

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
February 15, 2017

CALL TO ORDER

The February 15, 2017 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 Mark Shrift

Board member absent: Member Steve Moniak

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

Public Registering attendance: Jeff Gelbaugh, P.O. Box 85, Hershey; Lee R. Eckert, 1109 E. Chocolate Avenue; Mark Winter, 310 W. Chocolate Avenue; Jamie Strong – McNeese, Wallace & Nurick

APPROVAL OF MINUTES

On a motion by Member Shrift, seconded by Vice Chairman Wood, the January 18, 2017 minutes were approved as written.

OLD BUSINESS

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

On a motion by Vice Chairman Wood, seconded by Secretary Luttrell, and a unanimous vote, the decision was adopted as written.

- B. Adoption of Decision in the Case of Cellco Partnership, d/b/a Verizon Wireless (2016-35)**
Property location: 1215 Fishburn Road, Hershey

On a motion by Member Shrift, seconded by Secretary Luttrell, and a majority vote, the decision was adopted as written. Vice Chairman Wood recused himself.

NEW BUSINESS

- A. Hearing in the case of Jeffrey S. Gelbaugh (2017-01)**
Property location: 565 Park Avenue, Hershey

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This property, located in the Neighborhood Commercial zoning district, is improved with a single family dwelling. The applicant is proposing to renovate and expand the structure for use as a fast-casual restaurant and to create an associated parking lot. The applicant was granted relief by the Zoning Hearing Board on February 17, 2016 regarding expansion limitations of a nonconforming structure, and the front and rear yard setback requirements regarding the location of the parking lot. The applicant is now requesting a two-year time extension for the previously-granted relief.

Mark Winter was present as legal counsel for the applicant. Jeff Gelbaugh was sworn in and gave testimony upon being questioned by Mr. Winter. Mr. Gelbaugh explained that the original tenant opted out of the deal, and he now has a verbal agreement with a new tenant who is proposing to establish a similar restaurant use. There are no other variances or changes to the prior approvals other than the time extension. Mr. Gelbaugh requested that the previous hearing's testimony be incorporated into Case No. 2017-01. Mr. Williams indicated that with the incorporation of the prior testimony, he would also recommend that any of the conditions from the prior case be incorporated into any approvals that may be granted by the Board under this application. Mr. Gelbaugh indicated that he would be favorable to those terms.

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 6:10 p.m.

DELIBERATIONS

The Board met to deliberate in the case of Jeffrey S. Gelbaugh (2017-01) and directed the Solicitor to prepare the draft decision for formal action at the March 2017 meeting.

Submitted by:

Matthew Luttrell, Secretary