

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
May 20, 2015**

CALL TO ORDER

The May 20, 2015 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Michael Kushner in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Chairman Michael Kushner; Secretary Matthew Luttrell; Member Mark Shrift; Member Catherine Wagner

Board members absent: Vice Chairman Philip Wood

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

Public Registering Attendance: Charleton Zimmerman, 119 N. Roosevelt Avenue; Charles Huth, *The Sun*; Jim Rafferty, Event Horizon, LLC; Cliff Myers, 1245 Harding Avenue; Vickie Feinstein, 1319 Quail Hollow, Hummelstown; Mark Winter, 310 W. Chocolate Avenue; Todd Wenrich, 1408 E. Caracas Avenue; Bob Kramer, J. K. Mechanical, Inc.; Ken Craul, J. K. Mechanical, Inc.; Jay R. Peifer, Peifer Bros.; Craig Smith, RGS Associates; Jim Snyder, Snyder, Secary & Associates; Dave Getz, Wix, Wenger & Weidner; Chris Brown, Derck & Edson; Justin Engle; George P. Wolfe, Plato Ghinos, Derrick Skillings, William Hoy – Shaner Hotel Group

APPROVAL OF MINUTES

On a motion by Secretary Luttrell, seconded by Member Shrift, and a unanimous vote, the April 15, 2015 minutes were approved as written.

OLD BUSINESS

- A. **Adoption of Decision in the Case of Yingst Engineers & Associates, Inc. (2015-06)**
Property location: 1581 Cortland Circle, Hummelstown

- B. **Adoption of Decision in the Case of Event Horizon, LLC, d/b/a The Mill (2015-07)**
Property location: 810, 852, and 858 West Chocolate Avenue, Hershey

On a motion made by Secretary Luttrell, seconded by Member Shrift, and a unanimous vote, the decisions for items A and B were adopted by consent agenda.

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- C. Adoption of Decision in the Case of Charter Homes at Hershey, Inc. (2015-08)**
Property location: Deer Run Commons, Hummelstown

- D. Adoption of Decision in the Case of Donald J. and Debra M. Dinello (2015-09)**
Property location: 1321 Fox Glen Drive, Hummelstown

On a motion made by Secretary Luttrell, seconded by Chairman Kushner, and a unanimous vote, the decisions for items C and D were adopted by consent agenda.

NEW BUSINESS

- A. Hearing in the case of Peifer Brothers (2015-10)**
Property location: 1512 Rear East Caracas Avenue, Hershey

This property, located in the Village Residential zoning district, is improved with a self-storage facility. The applicant is proposing to construct a ground-mounted solar panel array and accessory building to house the control panel equipment. Relief is sought in the form of a special exception in order to substitute a non-conforming use with another non-conforming use.

Jay Peifer, Peifer Brothers, and Ken Craul, J. K. Mechanical, were sworn in and gave testimony. Mr. Peifer stated that he would like to demolish the existing self-storage facility and replace it with a ¾ megawatt solar panel array. Mr. Peifer believes the new non-conforming use will create less noise and traffic than the previous use. Mr. Craul added that the proposed facility may encroach slightly into the 100-year floodplain and he is currently working with the PA Department of Environmental Protection to determine this.

Mr. Emerick stated that a condition should be made that all development will be in compliance with the Township's floodplain regulations as defined in the Zoning Ordinance.

Mr. Craul stated that the utility company will use existing poles or possibly add additional poles if necessary to harvest the electricity created. Mr. Craul also noted that the accessory building will have a dusk-to-dawn light for security.

Chairman Kushner questioned how stormwater would be managed. Mr. Craul stated that the panels would be elevated above grassy areas, which will be maintained by the property owner.

Todd Wenrich, a nearby neighbor, stated that he would like to see a copy of the proposed layout. Mr. Peifer shared the drawing with him.

No other persons provided testimony at this hearing.

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Chairman Kushner 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 Cliff Myers (2015-11)
Property location: 1251 East Chocolate Avenue, Hershey

This property, located in the Neighborhood Commercial zoning district, is improved with two commercial retail/office buildings. The applicant is proposing to install a wall sign on the eastern building. Relief is sought from the requirements for the permitted location of a wall sign on the face of the building.

Cliff Myers and Attorney Mark Winter were sworn in and gave testimony. Mr. Winter stated that the property owner would like to install a 36½-foot long by 24-inch tall internally illuminated sign with blue lettering above the second floor windows.

Mr. Myers stated that due to an existing awning that covers a porch roof between the first and second floor, locating the sign above the second floor windows was the only placement option. Mr. Myers added that the light would be turned off overnight.

Chairman Kushner questioned whether there was a monument sign at the location. Mr. Winter stated that the monument sign is present and lists the three businesses associated with the property.

No other persons provided testimony at this hearing.

Chairman Kushner 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 Scott and Vickie Feinstein (2015-12)
Property location: 1319 Quail Hollow Road, Hummelstown

This property, located in the Suburban Residential zoning district, is improved with a single family dwelling. The applicants are proposing to construct an attached 2-car garage on the eastern side of the dwelling. Relief is sought regarding side yard setback requirements.

Vickie Feinstein was sworn in and gave testimony. Ms. Feinstein stated that her homeowners association does not allow accessory sheds and she requires additional storage space. Her lot is narrow with a steep slope in the rear. The proposed garage will be six feet from the side property line. Ms. Feinstein has received written approval from her HOA regarding her proposed plan.

No other persons provided testimony at this hearing.

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Chairman Kushner 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 Douglas and Julie Erwin (2015-13)
Property location: 505 Sophia Circle, Hummelstown

The applicants requested that this case be continued to the June meeting.

E. Hearing in the Case of Sherri Laurusevage (2015-14)
Property location: 1604 Bachmanville 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 demolish the existing garage and construct a larger garage in its place. Relief is sought from the expansion limits of an existing non-conforming building and the front yard setback requirements.

Sherri Laurusevage was sworn in and gave testimony. Ms. Laurusevage stated that the existing structure being used as a detached garage was built without an adequate foundation and is in disrepair. She is proposing to remove that structure and replace it with a four-car detached garage.

Ms. Laurusevage stated that both she and her husband have company vehicles as well as personal vehicles and they would like to have them housed off the street.

Ms. Laurusevage also added that due to the unique configuration of her property, she has three front yards. The location of the proposed garage is also limited due to a large oak tree on the property. Ms. Laurusevage stated that impervious coverage will be in compliance with Township regulations.

No other persons provided testimony at this hearing.

Chairman Kushner 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.

F. Hearing in the Case of Chafia Capital Partners, LLC (2015-15)
Property location: 515, 555, 565 East Chocolate Avenue, Hershey

This property, located in the Neighborhood Commercial zoning district, is currently improved with an office building (555 E. Chocolate Ave.), and was once improved with an auto dealership (515 East Chocolate Ave.). The remaining area is currently undeveloped (565 E. Chocolate Ave.). The applicant is proposing to subdivide the properties, maintain the existing office building, and construct a new hotel and a new office building, with related parking facilities, including a parking structure. Relief is sought regarding the substitution of a nonconforming use for the hotel; dimensional relief for the buildings, including maximum floor

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area ratio, front, rear, and side yard setback requirements, minimum vegetative cover, maximum impervious cover, and maximum building height; dimensional relief for parking, including minimum parking stall depth, aisle width, interior landscaping percentages, minimum number of off-street parking spaces, general parking requirements related to sharing of parking across properties, and minimum number of loading spaces; and lastly, dimensional variances regarding the maximum number of signs per lot and for the required access to a building over 40 feet in height.

Attorney Dave Getz; Jim Snyder of Snyder, Secary & Associates; Jim Kwon of Chafia Capital Partners, LLC; and Plato Ghinos of Shaner Hotel Group were sworn in and gave testimony.

Mr. Getz stated that the lot contains six parcels with one currently containing a 12,000-square-foot office building. The proposed plan is to combine all the parcels and divide it into two lots with Lot 1 containing a hotel and Lot 2 containing the existing office building, a proposed office building, and a proposed parking structure. The lot is shallow at only 177 feet in depth when compared to its length of over 1,200 feet, and it contains both a utility and sewer easement traversing a portion of the property that the applicant has identified on the plans submitted with the application. PennDOT has approved two driveway cuts for the entire parcel.

Lot 1 will contain a 120 guest room Courtyard by Marriott hotel, which will also have a small café and meeting room for guests.

Lot 2 will contain a new medical office building with parking underneath, the existing office building, and a multi-story parking structure at the eastern end.

Member Wagner questioned whether there would be enough parking for all uses in the morning. Mr. Plato replied that the hotel is geared towards business travelers who are typically out before 8:00 AM, and the offices will not be open for regular business when the weekend pleasure travelers would be at the hotel.

Secretary Luttrell questioned why the parking garage is so remote, and he questioned whether it would be better for it to be centrally located.

Mr. Snyder replied that the proposed medical office will have parking underneath it. He added that the location of the garage was dictated by the existing office building and the hotel's preferred location. Sidewalks will connect all the uses on the lot.

Secretary Luttrell questioned whether there would be a buffer to protect vehicles on Route 422 from headlights from head-in parked cars. Mr. Snyder replied that no buffer has been planned.

Secretary Luttrell also questioned whether the fire department has reviewed the hotel plan. Mr. Snyder stated that it will be shared with them during the land development plan process.

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Member Shrift stated that due to the location of this property at the eastern gateway entrance to the downtown area, he would like to see aesthetically pleasing landscaping, particularly in the parking garage area.

Chairman Kushner asked if valet parking is used at other Courtyard properties. Mr. Ghinos replied that there are a few and such use depends on the needs of the hotel property and location.

Mr. Emerick stated his concerns that a café could draw outside visitors to the hotel, resulting in not enough parking being available.

Mr. Ghinos clarified that the café features 30-40 seats and serves breakfast and light snacks in the evening. There is no wait staff.

Member Wagner asked if alcohol would be served in the café. Mr. Ghinos replied that he is not sure, as a license would need to be secured. Mr. Ghinos invited the Zoning Hearing Board and Township staff to visit his existing Courtyard, located in Mechanicsburg, to view the café area.

Secretary Luttrell questioned if the café was advertised on the hotel's outside signage. Mr. Ghinos responded that it was not.

Mr. Emerick stated that in addition to a shared parking agreement, a variance to accommodate parking for the café will be needed. Mr. Getz requested that the record be updated to include this additional variance request.

Chairman Kushner asked how stormwater would be managed. Mr. Snyder stated that the stormwater runoff would be managed underground.

No other persons provided testimony at this hearing.

Chairman Kushner 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 DSG Development Corporation (2015-16)
Property location: 794 Middletown Road, Hummelstown

This property, located in the Attached Residential zoning district, is improved with a single family dwelling. The applicant is proposing to maintain the dwelling and subdivide the property in order to construct three new single family dwellings. Relief is sought from the requirements for a cluster development regarding the minimum cartway and right-of-way width for a common driveway.

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Craig Smith of RGS Associates was sworn in and gave testimony. Mr. Smith is proposing to maintain the 18-foot width of roadway into the development, including a 4-foot sidewalk for pedestrian safety. Mr. Smith added that the road would only serve four homes.

No other persons provided testimony at this hearing.

Chairman Kushner 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 8:15 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Peifer Brothers (2015-10); Cliff Myers (2015-11); Scott and Vickie Feinstein (2015-12); Sherri Laurusevage (2015-14); Chafia Capital Partners, LLC (2015-15); and DSG Development Corporation (2015-16) and directed the Solicitor to prepare the draft decisions on each case for formal action at the June, 2015 meeting.

Submitted by:

Matthew R. Luttrell, Secretary