

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
August 24, 2011

CALL TO ORDER

The August 24, 2011 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:05 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; Member Rick Hammer; Member William Tafuto

Board members absent: Secretary Frank Nardo

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: Nick Berte; Dick Dougherty, 1005 Old West Chocolate Avenue; Barbara Myers, 412 Center Street; Jake Rissinger, 25 Trinidad Avenue; Larry Nelson, 306 Bahia Avenue; Paula Leicht, Mette, Evans & Woodside; Sara Steckbeck; Linda Misceovich, Swatara Station; Robert Buchter, P.E.; Dave Hess, 212 Maple Avenue; Lonna Donaghue, 158 Oak Lane; Michael H. Small, Esq., 210 S. Railroad Street, Palmyra; Jack Raudenbush, Raudenbush Engineering, Inc.; Steve McNulty, Hershey Entertainment & Resorts; Matthew McKenzie, 1340 Jill Drive, Hummelstown; Mike Oser, AT&T; Tom Zurawski, AT&T; Matt Edris, 170 W. Governor Road; Ty Creamer, 240 Clark Road; Kent Bachman, Hersheypark; Ralph O'Donnell, Jr., 1802 E. Granda Avenue; Jon Sheppard, 243 Clark Road; Sandy Ballard, 650 Cocoa Avenue; Tim and Brenda Winters, 208 Maple Avenue and 1082 Sand Hill Road; Daryl Byler, 671 Hill Church Road; Duane Byler, 905 Homestead Lane; Dwight Kuhn, 1406 Fishburn Road; Jack Alwine, 124 S. Lingle Avenue, Palmyra

APPROVAL OF MINUTES

On a motion by Vice Chairman Davies, seconded by Member Hammer, and a unanimous vote, the July 20, 2011 minutes were approved, noting that Member Tafuto was absent.

OLD BUSINESS

- A. Adoption of Decision in the Case of James Deshong (2011-25)**
Property location: 2460 Bachmanville Road, Hershey

- B. Adoption of Decision in the Case of Janet Armstrong (2011-26)**

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Property location: 1329 Quail Hollow Road, Hummelstown

- C. Adoption of Decision in the Case of Milton W. Purcell (2011-27)
Property location: 345 W. Chocolate Avenue, Hershey**
- D. Adoption of Decision in the Case of John Jacob Rissinger
(2011-28)
Property location: 25 Trinidad Avenue, Hershey**
- E. Adoption of Decision in the Case of Robin Schock Dickinson (2011-29)
Property location: 1345 E. Derry Road, Hershey**
- F. Adoption of Decision in the Case of Dave and Mary Catherine Hess (2011-30)
Property location: 212 Maple Avenue, Hershey**
- G. Adoption of Decision in the Case of Frank T. and Lonna Donaghue (2011-31)
Property location: 158 Oak Lane, Hershey**
- H. Adoption of Decision in the Case of William Liedholm, Hershey Lodge
(2011-32)
Property location: 325 University Drive, Hershey**

On a motion by Member Hammer, seconded by Vice Chairman Davies, and a majority vote, the decisions for items 'A' - 'H' were adopted by consent agenda. Member Tafuto abstained from voting.

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

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

Relief is sought as follows:

- a. A Variance regarding maximum impervious area

Laurence Nelson was sworn in and gave testimony. Mr. Nelson is proposing to add a 20' by 20' paver patio. Originally the patio was to be constructed of pervious materials (case 2008-56), but due to the location along a basement wall, Mr. Nelson believes water may drain against the home's foundation and therefore prefers to use impervious

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materials. The use of impervious materials would increase the impervious cover by 2.13%.

Member Tafuto stated that the mitigation calculations are incomplete and therefore inaccurate. Mr. Nelson withdrew the storm water calculations. Mr. Emerick added that the new storm water management policies require mitigation plans for projects over 5% impervious cover.

Mr. Nelson stated that the proposed detention area will keep more runoff on his property and will improve runoff to the adjacent properties.

PUBLIC COMMENT

Sandy Ballard stated that she believes the Township residents should strive to minimize impervious cover.

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.

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

PUBLIC COMMENT

Linda Misceovich, Swatara Station, stated that she would prefer case 2011-24 not be continued too often because she believes the case to which she as an interest has been delayed long enough.

On a motion by Member Hammer, seconded by Vice Chairman Davies, and a unanimous vote, the case was continued by the request of the applicant.

NEW BUSINESS

A. Hearing in the Case of David A. Quillen (2011-33)
Property location: 1126 Sand Hill Road, Hershey

On a motion by Member Hammer, seconded by Vice Chairman Davies, and a unanimous vote, the case was continued by the request of the applicant.

B. Hearing in the Case of Ralph O'Donnell, Jr. (2011-34)

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Property location: 1802 E. Granada Avenue, Hershey

This property, located in the Village Residential zoning district, is presently improved with two dwelling units, one is a mobile home. The applicant is proposing to remove the mobile home and replace it with a larger, modern mobile home.

Relief is sought as follows:

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

Ralph O'Donnell was sworn in and gave testimony. Mr. O'Donnell stated that he would like to replace a 12 x 56 foot 1975 mobile home due to the deteriorating condition of the home and replace it with a modern 13.4 x 68 foot manufactured home.

Mr. O'Donnell stated that industry standards for manufactured housing have changed and 13.4 feet wide is the minimum width currently available. The larger home would increase the non-conformity by 34.9%.

The larger home would increase the impervious cover, but to minimize that, Mr. O'Donnell will remove an existing 71.1 square foot shed so the total impervious cover will increase by 1.5%.

Mr. Emerick clarified that the property has two dwelling units – the mobile home which is not on a foundation but anchored on piers, and a modular home built on top of a 3-bay garage.

Mr. O'Donnell stated that one bay of the garage is for the tenant of the modular, one bay for the tenant of the manufactured home, and one bay is rented for storage purposes.

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.

C. Hearing in the Case of Hersey Entertainment & Resorts Company (2011-35)
Property location: 100 W. Hersheypark Drive, Hershey

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This property, located in the Commercial Entertainment and Floodplain Overlay zoning district, is improved with an entertainment complex. The applicant is proposing to construct a safety fence.

Relief is sought as follows:

- a. A Variance from Article 32, Section 225-150.C(2) regarding fences in a floodplain

Kent Bachmann was sworn in and gave testimony. Mr. Bachmann stated that in order to keep patrons out of a pond that is being created for the 2012 attraction, a safety fence will need to be constructed in the area below the 100 year floodplain.

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 Matt and Corinne Edris (2011-36)
Property location: 170 W. Governor Road, Hershey

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

Relief is sought as follows:

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

Matthew Edris was sworn in and gave testimony. Mr. Edris stated that he is interested in improving his home and creating more living space for his family.

Mr. Emerick added that the proposed addition would add 1,052 square feet of living space to the existing 1,697 square feet of living space, increasing it by 64%. The addition will be completely contained within the setbacks of the property.

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.

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E. Hearing in the Case of Daryl Byler (2011-37)
Property location: 671 Hill Church Road, Hummelstown

This property, located in the Agricultural/Conservation zoning district, is improved with a single family dwelling and detached garage. The applicant is proposing construct a second detached garage.

Relief is sought as follows:

- a. A Variance from Article 5, Section 225-25.I.(2) regarding accessory structure height

Daryl Byler was sworn in and gave testimony. Mr. Byler is proposing to add a second detached garage to his property. Mr. Byler stated that the garage height will be 26 feet due to the sloping lot and the proposed garage roofline will match with the adjacent detached garage.

Mr. Emerick added that the applicant will be removing some gravel area to reduce the impervious cover on the property.

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.

F. Hearing in the Case of Matthew and Sherry McKenzie (2011-38)
Property location: 1340 Jill Drive, Hummelstown

This property, located in the Suburban Residential zoning district, is improved with a single family dwelling. The applicants are proposing to expand the footprint of the dwelling and attach a 2-car garage.

Relief is sought as follows:

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

Matthew McKenzie was sworn in and gave testimony. Mr. McKenzie stated that the existing one-car garage is located in the basement of the home and only has 6 feet of clearance and is too low to accommodate his vehicle. Mr. McKenzie is also proposing to

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expand the current 9'-wide dining room which is too narrow to comfortably accommodate a table and chairs.

Mr. McKenzie is proposing to construct a 24' x 36' addition which will house a new two-car garage and additional living space. The proposed addition will encroach 4.4 feet into the side yard setback and 2.4 feet into the front yard setback due to the nature of the small lot.

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.

**G. Hearing in the Case of New Cingular Wireless PCS, LLC
(2011-39)
Property location: 311 Middletown Road, Hummelstown**

This property, located in the Agricultural/Conservation zoning district, is improved with an electric transmission and telecommunications tower. The applicant is proposing to attach three new antennas.

Relief is sought as follows:

- a. A Variance from Section 225-197.B regarding maximum antenna height
- b. A Variance from Section 225-197.L regarding landscaping screen

Paula Leight, Nick Berte, Mike Oser, and Mark Zurawski were sworn in and gave testimony.

Ms. Leight stated that the applicant is proposing to install three new antennas for AT&T to improve wireless and data service to the area. The antennas will be 6 feet, 6 feet, and 8 feet and will be attached to the top of the existing tower structure.

Mr. Zurawski stated that the new antennas will service the new 4G technology and the height of the antenna is determined by the band width, area, and other factors.

The applicant is also requesting a waiver from the requirement of a landscaping screen due to wildlife eating the landscaping and the remote location of the tower.

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.

**H. Hearing in the Case of New Cingular Wireless PCS, LLC
(2011-40)**
Property location: 215 W. Chocolate Avenue, Hershey

This property, located in the Downtown Commercial and Chocolate Avenue Preservation Overlay zoning district, is improved with an apartment building and multiple telecommunications facilities. The applicant is proposing to attach three new antennas.

Relief is sought as follows:

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

Paula Leight, Nick Berte, Mike Oser, and Mark Zurawski were sworn in and gave testimony.

Ms. Leight stated that the applicant is proposing to install three new antennas for AT&T to improve wireless and data service to the area. The antennas will be 5 feet, 73 inches, and 73 inches, and will be attached to the top of the existing tower structure on top of the apartment building.

Mr. Zurawski stated that the new antennas will service the new 4G technology and the height of the antenna is determined by the band width, area, and other factors.

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.

**I. Hearing in the Case of New Cingular Wireless PCS, LLC
(2011-41)**
Property location: 883 W. Chocolate Avenue, Hershey

This property, located in the General Commercial zoning district, is improved with a private club and multiple telecommunications facilities. The applicant is proposing to attach two new antennas.

Relief is sought as follows:

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

Paula Leight, Nick Berte, Mike Oser, and Mark Zurawski were sworn in and gave testimony.

Ms. Leight stated that the applicant is proposing to install two new antennas for AT&T to improve wireless and data service to the area. The antennas will be 73 inches and 73 inches and will be attached to the top of the existing tower structure. In addition, a concrete pad will be constructed within the existing equipment compound.

Mr. Zurawski stated that the new antennas will service the new 4G technology and the height of the antenna is determined by the band width, area, and other factors.

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.

J. Hearing in the Case of Dick Dougherty (2011-42)
Property location: 1005 W. Chocolate Avenue, Hershey

This property, located in the Industrial zoning district, is improved with a 2 ½ story brick structure. The applicant is proposing to use the building as office space.

Relief is sought as follows:

- a. A Variance from Article 28, Section 225-133 regarding minimum off-street parking requirements
- b. A Variance from Article 34, Section 225-173 regarding permitted encroachments into required yard areas
- c. A Variance from Section 225-76 regarding side yard setback

Mike Small, Jack Raudenbush, and Dick Dougherty were sworn in and gave testimony.

Mr. Small stated the applicant is requesting a reduction in the number of required parking spaces, as well as relief that would permit the construction of new spaces within the front and rear yard setback. Mr. Small added that the building, which had previously been a home, had been converted at an unknown date into office space. Due to the nature of the surrounding area, returning the building to a residential home is not practical. The applicant is proposing to use the building as office space for his adjacent business.

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Mr. Raudenbush explained that parking is currently located on the west side of the building and that eight spaces now exist. While parking requirements call for 17 spaces, the applicant estimates parking needs at five spaces maximum.

Mr. Raudenbush further explained that due to the small lot size of approximately one acre, the parking area encroaches into the front yard by 17 feet and the side yard by 15 feet.

Mr. Emerick questioned if the applicant will be removing the gravel between the road and the front of the building. Mr. Dougherty replied that he would do so.

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 8:25 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Laurence and Colette Nelson (2011-11), Ralph O'Donnell, Jr. (2011-34), Hershey Entertainment & Resorts Company (2011-35), Matt and Corinne Edris (2011-36), Daryl Byler (2011-37), Matthew and Sherry McKenzie (2011-38), New Cingular Wireless PCS, LLC (2011-39,40,41), and Dick Dougherty (2011-42) and directed the Solicitor to prepare the draft decisions on each case for formal action at the September, 2011 meeting.

