

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**July 15, 2020**

**CALL TO ORDER**

The Wednesday, July 15, 2020 Derry Township Zoning Hearing Board meeting, which was conducted via video conference (Zoom Webinar) due to COVID-19, was called to order at 6:00 p.m. by Vice Chairwoman Sandy Ballard.

**ROLL CALL**

Board members in attendance (*via video conference*): Vice Chairwoman Sandy Ballard; Secretary Dean Morgan; Member Steve Seidl; Member Lindsay Drew; Member Michael Angello

Board members absent: None

Also present (*via video conference*): Megan Huff, Solicitor to the Board; Chuck Emerick, Director of Community Development; David Habig, Assistant Director of Community Development; Maria O'Donnell, Court Reporter

Public attendance (*via video conference*): None

**APPROVAL OF MINUTES**

On a motion by Member Angello, seconded by Secretary Morgan, and a unanimous vote, the June 17, 2020 minutes were approved as written.

**REORGANIZATION**

Vice Chairwoman Ballard made a motion that Member Steve Seidl serve as Chairman for the remainder of the unexpired term of Steve Moniak. Member Drew seconded the motion.

Member Angello made a motion that Secretary Dean Morgan serve as Chairman. Member Drew seconded the motion.

Roll call vote on motions: Vice Chairwoman Ballard voted for Member Seidl; Secretary Morgan voted for Member Seidl; Member Drew voted for Member Seidl; Member Angello voted for Member Seidl.

The Board agreed to have Sandy Ballard remain as Vice Chairwoman and Dean Morgan remain as Secretary for the remainder of 2020.

**OLD BUSINESS**

- A. Adoption of Decision in the Case of Karen Pearson (2020-04)**  
**Property location: 113 North Lingle, Hershey**

**TOWNSHIP OF DERRY  
ZONING HEARING BOARD MEETING MINUTES  
July 15, 2020**

Megan Huff noted that the Zoning Hearing Board received two draft versions of the decision, so any motion made needs to specify which draft is being adopted. The first version ('A') includes Secretary Morgan's suggested changes and the second version ('B') includes Vice Chairwoman Ballard's suggested changes.

Vice Chairwoman Ballard made a motion to adopt version 'B' of the decision. Member Angello inquired why Vice Chairwoman Ballard suggested the deletion of the section regarding cooking facilities. Vice Chairwoman Ballard responded that the Zoning Ordinance refers to "...each room, without cooking facilities..." The cooking facilities only related to the rooms themselves. She also stated that there is a lot of room for improvement in the Zoning Ordinance and that is something we should work on in the future. But right now, looking only at that provision, it did not reference the requirement that there be no access to the kitchen.

Vice Chairwoman Ballard asked if the Board could deliberate in private prior to voting on one of the versions of the decision.

**Member Drew made a motion to suspend the meeting and move to executive session. Vice Chairwoman Ballard seconded the motion, which was passed by a majority vote. The time was 6:38 p.m.**

\*\*\*\*\*

**CALL TO ORDER (*reconvene*)**

The Wednesday, July 15, 2020 Derry Township Zoning Hearing Board meeting, which was conducted via video conference (Zoom Webinar) due to COVID-19, was reconvened at 6:53 p.m. by Chairman Steve Seidl.

On a motion made by Vice Chairwoman Ballard, seconded by Secretary Morgan, and a unanimous vote of the remaining four members in attendance\*, Chairman Seidl was authorized to execute the decisions on behalf of the Board. (*\*Note: Member Drew departed the meeting prior to it being reconvened due to a conflicting obligation.*)

**OLD BUSINESS (*continued*)**

**The Board opted to address item 'B' of Old Business first and then come back to item 'A' of Old Business.**

**B. Adoption of Decision in the Case of Melissa Mattison (2020-06)  
Property location: 236 West Areba Avenue, Hershey**

Vice Chairwoman Ballard made a motion to adopt the decision as drafted, and read the conditions of the Order into the record as follows:

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**July 15, 2020**

- “1. *The applicant's request for a variance from §225-315, Table 29, regarding the front yard setback is GRANTED. The applicant may encroach to within 46 feet of the right-of-way on Valley Road to construct the proposed garage.*
  
2. *The applicant shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.*
  
3. *Except as extended by applicable law, the relief granted herein shall be valid for one year from the date hereof. In the event the applicants have not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicants shall be required to comply with the then existing terms of the Zoning Ordinance.*
  
4. *Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.”*

Member Angello seconded the motion, which was passed by a 4-0 vote.

**The Board opted to move on to New Business and Other Business and then come back to item ‘A’ of Old Business.**

**NEW BUSINESS**

None.

**OTHER BUSINESS**

Chuck Emerick presented revisions to the Zoning Hearing Board application, as requested by the Board.

On a motion made by Vice Chairwoman Ballard, seconded by Member Angello, and a 4-0 vote, the Board approved the revisions to the Zoning Hearing Board application.

Chairman Seidl suggested that the Zoning Hearing Board start working on an annual report to the Board of Supervisors regarding improvements that could be made to the Zoning Ordinance to ensure better clarity and fewer discrepancies, based on a past history of Zoning Hearing Board cases. He volunteered to lead the project.

**TOWNSHIP OF DERRY  
ZONING HEARING BOARD MEETING MINUTES  
July 15, 2020**

**OLD BUSINESS (continued)**

**A. Adoption of Decision in the Case of Karen Pearson (2020-04)  
Property location: 113 North Lingle, Hershey**

Vice Chairwoman Ballard read a portion of the decision into the record as follows:

*“In this case, the Board finds that the applicant is not operating a Bed & Breakfast Home in accordance with the Ordinance or as approved previously by the Zoning Hearing Board. The Board finds that the applicant has rented the entire house, including a full kitchen, to guests instead of limiting meal service to breakfast only. The record is replete with evidence indicating that the guests had access to the entire house. Additionally, the Board finds Mrs. Long's testimony about the noise and the lack of the applicant and manager onsite to be credible. As a result, the Board discounts the applicant's testimony about an owner or a manager residing at the property. Therefore, the determination of the Zoning Officer must be sustained and the appeal denied.*

*In the alternative, the applicant requested a special exception to permit a manager to reside at the property because she testified at the hearing in 2019 that she and her son would live at the property.*

*The Board finds that the applicant is not entitled to the requested relief. As discussed above, the Board finds that the applicant has not complied with the Ordinance or its prior decision because the entire house was rented, and the applicant or manager was not residing at the property. Because the Board finds that the applicant has not been credible, it discounts her testimony that she would not rent the entire house in the future or that she or a manager would reside at the property in compliance with the Ordinance.*

*Based on the Board's findings and conclusions, the Board adopts the following:*

- 1. For all of the foregoing reasons, the determination of the Zoning Officer is SUSTAINED, and the appeal of the applicant is DENIED.*
- 2. The applicant's request for a special exception from §225-502-1 is DENIED.”*

On a motion made by Vice Chairwoman Ballard, seconded by Member Angello, and 4-0 vote, the Board adopted the decision as drafted.

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**July 15, 2020**

**ADJOURNMENT**

On a motion by Vice Chairwoman Ballard, seconded by Secretary Morgan, and a unanimous vote, the meeting was adjourned at 7:20 p.m.

Submitted by:

---

Dean Morgan, Secretary