

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
November 16, 2016**

CALL TO ORDER

The November 16, 2016 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; Vice Chairman Philip Wood; Secretary Matthew Luttrell; Member Steve Moniak; Member Mark Shrift

Board members absent: None

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

Public Registering Attendance: Mark Winter, 310 W. Chocolate Avenue; Tom DeDonatis, 345 Elm Avenue; Dave and Allie Lytle, 941 Sunnyside Road; Dave Getz, 508 N. 2nd Street, Harrisburg; Lisa and Rob Glus, 360 Maple Avenue; Jim Kwon, 555 East Chocolate Avenue; Stephen Hinkle, The Hershey Company; Lee R. Eckert, 1109 E. Chocolate Ave.; Mark Osvak, 147 W. Governor Road; Jeff and Ericka Schmidt, 1167 Duryea Drive; Michael Lohss, Kinsley Construction; Matthew Caples; Kathleen Cantore

APPROVAL OF MINUTES

On a motion by Member Moniak, seconded by Member Shrift, and a majority vote, the October 19, 2016 minutes were approved as written. (Vice Chairman Wood abstained.)

OLD BUSINESS

- A. Adoption of Decision in the Case Rosemary Elmi (2016-26)
Property location: 144 Maple Avenue, Hershey**

- B. Adoption of Decision in the Case of Charter Homes at the Point, Inc. (2016-28)
Property location: North of Stoverdale Road and west of Buck Drive,
Hummelstown**

- C. Adoption of Decision in the Case of Thomas DeDonatis (2016-30)
Property location: 125 Elm Avenue, Hershey**

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

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**D. Continuance in the Case of Kinsley Construction (2016-22)
Property location: 14 East Chocolate Avenue, Hershey**

This property, located in the Village Core and Downtown Commercial Sign Overlay zoning districts, is improved with a building used for offices, a gym, and the Hershey Theater. The applicant is proposing to install three temporary construction signs. Relief was sought from the permitted maximum sign area for a freestanding sign.

Michael Lohss, Kinsley Construction, was sworn in and gave testimony. Mr. Lohss stated that over the next 18 months, the building will be undergoing a complete restoration. Mr. Lohss is proposing to install three signs around the building; two along Chocolate Avenue and one along Granada Avenue.

Member Shrift questioned whether a single sign along Chocolate Avenue would be sufficient. Mr. Lohss stated that using two along Chocolate Avenue allows greater visibility for such a large building.

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.

**E. Continuance in the Case Thomas DeDonatis (2016-23)
Property location: 360 Maple Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to construct a detached two-car garage with personal office space on the second floor. Relief was sought from rear yard setback, maximum height, and maximum impervious coverage requirements.

Thomas DeDonatis was sworn in and gave testimony. Mr. DeDonatis stated that the location of the proposed garage has been shifted deeper into the property's yard. The garage will now be 10 feet from the alley. The impervious coverage will increase by 1.22%. Mr. DeDonatis added that the proposed height of the garage at 23 feet is to allow usage of the second floor as a workshop/office space.

Mr. DeDonatis spoke with the rear adjacent neighbor and she now supports the amended plan.

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.

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**F. Continuance in the Case of Chafia Capital Partners, LLC (2016-27)
Property location: 555 and 565 East Chocolate Avenue, Hershey**

On a motion made by Secretary Luttrell, seconded by Member Moniak, and a unanimous vote, Case No. 2016-27 was continued per the applicant's request.

**G. Continuance in the Case of Lee R. Eckert (2016-29)
Property location: 1115 and 1121 East Chocolate Avenue, Hershey**

This property, located in the Neighborhood Commercial zoning district, is improved with a single family dwelling at 1115 East Chocolate Avenue and an auto sales dealership at 1121 East Chocolate Avenue. The applicant is proposing to replace the nonconforming residential use at 1115 East Chocolate Avenue by expanding the non-conforming auto sales use presently located at 1121 East Chocolate Avenue. Relief was sought in the form of a special exception for the substitution of nonconforming uses. Relief was also sought from maximum impervious coverage and minimum front and side yard setbacks.

Lee Eckert was sworn in and gave testimony. Mr. Eckert stated that he recently purchased 1115 East Chocolate Avenue with the intention of expanding his auto sales business. Some of the existing impervious coverage will be removed. Mr. Eckert also requests permission to provide parking within 7 feet of the front property line.

Chairman Kushner questioned the use for 1115 East Chocolate Avenue. Mr. Eckert stated that the home is in disrepair and will eventually be razed. Mr. Eckert added that he is willing to have a deed restriction to prohibit any use of the house prior to demolition, which may or may not occur.

Secretary Luttrell asked what impact a 7-foot setback would have on any future sidewalk. Mr. Williams stated that the distance was chosen with future sidewalks in mind.

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.

NEW BUSINESS

**A. Hearing in the Case of David Lytle (2016-31)
Property location: 941 Sunnyside Road, Hummelstown**

This property, located in the Suburban Residential zoning district, is improved with a single family dwelling. The applicant is proposing to construct a three-story addition. Relief was

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sought from minimum front yard setback requirements and permitted floor area expansion of a nonconforming building.

David Lytle was sworn in and gave testimony. Mr. Lytle stated that he bought the home in 2015 and has been slowly doing upgrades to modernize the 1970s-era home. Mr. Lytle is proposing an attached 2-car garage with two floors of living space over the garage. The total expansion will be 968 square feet, which is a 54.4% increase over the existing dwelling's floor area. Mr. Lytle also proposes to add a 5-foot wide by 22-foot long front porch.

Vice Chairman Wood questioned whether the roof line will match. Mr. Lytle stated that the proposed garage is below grade so the roof lines will match the existing dwelling. Mr. Lytle added that the proposed addition will be to the side and rear of the existing dwelling and will comply with current setback requirements.

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.

B. Hearing in the Case of Jeffrey and Ericka Schmidt (2016-32)
Property location: 433 Elm Avenue, Hershey

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicants are proposing to demolish the existing dwelling and construct a new single family dwelling in its place. Relief was sought from maximum impervious coverage and permitted floor area expansion of a nonconforming building.

Jeffrey and Ericka Schmidt were sworn in and gave testimony. Mr. Schmidt explained that the building is the only duplex on Elm Avenue. He is proposing to construct a single family dwelling in its place.

Mr. Schmidt stated that the proposed home will be 34 feet from the front property line to match other adjacent homes. Mr. Schmidt added that the rear yard slopes, causing a non-compliance for the roof height. The roof height complies in the front.

Chairman Kushner questioned what the height of the floors will be. Mr. Schmidt responded that the first floor will be 9 feet in height and the additional floors will in 8 feet in height.

Tom DeDonatis (the applicants' contractor) added that a storm water management system in the rear of the property will feature a landscaping berm to accommodate that slope.

Mrs. Schmidt added that the home will match the architecture of the other homes on the street.

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PUBLIC COMMENT

Mark Ovsak stated that he is concerned about the trend of buying and demolishing and rebuilding in the Township. He also has concerns about over-building for the neighborhood and about storm water management.

Kathy Cantore echoed her concerns about the demolition of so many historical homes on Elm Avenue and in the Township.

Chairman Kushner stated that if a homeowner complies with the regulations, there is nothing to stop demolition and rebuilding.

Matthew Caples, who lives adjacent to the subject property, is concerned about storm water runoff and believes the proposed house is too large for the lot.

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 7:30 p.m.

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DELIBERATIONS

The Board met to deliberate in the cases of Kinsley Construction (2016-22); Thomas DeDonatis (2016-23); Lee R. Eckert (2016-29); David Lytle (2016-31); and Jeffrey and Ericka Schmidt (2016-32) and directed the Solicitor to prepare the draft decisions on each case for formal action at the December 2016 meeting.

Submitted by:

Matthew Luttrell, Secretary