

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
February 19, 2020**

CALL TO ORDER

The February 19, 2020 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Steve Moniak in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Chairman Steve Moniak; Vice Chairwoman Sandy Ballard; Secretary Dean Morgan; Member Lindsay Drew; Member Steve Seidl

Board members absent: None

Also present: Megan Huff, Solicitor to the Board; Dave Habig, Assistant Director of Community Development; Chuck Emerick, Director of Community Development; Maria O'Donnell, Court Reporter; Tracy Telesha, Stenographer

Public registering attendance: Ross Stine, Stine's Designs, Inc.; Rick Fortney, Absolute Solar & Energy Solutions, LLC; Robert Barker, 591 Lovell Court, Hummelstown

APPROVAL OF MINUTES

On a motion by Secretary Morgan, seconded by Chairman Moniak, and a majority vote (Vice Chairwoman Ballard and Member Drew abstained), the January 15, 2020 minutes were approved as revised.

OLD BUSINESS

**A. Adoption of Decision in the Case of Adam and Erin Buerk (2019-18)
Property location: 1630 Nottingham Drive, Hummelstown**

On a motion by Secretary Morgan, seconded by Chairman Moniak, and a two yea and one nay vote, the decision was adopted as written. Vice Chairwoman Ballard and Member Drew abstained from voting due to absence. Member Seidl stated that he believed other alternatives would have resulted in less relief being needed.

NEW BUSINESS

**A. Hearing in the Case of Absolute Solar & Energy Solutions (2020-01)
Property location: 618 Stoverdale Road, Hummelstown**

This property, located in the R-3 zoning district, is improved with a single-family dwelling. The applicant has installed a generator on the property. Relief was sought from the minimum front yard setback requirement for an accessory structure.

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Richard Fortney, Jr., Absolute Solar & Energy Solutions, was sworn in and gave testimony. Mr. Fortney stated that the generator has already been installed. During or prior to installation, the Homeowners' Association (HOA) rejected the location of the generator, so with the HOA's and the property owner's permission, the generator was placed on the opposite side of the house. The generator is 46 feet, 2 inches from the front property line. The unit is located on the top of a steep slope. Mr. Fortney added that the generator unit is about 500 pounds and must be installed on the ground, as attaching brackets to the side of the dwelling would not support the weight and vibration when the unit is in use. In addition, the unit cannot be located near any vents or windows due to carbon monoxide exhaust.

Secretary Morgan questioned whether the unit must remain level. Mr. Fortney replied that the unit must remain level and on a base that can tolerate vibration.

Member Seidl asked what the HOA's reasoning was for changing the placement of the unit. Mr. Fortney replied that he was not on site when the unit was installed and was not sure of the HOA's reasoning. Mr. Fortney further clarified that the same sloping grade exists on both sides of the home.

Vice Chairwoman Ballard questioned whether the installers were unaware of setback requirements. Mr. Fortney replied that the installers thought the location was similar enough to the original location that setbacks would not be an issue.

Chairman Moniak inquired whether any additional information was received from the HOA. Mr. Fortney replied that no other information was provided. Chairman Moniak asked if the adjacent neighbors approved of the plan. Mr. Fortney replied that there were no neighbor complaints.

Secretary Morgan questioned the measurements of the unit and whether the unit could be turned around. Mr. Fortney replied that the unit is 28 inches by 3 feet, 10 inches and while the unit could be turned, the exhaust must point away from the dwelling. Mr. Fortney also added that turning the unit would expose more of the mechanicals to the street, which would not be as aesthetically pleasing. Mr. Fortney replied that any level location works, so long as it is at least 18 inches from the structure and 5 feet from any vents or intakes. Member Seidl asked if pointing the exhaust towards a neighboring home would be a problem. Mr. Fortney replied that the unit would be far enough away so that noise and exhaust would not be an issue.

Secretary Morgan inquired how many homes with generators are in the neighborhood. Mr. Fortney responded that there are several and at least one that looks to be closer to the property line than the 50-foot setback.

No other person offered testimony.

Chairman Moniak 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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B. Hearing in the Case of Stine's Designs, Inc. (2020-02)
Property location: 595 Sand Hill Road, Hershey

This property, located in the Hershey Mixed Use zoning district, is improved with a single-family dwelling. The owners have constructed a new home and garage on the property. Relief was sought from the minimum front yard setback requirement.

Ross Stine, Stine's Designs, Inc., was sworn in and gave testimony. Mr. Stine stated that the house has been in progress for the past three years. The original contractor was fired due to incompetency and Stine was hired to complete the job. Mr. Stine received a variance to connect the garage to the house via a breezeway. At the time, a stakeout inspection was not completed. The corner of the garage ends at 19 feet from the right-of-way line. Due to the angle of the garage, only one foot of the garage impedes into the setback. The house and garage currently are constructed.

Secretary Morgan questioned how long the garage has existed. Mr. Stine replied that the footer inspection was completed in January 2019 and the concrete was poured in March 2019. Secretary Morgan asked if the property owner has remained the same during the whole process. Mr. Stine responded that the owner has been the same.

Chairman Moniak inquired why the setback issue was not discovered during the footer inspection and asked when the issue was discovered. Mr. Stine stated that he is not sure why it was not caught during the inspection. In August 2019, when Mr. Stine took over the project, the setback issue was discovered. Mr. Stine has added no improvements to the garage other than to doors for security and weather protection.

Chuck Emerick added that the Township was not called for a stakeout inspection. Most likely the previous contractor used the property's iron pin as the point of measurement rather than the right-of-way line.

Chairman Moniak questioned whether there would be any sight obstructions for motorists at the intersection. Mr. Emerick replied that sight distance would not be an issue.

Member Seidl asked if the original plan included a breezeway. Mr. Emerick stated that originally, the house did not have a garage and the building permit was later amended to include a garage. Without a breezeway, the front yard setback would be 50 feet rather than 20 feet.

Chairman Moniak questioned what would happen if no relief were to be granted. Mr. Stine stated that the garage would need to be demolished and excavated to remove the existing footer and concrete.

Chairman Moniak inquired if there was any neighbor opposition to the plan. Mr. Stine replied that there were no objections.

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No other person offered testimony.

Chairman Moniak 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 6:55 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Absolute Solar & Energy Solutions (2020-01) and Stine's Designs, Inc. (2020-02) and directed the Solicitor to prepare the draft decisions on each case for formal action at the March 2020 meeting.

Submitted by:

Dean Morgan, Secretary