

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF: : NO. 2020-08
:
Hershey Trust Company, :
Trustee for Milton Hershey School :
: PREMISES LOCATION:
: 100 Mansion Road East
: Hershey, PA 17033

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of the Hershey Trust Company, the Trustee for the Milton Hershey School, with regard to the property located at 100 Mansion Road, East, Derry Township. A hearing in this matter was held on August 19, 2020, by video conference due to the COVID-19 emergency, after proper advertising and after proper notice to allow for public participation. Don Papson and Amy Zeigler, of the MS Hershey Foundation, and Ken Gall of the Hershey Trust Company, as well as the applicant’s counsel, David Tshudy, Esquire, of Troutman Pepper, appeared, were sworn, and testified at the hearing. Mason McClellan also appeared on behalf of the applicant but did not testify. No other members of the public testified.

The application indicates that the subject property is located in the Hershey Mixed Use zoning district. The property is improved with a two-story building known as High Point, which is the historic mansion of Milton S. Hershey and Catherine S. Hershey. Currently, it is used as a business office, but the applicant proposes a mixed use building consisting of a business office and museum. For the most part, the property is surrounded by the Hershey Country Club. The application seek variances for the permitted uses of the property to permit the proposed museum and a mixed use building in the zoning district as well as a variance for the required off-street parking spaces.

The High Point mansion was built in 1908. In 1930, Mr. Hershey turned the home over to the Hershey Country Club, which continued to use High Point until 1970. In 1983, High Point was recognized as a National Historic Landmark. Between 2008 and 2011, it was restored to be historically accurate. It consists of approximately 14,401 square feet, with 7,300 square feet renovated and devoted exclusively to business office use by the Hershey Trust Company, 4,268 square feet has remained in its historical state, and 2,833 square feet is common area shared between the historical portion and the office use. The historic portion of the first floor includes the entrance foyer and breakfast room, and the second floor consists of Mr. and Mrs. Hershey's bedrooms and sitting areas. The applicant submitted a floor plan of High Point as well as the deed for the property and PowerPoint slides, all of which were admitted into the record.

The MS Hershey Foundation would open the museum to public tours and special events. Due to the COVID-19 crisis, approximately four people work in the office space at High Point. Approximately 24 employees work at the property in non-COVID-19 circumstances. The building would be open to tours on weekends and when the Trust Company is not using it. The tours would include the garden too. The MS Hershey Foundation anticipates two to four tours per day, five days a week. However, post-COVID-19, the tours would be given on weekends only. Each tour would last approximately 45 minutes. There would be sufficient time between tours, so as not to overlap. Tours would be limited to ten people per tour, and such limits are not due to COVID-19. Because of the limited tour participants, the MS Hershey Foundation anticipates three to four vehicles on the property per tour. The tours would start and end at the front porch. Two tour guides would be sufficient. Tickets would be required for the tours which would be sold on the MS Hershey Foundation website or at the Hershey Story museum. Tickets would not be sold at the property so as to limit the individuals at the property and the number of parking spaces needed.

There are 39 off-street parking spaces available at the property. The applicant argued that this was ample parking for the 24 employees who work at the property in non-COVID-19 times and the 4 to 6 vehicles that would be at the property for tours. Plus, after the COVID-19 crisis, the tours would be limited to the weekends. For special events at High Point, there have been 50 to 60 vehicles that are safely parked at the property.

The permitted uses in the Hershey Mixed Use zoning district with no overlay do not include a museum or a mixed use building. *See* Ordinance, §225-315. The Ordinance requires at least 72 off-street parking spaces if the property was used entirely as a business office or museum. *See* Ordinance, §225-402.5. The criteria for issuing zoning variances are set forth in §225-1007.9.A of the Derry Township Zoning Ordinance. The Zoning Board may grant a variance provided that all of the following findings are made where relevant:

1. There are unique physical circumstances or conditions of the lot in question, and due to these conditions, an unnecessary hardship results to the property owner;
2. That because of the physical circumstances, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and that the authorization of the variance is necessary to enable the reasonable use of the property;
3. The unnecessary hardship has not been created by the applicant;
4. The variance will not alter the essential character of the neighborhood or otherwise impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and
5. That the variance if authorized will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

In this matter, the Board finds that the applicant is entitled to the requested relief. Initially, the Board finds that the property is unique because of the historic importance of the High Point on the property demonstrated by High Point's recognition on the National Historical Registry. The hardship is caused by the unique and historic nature of High Point. Most significantly, the Board finds that the proposed relief will not have a detrimental impact on any other property in the area or the public welfare. The Board finds that the proposed relief will not alter the essential character of the neighborhood. There is no evidence in the record to indicate that the requested variance would negatively impact surrounding properties. No neighbors appeared to testify in opposition to the application. Finally, the Board finds that this represents the minimum relief necessary.

ORDER

AND NOW, this 16th day of September, 2020:

1. The applicant's request for a variance from §225-315, regarding permitted uses, is **GRANTED**. The applicant may establish a museum at the property as represented during the hearing of this matter.
2. The applicant's request for a variance from §225-315, regarding permitted uses, is **GRANTED**. The applicant may establish a mixed use building at the property consisting of a business office and museum as represented during the hearing of this matter.
3. Any change in the use of the property as represented during the hearing of this matter shall require further zoning relief.
4. The applicant's request for a variance from §225-402.5, regarding the required number of off-street parking spaces, is **GRANTED**. The applicant shall provide at least 39 off-street required parking spaces for the uses permitted by this decision.

5. 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.

Adopted by 3 – 0 vote as indicated by the Chairman’s signature as authorized by the Zoning Hearing Board.



Steven Seidl, Chairman