

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
JANUARY 26, 2021 6PM

CALL TO ORDER

To ensure public safety during the COVID-19 crisis, the January 26, 2021 meeting was held by audio and video conferencing via a Zoom Virtual Webinar and shown live on YouTube on the Derry Township YouTube page.

Chairman Abruzzo called the January 26, 2021 Public Hearing of the Township of Derry Board of Supervisors to order at 6:08 p.m. via video conferencing with a Zoom Virtual Webinar through the on-line Meeting Room. He advised that all public meetings are recorded for providing accurate notes. After the Pledge of Allegiance, a roll call was performed. He stated the Board was in executive session at 5:30 p.m.

IN ATTENDANCE:

SUPERVISORS

E. Christopher Abruzzo, Chairman
Natalie L. Nutt, Vice Chairwoman
Carter E. Wyckoff, Secretary
Richard D. Zmuda
Susan M. Cort

ALSO PRESENT:

Christopher Christman Township Manager
Patrick Armstrong, Township Solicitor
Chuck Emerick, Director of Community Development
David Habig, Assistant Director of Community Development
Brian Blahusch, IT Manager
Maria O'Donnell, Stenographer
Julie Echterling, Recorder

APPLICANT TEAM IN ATTENDANCE:

Mr. Ken Gall, Mr. David Tshudy, Mr. Greg Rogalski, Craig Raynor, Sean Concannon, Kate Dattilo, John Osmolinski, Kate Millikan, and Melanie Boehmer.

PUBLIC IN ATTENDANCE:

A. Shade, Barbara Polk, Dave Vagnoni, David Buffington, Francine Serafin, Jeff Sypolt, John Conner, John Foley, Joseph Aurelio, Julee, Lisa Scullin, Lorraine Romberger, Michael Baer, Michael Mulderig, Natalie, and Virgil Whitsett.

INTRODUCTION:

Mr. Emerick stated this is a Public hearing for the Conditional Use Application No. 2020-05 for Milton Hershey School Early Childhood Education Center, as filed by Hershey Trust Company, Trustee for Milton Hershey School.

TOWNSHIP AND APPLICANT PRESENTATION:

Mr. Emerick stated this application requests a Conditional Use authorization be granted under the provisions of Chapter 225 (Zoning), Section 225-501.1 of the zoning ordinance. The applicant proposes to establish a Group Child Care Facility on property located at the southwest corner of the intersection of Governor Road and Homestead Road. He stated today they released the name of the school as the Catherine Hershey School for Early Learning. Within their application, they identify the use as an "Early Childhood Education Center" (the "ECE"). The Zoning Ordinance defines a Group Child Care Facility as "A building or structure other than an occupied dwelling unit, where care, protection and supervision are provided on a regular schedule, at least once a week to more than six children." In this case, the facility will be designed to accommodate up to 150 children between the ages of birth to 5 years old, supported by a staff of 80 employees and volunteers. Access to the improvements is via a driveway from Homestead Road. The

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Planning Commission and Staff found the application generally meets the requirements of the ordinance. This public hearing is an opportunity for the applicant to offer testimony on their proposal and that it meets the specific criteria of the ordinance. He stated the specific criteria, and his notes were included in the packet to the Board.

Solicitor Armstrong stated this is a public hearing that has been advertised for the applicant. He asked if there was anyone in attendance who would like to be granted party status. He explained what party status was and the appeal process. No one from the public requested party status, as there were no hands raised. He entered the following items into the record:

1. Board One is the Conditional Use Application of the applicant.
2. Board Two is the Notice of Public Hearing with the correspondence to the Sun advertising tonight's hearing.
3. Board Three is the January 6, 2021 correspondence from Derry Township outlining the Planning commission recommendations to the applicant.
4. Board Four will be the proof of advertising for the hearing tonight.

He asked if there were any objections. Mr. Tshudy did not have any objections. Solicitor Armstrong stated let the record should show there were no objections and that Boards 1, 2, 3 and 4 be entered into the record. He requested that anyone giving testimony be sworn in by the stenographer. Mr. Tshudy asked that the following people be sworn in Mr. Ken Gall, Mr. Greg Rogalski, Mrs. Kate Dattilo, Mr. John Osmolinski, and Melanie Boehmer. Mrs. O'Donnell swore them in.

Mr. David Tshudy, attorney with Troutman Pepper Hamilton Sanders, LLP, stated he is representing the applicant in this request, the Hershey Trust Company. He stated the property is located at the corner of Governor and Homestead Roads. They are requesting a conditional use approval to use it for a group home for an Early Childhood Education Center. They intend to use it as the first of the Catherine Hershey Schools of Early Learning. The property is in the Hershey Mixed Use zoning district, and portions of the property are within the Governor Road Overlay and in the Homestead Road Overlay District. He noted earlier today they submitted an applicant's exhibit book. Below are the exhibits:

1. Exhibit 1: Tax cards and Vesting Deeds for Parcel Nos. 24-032-038; 23-032-039' 24-032-040.
2. Exhibit 2: Revised Conditional Use Plan
3. Exhibit 3: January 11, 2021 Letter of Water Serviceability-PA American Water Company
4. Exhibit 4: December 29, 2020 Letter from DTMA
5. Exhibit 5: Executive Summary of Transportation Impact Study-prepared by Pennoni.
6. Exhibit 6: November 9, 2020 Township (HRG) Comment Letter to Traffic Impact Study
7. Exhibit 7: Curriculum Vitae of Gregory R. Rogalski, PE, Associate Vice President, Division Municipal Manager of Pennoni

He stated the property would be used for an early learning center and is intended to be one of six learning centers. Last year the Dauphin County Court of Common Pleas entered a plea that a portion of the Milton Hershey School Trust could be used for this initiative.

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Mrs. Kate Dattilo, Senior Director of Strategic Projects at Milton Hershey School, spoke about the proposed school. She stated this initiative was designed to expand the impact and reach of the founder's vision. They announced the name today to honor the life and legacy of Catherine Hershey. She stated the centers would serve economically disadvantaged and at-risk children from birth to the age of five. It is aimed to support a critical need for childcare locally and throughout the state. This expansion helps more children in poverty reach their full potential. The school will provide education, nutrition, and transportation. A community needs assessment will be done to help guide services for the Center. The Center will be certified by the PA Department of Human Services. The center will serve 150 children and hopes to open in 2023. It is tentatively scheduled to be open from 7 a.m. to 6 p.m. during the weekdays. Mr. Tshudy asked her what type of licensing will be required. Mrs. Dattilo answered they will require a certificate of compliance of Human services. Solicitor Armstrong confirmed her name, hours of operation, and expected date of 2023. He asked if there would be weekend hours and she stated there are none scheduled at this time. He asked the Board if they had any questions, and the Board had none.

Mr. Tshudy stated the plan consists of three lots. He stated the boundary lines will be adjusted to become lot 1, 2 and 3. He showed the Board an outline of the property. He stated the Center would be a two-story building with parking and playgrounds with a total of 50,827 square feet. He asked Mr. Rogalski to discuss the building.

Mr. Rogalski, Pennoni Associates, stated the bulk of the development will be at the corner of lot two on Governor and Homestead Roads. There would be parking and a bus loop with stormwater management facilities. Access is proposed from Homestead Road and none from Governor Road. In lieu of sidewalks and curbs, they are proposing a series of paths parallel to Governor and Homestead Roads. There are 125 proposed parking spaces. The Planning Commission did have comments. There were follow-up meetings with Mr. Emerick and Mr. Mandia about the paths. He stated the building would be two stories with an internal courtyard with play areas and connection paths. He stated PPL will discontinue a line on the property.

Mr. Tshudy stated the proposed Center is located within the Mixed Use and is within in the definition of allowed uses. Zoning Ordinance 225-501.52 Group Child Care Facility required meeting all state licensing requirements, which Mrs. Dattilo went over earlier. The next requirement of indoor and outdoor play areas has three requirements including: parking areas shall not be used as play areas; outdoor play areas are 20 feet from rear and side property lines and shall not be located between the front face of the building or right of way and a four-foot fence. He showed the location of the fenced play areas and that they are in the required locations.

Mr. Tshudy went over the following conditional use requirements:

1. The use will not adversely affect the health or safety of residents in the neighborhood or district in which the use is located. He stated the property is surrounded on three sides by public or educational facilities. He showed the Board the location and the surrounding buildings. He believes it fits the criteria of the area and would not adversely affect the area.
2. The use will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage or other public improvements. He stated they have letters from DTMA and PA American Water as they will be served by public water and sewer. As far as public roads, the

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applicant has provided a traffic impact study that has been presented to the Township. The Township's engineer proposed minor changes to the entrance on Homestead Road. The Planning Commission comments asked that they create an easement for Lot one to be able to access Homestead Road. They are proposing to construct a trail system consistent with ordinances that would connect to a trail system. He noted that during the Land Development plan the applicant will ask that these trails be used in lieu of sidewalks and will ask for deferment of sidewalks for other areas. He stated they will comply with the stormwater ordinance and it will be confirmed during the land development plan process.

3. The use will not be detrimental to the use or development of, or change the essential character of, the neighborhood or district in which the use is proposed. The Township Board of Supervisors shall consider, at a minimum, the impact of noise, dust, light, odor, and adequacy of parking. He noted the neighboring facilities which are consistent with the proposed use. He stated for noise, dust, light, and odor there would not be any of these coming from this proposed use. He spoke of the hours and believes it will not be detrimental to the neighborhood. The parking provided is equal to or greater than required.

He noted there were no requests for variances from the Zoning Hearing Board. He asked Mr. Ken Gall and Mr. John Osmolinski to confirm the accuracy of what he said. Mr. Ken Gall, Hershey Trust Company, said it was, but would like to correct one point – Founders Park being owned by the School District – is actually owned by the Trust and there is a three-party agreement for that park. Solicitor Armstrong asked Mr. Gall if everything Mr. Tshudy talked about is true and accurate and would you testify to it. Mr. Gall said yes. He noted he received a text that several people have joined the meeting since he asked about party status. He again asked if anyone would like to apply for party access and he explained what party status means. Mr. Emerick stated no one had their hand raised to be party status. No one requested party status.

Solicitor Armstrong asked Mr. Rogalski to show the easement and path as he had a question. Mr. Tshudy showed the map of both. Solicitor Armstrong asked Mr. Rogalski to acknowledge that after the Board decides on the conditional use, a land development plan must be submitted. Mr. Rogalski stated yes, and they intend to submit a plan. Solicitor Armstrong asked him if the plan/map is the one they plan on submitting and he said yes. Solicitor Armstrong asked if the applicant intends to grant an easement for lot one. Mr. Rogalski stated yes; the plan shows a 50-foot easement. Solicitor Armstrong asked if there would be a walking trail. Mr. Rogalski stated yes. Solicitor Armstrong asked if the 125 parking spaces is within the requirements of the zoning ordinance and Mr. Rogalski stated they were and were in excess of the requirement. Solicitor Armstrong asked about the playground and the required distance to parking, setbacks, and fencing. Mr. Rogalski stated they are consistent with the requirements in the ordinance. Solicitor Armstrong asked about the square footage of the building. Mr. Rogalski stated the internal is 50,827 and the actual footprint of the building is 41,235. Solicitor Armstrong asked about site lighting. Mr. Rogalski stated they would submit a lighting plan with the land development plan. Solicitor Armstrong asked him to testify that there is no zoning relief outside this conditional use request and Mr. Rogalski said yes. Solicitor Armstrong asked the Board if they had any questions for Mr. Rogalski.

Chairman Abruzzo does not have any concerns about the Center and knows it will be first class. His concern is traffic. When he looks at the number of vehicles during peak time, he asked what peak time is relative to the school hours. Mr. Rogalski stated peak time is a block of 3 hours in the morning and afternoon. They would look at 6-9 a.m. since the school would be starting during that time. Chairman

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Abruzzo asked if the Traffic Study suggests any significant improvements with peak hours. Mr. Rogalski spoke about a right-hand lane turn into Homestead. The study was done prior to meeting with PennDOT. They are in the process of scheduling a SCOPE meeting with PennDOT. The traffic on the corridor is not good in this area. In addition, he stated, the trail will terminate at the intersection where they may be required to install a pedestrian crosswalk. Chairman Abruzzo is concerned about the Homestead and Governor intersection at peak hours with the high school since it backs up now without this project. He is also concerned about Rte. 743 and Homestead and the T intersection with the significant amount of traffic that will back up traffic. He raises these issues because they see Traffic Studies all the time and when they get them, they do not raise red flags for problems that occur. He is concerned with how they will deal with the stacking of traffic. Mr. Rogalski stated they did the study, it was reviewed by the HRG, they will talk with PennDOT and then the plan will come back to the Board. Mr. Tshudy asked if any improvements are proposed to Route 322 and 743 and will it require a Highway Occupancy Permit (HOP) for PennDOT. Mr. Rogalski stated it would require a permit and stated they have requested a scoping meeting with PennDOT to discuss the results of the study. Mr. Tshudy asked Mr. Rogalski to explain what a scoping meeting is and what happens. Mr. Rogalski stated it is a high-level meeting to discuss what intersections would be in the study. PennDOT will probably have suggestions and they may want additional studies done. Mr. Tshudy asked if the Township is involved with the scoping meeting and Mr. Rogalski stated yes.

Mr. Ken Gall does not believe the peak hours for the Center will be spread out more based on the clientele since it is not a normal daycare facility. Solicitor Armstrong asked if there were any other questions of Mr. Rogalski from the Board. Supervisor Cort asked about the timing of the hearing decision and hearing back from PennDOT. She also asked about if the study was done during COVID. Mr. Tshudy stated the HOP is months away as the scoping meeting has not occurred. He noted a HOP is required for the land development plan and would need to be recorded. Solicitor Armstrong noted this is a conditional use for the intended use and the plan will come before the Board. He asked if the traffic study will be updated prior to the plan being submitted. Mr. Tshudy stated the traffic study that was done was for the Township requirements and they will be required to complete a study for PennDOT after their scoping meeting. Mr. Rogalski stated the actual traffic counts were done in December of 2019 and noted the traffic study is a draft.

Vice Chairwoman Nutt asked how far of a distance will the Center bring children in from. She asked if the parents would drop off their children or be bussed. Mrs. Dattilo stated they are exploring options and are strongly considering transportation needs. It would be small busses for up to 25 students. She stated the admission requirements will be similar to the MSH School. Solicitor Armstrong asked, based on what she has said, most of the students will be dropped off. Mrs. Dattilo stated it will be based on the needs assessment and could be a hybrid of both. Solicitor Armstrong noted that it was 7:01 p.m. and asked if there were any additional questions from the Board. There were none. He asked Mr. Tshudy if he had any additional witnesses to present. Mr. Tshudy stated they do not. He asked for the admission of exhibits 1-7 and that would close their testimony. Solicitor Armstrong stated they would be admitted if they are sent to him. He asked the Board if they wanted to open to the public comments and the Board said yes.

Solicitor Armstrong asked if anyone would like to make a statement from the public.

PUBLIC COMMENT:

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Mr. John Foley, 238 Mine Road, VP of the alumni association of MS Hershey School, stated 12 members of the Alumni association are also here tonight. They are very supportive of this new initiative and it is a much-needed resource for our community. The Alumni Association is concerned about the next steps, while having court approval, this initiative will pose many risks. This is one of many steps outside Derry Township and Mr. Hershey's original deed of trust. There are countless examples throughout the state and nationwide where trusts are politicized and squandered. MS Hershey Alumni Association supports this first initiative. We are watching the next steps and how the resources are deployed to ensure our founder's intent is followed. He thanked the Board for the opportunity.

ADJOURNMENT:

Chairman Abruzzo and Solicitor Armstrong closed the public hearing at 7:05 p.m. Solicitor Armstrong noted the Board has 45 days to render a decision.

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary