**  
**Property location: 175 E. Hersheypark Drive, Hershey**

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- D. Adoption of Decision in the Case of Wesley Winner of Network Building and Consulting (2012-21)**  
**Property location: 671 Hilltop Road, Hummelstown**
- E. Adoption of Decision in the Case of Thomas W. Alexander (2012-23)**  
**Property location: 960 E. Governor Road, Hershey**
- F. Adoption of Decision in the Case of New Cingular Wireless PCS, LLC (2012-25)**  
**Property location: 170 Washington Avenue, Hershey**
- G. Adoption of Decision in the Case of Valenti Mid-Atlantic Realty, LLC (2012-26)**  
**Property location: 625 E. Main Street, Hummelstown**

Due to a lack of quorum, the decisions for items A-G will be adopted at a later date.

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

The applicant requested a continuance.

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

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

Relief is sought as follows:

- a. A Variance from Article 3, Section 225-10.A.2, regarding expansion of a non-conformity
- b. A Variance from Article 3, Section 225-10.A.6, regarding lateral expansion

Russell Wertz was sworn in and gave testimony. Mr. Wertz is proposing to convert the existing garage into a breezeway and extend the garage. Mr. Wertz stated that he is ill and needs a garage that can accommodate a vehicle, as the current garage is too narrow. The proposed garage expansion will increase the floor area by 78.94% and the breezeway will expand the home by 71.06%. Mr. Wertz stated that the garage, which is currently located 4 feet from the property line, will continue along that line and encroach no further.

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No other persons provided testimony at this hearing.

Chairman Tafuto 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.

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

Tom DeDonatis was sworn in and gave testimony in this continued hearing. Mr. DeDonatis stated that the home currently under construction has been pushed back further from the front yard property line. The topography of the lot will now allow for a walk-out basement which the owner prefers for safety and accessibility. Due to the steep slope of the property, the roof line will now be 36 feet 4 inches from the ground.

No other persons provided testimony at this hearing.

Chairman Tafuto 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.

**NEW BUSINESS**

**A. Hearing in the Case of Brad and Nancy Kiscadden (2012-27)**  
**Property location: 1412 E. Derry Road, Hershey**

This property, located in the Village Residential zoning district, is presently improved with a single family dwelling. The applicants are proposing to expand an existing detached garage.

Relief is sought as follows:

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

Brad and Nancy Kiscadden were sworn in and gave testimony. Mr. Kiscadden stated that he would like to use an existing concrete pad to expand his 16 by 20 foot garage to a 3-bay, 24 by 37 foot garage. Mr. Kiscadden said that he has reviewed his plans with his neighbors and they approve of the plans. Mr. Kiscadden stated that the roof over the center bay will be raised to accommodate a car lift for car maintenance use.

No other persons provided testimony at this hearing.

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Chairman Tafuto informed the applicants that the Board has 45 days to render a decision and if the applicants are aggrieved in any way, they have 30 days to appeal the decision.

**B. Hearing in the Case of Ekrem and Senada Abdic (2012-28)**  
**Property location: 441 Learden Road, Hershey**

This property, located in the Village Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct an addition and deck.

Relief is sought as follows:

- a. A Variance from Article 3, Section 225-10.A, regarding expansion of a non-conforming structure
- b. A Variance from Article 8, Section 225-36.F, regarding impervious cover

Ekrem and Senada Abdic were sworn in and gave testimony. Mr. Abdic stated that his family is outgrowing their older home and updates and space are needed. Mr. Abdic is proposing to construct an addition that will enlarge the kitchen and add a bedroom. The proposed addition will increase the dwelling by 53.27% and will increase the impervious cover to 33.78%.

No other persons provided testimony at this hearing.

Chairman Tafuto informed the applicants that the Board has 45 days to render a decision and if the applicants are aggrieved in any way, they have 30 days to appeal the decision.

**C. Hearing in the Case of ARM Group, Inc. (2012-29)**  
**Property location: 1129 W. Governor Road, Hershey**

Hearing officers Angello and Wood heard this case.

This property, located in the Neighborhood Commercial and General Sign zoning district, is presently improved with an office building. The applicant is proposing to retain a second sign along the West Governor Road street frontage.

Relief is sought as follows:

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

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Karen Albert was sworn in and gave testimony. Ms. Albert stated that a second tenant is being added to the office complex and there is a need to reconfigure the existing signage to accommodate the new tenant's name. The office building is 150 feet long and sits along a fast-moving artery.

No other persons provided testimony at this hearing.

Member 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 Jack Billmyer, Inc. (2012-30)**  
**Property location: 58 Cedar Avenue, Hershey**

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

Relief is sought as follows:

- a. A Variance from Article 3, Section 225-10.A.6, regarding expansion of a non-conforming use
- b. A Variance from Article 3, Section 225-36.D.2.B, regarding rear yard setback

Jack Billmyer was sworn in and gave testimony. Mr. Billmyer stated that his clients would like to use an existing concrete slab which is off the alley and does not interfere with the slope of the property. Mr. Billmyer stated that the carport will be located 3.5 feet from the rear yard property line.

No other persons provided testimony at this hearing.

Chairman Tafuto 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 David Gasper (2012-31)**  
**Property location: 222 W. Granada Avenue, Hershey**

This property, located in the Village Residential zoning district, is presently improved with a single family dwelling. The applicant is proposing to construct a patio roof.

Relief is sought as follows:

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- a. A Variance from Article 3, Section 225-10.A.6, regarding expansion of a non-conforming use
- b. A Variance from Article 3, Section 225-36.D.1.C, regarding side yard setback

David Gasper was sworn in and gave testimony. Mr. Gasper is proposing to construct a 12 by 15 foot roof over an existing patio. The home is located 6 feet from the property line and construction of the patio roof would continue the non-conformity. Mr. Gasper is constructing the roof to replace a temporary gazebo roof that was destroyed in a wind storm.

No other persons provided testimony at this hearing.

Chairman Tafuto 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.

**F. Hearing in the Case of The Evangelic Lutheran Church of the Holy Trinity (2012-32)**  
**Property location: 20 W. Granada Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a commercial building currently being used as a food bank. The applicant is proposing to raze the building and construct a parking lot for church use.

Relief is sought as follows:

- a. A Variance from Section 225-36.D(1)(a) regarding front yard setback
- b. A Variance from Section 225-36.D.(1)(b) regarding rear yard setback
- c. A Variance from Section 225-36.D.(1)(c) regarding side yard setback
- d. A Variance from Section 225-36.E regarding vegetative cover
- e. A Variance from Section 225-36.F regarding maximum impervious cover
- f. A Variance from Section 225-208.C regarding one year variance expiration

**G. Hearing in the Case of The Evangelic Lutheran Church of the Holy Trinity (2012-33)**  
**Property location: 128 Cocoa Avenue, Hershey**

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This property, located in the Village Residential zoning district, is improved with a residential dwelling. The applicant is proposing to raze the building and construct a parking lot for church use.

Relief is sought as follows:

- a. A Variance from Section 225-36.D(1)(a) regarding front yard setback
- b. A Variance from Section 225-36.D.(1)(b) regarding rear yard setback
- c. A Variance from Section 225-36.D.(1)(c) regarding side yard setback
- d. A Variance from Section 225-36.E regarding vegetative cover
- e. A Variance from Section 225-36.F regarding maximum impervious cover
- f. A Variance from Section 225-208.C regarding one year variance expiration

Jeff Budgeon was sworn in and gave testimony. Mr. Budgeon stated that in 2009, the church attempted to purchase an adjacent property. While unsuccessful with that purchase, the church did purchase a different property to the south of the church. The building currently being used as a food bank will not be necessary, as another food bank is currently under construction. The current need of the church is for more off-street parking to alleviate parking issues in the neighborhood.

Chairman Tafuto questioned whether pervious materials will be used for the parking areas. Mr. Budgeon replied that testing has been completed and successful pervious pavement installation can be used. Chairman Tafuto replied that the Zoning Hearing Board may be interested in seeing the testing results. Mr. Budgeon added that a stone infiltration base is proposed to be used under the pavement.

Member Wood asked what paving alternatives have been researched. Mr. Budgeon replied that pervious asphalt, concrete, eco-grid, and pavers were considered; however, from a financial standpoint, asphalt is the preferred option.

Brandon Williams added that the church should also request a variance from Section 225-33 regarding primary use as a parking area.

Mr. Budgeon requested a continuance to allow the applicant more time to gather information to present.

Hearings closed at 7:45 p.m.

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**DELIBERATIONS**

The Board met to deliberate in the cases of Russell Wertz (2012-22), Thomas M. DeDonatis (2012-24), Brad and Nancy Kiscadden (2012-27), Ekrem and Senada Abdic (2012-28), ARM Group, Inc. (2012-29), Jack Billmyer, Inc. (2012-30), and David Gasper (2012-31), and directed the Solicitor to prepare the draft decisions on each case for formal action at the September, 2012 meeting.

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