

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
January 20, 2021

CALL TO ORDER

The Wednesday, January 20, 2021 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 Member Seidl.

ROLL CALL

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

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; Tracy Telesha, Stenographer

Public attendance (*via video conference*): Krupal and Neelam Desai; Lauren McDaniel and Joel McNaughton, The McNaughton Company; Dave Buffington, *The Sun*

APPROVAL OF MINUTES

On a motion made by Member Angello, seconded by Member Ballard, and a majority vote, the December 16, 2020 minutes were approved as written. Member Drew abstained from voting due to her absence from the December meeting.

REORGANIZATION FOR THE 2021 CALENDAR YEAR

On a motion made by Member Ballard, seconded by Member Drew, and a unanimous vote, Steve Seidl was appointed to serve as Chairman.

On a motion made by Member Seidl, seconded by Member Morgan, and a unanimous vote, Sandy Ballard was appointed to serve as Vice Chairwoman.

On a motion made by Member Angello, seconded by Member Drew, and a unanimous vote, Dean Morgan was appointed to serve as Secretary.

OLD BUSINESS

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

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

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- “1. *The applicant’s request for a variance from §225-401.4.F.B.1, Table 36, regarding the maximum area for an individual wall sign is GRANTED. The applicant may install the following wall signs with the maximum area:*
 - A. *Five Below: 224.0 square feet;*
 - B. *TJ Maxx: 199.06 square feet;*
 - C. *Big Lots: 206.66 square feet; and*
 - D. *Planet Fitness: 199.82 square feet.*

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 (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.*

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.”*

On a motion made by Secretary Morgan, seconded by Vice Chairwoman Ballard, and a vote of 4-0, the Decision was adopted as written. Member Drew abstained from voting due to her absence from the December meeting.

B. Adoption of Decision in the Case of Sweet Dreams Properties, LLC (2020-14)
Property location: 1512 East Caracas Avenue, Hershey

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

- “1. *The applicant’s request for a special exception from §225-603, regarding the substitution of one nonconforming use for another is GRANTED. The applicant may use the approximately 6,000 square feet of the property previously occupied by Sleep Analysis Consultants for a healthcare practitioner’s office or chiropractor’s office.*

2. *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.”*

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On a motion made by Vice Chairwoman Ballard, seconded by Secretary Morgan, and a vote of 4-0, the Decision was adopted as written. Member Drew abstained from voting due to her absence from the December meeting.

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

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

- “1. *The applicant’s request for a variance from §225-401.2.1.B, regarding construction on areas with slopes in excess of 20% is GRANTED. The applicant may construct the single-family residence while disturbing no more than .406 acres of the property with slopes in excess of 20% except as otherwise permitted by the Ordinance.*
2. *The relief granted herein is strictly contingent on the property’s other 3.425 acres with slopes in excess of 20% remaining undisturbed or wooded.*
3. *In addition, the relief granted herein is strictly contingent upon the applicant maintaining the 120 feet wooded buffer from the Jonathan Eshenour Memorial Trail in a natural state.*
4. *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.*
5. *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.*
6. *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 Member Angello, seconded by Secretary Morgan, and a vote of 4-0, the Decision was adopted as written. Member Drew abstained from voting due to her absence from the December meeting.

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On a motion made by Vice Chairwoman Ballard, seconded by Member Angello, and a unanimous vote, Chairman Seidl was authorized to execute the Decisions on behalf of the Board.

NEW BUSINESS

A. Hearing in the Case of Krupal and Neelam Desai (2020-16)
Property location: 285 Dunham Drive, Hummelstown

This property, located in the Conservation zoning district, is improved with a single-family detached dwelling and associated accessory uses. The applicants are proposing to build an addition to the dwelling for use as an accessory dwelling unit for their parents. Relief was sought in the form of a special exception regarding the establishment of an accessory dwelling unit.

Krupal and Neelam Desai were sworn in and gave testimony. They are proposing a 2,300-square-foot addition with garage to be attached to their current 5,600-square-foot home. They affirmed that the expansion would remain under 50% of the size of the existing home.

No other person offered testimony.

Chairman Seidl informed the applicants that the Board has 45 days to render a decision and if the applicants are aggrieved in any way, they have 30 days to appeal the decision.

B. Hearing in the Case of Vincent Rinaldi (2020-17)
Property location: 457 Cedar Avenue, Hershey

The applicant withdrew this petition prior to the meeting.

C. Hearing in the Case of The McNaughton Company (2020-18)
Property location: Lucy Avenue, Hummelstown

This property, located in the General Commercial zoning district, is unimproved. The applicant is proposing to construct a single-family detached dwelling. Relief was sought from minimum lot width and minimum side setbacks.

Joel McNaughton, The McNaughton Company, was sworn in and gave testimony. Mr. McNaughton is proposing to build a 40-foot by 30-foot dwelling on the 50-foot by 150-foot property and is proposing 5-foot setbacks on either side. The lot has been empty for quite some time, as the original dwelling burned down. The proposed dwelling's footprint will be similar in size to the former dwelling.

Dave Habig noted that the Township received an email from neighbor S. Keith Hoover stating his belief that no relief should be granted due to the property being located in the General Commercial zoning district. Mr. Hoover believes the co-existence of businesses and

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residences puts an additional burden on businesses to minimize their impact on the private dwellings. Mr. Habig added that there are numerous residential dwellings in this area.

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.

Hearings closed at 7:00 p.m.

DELIBERATIONS

The Board met to deliberate in the cases of Krupal and Neelam Desai (2020-16) and The McNaughton Company (2020-18) and directed the Solicitor to prepare the draft decisions on each case for formal action at the February 2021 meeting.

Submitted by:

Dean Morgan, Secretary