

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**August 17, 2016**

**CALL TO ORDER**

The August 17, 2016 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Vice Chairman Philip Wood in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

**ROLL CALL**

Board members in attendance: Vice Chairman Philip Wood; Member Steve Moniak; Member Mark Shrift

Board members absent: Chairman Michael Kushner; Secretary Matthew Luttrell

Also Present: Megan Huff, Solicitor to the Board; Brandon Williams, Assistant Director of Community Development; Diane Fultz, Court Reporter; Jenelle Stumpf, Community Development Secretary

Public Registering Attendance: Dave and Jessica Sevenack, 304 Beech Ave.; Ameer Farhat, A to Z Construction, LLC; Matt Lusk, Aquavisions, Inc.; Jay Franklin, 1064 Woodridge Dr.; Karen Ogle, 506 W. Areba Ave.

**APPROVAL OF MINUTES**

On a motion by Member Moniak, seconded by Member Shrift, and a majority vote, the July 20, 2016 minutes were approved as written. Vice Chairman Wood abstained from voting because he was not present at the July meeting.

**OLD BUSINESS**

- A. Adoption of Decision in the Case of Valley Pools, Inc. (2016-17)**  
**Property location: 506 West Areba Avenue, Hershey**
- B. Adoption of Decision in the Case of Laura and Michael Grudzinski (2016-18)**  
**Property location: 405 Chestnut Avenue, Hershey**
- C. Adoption of Decision in the Case of Providence Place (2016-20)**  
**Property location: 1528 Sand Hill Road, Hummelstown**

On a motion by Member Moniak, seconded by Member Shrift, and a majority vote, the decisions were adopted by consent agenda. Vice Chairman Wood abstained from voting because he was not present at the July meeting.

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**D. Continuance in the Case of Jay Franklin (2016-19)**  
**Property location: 1064 Woodridge Drive, Hershey**

This property, located in the Agricultural/Conservation zoning district, is improved with a single family dwelling. The applicant is proposing to construct a pool and pool house on the property. Relief is sought from minimum rear yard setback and maximum impervious cover requirements.

Vice Chairman Wood explained that since he was not present at the July hearing and there are only three Board members present at this hearing, the applicant has two options: 1) The Board can appoint Members Moniak and Shrift as hearing officers for the continued hearing, which will be combined with July's testimony in order for a Decision to be rendered at the September meeting; 2) The applicant can present testimony at tonight's hearing to Vice Chairman Wood and Members Moniak and Shrift. A transcript of the July testimony would then have to be prepared for Vice Chairman Wood to review so that a Decision could be rendered at the September meeting based on all three votes.

Jay Franklin stated that since aspects of the proposal have changed, Option 2 would be preferable. On a motion by Member Moniak, seconded by Vice Chairman Wood, and a unanimous vote, the Board appointed Members Shrift and Moniak as hearing officers for tonight's testimony.

Mr. Franklin asked if there is a timing difference between the two options, regarding the Decision being rendered. Jenelle Stumpf, Community Development Secretary, noted that the applicant will be required to pay for the cost of having the court reporter prepare the transcript from the July hearing. Solicitor Huff stated that if the applicant is comfortable doing so, they can reiterate the testimony from the July hearing so that Vice Chairman Wood, Member Shrift, and Member Moniak can render a Decision without the need for a transcript of the July hearing. Mr. Franklin stated that he is comfortable with Solicitor Huff's suggestion.

Member Moniak made a motion to rescind his previous motion to appoint hearing officers. Vice Chairman Wood seconded the motion, which was passed unanimously.

Jay Franklin, property owner, and Matt Lusk, President of Aquavisions, Inc., were sworn in and gave testimony. Mr. Lusk stated that, with regard to the request for relief from the maximum permitted impervious cover, the lot has unique physical conditions. The long, narrow portion of the driveway from the cul-de-sac to the dwelling, which Mr. Lusk measured as approximately 280 long and 10 feet wide, creates about 3% of the existing impervious cover on the lot. The rest of the driveway and the existing walkway in the front of the home make up approximately 6.7% of the lot's total impervious cover. The

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proposed pool and pool house will cause the total impervious cover of the lot to exceed the maximum of 15% by 3.69%.

Mr. Lusk stated that most of reason for the applicant's request for relief regarding the 50-foot rear yard setback is due to the difficult topography of the lot. The lot slopes down and away from the home and also from right to left (when looking toward the rear property line), so there are two slopes to deal with in trying to place a level pool in the backyard. The applicant had originally proposed the pool and patios' location to be about 18 feet from the rear property line. Mr. Lusk has since redesigned the layout of the pool and patios and his goal is to place the pool at least 20 feet from the rear property line. There is not a lot of developable area in the rear of the lot, especially given the 15% impervious cover maximum. Mr. Lusk does not feel comfortable moving the pool closer to the house because of slopes.

Vice Chairman Wood asked Mr. Lusk to elaborate on the stormwater management plan that has been incorporated into the project. Mr. Lusk explained that since last month's hearing, Yingst Engineers has submitted a plan with specifics for a permeable paver system for the pool patios. The pool water overflow will tie into the public sewer system; plus, this pool design has a catch basin in the event that it overflows.

Regarding Mr. Franklin's testimony that he will be maintaining a tree line, Member Shrift asked for clarification that the buffer between the Franklins' rear property line and Shank Park exists solely on Shank Park property, and asked if Mr. Franklin has removed all of the trees in his backyard. Mr. Franklin responded that not all of the trees in the backyard have been removed. The majority of the trees in the buffer are on Shank Park property. Member Shrift commented that current aerial maps show the Franklins' fence with no trees anywhere near it. Mr. Franklin stated that he would be happy to add more trees if the Board deems it necessary.

Vice Chairman Wood asked if Mr. Franklin has received any feedback from his neighbors. Mr. Franklin answered that he showed the plan to the neighbors and they are all in favor of the improvements.

Member Moniak questioned if the applicant considered placing the pool in the area behind the garage. Mr. Lusk responded that he considered the area but decided against it due to the topography.

No other persons provided testimony.

Vice Chairman Wood 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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**NEW BUSINESS**

**A. Hearing in the Case of A to Z Construction (2016-21)**  
**Property location: 304 Beech Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant proposes to construct a two-story addition that will expand the existing lower-level attached garage and provide additional living space to the rear of the dwelling. Relief is sought from expansion limitations for a nonconforming structure.

Ameer Farhat, owner of A to Z Construction, and Jessica and Dave Sevenack, owners of the property, were sworn in. Mr. Farhat explained that the home was built prior to the current zoning regulations and does not conform with current setback requirements. The applicant is expanding off of the rear of the dwelling to maintain existing setbacks and the character appearance of the single story home along Beech Avenue. The home will maintain a daylight basement off of the rear of the dwelling to maintain existing grades on the property. The addition will result in the garage being extended back 20 feet closer to the alley.

Mr. Farhat stated that the addition will add 53.17% more living space. The applicant has indicated in the site plans submitted to the Board that portions of the sidewalk and driveway will be removed and placed back to vegetative, grass cover in order to remain under the impervious coverage limit, even with the addition.

Mr. Farhat verbally amended the petition to also request relief from the front yard setback requirement to be able to place the air conditioning unit along the Valley Road side of the house instead of in the back. Because of the garage and the proposed entry at the rear of the house, to place the air conditioning unit in the back would impede the functionality and egress from the rear of the house.

Ms. Sevenack stated that she and her husband have talked to all of their neighbors and there are no objections to the proposed addition. Mr. Farhat added that the addition will fit in with the neighborhood to the point that it will not be very noticeable.

No other persons provided testimony at this hearing.

Vice Chairman Wood 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 6:52 p.m.

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**DELIBERATIONS**

The Board met to deliberate in the cases of Jay Franklin (2016-19); and A to Z Construction (2016-21) and directed the Solicitor to prepare the draft decisions on each case for formal action at the September 2016 meeting.

Submitted by:

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Matthew Luttrell, Secretary