

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**December 16, 2020**

**CALL TO ORDER**

The Wednesday, December 16, 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 Chairman Steve Seidl.

**ROLL CALL**

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

Board member absent: Member Lindsay Drew

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; Tracy Telesha, Stenographer

Public attendance (*via video conference*): Roger Brock; Pablo Medeiros, Hershey Square 2014, LP; Charles Suhr, Stevens & Lee; David Tshudy, Troutman Pepper; Robert Fox; Bryan Wehler; Alyssa Dietz; Todd Shively; Jared Hockenberry, Honor Engineering; Carter Wyckoff; Jeffrey Wehler

**APPROVAL OF MINUTES**

On a motion made by Vice Chairwoman Ballard, seconded by Member Angello, and a unanimous vote, the November 18, 2020 minutes were approved as written.

**OLD BUSINESS**

**A. Adoption of Decision in the Case of McDonald's USA, LLC (2020-12)**  
**Property location: 611 East Main Street, Hummelstown**

Chairman Seidl read the terms of the Decision into the record as follows:

- “1. The applicant's request for a special exception pursuant to §225-502.10 regarding the sign area relief is **GRANTED**. The applicant may install two signs in each of the two drive through lanes with one being a pre-sell sign of 11.71 square feet each and one being a menu board of 21.80 square feet each for a total sign area of 67.02 square feet.
2. The applicant's request for a variance from §225-401.F.B.2.c regarding the number of signs per drive through lane is **MOOT** as a result of the special exception being granted.

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3. *The applicant's request for a variance from §225-401.F.B.5.e regarding the use of a color display and changing images is **GRANTED**. The applicant may use a color display that changes images up to four times a day, excluding the area of the sign used for confirmation of orders.*
4. *The applicant's request for a variance from §225-401.F.B.5.f regarding the brightness is **GRANTED**. The signs may have variable screen brightness from 2,500 Nit (full brightness) to 500 Nit to prevent glare in low-light or nighttime conditions.*
5. *The relief granted herein is strictly contingent on the requested signs automatically adjusting and shall not contain animated images.*
6. *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.*
7. *Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicant has 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 applicant shall be required to comply with the then existing terms of the Zoning Ordinance.*
8. *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.*

On a motion made by Chairman Seidl, seconded by Vice Chairwoman Ballard, and a 2-0 vote, the Decision was adopted as written. Member Angello abstained from voting because he was not present for the hearing. Secretary Morgan recused himself due to a potential conflict of interest.

On a motion made by Vice Chairwoman Ballard, seconded by Chairman Seidl, and a 2-0 vote, Chairman Seidl was authorized to execute the Decision on behalf of the Board.

**NEW BUSINESS**

- A. **Hearing in the Case of Hershey Square 2014, LP (2020-13)**  
**Property location: 1158 Mae Street, Hummelstown**

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This property, located in the General Commercial and General Sign Overlay zoning districts, is improved with a shopping center. The applicant is proposing to place new wall signs to advertise the new stores. Relief is sought from the maximum sign dimensions for wall signs in the General Sign Overlay zoning district.

Megan Huff, Solicitor to the Zoning Hearing Board, stated that she represents tenant Where the Wild Things Play; however, she does not believe her participation in this hearing would cause a conflict.

Pablo Medeiros, Hershey Square 2014, LP, and Todd Schively were sworn in and gave testimony. Mr. Medeiros stated that the former Kmart building is being redeveloped for a multi-tenant use to house up to six tenant businesses that will be open in the spring of 2021. The contracted tenants are: Five Below (224 sq. ft.), Where the Wild Things Play (36 sq. ft.), Big Lots (206 sq. ft.), Planet Fitness (199 sq. ft.), and TJ Maxx (199 sq. ft.). Mr. Medeiros explained that larger signs are needed for visibility due to the location of the complex on the top of a hill.

Chairman Seidl questioned how the proposed sign size compares to the existing store front signs in the complex. Mr. Medeiros replied that Weis Markets is comparable, and the other signs are smaller due to the building facia.

No other person offered testimony.

Chairman Seidl 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 Sweet Dreams Properties, LLC (2020-14)**  
**Property location: 1512 East Caracas Avenue, Hershey**

This property, located in the Palmdale Mixed Use zoning district, is improved with an office building. The applicant is proposing to change the use from a medical-related research facility to a healthcare practitioner's office. A special exception is sought regarding the substitution of one nonconforming use for another.

David Tshudy, Troutman Pepper; Roger Brock, Principal at Sweet Dreams Properties, LLC; and Robert Fox were sworn in and gave testimony. Mr. Tshudy stated that the 17,500-square-foot building currently houses five tenants, one of which was Sleep Analysis, a medical research business. This business has vacated and a chiropractor (medical practitioner) is proposing to occupy the space.

Member Angello questioned whether the former Sleep Analysis business was an approved use. Mr. Brock stated that the business was in existence when the building was purchased in 2007.

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Chairman Seidl asked if the Township has determined whether the available parking will be sufficient for the proposed use. Chuck Emerick replied that the facility has 70 spaces, and it has not been calculated since Sleep Analysis took up space, but it could be evaluated when a new tenant is determined. Mr. Emerick added that he lives nearby and has never noticed parking being an issue.

No other person offered testimony.

Chairman Seidl 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.

**C. Hearing in the Case of Bryan M. Wehler (2020-15)**  
**Property location: 1130 Wood Road, Hummelstown**

This property, located in the R-1 zoning district, is unimproved. The applicant is proposing to construct a single-family detached dwelling. Relief is sought from the disturbance of slopes that are 20% or greater.

Megan Huff, Solicitor to the Zoning Hearing Board, stated that she represents both Bryan Wehler and Honor Engineering, but she does not believe her participation in this hearing would cause a conflict.

Bryan Wehler and Jared Hockenberry, Honor Engineering, were sworn in and gave testimony. Mr. Wehler stated that in 1985, the Roseland subdivision was created resulting in four building lots. In 1990, the largest lot was re-subdivided. Mr. Wehler is proposing to position the building lot in an area with the least amount of slope and will mechanically stabilize the berm with a retaining wall. A stormwater detention area will be created and will direct runoff to the creek that flows out of the Bullfrog Valley Pond. The proposed building location would have a 120-foot buffer from the walking/biking trail.

Member Angello asked whether the proposed slope would be terraced to decrease the velocity of the stormwater runoff. Mr. Wehler responded that terracing will be completed and directing the water to the creek will reduce the discharge into the pond. Best management practices will be adhered to for erosion control.

Chairman Seidl questioned how stormwater runoff will be discharged to the creek. Mr. Wehler stated that while plans are not complete, it is anticipated that a swale will direct water into a pipe towards the creek.

No other person offered testimony.

Chairman Seidl 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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Hearings closed at 7:40 p.m.

**DELIBERATIONS**

The Board met to deliberate in the cases of Hershey Square 2014, LP (2020-13), Sweet Dreams Properties, LLC (2020-14), and Bryan M. Wehler (2020-15) and directed the Solicitor to prepare the draft decisions on each case for formal action at the January 2021 meeting.

Submitted by:

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Dean Morgan, Secretary